STATUTES OF CALIFORNIA

FIFTY-FOURTH SESSION OF THE LEGISLATURE

1941

BEGAN ON MONDAY, JANUARY SIXTH
AND ADJOURNED SATURDAY, JUNE FOURTEENTH
NINETEEN HUNDRED FORTY-ONE

STATUTES OF CALIFORNIA

PASSED AT THE FIFTY-FOURTH SESSION OF THE LEGISLATURE

CHAPTER 1

An act making an appropriation for the expenses of the Senate for the Fifty-fourth Session of the Legislature, this act to take effect immediately.

[Approved by Governor January 14, 1941 Filed with Secretary of State January 14, 1941.] In effect immediately

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

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and in addition to any other appropriation made by law, the sum of three thousand dollars ($3,000) to pay the expenses of the Senate, including the mileage of the Lieutenant Governor, Senators and statutory officers of the Senate, for the Fifty-fourth Session of the Legislature of the State of California. Appropriation Senate expenses

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State it shall, pursuant to the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

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CHAPTER 2

An act making an appropriation for the expenses of the Assembly for the Fifty-fourth Session of the Legislature, this act to take effect immediately.

[Approved by Governor January 14, 1941. Filed with Secretary of State January 14, 1941.] In effect immediately

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

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and in addition to any other appropriation made by law, the sum of five thousand dollars ($5,000) to pay the expenses of the Assembly, including the mileage of Assemblymen and statutory officers of the Assembly, for the Fifty-fourth Session of the Legislature of the State of California. Appropriation. Assembly expenses

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State it shall, pursuant to the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

CHAPTER 3

An act increasing the revolving fund of the San Diego Industrial Workshop for the Blind from five thousand dollars ($5,000) to twenty thousand dollars ($20,000), making an appropriation therefor and declaring the urgency thereof.

In effect immediately [Approved by Governor January 21, 1941 Filed with Secretary of State January 21, 1941.]

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

San Diego Industrial Workshop Revolving Fund Appropriation

SECTION 1. The San Diego Industrial Workshop Revolving Fund heretofore created in the sum of five thousand dollars ($5,000), is hereby increased to twenty thousand dollars ($20,000). The sum of fifteen thousand dollars ($15,000) is hereby appropriated out of funds in the State Treasury not otherwise appropriated to be credited to the San Diego Industrial Workshop Revolving Fund, to be expended for the purpose for which said fund was created.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall go into immediate effect.

The following is a statement of facts constituting such necessity:

The San Diego Industrial Workshop for the Blind has contracted with various agencies of the United States Government to manufacture for the Army and Navy various items vitally needed for the National defense. These orders are large and large quantities of raw materials must be purchased for manufacture. The present revolving fund is not of sufficient size to permit the buying of the raw materials in the quantities needed in the period of time dictated by the National defense urgency.

CHAPTER 4

Stats 1937, p 1005 amended

An act to amend Section 3259 of the Welfare and Institutions Code, relating to the Industrial Home for the Adult Blind Revolving Fund, making an appropriation, and declaring the urgency thereof.

In effect immediately [Approved by Governor January 21, 1941. Filed with Secretary of State January 21, 1941.]

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

Stats 1937, p 1119

SECTION 1. Section 3259 of the Welfare and Institutions Code is hereby amended to read as follows:

Revolving Fund

3259. The revolving fund for the manufacturing departments of the Industrial Home for the Adult Blind known as

the Industrial Home for the Adult Blind Revolving Fund is continued in existence. Any moneys which are hereafter appropriated or allotted for the use of this fund shall be deposited therein not to exceed fifty thousand dollars ($50,000). The fund shall be used to meet the expenses necessary in the purchase of materials and equipment and for maintenance of the manufacturing departments of the Industrial Home for the Adult Blind. Of the moneys received from the sale of any goods manufactured in the manufacturing departments of the Industrial Home for the Adult Blind, so much shall be returned to the revolving fund as shall replenish the fund and keep it intact to the amount of fifty thousand dollars ($50,000), and any balance or surplus remaining after the replenishment of the fund shall be paid into the General Fund, such balance or surplus remaining after the replenishment of the fund to be determined or identified as the accrued balance or surplus over and above the fifty thousand dollars ($50,000) as set forth in the books and records of account of the Industrial Home for the Adult Blind.

Same Increase

SEC. 2. The Industrial Home for the Adult Blind Revolving Fund heretofore created in the sum of twenty-five thousand dollars ($25,000), is hereby increased to fifty thousand dollars ($50,000). The sum of twenty-five thousand dollars ($25,000) is hereby appropriated out of funds in the State Treasury not otherwise appropriated to be credited to the Industrial Home for the Adult Blind Revolving Fund, to be expended for the purpose for which said fund was created.

Appropriation

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall go into immediate effect.

The following is a statement of facts constituting such necessity:

The Industrial Home for the Adult Blind has contracted with various agencies of the United States Government to manufacture for the Army and Navy various items vitally needed for the National defense. These orders are large and large quantities of raw materials must be purchased for manufacture. The present revolving fund is not of sufficient size to permit the buying of the raw materials in the quantities needed in the period of time dictated by the National defense urgency.

CHAPTER 5

Stats 1939, p 82, amended

An act to amend Sections 6830 and 6870 of, and to add Section 6879.5 to, the Health and Safety Code, relating to the annexation of territory to a sanitary district, declaring the urgency thereof, and providing that it shall take effect immediately.

In effect immediately

[Approved by Governor January 24, 1941. Filed with Secretary of State January 24, 1941.]

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

Stats 1939, p 664 See also Stats 1941, p. 1295

SECTION 1. Section 6830 of the Health and Safety Code is hereby amended to read as follows:

Territory may be annexed

6830. In the manner provided in this part, there may be annexed to a district any of the following territory which is in the same county as the district:

(a) Any territory contiguous to the district.

(b) Any territory separated from the district by a "separating barrier," which term includes a street, road, highway, railway line, railway crossing, railway right of way, water course, lagoon, or other natural barrier.

Any territory specified in this section may consist of one or more separate parcels of land, but it is not necessary that all parcels shall constitute in the aggregate one tract of land.

Stats 1939, p. 666

SEC. 2. Section 6870 of the Health and Safety Code is hereby amended to read as follows:

Annexation without election

6870. Any territory specified in Section 6830 of this code may be annexed without an election in the following manner.

New section

SEC. 3. Section 6879.5 is hereby added to the Health and Safety Code, to read as follows:

Exclusion of "separating barrier"

6879.5. If there is or has been presented to the board a petition containing the signatures of owners of real property in the territory proposed to be annexed, which real property represents at least 75 per cent of the total assessed valuation of the territory exclusive of any potential "separating barrier," as defined in Section 6830 of this code, the board may, in the manner specified in this article, proceed to publish the petition and notice of hearing and hear the petition. If, at the hearing, the board finds (a) that the territory described in the petition contains any potential "separating barrier," and (b) that such potential "separating barrier" would not be benefited by annexation and should be excluded from the territory to be annexed, the board shall modify the boundaries of the territory proposed to be annexed as set forth in the petition by excluding the "separating barrier."

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

Many sanitary districts have been organized in this State to provide sewage and drainage facilities necessary for the public health and safety and upon their organization have found it necessary to annex certain adjacent territory in order to provide sewage and drainage facilities immediately necessary for the public health of the inhabitants thereof. In many instances such annexed territory is technically separated from the district to which it is to be annexed by railroad crossings, rights of way, public streets, highways and streams, which condition does not change the essential contiguous character of the territory to be annexed, but by reason of legal doubts arising from such technical separation, such contiguous territory has not been able to receive the benefits of sewage and drainage facilities. Unless such annexed territory can be incorporated prior to February 1, 1941, the inhabitants thereof will be deprived of sanitary and sewage facilities for more than a year, thereby endangering the lives of the inhabitants and leading to possible epidemics deleterious to the public health and safety of the people of the State of California.

CHAPTER 6

An act to legalize bonds heretofore issued and sold or to be issued and sold by municipalities for flood control purposes under an act, or under color of an act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements, and regulating the acquisition, construction or completion thereof," which became law under constitutional provision without Governor's approval on February 25, 1901, where authority for such issuance has already been given by a vote of not less than two-thirds of the electors of such municipality voting upon the question of incurring such indebtedness and providing for a levy of taxes to pay the principal and interest of such bonds and declaring that this act shall take effect immediately.

Stats 1901, p 27

[Approved by Governor January 29, 1941. Filed with Secretary of State January 29, 1941.] In effect immediately

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

SECTION 1. In all cases in which proceedings have been taken for the authorization and issuance of bonds of any municipality in this State for flood control purposes under an act, or Validation of proceedings: Flood control bonds

Stats 1901, p. 27

under color of an act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements, and regulating the acquisition, construction or completion thereof," which became law under constitutional provision without Governor's approval on February 25, 1901, and where the proposition of issuing such bonds has been submitted to the qualified electors of the municipality at an election held for the purpose of voting thereon, and not less than two-thirds of the voters voting upon such proposition voted for the issuance of such bonds, the power to issue such bonds under said act of 1901, as amended, and all of the acts and proceedings leading up to and including the issuance and sale of such bonds if such bonds have heretofore been issued and sold, and all acts and proceedings heretofore taken if such bonds have not been issued and sold, are hereby legalized, ratified, confirmed, validated and declared

Validation of bonds

legally effective. The bonds heretofore issued and sold are declared to be and shall be, in the actual form in which such bonds have been issued, the legal and binding obligations of the municipality issuing the same, and bonds hereafter issued and sold are declared to be and shall be the legal and binding obligations of the municipality issuing the same, and the full faith and credit of the municipality is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds as the same mature.

Tax levy

SEC. 2. The legislative branch of such municipal corporation shall at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid, or until there shall be a sum in the treasury of said municipal corporation set apart for that purpose sufficient to meet all sums coming due for the principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds as the same becomes due, and also such part of the principal thereof as shall become due before the proceeds of a tax levied at the time for making the next general tax levy can be made available for the payment of such principal; provided, however, that if the maturity of the indebtedness created by the issue of bonds be made to begin more than one year after the date of the issuance of such bonds, such tax shall be levied and collected at the time and in the manner aforesaid annually each year, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes and shall be collected at the time and in the same manner as other municipal taxes are collected and be used for no other purpose than for the payment of said bonds and the accruing interest thereon.

Exception

SEC. 3. This act shall not operate to legalize any bonds of any municipality that have not, at the time of the passage of this act, been authorized by the vote of not less than two-thirds

of the qualified electors of such municipality voting at any such election, or any bonds which have been sold for less than their par value, or any bonds which mature at a date more than 40 years from the time of their issuance.

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity: Cities in this State have taken proceedings to incur bonded indebtedness for the construction of public works necessary to control flood waters that constitute a menace to life, health and property within such municipalities. Due to severe rain storms and floods of 1938, 1939, and 1940, perilous flood conditions have been created which menace municipalities of this State. Due to the change of courses of flood channels and the filling of natural water courses with sand and debris, many of said water courses are in such condition that even a minor flood may result in loss of life and heavy property damage due to the inadequacy of such natural courses to carry normal flows of storm waters. In the issuance of such bonds purported irregularities in such proceedings have delayed and will delay the issuance of the bonds voted and will prevent such municipalities obtaining necessary funds. The immediate validation of such bonds will permit the sale thereof at once or in the near future and will permit the immediate beginning of the necessary public improvements to control the flood and storm waters that now menace such cities, and thereby preserve and protect the public peace, health and safety. Urgency

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CHAPTER 7

An act to repeal Sections 3519 and 3520 of, and to add Section 3520 to the Revenue and Taxation Code, relating to property taxation and property deeded to the State for taxes, to take effect immediately. Stats 1939, p 1274, amended

[Approved by Governor January 29, 1941. Filed with Secretary of State January 29, 1941.] In effect immediately

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

SECTION 1. Sections 3519 and 3520 of the Revenue and Taxation Code are hereby repealed. Repeals

SEC. 2. Section 3520 is hereby added to the Revenue and Taxation Code, to read as follows: New section See also Stats 1941, p 2463

3520. As used in this section, "lien" includes any lien for: "Lien"

(a) Interest and penalties or both on taxes or assessments or both.

(b) Amounts payable to cities or for their account on redemption of property from sale for taxes, assessments, or other amounts.

Title conveyed to State

The deed conveys to the State the absolute title to the property, free of all encumbrances, except:

(1) Liens for taxes levied for municipal, irrigation, reclamation, protection, flood control, public utility or other district purposes.

(2) Liens for special assessments collected on tax rolls.

(3) Liens or assessments for other amounts which by law are collected on tax rolls by or for account of cities.

When the land is owned by the United States or this State, the deed is prima facie evidence of the right of possession accrued as of the date of the deed without prejudice to the taxes or assessments which are a lien upon the property.

Operative date

SEC. 3. The provisions of Sections 1 to 2, inclusive, of this act are not operative until February 1, 1941, on and after which date they become and continue operative and applicable.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

The Revenue and Taxation Code was given a future effective date in order that all officers and persons concerned with the administration of the law dealing with property taxation might become thoroughly familiar with the provisions of the code before commencement of operation under it. Also, it was contemplated that any incongruities, conflicts or errors in the text of the code would be discovered prior to the date fixed for the code becoming effective. As the first Monday in March, the lien date for property taxes, sets in motion the complex procedure for the assessing and collection of taxes for the next fiscal year, it was essential that the code take effect prior to the lien date. Likewise, it is imperative that the amendments to the Revenue and Taxation Code made by this act become effective prior to the lien date. It is also essential that this act, which corrects incongruities, conflicts and errors discovered in the text of the code, become effective no later than the effective date of the code in order that the transition from operating under the existing provisions of law to acting under the code may be made with a minimum of confusion and with the greatest continuity of action. For this act not to go into effect immediately would result in untold hardship to taxpayers and unnecessary litigation, possibly resulting in delayed collection or loss of large amounts of taxes.

CHAPTER 8

An act to amend Sections 107, 121, 252, 260, 531, 2905, 4337, 4990 and 5138 of, and to repeal Section 261 of the Revenue and Taxation Code, relating to property taxation, including the assessment and collection of taxes, installment payment of taxes, exemptions, cancellation of taxes, suits to recover taxes, and the definitions of real estate, real property, possessory interests, and taxing agency, to take effect immediately.

Stats 1939, p 1274, amended

[Approved by Governor January 29, 1941 Filed with Secretary of State January 29, 1941.]

In effect immediately

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

SECTION 1. Section 107 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1277

107. "Possessory interests" means the following:

"Possessory interests"

(a) Possession of, claim to, or right to the possession of land or improvements, except when coupled with ownership of the land or improvements in the same person.

(b) Taxable improvements on tax exempt land.

Possessory interests shall not be considered as sufficient security for the payment of any taxes.

SEC. 2. Section 121 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p. 1278

121. "Taxing agency" includes the State, county, and city. "Taxing agency" also includes every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed.

"Taxing agency"

SEC. 3. Section 252 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1283

252. Any person claiming the veterans' exemption shall appear before the assessor, shall give all information required and answer all questions in an affidavit, and shall subscribe and swear to the affidavit before the assessor. The assessor may require other proof of the facts stated before allowing the exemption.

Veterans' exemption

SEC. 4. Section 260 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p. 1284

260. If any person, claiming any exemption named in this article, fails to follow the required procedure, the exemption is waived by the person.

Noncompliance with procedure

Stats 1939, p 1284

SEC. 5. Section 261 of the Revenue and Taxation Code is hereby repealed.

Stats 1939, p 1290

SEC. 6. Section 531 of the Revenue and Taxation Code is hereby amended to read as follows:

Escaped property

531. If any property belonging on the local roll has escaped assessment, the assessor shall assess the property on discovery at its value on the lien date for the year for which it escaped assessment if:

(a) The property is owned or controlled by the same person who owned or controlled it for the year for which it escaped assessment, or

(b) The only transfers made of the property since the lien date for the year for which the property escaped assessment have been transfers by gift, descent, bequest, or devise.

Stats 1939, p 1316

SEC. 7. Section 2905 of the Revenue and Taxation Code is hereby amended to read as follows:

Unsecured tax rate

2905. In collecting taxes on the unsecured roll the tax rate to be used is the rate for property of the same kind on the secured roll last fixed before the lien date for the taxes to be collected.

Stats 1939, p 1356

SEC. 8. Section 4337 of the Revenue and Taxation Code is hereby amended to read as follows:

Credit on starting new installment plan

4337. When payment of delinquent taxes in installments on any property was started under any provision of law and payment of delinquent taxes in installments on the property is later started under another provision of law providing for such payment, or under the same provision of law after default in payment, there shall be credited on the amount payable the total amount of back taxes paid under the same or previous provision, without an allowance for interest on it. This credit is in addition to and not a substitute for the payment of any part of any installment payable and shall be allowed after the first installment is paid.

Stats 1939 p 1367

SEC. 9. Section 4990 of the Revenue and Taxation Code is hereby amended to read as follows:

Double assessment

4990. On discovery that any property is assessed by the same taxing agency more than once for the same year, after payment of all charges justly due on the property the tax collector shall certify the facts to the auditor and the board of supervisors. The board of supervisors shall then order the auditor to cancel the other charges and assessments by an entry on the margin of the roll and, if carried there, the delinquent list.

SEC. 10. Section 5138 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1372 See also Stats 1941, p 2112

5138. Within six months after the payment, action may be brought against the county in the superior court to recover the tax paid under protest. Court action

If all or any portion of the tax paid under protest was levied for a city and collected by officers of the county, the city shall be made a party to the action and judgment shall be sought against the city. City as party

SEC. 11. The provisions of Sections 1 to 10, inclusive, of this act are not operative until February 1, 1941, on and after which date they become and continue operative and applicable. Operative date

SEC. 12. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. Urgency

The following is a statement of facts constituting such necessity:

The Revenue and Taxation Code was given a future effective date in order that all officers and persons concerned with the administration of the law dealing with property taxation might become thoroughly familiar with the provisions of the code before commencement of operation under it. Also, it was contemplated that any incongruities, conflicts or errors in the text of the code would be discovered prior to the date fixed for the code becoming effective. As the first Monday in March, the lien date for property taxes, sets in motion the complex procedure for the assessing and collection of taxes for the next fiscal year, it was essential that the code take effect prior to the lien date. Likewise, it is imperative that the amendments to the Revenue and Taxation Code made by this act become effective prior to the lien date. It is also essential that this act, which corrects incongruities, conflicts and errors discovered in the text of the code, become effective no later than the effective date of the code in order that the transition from operating under the existing provisions of law to acting under the code may be made with a minimum of confusion and with the greatest continuity of action. For this act not to go into effect immediately would result in untold hardship to taxpayers and unnecessary litigation, possibly resulting in delayed collection or loss of large amounts of taxes.

CHAPTER 9

An act making an additional appropriation to The Adjutant General and the California National Guard in augmentation of the appropriation made by Item 133 of the Budget Act of 1939, for the purpose therein specified, declaring the urgency hereof, and providing that this act shall take effect immediately.

Stats 1939, p 1833

In effect immediately

[Approved by Governor January 29, 1941. Filed with Secretary of State January 29, 1941.]

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

Appropriation Adjutant General and National Guard

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of fifteen thousand dollars ($15,000) is hereby appropriated to The Adjutant General and the California National Guard in augmentation of and for the purpose specified in Item 133 of the Budget Act of 1939, for construction, improvements and equipment of armories, arsenals, stables, rifle ranges and camp sites, during the Ninety-second Fiscal Year.

Stats 1939, p 1847

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The National emergency resulting in the mobilization of the California National Guard and the induction of numerous civilians into military service for training purposes has imposed severe and unanticipated burdens upon the National Guard facilities and has necessitated the immediate expansion and development thereof. It is necessary to provide immediately for additional training facilities and for housing of large numbers of men on military duty. It is therefore necessary that this measure take immediate effect in order to fulfill the obligations of the State under the National training program and so that this program will not be unduly delayed or impeded.

CHAPTER 10

An act to amend the County Water District Act approved June 10, 1913, as amended, by amending Sections 31, relating to assessment, 34, relating to tax levies, 37.1, relating to segregation of assessments, 38, relating to cancellation of assessments, 39, relating to tax payments, 41, relating to costs, 44, relating to tax sales, 45, relating to redemption and 46, relating to partial redemption and adding new Sections 29.1, relating to optional tax system, 45.1, relating to disposal of tax-deeded land, 45.2, relating to resale plans, 45.3, relating to quieting title, 45.4, relating to acquisition of claims, 45.5, relating to actions and defenses as to tax deeds, 45.6, relating to actions and defenses as to sales of tax-deeded land and 47.1, relating to correction of certificates of sale and deeds, and declaring the urgency of this act and providing that it take effect immediately.

Stats 1913, p 1049, amended

[Approved by Governor January 30, 1941. Filed with Secretary of State January 30, 1941.]

In effect immediately

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

SECTION 1. A new section is hereby added to the County Water District Act, as amended, to be numbered 29.1, and to read as follows:

New section

Sec. 29.1. Whenever the board of directors of any district has by ordinance declared that the provisions of Sections 21 and 22, as amended, of this act shall not thereafter be operative with respect to such district, such board of directors shall thereafter at its option have the power by ordinance to declare that the provisions of said Sections 21 and 22, as amended, shall thereafter be operative with respect to any one or more of the several taxes to be levied for said district which shall be specified in said ordinance, and that Sections 30 to 51 inclusive, as amended, shall continue to be operative as to the remaining taxes to be levied for the district. Thereafter said Sections 21 and 22, as amended, shall be effective and control the mode and manner of assessment, levy and collection of the tax or taxes, specified in such ordinance, until the board shall by ordinance declare that the provisions of said Sections 21 and 22, as amended, shall not thereafter be operative with respect to any one or more of such several taxes and that such tax or taxes shall be assessed, levied and collected under the provisions of Sections 30 to 51 inclusive of this act, as amended.

Tax levy Alternative method

SEC. 2. Section 31 of said act, as amended, is hereby amended to read as follows:

Stats 1937, p 1424

Sec. 31. The assessor must, between the first Monday in March and the second Monday in July of each year assess all lands, including all possessory rights to the use or possession of land held under the public land laws of the United States or of the State of California, or otherwise, and all

Assessment of property

improvements and personal property within the boundaries of the district, then subject to taxation by the district under Sections 30 to 51, inclusive, of this act, to the persons who own, claim or have possession or control thereof, at the full cash value thereof, as follows:

Assessment roll

He must prepare an assessment roll with appropriate headings, in which must be listed all such property, in which must be specified in separate columns under the appropriate heading:

1. The name of the person to whom the property is assessed, or if the name is not known to the assessor, the property shall be assessed to "unknown owners";

2. Land by township, range, section or fractional section, and when such land is not in any congressional division or subdivision, by metes and bounds or other description sufficient to identify it, giving an estimate of the number of acres and locality;

3. City and town lots, naming the city or town, and the number and block according to the system of numbering in such city or town;

4. The cash value of land other than city or town lots;

5 The cash value of city and town lots;

6. The cash value of improvements;

7. The cash value of personal property;

8 The total value of all property assessed;

9. The total value of all property after equalization by the board of directors;

Property escaping assessment

10. Such other things as the board of directors may require. Any property, which may have escaped assessment for any year shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for in such current year.

Stats 1933, p 2268

SEC. 3. Section 34 of said act, as amended, is hereby amended to read as follows:

Levy of additional tax

Sec. 34. If, from any cause, the revenues of the district shall be, or, in the judgment of the board of directors, are likely to be inadequate to pay the interest on or principal of any bonded debt as it becomes due, or any other expenses or claims against the district, then the board of directors must, within 15 days after the close of its session as a board of equalization, levy a tax sufficient for the payment of principal

Bond tax

of and interest upon such bonded indebtedness, to be known as the "bond tax" of the district; a tax sufficient for the payment of all charges and expenditures in connection with construction, acquisition, operation and maintenance of any

Water tax

water system of the district, to be known as the "water tax" of the district, and a tax sufficient for the payment of all other

General tax

claims and expenses, to be known as the "general tax" of the district. Said bond tax shall be levied upon such portion or all of the district benefited by said bonded debt, as stated by the board in its resolution declaring the necessity of incurring such bonded debt; said water tax shall be levied on such

portion or all of the district as is benefited by any such water system and as may be designated by resolution of the board, and said general tax shall be levied on all the property within the district.

Ascertainment of rate of tax

In ascertaining the rates of taxation to be levied, 15 per centum shall be deducted for anticipated delinquencies from the aggregate value of property to be levied on in respect of each separate rate, as shown by the assessment roll of the district, and then the sum necessary to be raised shall be divided by the remainder of the proper aggregate assessed value. The secretary must forthwith compute and enter in a separate column of the assessment roll the respective sums in dollars and cents, rejecting fractions of a cent, to be paid on the respective properties therein enumerated.

Stats 1937, p 1425

SEC. 4. Section 37.1 of said act, as amended, is hereby amended to read as follows:

Segregation and separate valuation of parcels

Sec. 37.1. At any time after taxes are due and prior to the date when the last installment of taxes becomes delinquent, any person, firm or corporation claiming any interest in any lot, piece, parcel, fractional part or undivided interest in land, which does not have a separate valuation on the assessment roll, may have the same segregated and separately valued on said roll in the manner hereinafter set out.

Application for segregation

Each applicant for segregation shall file with the collector an application for segregation and pay to the collector, for the district, a fee of fifty cents ($0.50) for each part into which the land is to be segregated. The collector shall forthwith submit a description of said lot, piece, parcel, fractional part, or undivided interest, together with the proposed segregation, to the assessor who must place a separate valuation on each part into which the land is to be segregated and on the improvements thereon and the relative proportion of the personal property, the tax on which is a lien thereon. The aggregate amount of assessed valuation of the parts so segregated shall remain the same as before such segregation. The assessor must transmit such valuations to the collector who shall cause a description of the parts of the property, together with separate valuations, to be entered on the assessment roll and compute and extend the tax and penalties, if any, and cancel the original description, valuation and tax and penalties, if any. Thereafter taxes, including proportionate accrued penalties, if any, on each segregated part may be paid separately from the whole assessment. The fee above specified shall not be required when any part of the land to be segregated has been twice assessed for the year in question.

Fee

Stats 1933, p 2269

SEC. 5. Section 38 of said act, as amended, is hereby amended to read as follows:

Cancellation or modification of assessments

Sec. 38. In case the board of directors of the district shall find that any property has been assessed in any year more than once, or has been assessed by reason of a clerical error for more than its full cash value, or the assessment computed on an excessive acreage, or that any property assessed was not

in the district when so assessed, or was not legally assessable by the district, the board may authorize the collector to cancel or modify any such assessment as may be proper, and, in case of any such change in any assessment, the secretary shall credit the collector with the amount of said assessment, if it is canceled, or the amount by which it is reduced, if it is modified.

Cancellation of certificate or deed

If real property has been sold to the district for nonpayment of any tax levied as described in this section and a certificate of sale or deed therefor has been recorded, the order of the board shall also cancel such certificate or deed and shall be recorded.

Refunds

Any taxes, penalties or costs thereon, or portions thereof, provided for by this act, heretofore or hereafter paid more than once, or heretofore or hereafter erroneously or illegally collected, may, by order of the board of directors, be refunded by the district.

Verified claim

No order for the refund of taxes, penalties or costs under this section shall be made except on a verified claim therefor, verified by the person who has paid said taxes, penalties or costs, or by his guardian, or, in case of his death, by his executor or administrator, which said claim must be filed within one year after the making of the payment sought to be refunded.

Stats 1933, p 2269

SEC. 6. Section 39 of said act, as amended, is hereby amended to read as follows:

Notice of delinquency

Sec. 39. On or before the first Monday in October of each year the secretary must deliver the assessment roll to the collector of the district, who shall within 10 days thereafter publish a notice in a newspaper published in said district, or if there be none, in the county in which the district is situate, that said taxes will be due and payable on the third Monday in October next thereafter, and that the first installment thereof, including all personal property taxes, and one-half of the taxes on lands and improvements, will become delinquent at 6 o'clock p.m. on the second day of January next thereafter, and that unless paid prior thereto, 5 per cent will be added to the amount thereof, and that the second installment of said taxes, being the second one-half of taxes on lands and improvements, will become delinquent at 6 o'clock p.m. on the first day of July next thereafter, and that unless paid prior thereto, 5 per cent will be added to the amount thereof, and also the time and place at which the payment of said taxes may be made. Said notice shall be published once a week for two weeks. The collector must attend at the time and place specified in the notice to receive taxes, which must be paid in gold and silver coin. He must mark the date of payment of said taxes on the assessment roll opposite the name of the person paying and give a receipt to such person, specifying the amount of the tax and the amount paid, with the description of the property assessed. After

said first installment of taxes has become delinquent, the collector must collect thereon, for the use of the district, an addition of 5 per cent thereof, and, after the second installment of said taxes has become delinquent, the collector must collect thereon, for the use of the district, an addition of 5 per cent, in both instances rejecting fractions of a cent. Delinquency penalties

SEC. 7. Section 41 of said act, as amended, is hereby amended to read as follows: Stats 1933, p 2271

Sec. 41. The collector must collect, in addition to the taxes shown due on the delinquent list, with the percentages hereinbefore specified added, fifty cents ($0.50) on each lot, piece or tract of land separately assessed and delinquent on the second day of July. The collector may postpone the time of sale, but he must give notice thereof at the time and place fixed for the sale in the publication. He may so postpone the time of sale from day to day, but not for a period of more than three weeks; provided, that if the sale be stayed by legal proceedings, the time of the continuance of such proceedings shall not be part of the time limited for making such sale. Postponement of time of sale

SEC 8. Section 44 of said act, as amended, is hereby amended to read as follows: Stats 1933, p. 2272

Sec. 44. The collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during business hours, when not in actual use On filing the certificate with such county recorder, the lien of the taxes vests with the district and is only divested by the payment to it of the aggregate of the taxes, penalties and costs, together with 1 per cent per month, or fraction thereof, thereon from the date of the sale until redemption; provided, that partial redemption may be made in the manner specified in Sections 45 and 46 of this act. Record of sale

SEC. 9. Section 45 of said act, as amended, is hereby amended to read as follows: Stats 1937, p. 1426

Sec. 45. A redemption of property sold may be made by the owner, or any party in interest, within three years from the date of the sale. Redemption must be made in lawful money of the United States. Redemption

On receiving the certificate of sale, the county recorder must file it in book form and prepare an index thereto, in which, in separate columns, he must enter the name of the person to whom the land was assessed, as written in the certificate, the name of the district and the date of sale. Record

On receipt of the redemption money plus the sum of fifty cents ($0.50) which the collector shall collect from the redemptioner, the collector shall issue a certificate of redemption in triplicate, retain one copy and deliver one copy to the redemptioner and the other to the county recorder together with said sum of fifty cents ($0.50), which sum Certificate of redemption

shall be received by said recorder in full of his fees and thereupon the recorder must file said certificate of redemption and mark the word "redeemed," the date and by whom redeemed on the certificate of sale and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor, must make to the district a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. Said deed shall be executed in duplicate and both duplicates delivered to the county recorder of the county wherein the property is situate. The recorder shall note on one of said duplicates a filing number, the exact time of its reception, the fact that it was recorded at request of the district and a notation by the comparer that said duplicate has been compared and shall securely place such duplicate in a record book of his office and retain the same. Such duplicate shall be deemed a printed form within the meaning of Section 4130 of the Political Code and when properly noted and placed in a record book shall be deemed recorded and shall be constructive notice to all persons. The recorder shall, on the other duplicate of said deed, make the same notations as on the one retained by him and return such duplicate to the district.

Deed to district

New section

SEC. 10. A new section is hereby added to said act, as amended, to be numbered 45.1 and to read as follows:

Disposition of tax deeded lands

Sec. 45.1. The board of directors shall have authority to sell and convey, or sell on contract, with deferred payments, or lease, or grant options to purchase, or otherwise dispose of any land deeded to the district for delinquent taxes, to the owner of said land at the time it was sold or deeded to the district, or to any other person, all at such price and upon such terms and conditions as may appear to the board reasonable and just, and as it may authorize, either by resolution relating specifically to any such transaction, or by resolution adopting a general plan or rules and regulations for making such transactions. In any transaction authorized by this section the district may convey, or agree to convey, or grant options to purchase any title theretofore or thereafter acquired by the district under the provisions of Section 3897d of the Political Code, or of Chapter 8, Part 6, Division 1 of the Revenue and Taxation Code, as now existing or hereafter amended. In any such transaction the district may incorporate in any deed, contract, option or other instrument conditions subsequent for reversion of title to the district upon failure to pay, within such time or times as may be fixed by the board, district taxes, county taxes or such other sums as may be required by the board and said board may require the payment of penalties on any default in payment of contract installments or other sums so required to be paid. The board may employ agents for the purpose of disposal of tax-deeded lands.

Provision for reversion of title

Employment of agents

SEC. 11. A new section is added to said act, as amended, to be numbered 45.2 and to read as follows: New section

Sec. 45.2. Whenever the board of directors of a district has, by resolution, approved any general plan of resale of lands heretofore or hereafter deeded to the district for delinquent taxes and such plan provides for the handling, sale, conveyance and disposal of such lands and such plan has been approved by the board of supervisors of the county in which the district lies, any such plan and all amendments thereto heretofore approved by such board of directors and such board of supervisors and all acts and proceedings of such board of directors and of such board of supervisors and of public officers in connection with the approval and carrying out of such plan heretofore taken or done are hereby legalized, ratified and confirmed and declared valid to all intents and purposes and the power of such district and of such board of directors and board of supervisors to approve and carry out such plan is hereby in all respects ratified, confirmed and declared. General plan of resale

SEC. 12. A new section is hereby added to said act, as amended, to be numbered 45.3 and to read as follows: New section

Sec. 45.3. Whenever, in order to exercise its authority to sell or dispose of land deeded to the district for delinquent taxes, the board of directors shall find it necessary or expedient to bring action to quiet the title of the district to such land and any claimant or holder of any estate, right, title or interest in said land adverse to the district is deceased and no executor or administrator of his estate has been appointed, then the public administrator of the county whose superior court has jurisdiction of such estate shall apply for letters of administration upon such estate. The district may pay to such public administrator such necessary expenses of administration as the board of directors may authorize. Quieting title. Appointment of executor or administrator

SEC. 13. A new section is hereby added to said act, as amended, to be numbered 45.4 and to read as follows: New section

Sec. 45.4. The board of directors may, on such terms as it deems for the best interest of the district, acquire a deed, release or waiver from any claimant, including the State or any political subdivision or public agency thereof, to any interest in any property owned or claimed by the district. Said board may also, on like terms purchase, rent, or lease, under any applicable provisions of the Political Code, or Revenue and Taxation Code, any land on which the district has a deed, lien or claim for delinquent taxes, or any other right, title, claim or interest. Acquisition of release

SEC. 14. A new section is hereby added to said act, as amended, to be numbered 45.5 and to read as follows: New section

Sec. 45.5. No action, suit or proceeding to set aside, cancel or question the validity or regularity of any deed for delinquent taxes heretofore or hereafter executed to the district by its collector or to attack or question the effectiveness of any such deed to convey the absolute title to the land therein Suit to set aside tax deed. Time to commence

described shall be commenced or maintained unless the same shall have been commenced within six months after the recordation of such deed, or within three months after the effective date of this amendatory act, whichever shall be the later to expire, and thereafter all persons shall be barred from commencing or prosecuting any such action, suit or proceeding or maintaining any defense, counterclaim or cross-complaint or answer thereto in any action, suit or proceeding, which action, suit or proceeding, defense, counterclaim, cross-complaint or answer is based or depends in whole or in part upon the alleged invalidity, irregularity or ineffectiveness of such deed.

Burden of proof

The burden of proof in any such action, suit or proceeding shall be upon the person urging the invalidity, irregularity or ineffectiveness of such deed or of any taxes, assessments or sales of which he complains to show such invalidity, irregularity or ineffectiveness and such person shall be required to plead specifically the grounds upon which he urges such invalidity, irregularity or ineffectiveness.

New section

SEC. 15. A new section is hereby added to said act, as amended, to be numbered 45.6 and to read as follows:

Suit to set aside agreement Time to commence

Sec. 45.6. No action, suit or proceeding to set aside, cancel or question the validity or regularity of any agreement of sale, deed, lease or option heretofore or hereafter executed by the district in disposing of land theretofore deeded to the district by its collector for delinquent taxes, or to attack or question the effectiveness of any such instrument to convey or affect the title to the land therein described shall be commenced or maintained unless the same shall have been commenced within six months after the execution by the district of such agreement, deed, lease or option or within three months after the effective date of this amendatory act, whichever shall be the later to expire, and thereafter all persons shall be barred from commencing or prosecuting any such action, suit or proceeding or maintaining any defense, counterclaim or cross-complaint or answer thereto in any action, suit or proceeding, which action, suit or proceeding, defense, counterclaim, cross-complaint or answer is based or depends in whole or in part upon the alleged invalidity, irregularity or ineffectiveness of such agreement, deed, lease or option.

Burden of proof

The burden of proof in any such action, suit or proceeding shall be upon the person urging the invalidity, irregularity or ineffectiveness of such agreement, deed, lease or option, or of any taxes, assessments, sales or tax deeds of which he complains to show such invalidity, irregularity or ineffectiveness and such person shall be required to plead specifically the grounds upon which he urges such invalidity, irregularity or ineffectiveness.

Stats 1933, p 2272

SEC. 16. Section 46 of said act, as amended, is hereby amended to read as follows:

Partial redemption

Sec. 46. In all cases where a lot, piece or parcel of land contained in any assessment has been sold or may hereafter be sold to the district for delinquent taxes and the time

for redemption has not expired, a partial redemption may be made by the owner or any person in interest separately from the whole assessment of any such lot, piece or parcel of land as follows: All applications for partial redemption shall be made to the collector, who shall collect from the applicant, for the district, a fee of fifty cents ($0.50) for each part into which the land is to be divided, under the application. If such lot, piece or parcel of land has a separate valuation shown on the assessment roll, the collector shall estimate the amount due according to the valuation shown on the assessment roll, and the redemption shall be made in the manner provided for in Sections 44 and 45 of this act. If such lot, piece or parcel of land or such fractional part of such lot, piece or parcel of, or undivided interest in, land does not have a separate valuation shown on the assessment roll, the collector shall submit the description on the assessment roll and the description of the lot, piece or parcel of land, or the fractional part thereof, or undivided interest therein, upon which redemption is requested, to the assessor, who must place a valuation thereon and on the improvements thereon and the relative proportion of the personal property, the tax on which is a lien thereon. The aggregate assessed valuation of the entire property shall remain the same as before. The collector shall then estimate the amount of such taxes due on such lot, piece or parcel of land, or fractional part thereof or undivided interest therein according to its relative or proportionate value, and any improvements and personal property thereon, together with the relative proportion of penalties, costs and interest due on such taxes. The collector shall then enter on the assessment roll the description of the property to be redeemed and the property not to be redeemed, together with the separate valuations thereof, and extend the taxes, penalties, interest and costs and cancel the original description, valuation, tax, penalties and costs. Thereupon such redemption shall be made in the manner provided for in Sections 44 and 45 of this act. Upon the filing with the recorder of the certificate of partial redemption, the recorder shall note on the margin of the certificate of sale the words "Partially Redeemed" and the filing number and date of filing of the certificate of partial redemption. The fee above specified shall not be required when any part of the land has been twice assessed for the year in question

Applications

Valuation of parcel

SEC. 17. A new section is hereby added to said act, as amended, to be numbered 47.1 and to read as follows:

New section

SEC. 47.1. When real property has been correctly assessed and sold to the district for delinquent taxes, any misstatement of facts or clerical error appearing in the certificate of sale, or in the deed issued thereon, may be corrected by the collector, upon a resolution of the board of directors, directing such correction by the issuance of a corrected certificate of sale or deed. Such corrected instrument and a certified copy of such resolution shall be filed in the office of the

Correction of misstatement or clerical error

recorder of the county in which the land is situated, in the same manner as the original instrument.

Urgency

SEC. 18. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall take effect immediately.

The facts constituting such necessity are as follows: One or more county water districts operating under the alternative tax provisions set out in Sections 30 to 51, inclusive, of the act have found that great savings of expense in tax assessment and collection can be made by turning over to county officers the collection of certain district taxes and retaining in the hands of district officers the collection of other taxes. The taxpayers of such districts are heavily burdened with taxation and must be given prompt relief from such unnecessary and excessive costs. Unless this act can go into effect immediately, it will be impossible to change the present system in the 1941 tax year.

Large amounts of property in such districts have been tax deeded to such districts and it is essential that certain of the foregoing amendments be promptly effective in order to enable the early return of such properties to the tax rolls, by facilitating quieting title and sales as early as possible.

Also technical clarifying amendments in respect of certain of said Sections 30 to 51, inclusive, should take effect immediately, in order to be applicable to 1941 tax proceedings.

CHAPTER 11

Stats 1937, p. 185, amended

An act to add a new section to the Labor Code, to be numbered 204a, relating to the time for payment of wages of workers who are employed by employers who cooperate to establish a plan for the payment of wages at a central place or places in accordance with a unified schedule of pay days, this act to take effect immediately.

In effect immediately

[Approved by Governor January 30, 1941. Filed with Secretary of State January 30, 1941.]

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

New section

SECTION 1. Section 204a is added to the Labor Code, to read as follows:

Payment at central place

204a. When workers are engaged in an employment that normally involves working for several employers in the same industry interchangeably, and the several employers, or some of them, cooperate to establish a plan for the payment of wages at a central place or places and in accordance with a unified schedule of pay days, all the provisions of this chapter except 201, 202, and 208 shall apply. All such workers,

including those who have been discharged and those who quit, shall receive their wages at such central place or places.

This section shall not apply to any such plan until 10 days after notice of their intention to set up such a plan shall have been given to the Labor Commissioner by the employers who cooperate to establish the plan. Having once been established, no such plan can be abandoned except after notice of their intention to abandon such plan has been given to the Labor Commissioner by the employers intending to abandon the plan.

Notice of establishment of plan

Notice of abandonment of plan

SEC. 2. This act is hereby declared an urgency measure, being necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows: Workers employed in certain industries of this State, because of the many employers for whom they work, experience great difficulty and hardship in the collection of their wages. The immediate effectiveness of this act is necessary so that a central wage payment plan can be set up to make possible the collection at a single time and place of wages earned in the employment of several different employers.

Urgency

CHAPTER 12

An act increasing the Revolving Fund of the Los Angeles Industrial Workshop for the Blind from twenty thousand dollars ($20,000) to forty thousand dollars ($40,000), making an appropriation therefor, and declaring the urgency thereof.

[Approved by Governor January 30, 1941. Filed with Secretary of State January 30, 1941.]

In effect immediately

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

SECTION 1. The Los Angeles Industrial Workshop Revolving Fund, heretofore created in the sum of twenty thousand dollars ($20,000) is hereby increased to forty thousand dollars ($40,000). The sum of twenty thousand dollars ($20,000) is hereby appropriated out of funds in the State Treasury not otherwise appropriated, to be credited to the Los Angeles Industrial Workshop Revolving Fund, and to be expended for the purpose for which said fund was created.

Los Angeles Industrial Workshop Revolving Fund

Appropriation

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall go into immediate effect.

Urgency

The following is a statement of the facts constituting such necessity:

The Los Angeles Industrial Workshop has contracted with various agencies of the United States Government to manufacture for the Army and Navy various items vitally needed for the National defense. These orders are large and large quantities of raw materials must be purchased for manufacture. The present revolving fund is not of sufficient size to permit the buying of the raw materials in the quantities needed in the period of time dictated by the National defense urgency.

CHAPTER 13

An act relating to the operation of motor vehicles used in unemployment cooperative relief work, and declaring the urgency thereof and that this act shall go into immediate effect.

In effect immediately

[Approved by Governor January 30, 1941. Filed with Secretary of State January 30, 1941.]

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

Permits for vehicles used in unemployment cooperative relief work

SECTION 1. (a) The Department of Motor Vehicles may, during the registration years of 1941 and 1942, issue a permit for any motor vehicle used exclusively in unemployment cooperative relief work by any cooperative association operating without profit, dues, or the payment of any salaries in the distribution of goods, wares and merchandise from one place to another, which permit shall allow the operation of any such motor vehicle while so used without the payment of the registration fees required by law.

Affidavit

(b) Every application for permit hereunder must be accompanied by an affidavit duly verified by the owner of the motor vehicle or motor vehicles for which permit is requested, which affidavit shall set forth such facts as in the opinion of the Department of Motor Vehicles will enable the department to determine if such vehicle or vehicles are entitled to be operated under such permit without payment of the registration fees therefor. The department shall withhold registration of the vehicles herein mentioned until it shall be convinced by affidavits of the applicant or upon evidence submitted by the county, State, or Federal relief authorities that the vehicles will be used exclusively for the purposes herein stated.

Operative date

SEC. 2. The provisions of this act shall operate and apply to registration during the registration year of 1941, as well as that of 1942, with the same force and effect as if it had gone into operation and effect as a statute on January 1, 1941.

Penalty

SEC. 3. Any person filing a false affidavit hereunder for the purpose of securing an exempt registration for license plates shall be guilty of a misdemeanor.

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall go into immediate effect. Urgency

The following is a statement of facts constituting such necessity:

There are throughout the State of California a great number of unemployed and destitute people. Many persons and agencies have made available for the relief of such unemployed and destitute persons divers goods, wares and merchandise. It is necessary for the proper distribution of such goods, wares and merchandise that transportation facilities be furnished. Many persons own or possess motor vehicles, motor trucks, trailers and semitrailers available for the solicitation or transportation of such goods, wares and merchandise but such persons are financially unable to pay the required fees for the registration of such vehicles and the prompt and efficient distribution of the same and immediate unemployment relief will be impossible if this act does not go into immediate effect.

CHAPTER 14

An act to amend Section 952 of the Agricultural Code, relating to one-variety cotton districts, and declaring the urgency of this act and providing that it shall take effect immediately. Stats 1933, p 60, amended

[Approved by Governor February 1, 1941. Filed with Secretary of State February 1, 1941.] In effect immediately

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

SECTION 1. Section 952 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 227

952. District number two shall consist of the County of Kern; district number three shall consist of the County of Madera; district number four shall consist of the County of Fresno; district number five shall consist of the County of Kings; district number six shall consist of the County of Tulare; district number seven shall consist of the County of Merced; district number eight shall consist of the County of Stanislaus; district number nine shall consist of the County of San Joaquin. Cotton districts

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and Urgency

therefore shall take effect immediately. The facts constituting such necessity are as follows:

Since 1925 cotton growers in Riverside County have been restricted by law to the growing of one variety of short-staple cotton, to wit, Acala cotton. At present, due to war conditions, there is practically no open market for short-staple cotton, practically all such cotton being pledged for loans from the United States; such loans are hardly greater than the cost of production and growers are restricted by the United States from growing such cotton on more than a small percentage of their land. Long-staple cotton, on the other hand, has an open market, with active demand; the market price is greater than the government loans and no acreage restriction exists.

Cotton growers in Riverside County have generally, for many years, due to low prices and restriction of acreage with great difficulty received enough net income to support their families and many of them have been forced to quit farming and go on relief. If they can be permitted to plant long-staple cotton in the 1941 cotton season, which commences March 1, 1941, they will have a better opportunity to remain independent and self-supporting and the State Treasury will not be drawn on for their maintenance.

CHAPTER 15

Stats 1941, p 131, amended

An act to repeal Section 33 of, and to add Sections 34 and 35 to, an act entitled "An act to amend Sections 124, 127, 3591, 3591, 3616, 3651, 3659, 3661, 3691, 3807, 4101, 4111, 4112, 4113 and 4147 of, to amend the title of Chapter 8 of Part 6 of Division 1 of, to repeal Sections 3614, 3707 and 4108 of, to add Sections 3511 5, 3521, 3662 and 3663 to, to add Chapter 4.3, consisting of Sections 3534 to 3562, and Chapter 4.6, consisting of Sections 3571 to 3578, to Part 6 of Division 1 of, the Revenue and Taxation Code, and to amend Sections 3833.3, 3857.2 and 3859.20 of, to repeal Sections 3773.1, 3833 and 3859.18 of, and to add Sections 3773.1, 3773.2, 3785.4, 3785.5 and 3785.6 to, and to add Chapter 9b, consisting of Sections 3860.01 to 3860 32, and Chapter 9c, consisting of Sections 3861.1 to 3861.8, to Title 9 of Part 3 of, the Political Code, relating to property taxation, including the right of redemption and the classification and control of tax-deeded property, and making an appropriation," approved June 1, 1940, and to

Stats 1941, p 175, repealed

repeal an act entitled "An act to amend Section 33 of an act entitled 'An act to amend Sections 124, 127, 3591, 3594, 3616, 3651, 3659, 3661, 3691, 3807, 4101, 4111, 4112, 4113 and 4147 of, to amend the title of Chapter 8 of Part 6 of Division 1 of, to repeal Sections 3614, 3707 and 4108 of, to add Sections 3511.5, 3521, 3662 and 3663 to, to add Chapter 4.3, consisting of Sections 3534 to 3562, and Chapter

4.6, consisting of Sections 3571 to 3578, to Part 6 of Division 1 of, the Revenue and Taxation Code, and to amend Sections 3833.3, 3857.2 and 3859.20 of, to repeal Sections 3773.1, 3833 and 3859.18 of, and to add Sections 3773.1, 3773.2, 3785.4, 3785.5 and 3785.6 to, and to add Chapter 9b, consisting of Sections 3860.01 to 3860.32, and Chapter 9c, consisting of Sections 3861.1 to 3861.8, to Title 9 of Part 3 of, the Political Code, relating to property taxation, including the right of redemption and the classification and control of tax-deeded property, and making an appropriation,' approved June 1, 1940, relating to the effective date of the provisions thereof," approved December 7, 1940, relating to property taxation and the effective date of the provisions of Chapter 47 of the First Extraordinary Session of 1940, to take effect immediately.

[Approved by Governor February 1, 1941. Filed with Secretary of State February 1, 1941.] In effect immediately

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

SECTION 1. Chapter 66 of the First Extraordinary Session of 1940, referred to in the title hereof, is hereby repealed. Stats. 1941, p. 175

SEC. 2. Section 33 of Chapter 47 of the First Extraordinary Session of 1940, referred to in the title hereof, is hereby repealed. Stats. 1941, p. 175

SEC. 3. Section 34 is hereby added to Chapter 47 of the First Extraordinary Session of 1940, referred to in the title hereof, to read as follows: New section

Sec. 34. The provisions of this act shall not take effect until June 1, 1941. At that time: Effective dates

(a) The provisions of this act making amendments to the Revenue and Taxation Code shall take effect on the effective date of this act.

(b) The sections of the Political Code amended by this act are hereby repealed.

(c) All provisions added to the Political Code by this act shall take effect for one day and are then hereby repealed.

SEC. 4. Section 35 is hereby added to Chapter 47 of the First Extraordinary Session of 1940, referred to in the title hereof, to read as follows: New section

Sec. 35. This act may be known and cited as "The Tax Redemption Termination Act." Short title

SEC. 5. It is hereby declared to be the legislative intent in enacting this act to prevent any of the provisions of Chapter 47 of the First Extraordinary Session of 1940 from becoming effective prior to June 1, 1941. Notwithstanding the amending of Section 33 of Chapter 47 of the First Extraordinary Session of 1940 by Chapter 66 of the First Extraordinary Session of 1940, it is the intent of the Legislature to defer the effective date of any and all of the provisions of Chapter 47 and prevent the same from going into effect on the ninety-first day after final adjournment of the First Extraordinary Session of 1940. Declaration of intent

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

Chapter 47 of the First Extraordinary Session of 1940 makes a revolutionary change in the law of property taxation as administered in this State. It will terminate the right of redemption both as to property deeded to the State for delinquent taxes prior to the effective date thereof as well as property deeded to the State for taxes subsequent thereto. After its enactment it was discovered that if its provisions as enacted were allowed to become effective, untold suffering would befall the citizens of the State of California whose property has become tax delinquent through no fault of their own, and who are now able or will be able within the near future to redeem their property due to the financial recovery now being experienced in this State. Also, it was discovered that the provisions of Chapter 47 are especially onerous to property owners whose property has been deeded to the State for delinquent assessments levied by assessment districts, which assessment districts are in the process of being or will shortly be refunded. To allow the provisions of Chapter 47 of the First Extraordinary Session of 1940 to become effective in their present form will ultimately result in the loss of large amounts of taxes, interest and penalties which would otherwise be recovered, as well as imposing great hardship on the citizens of the State of California.

CHAPTER 16

An act to validate the organization, boundaries, governing officers or boards, acts, proceedings, and bonds of school districts, to take effect immediately.

In effect immediately

[Approved by Governor February 1, 1941. Filed with Secretary of State February 1, 1941.]

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

"School district"

SECTION 1. "School district," as used in this act, means any school district of whatever kind or class.

Validation Organization

SEC. 2. All school districts heretofore organized and functioning under, or under color of, any law, and all school districts which have been acting and existing for a period of three (3) months prior to the taking effect of this act are hereby declared to have been legally organized and to have been legally functioning as school districts. Every such district shall have all the rights, powers, and privileges, and be

subject to all the duties and obligations, of a school district regularly formed pursuant to law.

Boundaries

SEC. 3. The boundaries of every school district as heretofore established, defined, or recorded are hereby confirmed, validated, and declared legally established.

Governing officers

SEC. 4. In so far as any other matter to which this act relates is or may be affected, the members of the governing board or the governing officers of every school district heretofore elected or appointed and acting as such, are hereby declared legally appointed or elected, qualified and acting members of such board or officers of such district.

Bonds

SEC. 5. All acts and proceedings heretofore taken by any person or officer for the issuance, sale, or exchange of bonds of any such district for any public purpose are hereby confirmed, validated, and declared legally effective. This includes all acts and proceedings of the governing board of such district, of the electors, election officers, and of any other public officer or agency heretofore done or taken in connection with any election upon the question of the issuance, sale, or exchange of such bonds, if any election be required by law.

All of such bonds heretofore issued and delivered shall be, in the form and manner in which issued and delivered, legal, valid and binding obligations of the school district, and all of such bonds heretofore authorized but not yet issued and delivered shall be, when issued and delivered in substantial pursuance of the proceedings of authorization, legal, valid and binding obligations.

Expenditure of money

The expenditure of money arising from the issue, sale, or exchange of bonds for the purposes stated in proceedings for the issuance of such bonds is hereby authorized.

Scope of act

SEC. 6 This act is limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions, and it is the intent of this Legislature herein to validate the organization and existence of all school districts and all bonds issued by any school district and all proceedings to authorize bonds of school districts in so far as the Legislature has power to correct the defects, irregularities, or errors in the organization or creation of such school districts or in the issuance of bonds of such school districts.

Exceptions

Nothing contained in this act shall be construed to render the creation of any school district, or any change in the boundaries of any school district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Section 3720 of the Political Code, is filed in the manner and within the time required by that section.

Urgency

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and

shall take effect immediately. The following is a statement of the facts constituting such necessity:

Bonds have been voted by school districts for the construction of needed school buildings. In some districts the schools are overcrowded, in some the buildings now used have been condemned as unsafe for public use, and in some districts children now travel long distances, with the attendant hazards of traffic, to attend school in the present buildings, and the public health and safety require that adequate, safe and convenient school buildings be provided immediately. Bonds have been voted by certain districts to correct the conditions above mentioned but in some instances the bonds are not salable because of failure to comply with the School Code in the proceedings for the creation of the school district or in the proceedings for the issuance of bonds. The defects in such proceedings will be cured by this act and if it takes effect immediately such bonds can be issued and sold and construction begin so that the buildings will be ready for use at the beginning of the next school year. Otherwise it will not be possible for the districts to remedy the above mentioned conditions during the next school year.

CHAPTER 17

Stats 1913, p 76, amended

An act to amend the title and Sections 1 and 2 of an act entitled "An act authorizing the investment and reinvestment and dispositions of any surplus moneys in the treasury of any county, city and county, incorporated city or town, or municipal utility district, or flood control district," approved April 23, 1913, relating to the investment of surplus moneys in the treasury of any county, city and county, incorporated city or town, municipal utility district, irrigation district or flood control district, and declaring the urgency hereof, to take effect immediately.

[Approved by Governor February 1, 1941. Filed with Secretary of State February 1, 1941.]

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

Stats 1927, p 29

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

Title

An act authorizing the investment and reinvestment and dispositions of any surplus moneys in the treasury of any county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district.

Stats 1937, p 2489

SEC. 2. Section 1 of said act is hereby amended to read as follows:

Investment of surplus funds

Section 1. Any county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district, which now has, or hereafter shall have, any surplus money in the treasury thereof, not required for the

immediate necessities of the said county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district, is hereby authorized to invest such portion of any such surplus as to the governing body of the said county, city and county, incorporated city or town, flood control district, irrigation district, or municipal utility district, may be deemed wise or expedient in any bonds already issued or hereafter issued by such county, city and county, incorporated city or town, flood control district, irrigation district or municipal utility district respectively, or in bonds already issued or hereafter issued by any metropolitan water district, county water district or by any school district situated in whole or in part within the limits of such county, city and county, incorporated city or town, or within any county in which any part of such flood control district, irrigation district, or municipal utility district concerned is situated, or in bonds already issued or hereafter issued by the State of California, or the United States, or in any registered warrants already issued or hereafter issued by the State of California, and such investment may be made by direct purchase of any issue of bonds or registered warrants, or part thereof, at the original sale of such bonds or registered warrants, or by the purchase of such bonds or registered warrants after they have been thus issued. Any bonds or registered warrants thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds or registered warrants as above provided. Sales of any bonds or registered warrants thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds or registered warrants were originally purchased, was placed in the treasury of the county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district.

Sale of bonds

SEC. 3. Section 2 of said act is hereby amended to read as follows:

Stats 1927, p 29

Sec. 2. The functions and duties of this act authorized shall be performed by the legislative or governing body of the county, city and county, incorporated city or town, municipal utility district, irrigation district, or flood control district, or under its authority.

Bodies authorized to act

SEC. 3. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the Constitution necessary for the immediate preservation of the public peace, health and safety, and as such shall take effect immediately.

Urgency

The facts constituting such emergency are as follows:

Irrigation districts now have surplus funds in their treasuries upon which they are receiving no or slight return, the loss of which income adds in direct proportion to the assessment rates in the districts, which causes additional delinquent assessments, endangering the public peace, health and safety.

CHAPTER 18

Stats 1937, p 2035, amended

An act to amend Section 152.5 of the State Civil Service Act, relating to the right of reinstatement of State civil service employees entering military service, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor February 3, 1941 Filed with Secretary of State February 4, 1941.]

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

Stats 1941, p 355

SECTION 1. Section 152.5 of the State Civil Service Act is hereby amended to read as follows:

Leaves during war or emergency

Sec. 152.5. Whenever the United States is engaged in war or whenever the Governor finds and proclaims that an emergency exists in preparing for the National defense, any permanent or probationary civil service employee of the State, in good standing who enters the military service of the United States, whether voluntarily or otherwise, shall have the absolute right to be restored to his former position with the same civil service status formerly had by him upon application by him to the board within 90 days after the termination of such military service. The provisions of this section shall apply to all such civil service employees who enter the military service during any such war or until the Governor finds and proclaims that the emergency no longer exists.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution. The following is a statement of the facts constituting such necessity:

In view of the apparent necessity for providing an adequate National Defense Program as promptly as possible, it is anticipated that many State employees may volunteer their services with the military and naval forces of the United States instead of awaiting conscription under the Federal Selective Military Service Law. It has, therefore, become necessary to provide for the retention of the civil service rights of those so going into service. The preservation of a sound civil service system requires that this protection be afforded to all civil service employees, whether permanent or probationary, and in order to make this act fully effective it is necessary that this act take effect immediately.

CHAPTER 19

An act to add Sections 518 and 519 to the Military and Veterans Code, relating to junior college cadets, to take effect immediately.

Stats 1935, p 1338, amended

[Approved by Governor February 3, 1941 Filed with Secretary of State February 4, 1941.]

In effect immediately

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

SECTION 1. Section 518 is hereby added to the Military and Veterans Code, to read as follows:

New section

518. The provisions of this chapter shall apply to all junior colleges in this State, and the principals and governing boards of junior colleges shall have the same authority as similar officials of high schools.

Application to junior colleges

SEC. 2. Section 519 is hereby added to the Military and Veterans Code, to read as follows:

New section

519. Where a junior college is located in close proximity to any high school having a high school cadet company or companies, the governing boards of the junior college and high schools may by agreement provide for the joint organization of cadet companies.

Joint organization of cadet companies

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such to take effect immediately. The following is a statement of the facts constituting such necessity:

Urgency

An emergency exists in the United States and the State of California in providing adequate armies and facilities of defense. The National Guard which has heretofore been available to the State as a defense organization is being called into the service of the United States and it is necessary that provision be made to make the unorganized militia more readily available for defense in case of necessity. The existing organized militia must be recruited from young men, many of whom have received no prior military instruction, and more young men must be made immediately available for this purpose.

CHAPTER 20

Stats 1935, p 436, amended

An act to amend Section 10203 of the Insurance Code, relating to group life insurance, and declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941.]

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

Stats 1935, p 640

SECTION 1. Section 10203 of the Insurance Code is hereby amended to read as follows:

Associated persons in same occupation

10203. Life insurance conforming to all the following conditions is another form of group life insurance:

(a) Covering not less than 50 members of any of the following:

(1) Any labor union.

(2) The National Guard.

(3) Any association of governmental or public employees.

(b) Written under a policy issued to such union or association.

(c) The premium on the policy to be paid by the union or association or by the union or association and the members thereof jointly or by the insured members alone.

(d) Insuring only members of such union who are actively engaged in the same occupation or members of such association.

(e) Insuring for amounts of insurance based upon some plan which will preclude individual selection.

(f) Insuring for the benefit of persons other than the union or association or its officials.

(g) Insuring not less than 75 per cent of all members eligible for insurance under the policy, or 75 per cent of such members of any class thereof reasonably determined by conditions pertaining to employment or of any established unit thereof not formed for the purpose of procuring insurance; provided, that if a group policy is intended to insure several such classes or units it may be issued as respects any such class or unit of which 75 per cent are covered and extended to other such units or classes as 75 per cent thereof express the desire to be covered. In such case, when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts of insurance. If any member fails to become insured under an existing policy when he becomes eligible and later wishes to become insured thereunder, the insurer may require satisfactory evidence of insurability before insurance is granted on such member.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the

public peace, health and safety within the meaning of Section 1 of Article IV of the State Constitution and shall therefore go into immediate effect. The statement of the facts constituting such necessity is as follows:

The Attorney General recently rendered an opinion to the effect that the law required, in certain cases of group life insurance, that 75 per cent of all persons eligible in a group must take such insurance before the same could go into effect. A plan of group life insurance for State employees was recently provided on the theory that 75 per cent of the members of a subgroup could be insured. Under the Attorney General's opinion of the law, as a practical matter, group life insurance for certain large groups is impossible. Such a result was not intended and certainly is not desirable and the law should be changed or made clear as provided in this act. A great uncertainty exists among a large number of State employees, as also exists among the members of other large groups, as to their group insurance under group plans in effect. There should be no uncertainty as to whether or not a person's life is legally insured and, therefore, this act should go into immediate effect in order that this uncertainty be immediately eliminated.

CHAPTER 21

An act to add Section 2457.5 to the Business and Professions Code, relating to fee and tax exemptions under the chapter on medicine thereof, declaring the urgency thereof to take effect immediately.

Stats 1937, p 1229, amended

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941]

In effect immediately

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

SECTION 1. Section 2457.5 is hereby added to the Business and Professions Code, to read as follows:

New section

2457.5. Every person licensed under this chapter is exempt from the payment of the annual tax and registration fee in any one of the following instances:

Exemptions

(a) While engaged in full time active service in the medical corps of the Army, Navy or Marines or in the United States Public Health Service.

(b) While fulfilling his full time period of training and active service, whether as a draftee or volunteer, under the Selective Training and Service Act of 1940 and any amendments or additions thereto or acts supplementary thereof.

Every person exempted from the payment of the annual tax and registration fee by this section shall not engage in any private practice and shall become liable for such tax and fee upon the completion of his period of full time active service

and shall have a period of 60 days after becoming liable within which to pay the tax and fee before the delinquent fee becomes applicable. Any person who completes his period of full time active service within 60 days of the end of the calendar year is exempt from the payment of the tax and fee for that year.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety and shall therefore, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

The acts constituting the urgency are as follows:

In connection with the rearming necessary for the defense of the United States, persons in civil life are being called into the armed services. Such persons are with difficulty able to meet their civil liabilities during their period of service. To relieve licensees under the chapter on medicine of the Business and Professions Code from the burden imposed upon them by that law, it is necessary for this act to take effect immediately prior to the completion of the collection period for existing licensees, otherwise the burden can not be removed effectively, the licensees will continue burdened, and the dangers to the public peace, health and safety will thereby be increased.

CHAPTER 22

Stats 1935, p 1465, amended

An act to amend Section 1202a of the Penal Code and to repeal Section 2 of an act entitled "An act to establish the Southern California Prison under the management and control of the State Board of Prison Directors; to provide for purchase or acquirement of farm lands by unconditional gift or use of lands owned by the State therefor; and the construction of buildings and other improvements in connection therewith; to provide for the commitment and transfer of prisoners thereto and therefrom; to provide for the equipment, conduct and management thereof; and to make an appropriation therefor," approved July 9, 1935, relating to the execution of a sentence of imprisonment.

In effect immediately

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941.]

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

Stats. 1935, p. 1568

SECTION 1. Section 1202a of the Penal Code is hereby amended to read as follows:

Imprisonment in the State prison

1202a. If the judgment is for imprisonment in the State prison the judgment shall direct that the defendant be taken to the warden of the State Prison at San Quentin. Thereafter, and until the termination of the sentence, the State Board of

Prison Directors may transfer the prisoner from one State prison to another as in the opinion of the board the welfare of the prisoner and the safety of the State may require.

SEC. 2. Section 2 of an act entitled "An act to establish the Southern California Prison under the management and control of the State Board of Prison Directors; to provide for purchase or acquirement of farm lands by unconditional gift or use of lands owned by the State therefor; and the construction of buildings and other improvements in connection therewith; to provide for the commitment and transfer of prisoners thereto and therefrom; to provide for the equipment, conduct and management thereof; and to make an appropriation therefor," approved July 9, 1935, is hereby repealed. Stats 1935, p 1465

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall therefore go into effect immediately. A statement of the facts constituting such necessity is as follows: Urgency

The Southern California Prison at Chino will open in April of this year. Existing statutes permit any superior court to sentence any person to this prison. The limited facilities of this prison, designed for youthful offenders and persons capable of rehabilitation, can accommodate only 440 persons. Unless the law is changed to permit a coordinated plan, the purpose of the prison will be defeated by overcrowding. In order to insure the proper use of these facilities and to insure the safety of the State and the welfare of the prisoners it is necessary to permit the State Board of Prison Directors, with the assistance of experts, to determine and redetermine the place of confinement of all prisoners.

CHAPTER 23

An act to amend Sections 763.5, 1641, 1648, 1648.6, 1664, 1670, 1671, 1679 and 1731 of, to add Sections 755.5, 1639, 1645.5, 1648.7, 1679.2 and 12280.2 to, and to repeal Sections 753, 754, 1703.8 and 1703.9 of, the Insurance Code, and to add Article 1.5, comprising Sections 1690 to 1691, inclusive, to Chapter 5, Part 2, Division 1, and Chapter 8, comprising Sections 1831 and 1831.5, to Part 2, Division 1, of the Insurance Code, all relating to insurance; declaring the urgency thereof, and providing that this act shall take effect immediately. Stats 1935, p. 496, amended

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941.] In effect immediately

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

SECTION 1. Sections 753 and 754 of the Insurance Code are hereby repealed. Repeals

New section

SEC. 2. Section 755.5 is hereby added to the Insurance Code, to read as follows:

Commissions received by—agents

755.5. It is unlawful for an insurance agent who is not also licensed as an insurance broker to receive commissions derived from insurance placed with an insurer which has not appointed him to act as its agent in the transaction of such insurance.

—solicitors

It is unlawful for an insurance solicitor to receive commissions on insurance from any source other than the employer for whom he is licensed excepting on life or disability insurance transacted by him under individual licenses as life or disability agent issued to him pursuant to this code.

It is unlawful for any person to pay to an insurance agent or solicitor any commissions which he can not lawfully receive.

—insurers

Except as provided in Section 763 it is unlawful for an insurer to receive for its own use commissions on insurance placed with another insurer.

Stats 1937, p 1790

SEC. 3. Section 763.5 of the Insurance Code is hereby amended to read as follows:

Price for business of agent or broker payable out of commission

763.5. The sale of the good will, business, list of policyholders or similar assets of an agent or broker in consideration of commissions or portions thereof to be thereafter earned by the use of such assets and payments of such consideration are not unlawful rebates if the purchaser is duly licensed to transact insurance and the receipt of the commissions would not constitute a violation of Section 760 if the person receiving them were licensed as an insurance agent.

New section

SEC. 4. Section 1639 is hereby added to Article 1, Chapter 5, Part 2, Division 1, of the Insurance Code, to read as follows:

Purpose of chapter

1639. The purpose of this chapter is to protect the public by requiring and maintaining professional standards of conduct on the part of all insurance agents and insurance brokers acting as such within this State.

Stats 1935, p 577

SEC. 5. Section 1641 of the Insurance Code is hereby amended to read as follows:

Life insurance

1641. The provisions of this article shall not prohibit a broker licensed thereunder from transacting life insurance and receiving a commission therefor if he is licensed to transact life insurance.

New section

SEC. 6. Section 1645 5 is hereby added to the Insurance Code, to read as follows:

Unincorporated associations and nonprofit corporations

1645.5. After June 30, 1942, unincorporated associations and nonprofit corporations which do not possess a valid and

unrevoked certificate of authority issued pursuant to Part 5, Division 2, of this code are not eligible for license or for renewal of license under this article unless all the members of the association or nonprofit corporation possess individual licenses to transact insurance or are named and qualified to exercise the agency or brokership powers of the association or nonprofit corporation at all times.

The license of an association or nonprofit corporation may be revoked or suspended whenever it appears to the commissioner that the condition of its membership is such that it would not be eligible for license as a new applicant.

SEC. 7. Section 1648 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 577

1648. The commissioner shall require that the qualifying examination provided by this code be taken by any persons named by such a business organization to transact insurance who are not named in the last previous application of the applicant and who, if they were applying for individual licenses to exercise the agency or brokership powers possessed by the business organization, would be required to take and pass the qualifying examination. New members of firm

SEC. 8. Section 1648.6 of the Insurance Code is hereby amended to read as follows: Stats. 1939, p. 1476

1648.6. Resident salaried employees and officers, exclusive of directors, of admitted insurers may be granted a limited broker's license. The limited broker's license authorizes the transaction of insurance as a broker on risks not located in this State. Limited licenses

Such employees or officers shall not be licensed as brokers other than as provided in this section.

SEC. 9. Section 1648.7 is hereby added to the Insurance Code, to read as follows: New section

1648.7. Licenses authorized by this chapter shall not be issued to any insurer or reciprocal or interinsurance exchange. Insurers and exchanges

SEC. 10. Section 1664 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 580

1664. Except in the case of a nonresident broker, every insurance agent or broker shall maintain an office in this State for the transaction of business. Applications for license or renewal of license as insurance agent or broker shall specify the address of the office at which the records required by Section 1663 are kept. The records shall be kept at such address. A licensee shall notify the commissioner in writing of any change in such address. Office in State. Address to be specified

Stats 1939, p. 2623 See also Stats 1941, p 1824

SEC. 11. Section 1679 of the Insurance Code is hereby amended to read as follows:

Penalty for failure to apply for renewal

1679. (a) Unless sooner suspended, revoked, or terminated, the license of every insurance agent, broker, or solicitor expires July 1st of each year unless application for renewal is filed as provided in subdivision (b).

(b) Application for renewal of such license may be filed at any time prior to June 1st, upon payment of the renewal fee.

(c) Such license may be renewed upon application filed between June 1st and July 31st upon payment of the renewal fee plus an additional fee equal to the renewal fee.

(d) The commissioner shall mail notice for forfeiture of renewal rights not later than July 20th, to:

(1) The licensee.

(2) The employing agent or broker, if any.

(3) The appointing insurers, if any.

Failure to mail such notice shall not continue the right of renewal.

(e) Such license shall not be renewed after July 31st, but the person may make application for a new license as provided in this code, and shall take and pass the qualifying examination.

New section

SEC. 12. Section 1679.2 is hereby added to the Insurance Code, to read as follows:

Permanent license to holder of certificate

1679.2. If a holder of a certificate of convenience becomes entitled to a permanent license after the June 30th following issuance of his certificate, a permanent license shall be issued to him upon payment of the fee required for filing application for renewal of such a permanent license. If he fails to pay this fee within 60 days after notice of eligibility for permanent license he forfeits his right to permanent license and all privileges under his certificate of convenience terminate.

New article

SEC. 13. Article 1.5 is hereby added to Chapter 5, Part 2, Division 1, of the Insurance Code, to read as follows:

Article 1.5. Restricted and Limited Licenses

Grounds for issuance

1690. Where a person who is or has been licensed under this chapter has been found by the commissioner to have violated provisions of this code, and where such violation would justify the suspension, revocation, or denial of license held or applied for, the commissioner may issue to such person a restricted license.

Form

1690.1. Restricted licenses issued pursuant to Section 1690 shall be in one of the forms authorized for issuance by this

chapter but, as the commissioner in his discretion finds advisable in the public interest, may be restricted:

(a) By term.

(b) To classes of insurance to be transacted.

(c) To particular insurers to be represented.

(d) To employment by a particular employer.

(e) By conditions to be observed in the exercise of the privileges granted.

Surety bond

1690.2. As one of the conditions to the issuance of a restricted license authorized by Section 1690, the commissioner may require the filing of surety bonds in such form and conditioned as he may require in respect to insurance transactions involving the restricted licensee for the protection of such persons or classes of persons as he deems necessary or advisable.

Right conferred

1690.3. A restricted license issued pursuant to Section 1690 does not confer any property right in the privileges to be exercised thereunder, and the holder of a restricted license does not have the right to renewal of such license.

Fees

The commissioner shall fix, charge and collect fees in connection with the filing of applications, examination, and issuance of restricted licenses not in excess of those applicable to the appropriate form of unrestricted license.

Revocation

The commissioner may, with or without hearing, revoke a restricted license whether the holder has violated any provision of this code or restriction or condition of the license or not.

Travel insurance agents

1691. Limited licenses as travel insurance agents may be issued to employees of railroad, steamship, airline, and other organizations engaged in transporting persons as common carriers and to individuals or employees of persons engaged in selling transportation on such common carriers.

Travel insurance agents are restricted to the sale of insurance to persons entitled by ticket or otherwise to transportation on a common carrier, as follows:

(a) Railroad ticket policies in the form prescribed by Chapter 4, Part 2, Division 2, of this code.

(b) Baggage insurance on the personal effects of such persons while in transit or while in any hotel or other building en route during any journey.

Employer's authorization

Before receiving a limited license as travel insurance agent, an employee-applicant shall file with the commissioner a document executed by his employer authorizing the employee to act as travel insurance agent when licensed.

Upon termination of the employment, the employer shall notify the commissioner and the licensee shall return the license to the commissioner for cancellation or shall furnish

proof of loss satisfactory to the commissioner. Upon receiving notice of termination of employment, the commissioner shall cancel the license.

Fee

The commissioner shall require in advance for filing application for each annual license as travel insurance agent, or renewal thereof, a fee of one dollar ($1).

The provisions of Article 1 of this chapter concerning procedure and time for filing applications for renewal of license are applicable to licenses authorized by this section.

Repeals

SEC. 14. Sections 1703.8 and 1703.9 of the Insurance Code are hereby repealed.

Stats 1935, p 581

SEC. 15. Section 1670 of the Insurance Code is hereby amended to read as follows:

Effect of employee's act upon employer's license

1670. A violation of any of the provisions of this article by any insurance solicitor or employee of any licensed agent or broker shall not cause a suspension or revocation of the license of the employer of such solicitor or employee unless it appears to the commissioner, upon a hearing, after reasonable notice to such employer, that the employer permitted such violation. This provision shall not relieve the employer from civil liability or his surety from liability under the bond filed as provided in this article.

Stats 1935, p 581
See also Stats 1941, p 2130

SEC. 16. Section 1671 of the Insurance Code is hereby amended to read as follows:

Employees other than solicitors

1671. Employees of a licensed insurance agent or broker who are not employed primarily for the solicitation of insurance and who do not receive commissions on insurance directly or indirectly shall not be considered as acting as insurance agents, brokers or solicitors.

Running inland marine insurance

The completion or delivery of a declaration or certificate of coverage under a running inland marine insurance contract evidencing coverage thereunder does not require licensing under this code, if

(a) The person completing or delivering such certificate or declaration does not receive any commission on such insurance, directly or indirectly, and

(b) The person completing or delivering such certificate or declaration or his employer has an insurable interest in the risk evidenced by the certificate or declaration.

Stats 1937, p 1795

SEC. 17. Section 1731 of the Insurance Code is hereby amended to read as follows:

Prohibited acts: Penalties

1731. The commissioner may suspend or revoke any license of an insurance agent, broker, or solicitor, life agent, surplus line broker or motor club agent if, after a hearing upon reasonable notice, he determines that any of the following facts

exist in respect to any person authorized to act under such license:

(a) Such person has violated any provision of law relating to conduct of business which could lawfully be done only under authority conferred by such license.

(b) Such person has knowingly or wilfully made a misstatement in an application to the commissioner for a license or in a document filed in support of such an application, or has obtained his license by concealment or knowing misrepresentation.

(c) The purpose of obtaining such license was to evade or prevent the enforcement of any provision of this code or other insurance laws.

(d) Such person has engaged in a fraudulent practice or conducts his business in a dishonest manner.

(e) Such person has shown that he was incompetent or untrustworthy in the conduct of his business or has by commission of a wrongful act or practice in the course of his business exposed the public or those dealing with him to the danger of loss.

(f) Such person has knowingly misrepresented the terms or effect of an insurance policy or contract while acting in the course of his business.

(g) Such person has failed to perform a duty expressly enjoined upon him by a provision of this code, or has committed an act expressly forbidden by such a provision.

(h) Such person has committed a public offense, shown by a final judgment of conviction, having as one of its necessary elements a fraudulent act or an act of dishonesty in acceptance, custody, or payment of money or property. Upon any conviction of such offense, the commissioner may suspend the license of the person so convicted until the judgment is made final or other final judgment issues.

(i) Such person has aided or abetted any person in an act or omission which would constitute grounds for suspension, revocation, or refusal of license to the person aided or abetted.

(j) Such person has permitted any person in his employ to violate any provision of this code.

SEC. 18. Chapter 8 is hereby added to Part 2, Division 1, of the Insurance Code, to read as follows: New chapter

CHAPTER 8. MILITARY SERVICE

1831. As used in this chapter, the terms "military service," "period of military service" and "persons in the Military Service of the United States" have the meanings ascribed to them by Section 101 of the Soldiers' and Sailors' Civil Relief Act of 1940. Definitions

1831.5. Any person who while licensed under Chapters 5, 6 or 7 of this part, or Chapter 5 of Part 2, Division 2, has heretofore entered or enters the Military Service of the United Rights during military service

States shall, for the period of military service, not be required to renew his license or licenses and they shall remain in full force and effect for the period of military service and until the termination of the license period during which his period of military service terminates. If his period of military service terminates during the last six months of the license period, no penalty shall attach for failure to file renewal application within the time required by law, and the time for filing such applications shall be extended for six months after termination of the license period.

Conservation of licensee's business

The commissioner may issue a certificate of convenience to a person designated by a person whose license is affected by Section 1831 of this code for the purpose of conserving his insurance business during the period of military service and the period during which the person in military service may apply for renewal of license without penalty. Such certificates of convenience shall be renewed in the same manner and subject to the same conditions as the permanent licenses for which they are a substitute.

New section

SEC. 19. Section 12280.2 is hereby added to the Insurance Code, to read as follows:

Fees

12280.2. The fee for filing application for license as motor club agent is the same as that for filing application for license as insurance agent and the provisions of Article 1, Chapter 5, Part 2, Division 1, relating to the form and time of and procedure for filing application for license as insurance agent and for issuance and changing of such licenses are applicable to motor club agents and their applications and licenses.

Code provisions applicable

Exemptions

Insurance agents and brokers licensed under Article 1, Chapter 5, Part 2, Division 1, need not be licensed to act as motor club agents under this article.

Urgency

SEC. 20. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the Constitution of the State of California. The following is a statement of the facts constituting such necessity:

Under present provisions of the Insurance Code persons licensed to transact insurance who have been and will be called into the Military Service of the United States in the present emergency will forfeit their licenses and suffer loss of their business. By providing for the preservation of the licenses of such persons during such military service and by making it possible for such persons to designate other persons to care for their business during such military service under the jurisdiction of the Division of Insurance, this act will contribute to the public peace, health, and safety. Other provisions of this act eliminate conflicts in the laws relating to applications for, and issuance and renewal of, licenses, which conflicts have resulted in the imposition of penalties on persons who have endeavored in good faith to comply with the

law. It is essential that a change be made before the next renewal license period begins in order to avoid such harsh results which appear to be inevitable under the present law. Other provisions of this act eliminate provisions of the law which are obsolete in fact and which are not adapted to present conditions. The enforcement of such laws has caused much uncertainty and confusion among persons transacting insurance and those dealing with them to the detriment of the public peace, health and safety and it is desirable that these conditions be eliminated with a minimum of delay. Other provisions of this act clarify the status of many persons who perform acts in connection with insurance which under literal interpretation of the present law may require the possession of a license to transact insurance although in the past it has been generally considered that it was not necessary to possess a license in order to perform such acts. The public interest not requiring that such persons be licensed to transact insurance an immediate clarification of the status of such persons is necessitated by the public peace, health and safety.

CHAPTER 24

An act to add Section 1203b to the Penal Code, relating to granting probation.

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941.] In effect immediately

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

SECTION 1. A new section, to be numbered 1203b, is hereby added to the Penal Code, to read as follows: New section

Sec. 1203b. All courts having jurisdiction to impose punishment in misdemeanor cases shall have the power to grant probation summarily in misdemeanor cases without referring such cases to the probation officer. Summary probation

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

At the present time when a defendant in a criminal case in an inferior court seeks probation, the law requires that in every case his application be referred to the probation officer for investigation and report, notwithstanding the fact that in view of all the circumstances and evidence in many cases the court may already be satisfied that the granting of probation is justified. Under the present law until the probation officer's report is made to the court the defendant is frequently held in custody, in some cases for many days. This

procedure has resulted in unnecessarily delaying the action of the courts, in unnecessary confinement of a defendant and in great and unnecessary expense in connection with investigations by the probation officer. It is necessary that the congestion now existing be relieved immediately in order that such unnecessary delays be avoided. It is therefore necessary that this act take effect immediately.

CHAPTER 25

Stats 1927 p 694, amended

An act to amend the Metropolitan Water District Act, as amended, by amending Sections 2, 9 and 10, and by adding new sections, numbered 9.1 and 9.2, all relating to the definitions of certain terms as used in said Metropolitan Water District Act and in other acts applicable to metropolitan water districts, providing for the addition of area to such districts and for the exclusion of area therefrom and providing the effects of such addition or exclusion, providing for the inclusion within metropolitan water districts of the corporate areas of municipal water districts, municipal utility districts, public utility districts and county water districts, and providing for the addition of area to any such municipal water district, municipal utility district, public utility district or county water district, so included within any such metropolitan water district and providing the effects thereof, declaring the severability of the provisions of this act, declaring the urgency of this act, and providing that it shall take effect immediately.

In effect immediately

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941.]

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

Stats 1937, p 382

SECTION 1. Section 2 of the Metropolitan Water District Act, as amended, is hereby amended to read as follows:

Definitions

Sec. 2. (a) Subject to the limitation contained in paragraph (b) of this section, as used in this act and in all other acts applicable to metropolitan water districts to the extent that such other acts confer rights or powers or impose duties or obligations upon municipal corporations or municipalities or cities with relation to metropolitan water districts and to the extent that such other acts confer rights or powers or impose duties or obligations upon metropolitan water districts with relation to component municipal corporations or municipalities or cities, the following terms shall have the following meanings, respectively ascribed to them, namely:

"Metropolitan water district"

(1) "Metropolitan water district" shall mean any metropolitan water district incorporated under this act.

"Municipal water district"

(2) "Municipal water district" shall mean any municipal water district incorporated under an act entitled "An act to

provide for the incorporation and organization and management of municipal water districts and to provide for the acquisition or construction by said districts of water works, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved May 1, 1911, as amended, and all further amendments thereof or supplements thereto.

"Municipal utility district"

(3) "Municipal utility district" shall mean any municipal utility district incorporated under an act entitled "An act to provide for the organization, incorporation, and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," approved May 23, 1921, as amended, and all further amendments thereof or supplements thereto.

"Public utility district"

(4) "Public utility district" shall mean any public utility district incorporated under any of the following acts, namely, an act entitled "An act to provide for the incorporation and organization of public utility districts, authorizing such districts to incur bonded indebtedness for the purpose of the construction of works and the acquisition of property, and to levy and collect taxes to pay the principal and interest on bonds and for carrying on their operations, and providing for the powers, management and government of such districts," approved June 5, 1913; an act entitled "An act providing for the incorporation of public utility districts by municipalities and unincorporated territory, authorizing such districts to incur bonded indebtedness for the purpose of the construction of works and the acquisition of property, and to levy and collect taxes to pay the principal and interest on bonds and for carrying on their operations, and providing for the powers, management and government of such districts, and imposing certain duties and functions in connection with such districts upon certain county officers," approved May 27, 1915, as amended; and an act entitled "An act providing for the incorporation of public utility districts in unincorporated territory, authorizing such districts to incur bonded indebtedness for the purpose of the construction of works and the acquisition of property, and to levy and collect taxes to pay the principal and interest on bonds and for carrying on their operations, and providing for the powers, management and government of such districts, and imposing certain duties and functions in connection with such districts upon certain county officers," approved May 31, 1921, as amended, and all further amendments thereof or supplements thereto.

"County water district"

(5) "County water district" shall mean any county water district incorporated under the County Water District Act, as amended, and all further amendments thereof or supplements thereto.

"Municipal corporation"

(6) "Municipal corporation," "municipality" or "city" shall mean any city, and any city and county, of the State of

California, whether organized under a freeholders' charter or under the provisions of general laws; and shall also mean any municipal water district, any municipal utility district, any public utility district, and any county water district.

"Board" (7) "Board" and "board of directors" shall be deemed to refer to the directors created under Section 6 hereof.

Application of "municipal corporation," "municipality," "city" (b) Wherever in this act or in any other act applicable to metropolitan water districts rights or powers are conferred or duties or obligations imposed upon any municipal corporation or municipality or city in connection with or by reason of, the inclusion of the corporate area of such municipal corporation or municipality or city within the corporate boundaries of such metropolitan water district, or wherever in this act or in any other act applicable to metropolitan water districts rights or powers are conferred or duties or obligations imposed upon such metropolitan water district with relation to such municipal corporations or municipalities or cities, the terms "municipal corporation," "municipality" and "city" shall mean and refer to those municipal corporations or municipalities or cities, the corporate areas of which, as units, respectively, shall have been included in or annexed to such metropolitan water district, and said terms shall not mean or refer to any municipal corporation or municipality or city whose corporate area, either in whole or in part, may be included within the corporate boundaries of any overlying municipal corporation or municipality or city, the area of which last-mentioned entity shall have been included in or annexed to such metropolitan water district as a unit.

Stats 1929, p 1624 SEC. 2. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Annexation of territory Sec. 9. Annexation to any metropolitan water district organized hereunder may be effected by either of the following methods:

Annexed territory subject to taxation (a) Subject to the provisions of Section 9.1 of this act, whenever any area shall be annexed to or consolidated with the area of any municipality, the area of which, as a unit, shall have become a part of any metropolitan water district organized hereunder, such annexed or consolidated area shall, by virtue of its annexation to or consolidation with such municipality, become and be a part of such district and the taxable property therein shall be subject to taxation thereafter for the purposes of said metropolitan water district, including the payment of bonds and other obligations of such district at the time authorized or outstanding.

Annexation upon agreement for tax levy (b) The governing or legislative body of any municipality may apply to the controller of any metropolitan water district for a statement showing the amount of the bonded and other indebtedness of the district, the assessed value of the taxable property therein according to the most recent assessment, and the names of all municipalities, the areas of which as units respectively, shall have been included within the district, and it shall thereupon be the duty of the controller to furnish

such information to the applicant. After consideration of such statement the governing body of such municipality may apply to the board of directors of such metropolitan water district for consent to annex the corporate area of such municipality to the metropolitan water district. The board of directors may grant or deny such application and in granting the same may fix the terms and conditions upon which the corporate area of such municipality may be annexed to and become a part of the metropolitan water district. Such terms and conditions may provide, among other things, for the levy by such metropolitan water district of special taxes upon taxable property within such municipality in addition to the taxes elsewhere in this act authorized to be levied by such metropolitan water district, and in case such terms and conditions shall provide for the levy of such special taxes, the board of directors in fixing such terms and conditions shall specify the aggregate amount to be so raised and the number of years prescribed for raising such aggregate sum, and that substantially equal annual levies will be made for the purpose of raising such sum over the period so prescribed. The action of the board of directors evidenced by order made on motion shall be promptly transmitted to the governing body of such applying municipality, which governing body may thereupon submit to the qualified electors of such municipality, at any general or special election held therein, the proposition of such annexation subject to the terms and conditions fixed as herein provided Notice of such election shall be given by posting or publication; when given by posting such notice shall be posted at least 10 days and in three public places in the municipality; when given by publication such notice shall be published once at least 10 days before the date fixed for the election in a newspaper of general circulation published in the municipality. Such notice shall contain the substance of the terms and conditions fixed by the board of directors, as herein provided. Such election shall be conducted and the returns thereof canvassed in the manner provided by law for elections in such municipality. If such proposition shall receive the affirmative vote of a majority of electors of such municipality voting thereon at such election, the governing body of such municipality shall certify the result of such election on said proposition to the board of directors of said district and a certificate of proceedings hereunder shall be made by the secretary of the district and filed with the Secretary of State. Upon the filing thereof in the office of the Secretary of State, the corporate area of such municipality shall become, and be, an integral part of such metropolitan water district, and the taxable property therein shall be subject to taxation thereafter for the purposes of said metropolitan water district, including the payment of bonds and other obligations of such district at the time authorized or outstanding, and the board of directors of such metropolitan water district shall be empowered to do all things necessary to

Municipal election

Certificate

enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized. Upon the filing in his office of the aforesaid certificate of proceedings the Secretary of State shall, within 10 days, issue his certificate, reciting the filing of said papers in his office and the annexation of the corporate area of such municipality to such metropolitan water district. The Secretary of State shall transmit the original of his said certificate to the secretary of such metropolitan water district and shall forward a certified copy thereof to the county clerk of each county in which is situated such metropolitan water district or any portion thereof.

Certificate of Secretary of State

(c) The validity of any proceedings for the annexation of a municipality or city to any district organized hereunder, shall not be contested in any action unless such action shall have been brought within three months after the completion of such proceedings, or, in case such proceedings are completed prior to the time that this paragraph takes effect, then within three months after this paragraph shall have become effective.

Time for commencing contest of annexation proceedings

New section

SEC. 3. A new section is hereby added to the act cited in the title hereof, to be numbered 9.1 and to read as follows:

Consent to annexation

Sec. 9.1. No annexation or addition shall be made to the corporate area of any municipal water district, municipal utility district, public utility district, or county water district, referred to in Section 2 of this act, and the corporate area of which, as a unit, shall have been included in or annexed to a metropolitan water district, without first obtaining the consent of the board of directors of such metropolitan water district. Consent to such annexation or addition may be conditioned upon terms providing, among other things, for the levy by such metropolitan water district of special taxes within the area so sought to be annexed, in addition to the taxes elsewhere in this act authorized to be levied by such metropolitan water district upon the completion of such annexation or addition, and in case such terms and conditions shall provide for the levy of such special taxes, the board of directors in fixing such terms and conditions, shall specify the aggregate amount to be raised and the number of years prescribed for raising such aggregate sum, and that substantially equal annual levies will be made for the purpose of raising such sum over the period so prescribed. Upon the completion of such annexation or addition, the board of directors of such metropolitan water district shall be empowered to do all things necessary to enforce and make effective the terms and conditions of such annexation or addition so fixed.

New section

SEC. 4. A new section is hereby added to the act cited in the title hereof, to be numbered 9.2 and to read as follows:

Continuance of identity of annexed district

Sec. 9.2. The inclusion in, or annexation to, a metropolitan water district of the corporate area of any municipal water district, municipal utility district, public utility district, or county water district, referred to in Section 2 of this act,

shall not destroy the identity or legal existence or impair the powers of any such municipal water district, municipal utility district, public utility district, or county water district, notwithstanding the identity of purpose, or substantial identity of purpose, of such metropolitan water district.

SEC. 5. Section 10 of the act cited in the title hereof is hereby amended to read as follows: Stats 1933, p 1308

Sec. 10. Exclusion of territory from any metropolitan water district organized hereunder may be effected by either of the following methods: Exclusion of territory

(a) If any portion of the corporate area of any municipality whose corporate area, as a unit, shall have become or is a part of any metropolitan water district, shall be excluded from such municipality in accordance with the provisions of law applicable to such exclusions, then such excluded area shall thereby be excluded from and shall no longer be a part of the corporate area of such metropolitan water district, but the taxable property within such excluded area shall continue taxable by such metropolitan water district for the purpose of paying the bonded or other indebtedness of such metropolitan water district outstanding or contracted for at the time of such exclusion and until such bonded or other indebtedness shall have been satisfied. Payment of debts

(b) Any municipality whose corporate area as a unit shall have become or is a part of any metropolitan water district may obtain the exclusion of such area therefrom in the following manner: Exclusion of municipality

The governing body of any such municipality may submit to the electors thereof at any general or special election the proposition of excluding from any metropolitan water district incorporated hereunder the corporate area of such municipality. Notice of such election shall be given in the manner provided in subdivision (b) of Section 9 hereof. Such election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in said municipality. In the event that the majority of the electors voting thereon vote in favor of such withdrawal, the result thereof shall be certified by the governing body of such municipality to the board of directors of the metropolitan water district. A certificate of the proceedings hereunder shall be made by the secretary of the district and filed with the Secretary of State, and upon the filing of such certificate the corporate area of such municipality shall be excluded from the said metropolitan water district, and shall no longer be a part thereof; provided, however, that the property within the said municipality as such municipality shall exist at the time of such exclusion shall continue taxable for the purpose of paying the bonded and other indebtedness of such metropolitan water district outstanding or contracted for, at the time of such exclusion and until such bonded or other indebtedness shall have been satisfied. Upon the filing in his office of the aforesaid certificate of proceedings the Secretary of State shall, within 10 days, Municipal election Certificate Payment of debts Certificate of Secretary of State

issue his certificate, reciting the filing of said papers in his office and the exclusion of the corporate area of such municipality from such metropolitan water district. The Secretary of State shall transmit the original of his said certificate to the secretary of such metropolitan water district and shall forward a certified copy thereof to the county clerk of each county in which is situated such metropolitan water district or any portion thereof.

Constitutionality

SEC. 6. If any section, subsection, sentence, clause or phrase of this act, or of the act or acts of which this act is amendatory or supplemental, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases of this act, or that any one or more sections, subsections, sentences, clauses or phrases of the act or acts of which this act is amendatory or supplemental, be declared unconstitutional. If any section, subsection, sentence, clause or phrase of this act for any reason be held to be unconstitutional and such unconstitutional provision shall have purported to repeal or amend any provision of the act or acts of which this act is amendatory or supplemental, the provision existing and in force at the time of the enactment of this act shall remain and be in full force and effect notwithstanding such purported repeal or amendment.

Urgency

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity:

The inhabitants of a substantial portion of the County of Orange in the southern part of this State are in dire need of immediately obtaining an adequate supply of water for domestic and municipal use which can be obtained from The Metropolitan Water District of Southern California, a district duly organized and existing under the Metropolitan Water District Act of this State, which act is sought to be amended by the within and foregoing act, but arrangements for obtaining said water by said inhabitants are dependent upon the formation of a proper public agency and annexation of that agency to said The Metropolitan Water District of Southern California; this can not be brought about effectually unless and until the amendments to the Metropolitan Water District Act provided by the within and foregoing amendatory act shall have become effective.

CHAPTER 26

An act to amend an act entitled "An act to provide for the incorporation and organization and management of municipal water districts, and to provide for the acquisition and construction by said districts of water works, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved May 1, 1911, as amended, by amending Sections 2, 3, 4, 5, 7, 8, 10, 12 and 27, relating to incorporation, organization, government and management of such districts, the holding of directors' and other elections therein, the establishment of divisions, providing for recalls, setting forth the powers of such districts and the manner and effect of annexing territory thereto, and adding new sections, to be known as Sections 6a, 32, 33, 34, 35 and 36, providing for the calling, holding and conducting of elections, the reestablishment of divisions, providing the manner and effect of annexation to such districts, granting additional powers of taxation to such districts when included in metropolitan water districts, designating a short title, repealing conflicting laws, declaring the severability of the provisions of this act, declaring the urgency of this act, and providing that it shall take effect immediately.

Stats 1911, p 1290, amended

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941.]

In effect immediately

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

SECTION 1. Section 2 of "An act to provide for the incorporation and organization and management of municipal water districts, and to provide for the acquisition or construction by said districts of water works, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved May 1, 1911, as amended, is amended to read as follows:

Stats First Ex Sess 1911, p 92

Sec. 2. The people of any city and county, or of one or more municipal corporations in any county with or without unincorporated territory in such county, in the State of California, may organize a municipal water district under the provisions of this act by proceeding as herein provided. Such municipal corporations need not be contiguous and such unincorporated territory may consist of one or more parcels which need not be contiguous one with the other or with any municipal corporation included in said district.

Territory which may be included

SEC. 2. Section 3 of said act, as amended, is hereby amended to read as follows:

Stats First Ex Sess 1911, p 92

Sec. 3. A petition, which may consist of any number of separate instruments, shall be filed with the county clerk of the county in which the proposed water district is located, signed by qualified electors residing within the boundaries

Petition for organization

of the proposed water district equal in number to at least 10 per centum of the number of such qualified electors voting for all candidates for the office of Governor of this State at the last general election prior to the filing of such petition; provided, that where one or more municipal corporations are included in such proposed water district, such petition must be signed by at least 10 per centum of the qualified electors of each such municipal corporation so voting at such election. Such petition shall set forth and describe the boundaries of such proposed water district, and shall contain a prayer that such proposed water district be incorporated under the provisions of this act;

Publication of petition

And the text of such petition shall be published for at least two weeks before the time at which the same is to be presented to the board of supervisors in at least one, but not to exceed three, newspapers printed and published in such county, together with a notice stating the time of the meeting at which same will be presented. When contained upon more than one instrument, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated.

Examination by county clerk

Within 10 days of the date of the filing of such petition, the county clerk shall examine the same and ascertain whether or not said petition is signed by the requisite qualified electors, and if requested by the county clerk, the board of supervisors shall authorize him to employ persons specially for that purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation. When the county clerk has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination; and if from such examination he shall find that said petition is signed by the requisite number of qualified electors residing within the boundaries of such proposed water district, or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be.

Supplemental petition

If by the certificate of the county clerk the petition is found to be insufficient, he shall also certify to the number of qualified electors required to make such petition sufficient, and it may be amended by filing a supplemental petition or petitions within 10 days from the date of such certificate. The county clerk shall, within 10 days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided.

If his certificate shall show any such petition, or such petition as amended, to be insufficient, it shall be filed by him with the board of supervisors and kept as a public record, without prejudice, however, to the filing of a new petition to the same effect. But if, by the certificate of the county clerk, such petition, or such petition as amended, is shown to be

Petition forwarded to supervisors

sufficient, the county clerk shall present the same to the board of supervisors without delay. The sufficiency or insufficiency of such petition shall not be subject to review by the board of supervisors.

If any supplemental petition be filed, all the signatures appended to the petition and to the supplemental petition or petitions shall be considered in determining the number of qualified electors signing the petition.

Sufficiency of petition not subject to question after election

After an election for the incorporation of such proposed water district the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

Registrar of voters

If the county in which such proposed water district is located shall have a registrar of voters other than the county clerk, upon the filing of the petition herein mentioned with the county clerk, he shall forthwith deliver the same to such registrar of voters, who shall perform the duties herein required to be performed by the county clerk respecting the examination and certification of such petition; and said registrar of voters shall return said petition, immediately upon the completion of such examination, together with his certificate showing the result of such examination, to the county clerk, who shall thereupon present such petition, together with the certificate of the registrar of voters attached thereto to the board of supervisors.

Notice of election

When such petition is presented, the board of supervisors shall give notice of an election to be held within 90 days in said proposed water district for the purpose of determining whether or not the same shall be incorporated. Such notice shall describe the boundaries so established and shall state the proposed name of the proposed district (which name shall contain the words "_____ Municipal Water District"), and such notice shall be published at least four weeks prior to such election in at least one, but not to exceed three newspapers printed and published in said county.

Conduct of election

At such election the proposition to be submitted shall be: "Shall the proposition to organize _____ Municipal Water District under the Municipal Water District Act of 1911 as amended, be adopted?" And the election thereupon shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to general elections, so far as they may be applicable, except as in this act otherwise provided. No person shall be entitled to vote at any election under the provisions of this act unless such person possesses all the qualifications required of electors under the general election laws of the State.

Canvass of votes and declaration of results

Within four days after such election the vote shall be canvassed by the board of supervisors. If a majority of the votes cast at such election shall be in favor of organizing such municipal water district, said board shall by an order entered on its minutes declare the territory included within the proposed boundaries duly organized as a municipal water

district under the name theretofore designated, and the county clerk shall immediately cause to be filed with the Secretary of State and shall cause to be recorded in the office of the county recorder of the county in which said district is situated, each, a certificate stating that such a proposition was adopted.

Certificate of incorporation issued by Secretary of State

Upon the receipt of such last-mentioned certificate the Secretary of State shall, within 10 days, issue his certificate reciting that the municipal water district (naming it) has been duly incorporated according to the laws of the State of California. A copy of such certificate shall be transmitted to and filed with the county clerk of the county in which such municipal water district is situated. From and after the date of filing said certificate with the Secretary of State, the district named therein shall be deemed incorporated as a municipal water district, with all the rights, privileges and powers set forth in this act, and necessarily incident thereto.

Renewal of proposition to organize

In case less than a majority of the votes cast are in favor of said proposition the organization fails, but without prejudice to renewing proceedings at any time after six months from date of said elections.

Stats 1933, p 1268

SEC. 3. Section 4 of said act, as amended, is hereby amended to read as follows:

Election of board of directors

Sec. 4. At an election to be held within such water district under the provisions of this act and the laws governing general elections not inconsistent herewith, the municipal water district thus organized shall proceed within 90 days after its formation to the election of a board of directors consisting of five members. The board of supervisors shall make an order dividing said district into five divisions, according to and based upon the population as estimated by the board of supervisors from the register of voters used at the last general election, in such manner as to equalize, as nearly as may be practicable, the population in the respective divisions, but no city shall be divided in the formation of a division unless there shall be not to exceed two cities in the district and in such case a division can be made. Such divisions shall be numbered first, second, third, fourth and fifth, and one director, who shall be a resident thereof, shall be elected for each division by the electors thereof. Each director shall hold office for the term of four years from and after the date for his taking of office, as herein provided, and until the election and qualification of his successor, except that at the election first held in any district organized after the effective date of this amendment, five members of the board of directors shall be chosen who shall classify themselves by lot so that two of them shall hold office until the qualification of, and taking office by, their successors elected at the next succeeding election held in the even numbered years, and so that three shall hold office until the qualification of, and taking of office by, their successors elected at the second succeeding election held in the even numbered years.

Term of office

General water district election

In each district heretofore organized hereunder, the first election for directors, held in accordance herewith, shall be held in the year 1934. Thereafter in the case of all districts (except as to the first election) the general district elections shall be held every two years and on the same day that the August primary election is held. Each candidate for director who at any election receives votes on a majority of all the ballots cast for candidates for the office for which he seeks nomination shall be elected to such office. If at such primary election, as to any such office, none of the candidates receives such majority, the two candidates who receive the highest number of votes cast on all the ballots cast for candidates for such office, shall be the candidates for such office at the ensuing district election, which latter election, if other than the election for the first board of directors as mentioned in Section 6, shall be held at the same time as the next succeeding November election. Candidates shall be nominated, election returns shall be canvassed, and the election shall be held and conducted in the same manner as the nomination, election and canvassing of returns for county officers are made, held and conducted, so far as consistent with the provisions of this act and except as otherwise herein expressly provided. Directors elected hereunder shall take office at the same time provided for county officers Said election held in August of each even numbered year shall be known as the general water district election and each other election which may be held in any such district by authority of this act or the Elections Code or other law applicable thereto shall be known as a special water district election.

Conduct of election

Stats. 1933, p. 1270

SEC. 4. Section 5 of said act, as amended, is hereby amended to read as follows:

Qualifications of voters

Sec. 5. No person shall vote at any municipal water district election held under the provisions of this act who is not a registered voter in accordance with the Elections Code, residing in the division of the municipal water district in which he casts his vote. For the purpose of registering voters who shall be entitled to vote at municipal water district elections, the county clerk or registrar of voters shall be authorized, and he hereby is authorized, to cause to be printed or stamped with a rubber stamp upon the affidavits of registration used in any county in which there is a municipal water district an additional line to that required under the general laws of this State, which shall read substantially as follows: "Elector of the_____Division of the_____ Municipal Water District, Yes_____ No_____," and in the registration of such electors he shall cross off the word "Yes" or "No" so as to indicate whether or not the elector is or is not an elector of said municipal water district.

Registration of voters

Two forms of ballot within one precinct

In case the boundary line of a municipal water district crosses the boundary line of a county election precinct only those electors within such municipal water district and within such precinct who are registered as being electors of the

municipal water district shall be permitted to vote, and for that purpose the county clerk or registrar of voters is hereby empowered to provide two sets of ballots within such precincts, one containing the names of candidates for office in said municipal water district, and the other not containing such names, and it shall be the duty of the election officers in such precincts to furnish only those persons registered as electors of such municipal water district with the ballots upon which are printed the names of the candidates for office in said municipal water district.

New section SEC. 5. A new section is hereby added to said act, as amended, to be numbered 6a and to read as follows:

Election call Sec. 6a. The board of directors of the municipal water district shall call and canvass all elections involving matters of initiative and referendum and shall call all other elections which it is authorized to canvass. All other elections shall be called by the board of supervisors.

Conduct of elections The governing body calling the election shall fix the compensation to be paid the officers of the election and shall designate the precincts and polling places for each division of the district and shall appoint the officers of such election, who shall consist of one inspector, one judge, and two clerks, unless in case of consolidated elections, other officers of election are required by law. Precincts or parts of precincts may be consolidated. The description of precincts may be made by reference to the order or orders of the board of supervisors of the county in which the district is situated or by reference to a previous order or ordinance of the district or by detailed description of such precincts. In all respects, not specifically herein set forth, all elections in such districts and all elections called or held by authority of this act, shall be called and held, and the returns counted and the results thereof declared, in the manner provided by the Elections Code or other applicable provisions of law for elections.

Stats First Ex. Sess. 1911, p 100 SEC. 6. Section 7 of said act, as amended, is hereby amended to read as follows:

Recall Sec. 7. Every incumbent of an elective office, whether elected by popular vote for a full term, or elected by the board of directors to fill a vacancy, is subject to recall by the voters of any municipal water district organized under the provisions of this act in accordance with the recall provisions of the Elections Code of the State with reference to municipal corporations

Stats First Ex Sess 1911, p 101 SEC. 7. Section 8 of said act, as amended, is hereby amended to read as follows:

Directors to be governing body Sec. 8. The board of directors shall be the governing body of such municipal water district. It shall hold its first meeting as soon as possible after the election and certification of the first board of directors and not later than the sixth Monday after the first general election for the election of directors as herein provided; it shall choose one of its members president, and shall thereupon provide for the time and

President

place of holding its meetings and the manner in which its special meetings may be called. All legislative sessions of the board of directors whether regular or special shall be open to the public. A majority of the board of directors shall constitute a quorum for the transaction of business. The board of directors shall establish rules for its proceedings. At its first meeting in the month of January of each odd-numbered year, the board of directors shall choose one of its members president.

Conduct of meeting of the board

SEC. 8. Section 10 of said act, as amended, is hereby amended to read as follows:

Stats 1935, p 1071

Sec. 10. The board of directors shall be the governing body of such municipal water district, and shall at its first meeting, or as soon thereafter as practicable, appoint by a majority vote a secretary, treasurer, attorney, general manager and auditor, define their duties and fix their compensation, and each shall serve at the pleasure of the board, and may employ such additional assistants and employees as they may deem necessary to efficiently maintain and operate said district. Said board may consolidate the office of secretary and treasurer.

Officers of district

Stats 1929, p 132 See also Stats 1941, p 2496

SEC. 9 Section 12 of said act, as amended, is hereby amended to read as follows:

Sec. 12. Any municipal water district incorporated as herein provided, shall have power:

General powers of municipal water districts

1. To have perpetual succession;

2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;

3. To adopt a seal and alter it at pleasure;

4. To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers;

5. To acquire, or contract to acquire, waterworks or a water works system, waters, water rights, lands, rights and privileges and construct, maintain and operate conduits, pipelines, reservoirs, works, machinery and other property useful or necessary to store, convey, supply or otherwise make use of water for a water works plant or system for the benefit of the district, and to complete, extend, add to, repair, or otherwise improve any water works or water works system acquired by it as herein authorized;

6. To lease of and from any person, firm or public or private corporation, or public agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation or distribution facilities, existing water works or a water works system, and to carry on and conduct water works or a water works system; also to sell water under the control of the district to municipalities, and to other public corporations and public agencies within the district, and to the inhabitants of such municipalities and of other territory

within the district for use within said district without any preference, and it may, whenever there is a surplus of water above that which may be required by such consumers within said district, sell or otherwise dispose of such surplus water to any persons, firms, public or private corporations or public agencies or other consumers;

7. To have and exercise the right of eminent domain and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to supply the district or any portion thereof with water, whether such property be already devoted to the same use or otherwise, and may condemn any existing water works or system, or any portion thereof, or any waters or water rights owned by any person, firm or private corporation. In proceedings relative to the exercise of such right, the district shall have the same rights, powers and privileges as a municipal corporation;

8. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof;

9. To cause taxes to be levied for the purpose of paying any obligation of the district in the manner hereinafter provided;

10. To make contracts, to employ labor, and do all acts necessary for the full exercise of the foregoing powers;

11. In case of condemnation proceedings the board shall proceed in the name of the district;

12. To provide by ordinance of its board of directors for the pensioning of officers or employees and the creation of a special fund for the purpose of paying such pensions, and the accumulation of contributions to said fund from the revenues of the district, the wages of officers or employees, voluntary contributions, gifts, donations or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of such officers or employees, and to provide in such ordinance for the terms and conditions under which such pensions shall be awarded, and for the time and extent of service of officers or employees before such pensions shall be available to them.

Stats First Ex Sess 1911, p 106

SEC. 10. Section 27 of said act, as amended, is hereby amended to read as follows:

Annexation of additional territory

Sec. 27. Any portion of a county in which a municipal water district is situated, or any municipal corporation situated within such county, or both, may be added to any water district organized under the provisions of this act, and such municipal corporations need not be contiguous and such unincorporated territory may consist of one or more parcels which need not be contiguous one with the other or with any such municipal corporations and such annexing area or areas need not be contiguous with the district. Such annexation shall occur in the following manner. A petition, which may consist of any number of separate instruments, shall be filed with

Petition for annexation

the secretary of the district, signed by qualified electors residing within the boundaries of the area proposed to be annexed equal in number to at least 10 per centum of the number of such qualified electors voting for all candidates for the office of Governor of this State at the last general election prior to the filing of such petition; provided, that where one or more municipal corporations are included in such proposed annexation, such petition must be signed by at least 10 per centum of the qualified electors of each such municipal corporation so voting at such election. Such petition shall set forth and describe the boundaries of the area proposed to be annexed and shall contain a prayer that such area be annexed to such municipal water district.

Publication of petition

The text of such petition shall be published for at least two weeks before the time at which the same is to be presented to the board of directors of the district in at least one, but not to exceed three, newspapers printed and published in such county, together with a notice stating the time of the meeting at which the same will be presented. When contained upon one or more instruments, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in said publication of said petition and notice, but the number of signers shall be stated.

Examination by secretary

Within 10 days of the date of the filing of such petition the secretary of the district shall examine the same and ascertain whether or not such petition is signed by the requisite qualified electors; and if requested by the secretary of the district, the board of directors shall authorize him to employ persons especially for that purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation. When the secretary of the district has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination; and if from such examination he shall find that said petition is signed by the requisite number of qualified electors residing within the boundaries of the area proposed to be annexed, or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be.

Supplemental petition

If, by the certificate of the secretary of the district, the petition is found to be insufficient, he shall also certify to the number of qualified electors required to make such petition sufficient, and it may be amended by filing a supplemental petition or petitions within 10 days of the date of such certificate. The secretary of the district shall, within 10 days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided.

If his certificate shall show any such petition, or such petition as amended, to be insufficient, it shall be filed by him with the board of directors of the district and kept as a public

record, without prejudice, however, to the filing of a new petition to the same effect. But if, by the certificate of the secretary, such petition, or petition as amended, is shown to be sufficient, the secretary shall present the same to the board of directors, without delay. The sufficiency or insufficiency of such petition shall not be subject to review by the board of directors.

Petition forwarded to directors

If any supplemental petition be filed, all the signatures appended to the petition or to the supplemental petition or petitions shall be considered in determining the number of qualified electors signing the petition.

Sufficiency of petition not subject to question after election

After an election for the annexation of such area to the water district the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

Granting of petition

Such petition may be granted by ordinance of the board of directors of such water district. In granting such petition,

Terms of annexation

such board of directors may fix in said ordinance the terms and conditions upon which such annexation may occur, and such terms and conditions may provide, among other things, for the levy by such municipal water district of special taxes upon taxable property within such annexed area or areas in addition to the taxes elsewhere in this act authorized to be levied by such municipal water district, and in case such terms and conditions shall provide for the levy of such special taxes, the board of directors, in fixing such terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising such aggregate sum and that substantially equal annual levies will be made for the purpose of raising such sum over the period so prescribed.

Election in proposed addition

If such petition is granted, the proposition of such annexation subject to the terms and conditions so fixed, shall be submitted to the vote of the electors in the proposed addition, at an election called by the board of directors and held, as herein provided, within 70 days after the effective date of such ordinance. Notice of such election shall be given by publication in a newspaper of general circulation published in the county once a week for three successive weeks prior to the date fixed for such election. Such notice shall describe the boundaries of the area or areas so proposed to be annexed and shall designate such territory by some appropriate name, or other words of identification, by which such territory may be referred to and indicated upon the ballot to be used at any election at which the question of such annexation is submitted, as in this act provided. Such notice also shall contain the substance of the terms and conditions fixed by the board of directors, as herein provided. The proposition so submitted at such election shall be stated on the ballot substantially as follows: "Shall _____ (giving the name or other designation of the territory proposed to be annexed, as stated in the notice of election) be annexed to _____ (name of municipal water district)

subject to the terms and conditions fixed by the board of directors of said district?" At the right of such proposition there shall be printed the words "Yes" and "No" with voting squares. The board of directors shall canvass the votes cast at such election and if such proposition is approved by a majority of the electors voting thereon at such election, the president and secretary of the board of directors shall certify that fact to the Secretary of State and to the county recorder of the county in which such water district is located. Upon receipt of such last-mentioned certificate, the Secretary of State shall, within 10 days, issue his certificate reciting the passage of said ordinance and the addition of said area or areas to said district. A copy of said certificate shall be transmitted to, and filed with, the county clerk of the county in which such municipal water district is situated. From and after the date of such certificate, the area or areas named therein shall be deemed added to, and shall form a part of, said municipal water district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto, and the taxable property therein shall be subject to taxation thereafter for the purposes of said municipal water district, including the payment of bonds and other obligations of such district at the time authorized or outstanding, and the board of directors of such municipal water district shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

Certificate

Certificate of Secretary of State

SEC. 11. A new section is hereby added to said act, as amended, to be numbered 32 and to read as follows:

New section

Sec. 32. Whenever a sufficient change in the population occurs in a district after its organization which makes it desirable in the opinion of the board of directors of the district to relocate the boundary or boundaries of any division or divisions, or whenever any territory is added to the district, the board of directors shall, by ordinance, relocate the boundary lines of the division or divisions so as to equalize, as nearly as may be practicable, the population in the respective divisions. For this purpose, the board of directors may estimate the population by reference to the register of voters used at the last general election, but no city shall be divided in the formation of a division unless there shall be not to exceed two cities in the district and in such case a division can be made. No such change in the division lines shall be made within the four months immediately preceding the election by electors of any director nor shall such change in division lines work a forfeiture of office of any director.

Relocation of division boundaries

SEC. 12. A new section is hereby added to said act, as amended, to be numbered 33 and to read as follows:

New section

Sec. 33. The inclusion in, or annexation or addition to, a municipal water district, of the corporate area of any public corporation or public agency, shall not destroy the identity or

Continuance of identity of annexed district

legal existence or impair the powers of any such public corporation or public agency, notwithstanding the identity of purpose, or substantial identity of purpose, of such municipal water district.

New section SEC. 13. A new section is hereby added to said act, as amended, to be numbered 34 and to read as follows:

Additional taxation Sec. 34. If, in the opinion of the board of directors of any municipal water district, the corporate area of which, as a unit, shall have been included in, or annexed to, a metropolitan water district, the revenues of such municipal water district will be inadequate for any cause to pay the operating expenses of such municipal water district, to provide for repairs and depreciation of works owned or operated by it, and to meet all obligations of such municipal water district, then such board of directors, in the manner provided for the levy and collection of taxes for such municipal water district, must provide for the levy and collection of a tax sufficient to raise the amount of money determined by such board of directors to be necessary for the purpose of paying the operating expenses of such municipal water district, providing for repairs and depreciation of works owned or operated by it, and meeting all obligations of such municipal water district.

New section SEC. 14. A new section is hereby added to said act as amended, to be numbered 35 and to read as follows:

Repeal Sec. 35. All acts and parts of acts in conflict herewith are hereby repealed.

New section SEC. 15. A new section is hereby added to said act, as amended, to be numbered 36 and to read as follows:

Short title Sec. 36. This act shall be known and may be cited and referred to in any action, proceeding or legislative enactment, as "Municipal Water District Act of 1911."

Constitutionality SEC. 16. If any section, subsection, sentence, clause, or phrase of this act, or of the act or acts of which this act is amendatory or supplemental, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of this act, or that any one or more sections, subsections, sentences, clauses or phrases of the act or acts of which this act is amendatory or supplemental, be declared unconstitutional If any section, subsection, sentence, clause or phrase of this act, for any reason, be held to be unconstitutional, and such unconstitutional provision shall have purported to repeal or amend any provision of the act or acts of which this act is amendatory or supplemental, the provision existing and in force at the time of the enactment of this act shall remain and be in full force and effect notwithstanding such purported repeal or amendment.

SEC. 17. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

The inhabitants of a substantial portion of the County of Orange in the southern part of this State are in dire need of immediately obtaining an adequate supply of water for domestic and municipal use which can be obtained from The Metropolitan Water District of Southern California, a district duly organized and existing under the Metropolitan Water District Act of this State, but arrangements for obtaining such water by such inhabitants are dependent upon the formation of a proper district or public agency and annexation of that district or agency to said The Metropolitan Water District of Southern California. This can not be brought about effectually unless and until the amendments to the Municipal Water District Act of 1911, provided by the within and foregoing amendatory act, shall have become effective.

CHAPTER 27

An act to validate the organization and boundaries of fire protection districts, the acts and proceedings of the governing bodies thereof, and taxes and assessments levied in connection therewith, declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941] In effect immediately

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

SECTION 1. Every fire protection district heretofore organized and functioning under, or under color of, any law of this State is hereby declared to have been legally organized and to be legally functioning as such. Every such fire protection district shall have all the rights, powers and privileges and be subject to all the duties and obligations of a fire protection district regularly formed pursuant to law. Validation of fire protection districts: Organization

SEC. 2. The boundaries of every fire protection district heretofore established, defined or recorded are hereby confirmed, validated and declared legally established. Boundaries

SEC. 3. The members of the governing board of every fire protection district heretofore appointed or elected are hereby declared to have been legally appointed or elected. Governing board

SEC. 4. Every act, proceeding or contract of any nature heretofore taken, performed or executed by the governing board of a fire protection district is hereby confirmed, validated and declared legally effective. Proceedings

Tax and assessments

SEC. 5. Every act or proceeding heretofore taken relative to the levy of a tax or assessment upon taxable property within a fire protection district by or for such district, and every such tax or assessment heretofore levied upon such property, are hereby confirmed, validated and declared legally effective.

Scope of act

SEC. 6. (a) This act is limited to the correction of defects, irregularities and ministerial errors which the Legislature originally could have omitted from the statutory requirements of law under which the acts or proceedings hereby confirmed, validated and declared legally effective were taken.

(b) This act is limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) Nothing contained in this act shall be construed to render the creation of any fire protection district, or any change in the boundaries of any fire protection district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Section 3720 of the Political Code, is filed in the manner and within the time required by that section.

Urgency

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity:

The peace, health, safety and welfare of the citizens of this State depend in large part directly upon the orderly and proper functioning of fire protection districts during the time required before this act otherwise would become effective. It is imperative and essential that during such time the citizens of this State shall be afforded the benefit of organized fire protection districts; and that such districts shall be able effectively to furnish fire protection, meet their obligations and provide for and assure their revenues and finances for the coming fiscal year, unhampered by doubts as to the validity of their organization, acts and proceedings. These reasons necessitate the immediate validation of fire protection districts, their acts and proceedings as provided in this act.

CHAPTER 28

An act to add Section 4004.5 to the Political Code, relating to loans by counties to fire districts, validating loans heretofore made, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 3, 1941 Filed with Secretary of State February 4, 1941.] In effect immediately

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

SECTION 1. Section 4004.5 is hereby added to the Political Code, to read as follows: New section

4004.5. Notwithstanding the provisions of Section 4004, any county may lend any of its available funds to any fire protection district located wholly within the county, whose funds are in the custody of the county or any officer of the county, in order to enable the district to perform its functions and meet its obligations. Every such loan may be made only after the adoption of a resolution by the board of supervisors. It shall not exceed 85 per cent of the district's anticipated revenue for the fiscal year in which it is made or for the next ensuing fiscal year, and shall be repaid out of such revenue prior to the payment of any other obligation of the district. Loan by county to fire protection district

SEC. 2. Every loan heretofore made by a county to a fire protection district located wholly within the county is hereby confirmed, validated and declared legally effective, notwithstanding any defect or irregularity therein or any want of statutory authority. Validation of loans

This section is limited to the validation of loans to the extent to which the same can be effectuated under the State Constitution.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

The peace, health, safety and welfare of the citizens of this State depend in large part directly upon the orderly and proper functioning of fire protection districts during the time required before this act otherwise would become effective. It is imperative and essential that during such time the citizens of this State shall be afforded the benefit of organized fire protection districts; and that such districts shall be able effectively to furnish fire protection, meet their obligations in connection therewith, and provide for and assure their revenues for the coming fiscal year. This act will accomplish these ends by authorizing counties to furnish

financial assistance to such districts, and validating assistance of like character previously given. It is therefore necessary that this act shall become effective at the earliest possible moment.

CHAPTER 29

Stats. 1937, p. 1410, amended

An act to amend the Coachella District Merger Act, approved June 21, 1937, by adding thereto a new section, to be numbered 13.1, relating to taxation for repair, operation and maintenance of improvements and declaring the urgency of this act and providing that it shall take effect immediately.

In effect immediately

[Approved by Governor February 3, 1941. Filed with Secretary of State February 4, 1941.]

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

New section

SECTION 1. A new section is hereby added to the Coachella District Merger Act, approved June 21, 1937, to be numbered 13.1 and to read as follows:

Tax for repair, operation and maintenance

Sec. 13.1. Whenever improvements have been constructed by said storm water district and the cost thereof borne by the owners of particular land in said storm water district, all moneys required for repair, operation and maintenance of such improvements may be charged and collected by tax against said land, or, notwithstanding anything in the Storm-water District Act of 1909 to the contrary, the board of directors of the surviving district may, by ordinance, determine that such moneys shall be raised by tax on the entire storm water unit and thereafter such moneys shall be so raised.

Stats. 1909, p. 339

Urgency

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall take effect immediately. The facts constituting such necessity are as follows:

Certain storm water protection works constructed by Coachella Valley Stormwater District and maintained at the expense of a small assessment district within said district now require extensive repair. The board of directors of the merged district considers said works and the repair thereof to be of benefit to the entire storm water unit of the district and that the cost of maintenance and repair thereof should be chargeable against the entire storm water unit of the district. It is necessary that such works be repaired as promptly as possible, for the protection of life and property and that the district be authorized to provide for the work in its 1941 tax levy.

CHAPTER 30

An act to amend the title and Section 1 of, and to add Section 2 to, an act entitled "An act to authorize the legislative bodies of counties, cities and cities and counties, directly or through a duly authorized representative, to attend the sessions of the Legislature of the State of California and to appear before said Legislature and the committees thereof and making the cost incidental thereto a proper charge against the funds of the county, or city, or city and county, and declaring the urgency thereof," approved March 16, 1935, relating to representation of cities, counties and cities and counties, before the Legislature of this State and the Congress of the United States, and declaring the urgency hereof.

Stats 1935, p 92, amended

[Approved by Governor February 3, 1941 Filed with Secretary of State February 4, 1941.]

In effect immediately

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

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

Stats 1935, p 92

An act to authorize the legislative bodies of counties, cities and cities and counties, individually or in association, and directly, or through a duly authorized representative or representatives, to attend the sessions of the Legislature of the State of California and of the Congress of the United States and to appear before said Legislature and the committees thereof and before said Congress and the committees thereof and making the cost incidental thereto a proper charge against the funds of the county, or city or city and county, and declaring the urgency thereof.

Title

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1935, p 92

Section 1. The legislative body of any county or city, or city and county may, directly or through a duly authorized representative or representatives, attend the sessions of the Legislature of the State of California and the sessions of the Congress of the United States and present to said Legislature or to any committee thereof, or to said Congress or to any committee thereof, such information as the county or city, or city and county may deem necessary for the purpose of aiding in the passage of any legislation which, in the judgment of said county or city or city and county may be deemed beneficial thereto; or for the purpose of preventing the passage of any legislation which said legislative body of said county or city or city and county may deem detrimental to said county or city or city and county, and the cost and expense incident thereto shall be a proper charge against the funds of said county or city or city and county.

Counties and cities represented during legislative and congressional sessions

SEC. 3. Section 2 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 2. The legislative bodies of any county or city, or city and county may associate themselves together and through a

Association of counties and cities

duly authorized representative or representatives of said association, attend the sessions of the Legislature of the State of California or any committee thereof, and the sessions of the Congress of the United States, or any committee thereof, and present to said Legislature or any committee thereof, or the Congress of the United States or any committee thereof, such information as the association may deem necessary for the purpose of aiding in the passage of any legislation which, in the judgment of said association, may be deemed beneficial to the counties or cities or cities and counties in the association; or for the purpose of preventing the passage of any legislation which the association deems detrimental to the counties or cities or cities and counties in the association, and the cost and expense incident thereto shall be a proper charge against the funds of the counties or cities, or cities and counties comprising said association; provided, however, that the legislative body of any county or city or city and county may withdraw from any association entered into under the provisions of this act at any time by resolution of said legislative body ordering such withdrawal.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall therefore go into effect immediately. A statement of facts constituting such necessity is as follows:

Bills are now pending before the Legislature of this State, and the Congress of the United States that are of vital and of immediate importance to the counties, cities and cities and counties of the State of California. Many of these bills directly concern taxation, revenue, special assessment districts, publicly owned public utilities and other matters of moment to the finances of counties, cities and cities and counties, while others concern the social well-being and welfare of the citizens of the counties, cities and cities and counties. Because of the importance of these bills, it is both equitable and necessary that representatives from the counties, cities and cities and counties be permitted to attend and to appear before the Legislature of this State and before its committees and before the Congress of the United States and its committees and to the end that counties, cities and cities and counties may have the opportunity to be heard on all measures affecting said counties, or cities or cities and counties. Unless this authority is granted immediately and the expense of sending representatives is made a proper charge against the county, or city or city and county, the counties, cities and cities and counties will be precluded from proper representation before the Legislature and its committees and the Congress of the United States and its committees. Because of the direct concern of the counties, cities and cities and counties in bills now pending it is necessary that this act take effect immediately.

CHAPTER 31

An act to add Section 7.1 to The Personal Income Tax Act, relating to the tax on compensation received for services rendered for a period of five years or more, to take effect immediately.

Stats 1935, p. 1090, amended

[Approved by Governor February 3, 1941 Filed with Secretary of State February 4, 1941]

In effect immediately

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

SECTION 1. Section 7.1 is hereby added to The Personal Income Tax Act, to read as follows:

New section

Sec. 7.1. In the case of compensation (a) received for personal services rendered by an individual in his individual capacity, or as a member of a partnership, and covering a period of five calendar years or more from the beginning to the completion of such services, (b) paid (or not less than 95 per cent of which is paid) only on completion of such services, and (c) required to be included in the gross income of such individual for any taxable year, beginning after December 31, 1939, the tax attributable to such compensation shall not be greater than the aggregate of the taxes attributable to such compensation had it been received in equal portions in each of the years included in such period.

Compensation for personal services for more than five years

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and therefore shall take effect immediately. The facts constituting such necessity are as follows:

Urgency

There are many taxpayers in this State who have received in the past year lump sum payments for services rendered by them over the preceding five years or more. Since the State income tax rates are graduated, these individuals will be required to pay considerably more upon their income than they would have had to pay in the aggregate if their income had been received in equal portions during the years in which it was actually being earned. There is thus a clear disparity in the treatment of taxpayers who receive the same income, merely because of the fortuitous circumstance that some of them are paid all at once. Such a situation leads to economic inequality and is productive of unrest, thus directly affecting the public peace, health and safety.

This act will eliminate the inequality now existing, but since income tax returns must be filed and the tax for 1940 be paid on April 15 of this year, it is imperative that this act go into effect immediately.

SEC. 3. If any provision of this act, or the application thereof, to any person or circumstance, is held invalid, the remainder of the act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Constitutionality

CHAPTER 32

An act validating the formation, existence and boundaries of county water works districts and all proceedings for the issuance of bonds and all bonds heretofore issued or sold and all proceedings for the issuance of bonds heretofore had and taken by such districts, and providing for the payment of such bonds, declaring the urgency thereof, to take effect immediately.

In effect immediately [Approved by Governor February 5, 1941. Filed with Secretary of State February 6, 1941.]

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

Validation of county water works districts: Organization Stats 1913, p 785

SECTION 1. In all cases where the board of supervisors of any county in this State has purported to form or create a county water works district under the provisions of an act known as the "County Water Works District Act," approved June 13, 1913, as amended, and bonds of such district have been voted or have been issued and sold, all acts and proceedings of such board of supervisors and all acts of all persons leading up to and including the formation of such district are hereby legalized, ratified and declared valid for all intents and purposes, and any such district is hereby declared to be a legally and validly formed and existing county water works district.

Bonds

SEC. 2. Where proceedings have been taken for the issuing and selling of bonds of any county water works district for any purpose or purposes, all acts and proceedings of the board of supervisors of the county in which such district is situated and all the acts of all public officials in connection therewith leading up to and including the issuance of such bonds if they have heretofore been issued and sold, and all such acts and proceedings heretofore had although the bonds or a part thereof are not yet issued or sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of the board of supervisors of the county in which the district is situated to issue and sell such bonds is hereby ratified, confirmed and declared, and the bonds heretofore sold are declared to be and shall be, in the form and manner in which said bonds have been actually sold and delivered, the legal and valid obligations of such district, and the bonds heretofore voted and hereafter sold and delivered are declared to be and shall be legal and binding obligations of such district, and the full faith and credit of such district is hereby declared to be pledged for the prompt payment of the principal and interest thereof. Funds for the payment of said bonds shall be raised as provided by said "County Water Works District Act."

Boundaries

SEC. 3. The boundaries of every county water works district as heretofore established, enlarged, defined or recorded are hereby confirmed, validated and declared legally established, and all acts or proceedings of any nature heretofore

taken or performed by the board of supervisors of any county in this State or by the governing board or the governing officers of any county water works district in this State for the establishment, enlargement, definition or recordation of the boundaries of any such district are hereby confirmed, validated and declared legally effective.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. The facts constituting the necessity are as follows:

Many people in this State are now either without an adequate supply of water for their domestic, fire protection and irrigation needs, or, having such supply, lack utility facilities for the distribution of such water. This act, if it becomes effective immediately, will enable county water works districts to rectify this situation by removing all doubt as to the validity of annexation proceedings previously taken by such districts to embrace territory the inhabitants of which are in dire need of water and water utilities that can be supplied by such districts, and as to the validity of bonds issued to enable such districts to obtain additional necessary funds for these purposes.

CHAPTER 33

An act making an appropriation for the contingent expenses of the Assembly for the Fifty-fourth Session of the Legislature including expenses of committees created at that session, and declaring that this act shall take effect immediately.

[Approved by Governor February 6, 1941. Filed with Secretary of State February 6, 1941.]

In effect immediately

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

Appropriation Contingent expenses of Assembly

SECTION 1. The sum of twenty-five thousand dollars ($25,000), or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated, for contingent expenses of the Assembly for the Fifty-fourth Session of the Legislature, including expenses of committees created at that session whether to meet and act during the constitutional recess or after final adjournment.

SEC. 2. This appropriation shall be available for the purposes for which it is appropriated without regard to fiscal years.

Current expenses

SEC. 3. Inasmuch as this act makes an appropriation for the usual current expenses of the State it shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 34

An act relating to persons receiving training in cosmetology through the public school system, declaring the urgency thereof and providing that this act shall take effect immediately.

In effect immediately [Approved by Governor March 7, 1941. Filed with Secretary of State March 7, 1941.]

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

Eligibility for registration

Chap 10, Div 3, B & P Code

SECTION 1. Every person successfully completing the courses in cosmetology given in a school under the public school system of this State shall be eligible for registration and license under the Cosmetology Act the same as though he had graduated from a licensed private school of cosmetology approved by the State Board of Cosmetology.

For this purpose, successful completion of courses in cosmetology given in public schools of the public school system equal to and the equivalent of the courses required to be given in licensed private schools of cosmetology approved by the State Board of Cosmetology shall be deemed to be the fulfillment of the requirements of the Cosmetology Act in regard to completion of courses in licensed schools of cosmetology approved by the State Board of Cosmetology.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and therefore shall take effect immediately. A statement of the facts constituting such urgency are as follows:

A large number of persons have completed an adequate and satisfactory course of training in the public school vocational education classes. Under the existing law such persons are not eligible to take an examination for a certificate of registration and license as a hairdresser and cosmetician or cosmetologist. Unless this act takes effect immediately, such persons will not be examined and entitled to engage in the practice of cosmetology, will, therefore, be without means of support and as a result will suffer from hardship and destitution, thereby becoming a burden upon the State of California and endangering the public peace, health and safety.

CHAPTER 35

An act to amend Sections 454, 456, 457, 458, 693, 471, 471.5, 472, 478.1, 480, 478, 479, 481, 482, 483, 484, 485, 486, 487, 488, 490, 493, 585, 586, 587, 491, 458.1, 452, 492, 510, 511, 512, 513, 514, 515, 516, 592, 593, 656, 502, 589, 590, 725, 727, 728, 729, 730, 731, 732, 733, 504, 505, 506, 507, 508, 509, 591, 477, 494, 495, 588, 496, 497, 498, 499, 500, 501, 625, 473, 503, 534, 535, 536, 596, 597, 598, 599, 600, 601, 531, 532, 533, 594, 595, 538, 539, 540, 541, 542, 602, 626, 627, 628, 629, 653, 654, 655, 657, 658, 476, 543, 561, 562, 563, 564, 565, 583, 701, 459, 460, 691, 692, 692.5, 697, 698, 699, 474, 651, 652, 461, 584, 582, 581, 621, 622, 623, 630, 631, 632, 633, 455, 635, 636, 671, 672, 673, 674, 675, 676, 677, 678, 679, 694, 696, 453, 624 and 637 of the Agricultural Code, and to renumber them to be Sections 452, 453, 454, 455, 456, 466, 467, 468, 469, 470, 471, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 497, 498, 499, 501, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 541, 542, 543, 544, 545, 546, 547, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 591, 592, 593, 595, 596, 601, 602, 603, 604, 605, 606, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 631, 632, 633, 634, 635, 636, 637, 641, 642, 643, 644, 645, 646, 647, 648, 656, 661, 662, 663, 664, 665, 666, 671, 672, 673, 676, 677, 681, 682, 683, 686, 687, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 721, 722 and 723 thereof, to amend Section 451, and the headings of Chapter 2, and of Article 1 of Chapter 2, of Division 4 thereof, to add Sections 496, 500 and 724, and the headings of Chapters 1, 3, 4, 5 and 6, and of Articles 2, 3, 4, 5, 6 and 7 of Chapter 2, Articles 1, 2, 3 and 4 of Chapter 3, and Articles 1, 2, 3, 4, 5, 6, 7 and 8 of Chapter 4, of Division 4 thereof, and to repeal Sections 475, 537, 589.5, 726 and 734 and the headings of Chapters 1, 3, 4, 5, 6, 7, 8 and 9 and of Articles 2 and 3 of Chapter 2, of Division 4 of the said code, relating to dairies and dairy products and imitations thereof, declaring the urgency of this act, to take effect immediately. Stats. 1933, p. 60, amended

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.] In effect immediately

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

SECTION 1. A new chapter heading, Chapter 1, is hereby added to the Agricultural Code, to immediately follow the heading of Division 4 thereof and to read as follows: New chapter heading

CHAPTER 1. POWERS OF DIRECTOR

Stats 1937, p 974

SEC. 2. Section 451 of the said code is hereby amended to read as follows:

Enforcement

451. The director shall and representatives of approved milk inspection services may, under his general supervision, enforce the provisions of this division.

Stats 1933, p 130
See also Stats 1941, p 1385

SEC. 3. Section 454 of said code is hereby amended and renumbered 452, to read as follows:

Powers of director

452. The director may:

(a) Enter and inspect any premises or conveyances where any provision of this division is applicable.

(b) Take samples of milk, cream or products thereof or of imitation dairy products.

(c) Impound and hold for analysis or as evidence any milk, cream, products or containers thereof, or imitation dairy products.

Stats 1933, p 130

SEC. 4. Section 456 of said code is hereby amended and renumbered 453, to read as follows:

Impure milk, etc.

453. The director may condemn any milk, cream, or product thereof which is found to be impure, unclean, unwholesome, or stale, or that is produced, manufactured, handled or kept in an insanitary place, or that is adulterated; and he may destroy, or mark for identification with a non-toxic substance, any condemned milk, cream or product thereof. No manufactured product of milk or cream may be destroyed without due notice to the owner thereof and a hearing before the director or an officer designated by him.

Stats 1935, p. 1584

SEC. 5. Section 457 of said code is hereby amended and renumbered 454, to read as follows:

Fraud in sampling milk

454. No prosecution based on a sample of milk, cream or product thereof, shall be had, unless a duplicate of said sample is left with the accused. No samples taken in connection with the establishment of proof of fraudulent manipulation of the test for milk fat or for bacteria count in milk, or cream, need be given to the accused.

Stats 1933, p 131
See also Stats 1941, p 1386

SEC. 6. Section 458 of said code is hereby amended and renumbered 455, to read as follows:

Score cards, etc

455. The director shall adopt a dairy farm score card and shall either directly or indirectly through his authorized agents or those of an approved local milk inspection service:

(a) Inspect dairies and milk plants.

(b) Examine and test cows, and exclude reacting animals from the herds.

(c) Conduct or supervise milk scoring or other contests when deemed advisable.

Stats 1933, p 166 See also Stats 1941, p 1386

SEC. 7. Section 693 of said code is hereby amended and renumbered 456, to read as follows:

Dairy score cards

456. The score cards used for official scoring of dairies or factories of dairy products shall be established by regulation of the director.

Stats 1933, p 132

SEC. 8. The heading of Chapter 2 of Division 4 of said code is hereby amended to precede Section 466 thereof, to read as follows:

CHAPTER 2. STANDARDS

Stats 1933, p 132

SEC. 9. The heading of Article 1 of Chapter 2 of Division 4 of said code is hereby amended to immediately follow the heading of Chapter 2 thereof and to read as follows:

Article 1. Milk and Cream

Stats 1939, p 1801 See also Stats 1941, p 1386

SEC. 10. Section 471 of said code is hereby amended and renumbered 466, to read as follows:

Milk

466. (a) Milk is the lacteal secretion obtained from the udders of cows.

(b) Milk shall be produced from nonreacting tuberculin tested cows and shall conform to the rules and regulations adopted by the department. Milk shall be obtained by the complete milking of healthy cows, properly fed and kept, and shall not be obtained for human consumption within 15 days prior to or five days after parturition. Milk must contain not less than 8.15 per cent of solids not fat and must contain and may be standardized to a uniform milk fat content of not less than 3 per cent.

(c) Milk for manufacturing purposes may be classified and graded in accordance with standards established in the rules and regulations adopted by the director, and may be repasteurized once.

(d) Goat's milk is the lacteal secretion obtained from the udders of goats. It must be obtained by the complete milking of healthy goats and shall not be obtained during the period when it contains colostrum.

(e) Sheep's milk is the lacteal secretion obtained from the udders of ewes. It must be obtained by the complete milking of healthy ewes, and shall not be obtained during the period when is contains colostrum.

(f) Milk, goat's milk, or sheep's milk which does not conform to the requirements respectively for milk, goat's milk or sheep's milk, or which has been produced or handled in an

insanitary dairy or factory of dairy products, or other insanitary place, or handled in an insanitary manner is unfit for human consumption.

Stats 1937, p 2390 See also Stats 1941, p 387

SEC. 11. Section 471.5 of said code is hereby amended and renumbered 467, to read as follows:

Goat's milk, etc

467. Except as otherwise provided in this code or in the rules and regulations of the director, all of the provisions of this code apply to milk, dairies and cows shall apply to goat's milk, goat dairies and goats.

Stats 1933, p 133

SEC. 12. Section 472 of said code is hereby amended and renumbered 468, to read as follows:

Mixture of milks

468. It is unlawful to sell, for human consumption, as cow's milk, any goat's milk or any mixture of cow's milk and goat's milk, or, as goat's milk, any cow's milk or any mixture of goat's milk and cow's milk.

Stats 1939, p 2256

SEC. 13. Section 478.1 of said code is hereby amended and renumbered 469, to read as follows:

Milk and cream

469. Milk or cream combined with any other substance or compound, shall not be represented to be, or sold as, market milk or market cream, nor used as, or as a substitute for, or to take the place of market milk or market cream.

Stats 1939, p 1803 See also Stats 1941, p 1387

SEC. 14. Section 480 of said code is hereby amended and renumbered 470, to read as follows:

Sale of milk not tuberculin tested

470. It is unlawful to sell any milk, or products of milk, from cows or goats that have not negatively passed a tuberculin test applied regularly in accordance with regulations of the department by a veterinarian in the employ of the department, or a veterinarian of the United States Bureau of Animal Industry, or a veterinarian approved by the department and accredited by the United States Bureau of Animal Industry, or unless such milk or milk products have been produced in a modified accredited area within the United States, or unless in the case of milk products produced in a foreign country satisfactory evidence is presented indicating their origin from nonreacting tuberculin tested animals. In the case of cows or goats producing raw market milk, the term "tuberculin test applied regularly" shall mean at least once annually. If reacting animals are found they must be removed from the herd immediately by the owner and kept separate and apart from other cattle and disposed of in accordance with the provisions of Article 3, Chapter 3, of Division 2 of this code.

Tuberculin test

SEC. 15. Section 478 of said code is hereby amended and renumbered 471, to read as follows: Stats 1939, p 1802 See also Stats 1941, p 1387

471. (a) Cream is that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. It shall be fresh and clean, and shall contain not less than 20 per cent of milk fat and not more than $7\frac{8}{10}$ per cent of milk solids not fat in cream containing 20 per cent of milk fat and correspondingly less solids for greater percentages of milk fat. Cream

The ratio of fat and solids not fat in cream shall be in the following proportions: Ratio of fat and solids not fat

Fat, per cent	Solids not fat, per cent, not more than
20.0 to 30.0	7 8
30.1 to 35.0	7 5
35.1 to 40.0	7.0
40.1 and above	6 5

(b) Cream shall be produced from nonreacting tuberculin tested cows and shall otherwise conform to the rules and regulations adopted by the director. Production of cream

(c) Cream for manufacturing purposes may be classified and graded in accordance with standards established in the rules and regulations adopted by the director. Cream for manufacturing purposes may be repasteurized once. Manufacturing cream

(d) Cream for manufacturing purposes, when pasteurized, may be sold by a creamery to persons from whom the creamery purchases cream, and such cream, so sold, shall not be considered market cream. Such cream shall not be resold by such purchasers.

SEC. 16. A new article heading, Article 2, is hereby added to the said code, to precede Section 476 thereof and to read as follows: New article heading

Article 2. Market Milk

SEC. 17. Section 479 of said code is hereby amended and renumbered 476, to read as follows: Stats 1939, p 2207 See also Stats 1941 p 1388

476. (a) "Market milk" is milk which is supplied to the consumer in the natural fluid state, or prepared for human consumption without being converted into any other form or product, as distinguished from manufacturing milk. Except as provided herein, market milk shall contain not less than $3\frac{8}{10}$ per cent of milk fat and "market milk" includes "market cream" except as otherwise specifically provided. Market milk

Sale (b) It is unlawful to sell or otherwise dispose of market milk to the retail trade, unless said milk is contained in standard milk bottles or single service containers which have been mechanically filled and capped or sealed in a milk room properly designed and equipped as approved by the department.

Containers All receptacles, except single service containers, used to contain market milk shall be properly washed and sterilized on the premises where filled, in a separate room designed and equipped for said washing and sterilizing. For the purpose

Single service containers of this section "single service containers" are those which are only used once and are not refilled, shall be made of sanitary material, in a sanitary manner and shall be kept in a sanitary condition free from contamination until actually filled with market milk. Transferring of any market milk or of any buttermilk from one receptacle to another upon any highway, any street or sidewalk, or upon any vehicle or in any place except a milk room as specified above, is prohibited.

Exception This subsection shall not apply to any person or dairy producing and marketing less than 10 gallons of milk per day.

Stats 1933, p 135 SEC. 18. Section 481 of said code is hereby amended and renumbered 477, to read as follows:

Cooling after pasteurization 477. Pasteurized market milk shall be cooled to a temperature of 50 degrees Fahrenheit or below immediately after pasteurization and shall be so maintained until delivered to the consumer. Repasteurized milk shall not be sold as market milk.

Stats 1933, p 136 See also Stats 1941, p 1389 SEC. 19. Section 482 of said code is hereby amended and renumbered 478, to read as follows:

Bottling 478. Pasteurized market milk shall be bottled only in the plant where it is pasteurized. Raw market milk and pasteurized market milk shall not be bottled in the same plant, except:

(a) Where milk is received exclusively from cows that have passed an official tuberculin test as required for raw market milk.

(b) Where an official representative of any approved milk inspection service is maintained during the period of handling, processing or bottling such market milk. The provisions of this section do not apply to market cream.

Stats 1937, p 741 SEC. 20. Section 483 of said code is hereby amended and renumbered 479, to read as follows:

Market milk, etc., serving 479. When served by any hotel, boarding house, restaurant, saloon, soda fountain, lunch counter, or other place of public entertainment market milk and goat's milk shall be served in the original bottle, the cap of which shall not be removed, except in the presence of the consumer or patron.

This provision does not apply to market cream, nor to market milk used in milk shakes and mixed milk drinks.

SEC. 21. Section 484 of said code is hereby amended and renumbered 480, to read as follows: Stats 1933, p 136

480. Certified milk is market milk which conforms to the rules, regulations, methods and standards for the production and distribution of certified milk adopted by the American Association of Medical Milk Commissions and must bear the certification of a milk commission appointed by a county medical association, organized under and approved by the Medical Society of the State of California. Such commission shall make fair and uniform rules pertaining to certified milk, and shall certify milk for any applicant who complies with such rules and the standards prescribed in this code. Certified milk

SEC. 22. Section 485 of said code is hereby amended and renumbered 481, to read as follows: Stats 1933, p 136 See also Stats 1941, p 1389

481. All cream, skimmed milk, buttermilk, ice cream, butter, cheese, or other dairy products sold, designated or advertised as certified shall be conspicuously marked with the name of the commission certifying it and certifying the milk from which such cream, skimmed milk, buttermilk, ice cream, butter, cheese and other dairy product is obtained. Marking

SEC. 23. Section 486 of said code is hereby amended and renumbered 482, to read as follows: Stats 1933, p. 136 See also Stats 1941, p 1389

482. It is unlawful to sell any cream, skimmed milk, buttermilk, ice cream, butter, cheese, or other dairy products as certified, or use the word "certified" in connection with the sale, designation, advertising, labeling or billing thereof unless the same and all products of milk contained therein or used in the manufacture thereof are obtained exclusively from milk which conforms to the requirements of this division for certified milk, and unless in addition thereto the methods and conditions under which such cream, skimmed milk, buttermilk, ice cream, butter, cheese and other dairy products, as the case may be, have been prepared or manufactured, as regards cleanliness and sanitation, conform to the requirements of the milk commission whose certification is sought. Use of word "certified"

SEC. 24. Section 487 of said code is hereby amended and renumbered 483, to read as follows: Stats 1935, p 1658 See also Stats 1941 p 1390

483. (a) Guaranteed raw milk is market milk which conforms to the following minimum requirements: Guaranteed raw milk

(1) The health of the cows shall be determined by physical examination at least once each month by an official representative of an approved milk inspection service and by a tuberculin test;

(2) It shall be produced on dairies which score not less than 90 per cent on the dairy farm score card;

(3) It shall be bottled on the premises where produced and delivered in containers having the pouring lip completely protected from contamination;

Bacteria count

(4) It shall be cooled immediately after being drawn from the cow to 50 degrees Fahrenheit or less, and so maintained until delivered to the consumer, at which time it shall contain not more than 10,000 bacteria per milliliter, and not less than $3\frac{1}{2}$ per cent of milk fat;

(5) It must be sold to the consumer within 30 hours after production and labeled to indicate the date of sale to the consumer. All persons who come in contact with the raw guaranteed milk must exercise scrupulous cleanliness and not be afflicted with any communicable disease or in a condition to disseminate the germs of typhoid fever, tuberculosis, diphtheria or any other communicable disease liable to be conveyed by the milk. The absence of such germs in all such persons shall be determined by bacteriological and physical examination by a health department maintaining an approved milk inspection service, or other person or laboratory approved in writing by the department, conducted at the time of employment and every six months thereafter in a manner approved by the director.

Guaranteed pasteurized milk

(b) Guaranteed pasteurized milk shall conform to all the requirements for raw guaranteed milk, except it need not be bottled where produced and except it shall contain not more than 3,000 bacteria per milliliter at the time of delivery to the consumer.

Stats 1939, p 1238 See also Stats 1941, p 1390

SEC. 25. Section 488 of said code is hereby amended and renumbered 484, to read as follows:

Grade A raw milk

484. (a) Grade A raw milk is market milk which conforms to the following minimum requirements:

(1) The health of the cows and goats shall be determined by physical examination at least once in two months by an official representative of an approved milk inspection service and by a tuberculin test;

(2) It shall be produced on dairies that score not less than 80 per cent on the dairy farm score card. Dairies where no more than two cows nor more than six goats freshen within four consecutive months and which are found by any milk inspection service to comply fully with the remaining provisions of this division are exempt from such scoring requirements and from the use of labels prescribed in this division;

(3) It shall be cooled immediately after being drawn from the cow or goats to 50 degrees Fahrenheit or less, and so maintained until delivered to the consumer, at which time it shall contain not more than 15,000 bacteria per milliliter. All persons who come in contact with grade A raw milk must exercise

scrupulous cleanliness and must not be afflicted with any communicable disease or be in a condition to disseminate the germs of typhoid fever, tuberculosis, diphtheria or other communicable diseases liable to be conveyed by milk. The absence of such germs in all such persons may at the discretion of an approved or established milk inspection service be determined by bacteriological and physical examination in such manner as may be prescribed by the director and by such person or laboratory approved in writing by the department, conducted at the time of employment and every six months thereafter in a manner approved by the director.

Grade A pasteurized milk

(b) Grade A pasteurized milk is market milk which conforms to the following minimum requirements: The health of the cows or goats shall be determined by physical examination at least once in six months by an official representative of an approved milk inspection service; it shall be produced on dairies that score not less than 70 per cent on the dairy farm score card adopted by the department and it shall contain not more than 75,000 bacteria per milliliter before pasteurization and not more than 15,000 bacteria per milliliter at the time of delivery to the consumer.

Stats 1937, p 1975 See also Stats 1941, p 1391

SEC. 26. Section 490 of said code is hereby amended and renumbered 485, to read as follows:

Restrictions on sale of certain milk

485. It is unlawful to sell any milk as, or under the representation of, guaranteed or grade A milk, except under the supervision of a milk inspection service approved by the director or established and conducted by the director. A person authorized to sell market milk within the jurisdiction of a milk inspection service may sell market milk from the same supply, of the same quality, in similar containers, and under the same label in territory outside the jurisdiction of any milk inspection service, if local ordinances, not in conflict with the provisions of this division, are not thereby violated, and also in territory within the jurisdiction of any other milk inspection service; provided, that a permit in accordance with Section 501 has been previously obtained from such other milk inspection service. It is unlawful to sell in any city or county or any combination of cities and counties, in which a milk inspection service approved by the director has been established, any market milk other than graded milk as provided in this division.

Stats 1935, p 846 See also Stats 1941 p 1392

SEC. 27. Section 493 of said code is hereby amended and renumbered 486, to read as follows:

Change of dairy score

486. Any milk delivered by the producer thereof, to be sold as any grade of market milk, shall not be degraded or excluded from the market when a score of the dairy on which

said milk is produced is below the specified minimum legal requirement:

(a) Unless a copy of said score shall be promptly given to the proprietor or operator of the dairy and when milk is sold in bulk to a distributor or processor, a copy of said notice shall also be given to such distributor or processor.

(b) Unless a rescore, after 10 days, shows the score of said dairy to be still or again below the specified minimum legal requirements and a copy of such rescore is promptly given to the proprietor or operator of said dairy and the purchaser of the milk produced by said dairy and until 60 hours elapses after the rescore. If, during the 60 hours, following the rescoring, a protest is filed with the head of the milk inspection service under whose jurisdiction the milk of such dairy is sold, the milk produced on said dairy shall not be degraded or excluded from the market until after a third score has been made and concurred in by the representative of said milk inspection service and the director.

Stats 1935, p. 1522

SEC. 28. Section 585 of said code is hereby amended and renumbered 487, to read as follows:

Labels on containers

487. The class or grade of all market milk sold, except in bulk to distributors, the word "raw" or "pasteurized," as the case may be, and the name and address of the producer or original bottler shall at all times appear plainly and in a conspicuous place on, or be securely attached to, every cap, bottle, can or other container.

Ungraded market milk shall be labeled with the words, "market milk." Graded market milk shall be labeled with the name of the grade. All labels required by this section shall be in capital letters not less than one-eighth inch in height and one-sixteenth inch in width.

False or misleading representations

No false, misleading, or deceptive name, picture, symbol, mark, word or other representation shall appear on any milk bottle, bottle cap, can or other container, nor on any advertisement for market milk. A label or advertisement of market milk shall be deemed to be false, misleading or deceptive if in any particular it is untrue, or by ambiguity or inference creates a misleading or deceptive impression regarding the production, handling, processing, quality, composition, merits, or value of such market milk.

Stats 1933, p 150

SEC. 29. Section 586 of said code is hereby amended and renumbered 488, to read as follows:

Misuse of bottle caps

488. It is unlawful for any person selling or handling market milk, except the original bottler thereof, to have in his possession, or under his control, any milk bottle cap or label, except the caps or labels that are affixed to the filled containers at the time of delivery to the seller or handler It is unlawful for any person selling or handling market milk to remove any

cap or label from any milk container and attach said cap or label to another milk container. It is unlawful to sell any milk bottle caps which are not packed by the manufacturer in single column in unopened, dust-proof tubular packages.

SEC. 30. Section 587 of said code is hereby amended and renumbered 489, to read as follows: Stats 1937, p. 648

489. Where an approved milk inspection service is maintained as provided in this code, market milk shall be graded and designated as follows: "certified milk," "guaranteed milk," "grade A milk." Market cream if graded shall conform to all of the standards set for market milk of the same grade except those relating to milk fat and solids not fat, and except that the maximum bacterial count for market cream shall be not more than three times as great as that for the corresponding grade of milk. Grading of market milk and cream

SEC. 31. A new article heading, Article 3, is hereby added to said code, to precede Section 496 thereof and to read as follows: New article heading

Article 3. Milk Inspection Services

SEC. 31.1. A new section, to be numbered 496, is hereby added to said code, to read as follows: New section See also Stats. 1941, p. 2093

496. For the purpose of this division "approved milk inspection service" means a milk inspection unit and laboratory maintained in connection with a county or city or combination of either or both for the purpose of grading and inspecting market milk produced for shipment to and sale or distribution within the jurisdiction of such approved milk inspection service, conformable to the provisions of this division and the rules and regulations established by the director, which inspection service shall be approved in writing by the director. Approved inspection service defined

No provision of this division, except subdivision (b) of Section 498, or any rule and regulation of the director is a limitation on the power of a municipality or county to provide for reasonable additional regulations not in conflict therewith requiring standards higher than the minimum requirements for the grades of market milk established in this division. Additional local regulations

SEC. 32. Section 491 of said code is hereby amended and renumbered 497, to read as follows: Stats 1939, p. 1743

497. The director may, after the effective date of this act, authorize as many approved milk inspection services, including their laboratory facilities, as may be necessary to properly carry out the provisions of this division and the rules and regulations for their enforcement. Milk inspection services

Stats 1939, p 1741 See also Stats 1941, p 1392

SEC. 33. Section 458 1 of said code is hereby amended and renumbered 498, to read as follows:

Duties of director

498. The director shall either directly or indirectly through his authorized agents:

Supervise milk inspection services

(a) Supervise the operation of all approved milk inspection services in the enforcement of the provisions of this division and the rules and regulations promulgated by him;

Establish standards

(b) Establish rules and regulations and provide plans and specifications at cost for the construction of sanitary milk barns and milk houses used in the production of market milk, which rules and regulations, plans and specifications shall provide that said buildings shall be sound, readily cleanable, and of sanitary construction; that said buildings shall afford the proper working space and be constructed to admit sufficient light and ventilation. The rules, regulations, plans and specifications herein provided may be varied to suit the climatic and other differences in the various sections of the State, and when such rules, regulations, plans and specifications shall have been adopted or established by the director, they shall be the standard building requirements of all market milk dairies operating in the same geographical area of the State. After the effective date of this act, minimum construction standards for new market milk dairies shall not be less than those established by the director under the authority hereby conferred upon him; provided, that any dairy buildings heretofore or hereafter constructed in accordance with the rules, regulations, plans and specifications heretofore or hereafter promulgated by the director shall not be required to be rebuilt to conform to any future change thereof; and provided further, that no authority is conferred upon the director or any approved milk inspection service to require the rebuilding of any existing dairy buildings unless the owner thereof is making repairs thereto to the extent of 75 per cent of the value of such building; provided, all existing structures used in the production of market milk shall be kept in repair in accordance with the sanitary requirements and standards of Division 4 of this code.

Employee qualifications

(c) The State Personnel Board shall hold examinations in various parts of the State for the purpose of determining the qualifications of persons desiring to become employed by the department in the enforcement of the provisions of this division and the rules and regulations of the director, and shall establish an eligible list therefor.

(1) No person shall be eligible to take such examination unless he possesses one of the following qualifications:

Either (1) graduation from an agricultural or veterinary college of recognized standing with specialization in studies relating to the dairy industry, or (2) completion of the twelfth grade, supplemented by a nondegree course in an agricultural college of recognized standing with specialization in studies relating to the dairy industry and two years of experience in

the dairy industry involving work in dairy inspection, dairy bacteriology, market milk supply and/or manufacturing milk products, or (3) some other equivalent combination of education and similar dairy industry experience.

Eligible list

(2) The State Personnel Board shall, upon the written request of any county or city, certify to it a complete list of all persons upon such eligible list. No person shall be hereafter employed by the department or any county or city for the purpose of the enforcement of the provisions of this division or the rules and regulations of the director or any ordinance of a county or city relating to the inspection of dairies or dairy products, unless he was at the time of such employment on such eligible list.

(3) In case the employees of any county or city inspecting dairies or dairy products are subject to qualification by a civil service board or commission, it shall be a condition prerequisite to the taking of such examination that such person shall be upon such eligible list; in the event that a county or city charter provision requires local residence as a prerequisite to employment, and the number of persons upon such eligible list who can meet such residence requirement is less than three, or if there be less than three persons upon such eligible list, the State Personnel Board shall prepare and certify to each county and city requesting the same, a list of persons eligible for temporary appointment pending the establishment of a suitable eligible list.

Training courses

(4) The director shall at least annually conduct special training courses, not to exceed five days, at various convenient places in the State for the purpose of training persons in the employ of the department and of each county and city in the enforcement of the provisions of this division, and the rules and regulations of the director, or the ordinance of any county or city relating to the inspection of dairies or dairy products, in dairy science, in uniform methods of enforcement of the provisions of this division, the rules and regulations of the director, ordinances of counties and cities, and other pertinent information concerning dairies and dairy products. Attendance at such training course shall be mandatory, in the discretion of the director, upon any or all persons employed by the department and each county and city in the inspection of dairies and dairy products.

(5) All persons employed by the department or any county or city, while attending such special training courses shall be paid his salary or compensation while so engaged

Incumbents

(6) Notwithstanding any provision of this section, every person in the employ of the department and of each county and city on the effective date of this act and who was so employed on the first day of March, 1939, in the enforcement of the provisions of this division, or the rules and regulations of the director, or the ordinance of any county or city, relating to the inspection of dairies or dairy products, shall not be required to meet the qualifications provided for in (1) of

subdivision (c) of this section, nor to take the examination provided for herein, but shall in all other respects be subject to the provisions hereof.

Application to clerical employees, etc.

(7) None of the provisions of subdivision (c) of this section shall apply to clerical employees, nor to any person employed in a laboratory.

Stats 1933, p 130

SEC. 34. Section 452 of said code is hereby amended and renumbered 499, to read as follows:

Interference with milk inspection

499. It is unlawful to prevent or to interfere with or attempt to nullify in any way the work of duly authorized representatives of the department or of an approved milk inspection service in the enforcement of the provisions of this division, or to interfere with or prevent any of said representatives from examining any records or books in the conduct of his official duty, or to prevent or to interfere with any of said authorized representatives in the event he deems it advisable to secure samples of milk or any product of milk, imitation milk, imitation butter, or oleomargarine, or any substance designed to be used as a substitute for milk or any product of milk.

New section See also Stats 1941, p 1394

SEC. 35. A new section, to be numbered 500, is hereby added to the said code, to read as follows:

Designation of approved inspection services

500. (a) Whenever a producer or distributor delivers or sells market milk within the jurisdiction of two or more cities or counties, the director, after an investigation and consultation with the health officer of each county and city involved, shall designate the county or city which shall conduct the dairy and milk plant inspection. The director, in making such designation, shall, in addition to other matters considered by him, take into consideration the geographical convenience of each county and city rendering such inspection, and the percentage of dairy products sold or delivered within each. All market milk and dairy products so inspected may be sold and delivered within the jurisdiction of any county and city; provided, that applicable local ordinances of such county or city are not thereby violated. The county or city designated by the director to render such inspection shall enforce all applicable local ordinances of each county and city into which such market milk and dairy products are sold or delivered.

Protests

(b) In case of a written protest from any producer, distributor or health officer of any county or city, concerning the improper enforcement of any provision of this division, or any of the rules and regulations of the director, or any provision of any applicable local ordinance, the director or a member of the department appointed by the director for that purpose shall, within 30 days after the receipt of such protest and after at least five days' written notice to the health officer of the county or city rendering such inspection

service, hold a hearing on the same. Upon the completion of such hearing the director may reconsider the order of assignment of the inspection, and may revoke such order, or he may assign another approved inspection service to perform the inspection.

Approved inspection service fees

(c) A city or county or group of either or both may, for the purpose of maintaining an approved milk inspection service levy and collect an inspection or license fee from those who come under the provisions of this division; provided, that no producer and no distributor shall be required to pay an inspection or license fee to more than one city or county on the same market milk; and provided, that in no case shall the total of said inspection or license fees be more than sufficient to maintain the cost of the approved milk inspection service for which such inspection or license fees are levied.

Contracts between services

(d) Counties and cities may, subject to the approval of the director, contract, one with the other, for the maintenance by one, or some of them, of such approved milk inspection service and laboratory within the limits of the other as will best carry out the provisions of this division and avoid duplication.

Grading

(e) Upon approval in writing of such milk inspection service by the director, any such approved milk inspection service shall grade market milk as produced or sold under its jurisdiction and require the use of the respective grade designations as prescribed in this division.

Stats 1939, p 2432 See also Stats 1941, pp 1395 and 1708

SEC. 36. Section 492 of said code is hereby amended and renumbered 501, to read as follows:

Permit for dairy, etc

501. Every person, engaged in the business of producing, processing, selling or distributing any grade of market milk, shall obtain a permit from the director or from the approved milk inspection service in whose jurisdiction the market milk is sold for each separate dairy, milk plant or place of business. Upon receipt of application for such permit, the director or approved milk inspection service shall cause an investigation to be made of the dairy, milk plant or place of business where milk is produced, sold or distributed and, in the case of a dairy, of the herd producing the milk.

Investigation

Minimum construction standards

Minimum construction standards for new dairies and extensive repairs to existing dairies shall not be less than the requirements established by the director in accordance with Section 498, subdivision (b) of this division.

Issuance of permit

If the provisions of this division and the standards established by or adopted pursuant to the authority granted in this division are complied with a permit shall be issued by the director or the approved milk inspection service, if the applicant's milk is to be sold or distributed within a city or county or combination thereof maintaining an approved milk inspection service, to such dairy, milk plant or place of business. Such permit shall expire at the end of the calendar year in which it is issued.

Expiration

Inspection fee

Every person engaged in the production, sale or distribution of market milk, outside the jurisdiction of any approved milk inspection service, shall pay an inspection fee to the director. Said inspection fee shall be payable three months in advance during the first week of January, April, July and October of each year. Said inspection fee is hereby fixed at:

(a) For producers who sell market milk at wholesale to be sold as graded market milk or for producers who distribute their own graded market milk, two mills ($0.002) for each gallon of graded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(b) For distributors who purchase market milk from producers to be sold as graded market milk or who distribute their own graded market milk, two mills ($0.002) for each gallon of graded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(c) For producers who sell market milk at wholesale or for producers who distribute their own milk, one mill ($0.001) for each gallon of ungraded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(d) For distributors who purchase market milk from producers or who distribute their own market milk, one mill ($0.001) for each gallon of ungraded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable.

Milk inspection service

Whenever applications for permits to be issued by the director are received from applicants totaling fifty-one per cent (51%) or more in number of the persons desiring to engage in the business of producing, processing, selling or distributing any grade of market milk in an area in which no inspection service has been established by the director, then the director shall establish a milk inspection service in accordance with the provisions of Section 485; provided, however, that whenever the funds derived under the provisions of this section are inadequate to maintain the milk inspection service subject to establishment by the director, then the establishment of such milk inspection service shall not be required and the producers of market milk in that area shall be required to pay only the inspection fee or fees specified in paragraphs (c) and (d) of this section.

Report to State Controller and disposition of moneys

The director, at least once each month, shall report to the State Controller the total amount of moneys collected under the provisions of paragraphs (a), (b), (c) and (d) of this section and at the same time shall pay into the State Treasury the entire amount of such receipts which shall be credited to the Department of Agriculture Fund and expended in carrying out the provisions of the division relating to the inspection of market milk.

The director shall, within 30 days prior to each regular session of the Legislature, submit to the Governor a full and true report of all transactions under this chapter during the current biennium, including a complete statement of receipts and expenditures during the period. Report to Governor

SEC. 37. A new article heading, Article 4, is hereby added to said code, to precede Section 506 thereof and to read as follows: New article heading

Article 4. Ice Cream and Other Frozen Products

SEC. 38. Section 510 of said code is hereby amended and renumbered 506, to read as follows: Stats 1939, p 1777

506. (a) Ice cream is a frozen product and shall be made with pure, sweet milk, cream, skim milk, evaporated or condensed milk, evaporated or condensed skim milk, dry milk, dry skim milk, milk fat, or wholesome sweet butter made from sweet cream, or any combination of any such products, with or without sweetening, clean wholesome eggs or egg products, and with or without the use of harmless flavoring and coloring. Except as hereinafter provided, ice cream shall contain not less than 10 per cent of milk fat, nor more than six-tenths of 1 per cent of pure and harmless edible stabilizer, approved by the director. Ice cream when sold by the manufacturer or retailer shall contain not more than 75,000 bacteria per gram. Ice cream shall contain not less than 1.6 pounds of total food solids per gallon. Ice cream

(b) Ice milk is a frozen product containing less milk fat than ice cream and shall be made with pure, sweet milk, cream, skim milk, evaporated or condensed milk, evaporated or condensed skim milk, dry milk, dry skim milk, milk fat, or wholesome sweet butter made from sweet cream, or any combination of any such products, with or without sweetening, clean wholesome eggs or egg products, and with or without the use of harmless flavoring and coloring and containing not less than 4 per cent of milk fat, not more than six-tenths of 1 per cent of pure and harmless edible stabilizer approved by the director and not less than 1.3 pounds of total food solids per gallon. When sold by the manufacturer or retailer, ice milk shall contain not more than 75,000 bacteria per gram. Ice milk

(c) All manufacturers of ice cream and ice milk who use butter, eggs or egg products in the manufacture of such products shall first secure from the department a permit to do so. Permit to use butter, eggs, etc

Said permit shall be issued subject to such standards as set forth in this section for butter, and to the rules and regulations made by the director, and may be revoked for violation thereof after hearing. Sweet butter for use in ice cream and ice milk is construed to be unsalted butter made from sweet cream free from undesirable flavor or odors, and having a flavor rating of not less than 92 in accordance with the official Sweet butter

United States standards for quality of creamery butter, as adopted by the United States Department of Agriculture, Bureau of Agricultural Economics. Cream to which has been added ripener or starter, or cream which has been neutralized, is not construed to be sweet cream.

Sherbet (d) Sherbet is a frozen product containing milk or products of milk, with or without milk fat, and containing less than 4 per cent of milk fat and not more than 75,000 bacteria per gram when sold by the manufacturer or retailer. Sherbet shall have an acidity of not less than the amount specified in the rules and regulations promulgated by the director, and shall contain not less than 10 per cent by weight of clean, mature, sound fruit or juice thereof or its equivalent in other form. Milk or milk products used in the manufacture of sherbet shall be pasteurized.

Stats 1937, p 2520 SEC. 39. Section 511 of said code is hereby amended and renumbered 507, to read as follows:

Fruit ice cream 507. Fruit ice cream is ice cream containing not less than 8 per cent of milk fat and not less than 3 per cent by weight of clean, mature, sound fruit or the juice thereof.

Stats 1937, p 2520 SEC. 40. Section 512 of said code is hereby amended and renumbered 508, to read as follows:

Nut ice cream 508. Nut ice cream is ice cream containing not less than 8 per cent of milk fat and not less than 1 per cent by weight of sound, nonrancid nut meats.

Stats 1937, p 2520 SEC. 41. Section 513 of said code is hereby amended and renumbered 509, to read as follows:

French ice cream 509. French ice cream, French custard ice cream, cooked ice cream, ice custard, parfaits and all similar frozen products are varieties of ice cream, which shall contain not less than 10 per cent of milk fat, and not less than five dozen of clean, wholesome egg yolks, or 1.5 pounds of wholesome, dry egg yolk containing not to exceed 7 per cent of moisture, or three pounds of wholesome, frozen egg yolk containing not to exceed 55 per cent of moisture, or the equivalent of egg yolk in other form, for each 90 pounds of ice cream mix, and which shall otherwise conform to the regulations of the director.

Stats 1933, p 145 SEC. 42. Section 514 of said code is hereby amended and renumbered 510, to read as follows:

Ice cream mix 510. Ice cream mix and ice milk mix are unfrozen products used in the manufacture of ice cream or ice milk. They shall comply with all the requirements for ice cream or ice milk, respectively.

SEC. 43. Section 515 of said code is hereby amended and renumbered 511, to read as follows: Stats 1937, p 2520 See also Stats 1941, p 1397

511. Pasteurized cream when sold for ice cream, ice milk or sherbet manufacture shall be clean, sweet, free from undesirable flavors and odors, and shall contain not more than 75,000 bacteria per milliliter, official plate count. Ingredients Standards

SEC. 44. Section 516 of said code is hereby amended and renumbered 512, to read as follows: Stats 1933, p 145

512. The ingredients except fruits, nuts and flavors, to be used in the manufacture of ice cream or ice milk shall be pasteurized. Pasteurization required

SEC. 45. Section 592 of said code is hereby amended and renumbered 513, to read as follows: Stats 1933, p 151 See also Stats 1941, p 1397

513. Ice cream or ice milk sold in package form shall be labeled with the name and address of the manufacturer, the wholesale distributor or the retailer. The word "manufactured by" shall appear above the name when the name of the manufacturer is given; the words "distributed by" shall appear above the name when the name of the wholesale distributor is given; and the words "put up for" or "put up by," shall appear above the name when the name of the retailer is given. Labeling of ice cream

SEC. 46. Section 593 of said code is hereby amended and renumbered 514, to read as follows: Stats 1937, p 2520

514. All containers of ice milk shall be conspicuously so labeled, and places where ice milk is sold at retail shall display a conspicuous, legible sign containing the words "Ice milk sold here," in plain, block letters, not less than six inches high. No person shall use the name "ice cream," "cream," "creamy," nor any other word or phrase which may be construed to be misleading either in labeling, advertising, or in any other manner, either orally or in writing, in connection with the advertising, sale or distribution of ice milk. Labeling of ice milk

SEC. 47. Section 656 of said code is hereby amended and renumbered 515, to read as follows: Stats 1933, p 161

515. All manufacturers of ice milk shall upon request of the department submit the names and specific location of all dealers or other persons who receive ice milk for the purpose of selling or otherwise dispensing it to the public. Names of ice milk dealers

New article heading

SEC. 48. A new article heading, Article 5, is hereby added to said code, to precede Section 521 thereof and to read as follows:

Article 5. Butter

Stats 1933, p. 142

SEC. 49. Section 502 of said code is hereby amended and renumbered 521, to read as follows:

Butter

521. Butter is the product made by gathering the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of other milk constituents, with or without salt, or a harmless coloring matter. Butter shall be clean and nonrancid and shall contain not less than 80 per cent of milk fat. Butter which contains not more than one-half of 1 per cent of salt, shall contain not less than 82 5 per cent of milk fat.

Stats 1933, p 150

SEC. 50. Section 589 of said code is hereby amended and renumbered 522, to read as follows:

Marking of butter

522. Butter made from pasteurized cream shall be marked with the word, "pasteurized" Butter may be made from cream which does not conform to the requirements of Section 471, but may be sold only in bulk and only to manufacturers of foodstuffs, to be used by them in the manufacture of foodstuffs In the manufacture of such foodstuffs it is unlawful to use such butter unless it is subjected to a minimum temperature of 225 degrees Fahrenheit. Butter, which by the provisions of this section is permitted to be used in the manufacture of foodstuffs, shall be marked with the words, "for cooking and baking only."

Stats 1939, p 2723 See also Stats 1941, p 1397

SEC. 51. Section 590 of said code is hereby amended and renumbered 523, to read as follows:

Labeling of butter

523. Butter when sold to the retail trade shall be labeled with the name and address of the manufacturer, the wholesale distributor, or the retailer. The words "manufactured by," shall appear above the name, when the name of the manufacturer is given; the words, "distributed by," shall appear above the name when the name of the wholesale distributor is given; and the words, "put up for" or "put up by," shall appear above the name when the name of the retailer is given.

Butter when received in California by brokers, jobbers and other receivers of butter in cubes, tubs, firkins or other bulk packages shall be labeled with the name and address of the manufacturer, the date on which the butter was manufactured, together with the original lot or churn number. Such markings shall remain on said packages until the butter contained therein is cut and wrapped for the retail trade. The

name of any city, county or other geographical designation or any word which may be pronounced the same as any city, county, or other geographical designation, other than the address of the manufacturer, wholesale distributor or retailer, whose name is printed on any package or wrapper, shall not appear thereon.

Nothing in this section prohibits the use of a trade-mark or brand having a geographical name, copyrighted or registered in the office of the Secretary of State of this State prior to the first day of January, 1923.

SEC. 52. Section 725 of said code is hereby amended and renumbered 524, to read as follows: Stats. 1935, p. 1774

524. As used in this article: Definitions

(a) The term "package" includes cartons, wrappers, or other containers used for the sale of butter to the retail trade.

(b) When "numerals" appear following words relating to scoring, said numerals represent the score of the butter, 100 being perfect.

SEC. 53. Section 727 of said code is hereby amended and renumbered 525, to read as follows: Stats. 1935, p. 1774

525. (a) All butter sold or distributed in package form shall be classified into grades indicating its quality and shall be labeled and advertised by the use of one of the designations as follows: Grades of butter

First Quality.
Second Quality.
Third Quality.
Fourth Quality.

(b) First quality butter is butter scoring not less than 92. Its minimum requirements are: (1) It shall be fresh, sweet and clean in flavor if of fresh make, or sweet and clean if storage. (2) The body shall be firm (3) The color either light or medium and must be uniform except that it may show small curd specks or slight waviness. (4) The salt must be either light or medium and free from grittiness. (5) The package must be clean, uniform and sound. (6) The defects in body, color, salt and package must not total over one point.

(c) Second quality butter is butter scoring below 92 but not less than 90. Its minimum requirements are: (1) It shall be fresh and fairly sweet and fairly clean in flavor if of fresh make or fairly sweet and fairly clean if storage. (2) It may also be flat or lacking in flavor. (3) The body must be fairly firm, but may show slight defects in grain and texture. (4) The color may be either light or medium and must be fairly uniform, but may be wavy. (5) The salt may be either light, medium, or high, and must be fairly uniform, but may be slightly gritty. (6) The package must be clean, uniform and sound.

(d) Third quality butter is butter scoring less than 90 but not less than 88. Its minimum requirements are: (1) It shall be reasonably "good," but may show foreign, unclean, or off flavors except that it must not show any rancid or strong flavors. (2) The body may be weak and defective in grain or texture, but must draw a full trier. (3) The color may be somewhat irregular and may be mottled. (4) The salt may be irregular and gritty. (5) The package must be uniform and sound.

(e) Fourth quality butter is butter scoring less than 88 and shall, in addition to its quality designation, be labeled with the words "for cooking and baking purposes only."

Stats 1935, p 1775. See also Stats 1941, p 1398

SEC. 54. Section 728 of said code is hereby amended and renumbered 526, to read as follows:

Method of scoring

526. All scoring of butter shall be in accordance with the method outlined in the service and regulatory announcements issued for the inspection of butter under the food products inspection laws by the Bureau of Agricultural Economics of the United States Department of Agriculture which is hereby made a part of this act.

Stats 1935, p 1775

SEC. 55. Section 729 of said code is hereby amended and renumbered 527, to read as follows:

Designations on package

527. Quality designations shall be affixed on the package in a manner and fashion prescribed in the rules and regulations promulgated by the director.

Stats 1935, p 1775

SEC. 56. Section 730 of said code is hereby amended and renumbered 528, to read as follows:

Butter from out-of-state

528. The licensing and labeling provisions of this article shall also apply to persons distributing butter received in package form from out-of-State points.

Stats 1939, p 2277

SEC. 57. Section 731 of said code is hereby amended and renumbered 529, to read as follows:

Butter cutting and wrapping, and distributors' licenses

529. (a) Every person, before engaging in the business of cutting, wrapping or packaging butter, in addition to the factory license, shall obtain and hold a butter cutting and wrapping license and all persons distributing butter received in packaged form from out-of-State points shall obtain a butter distributors license from the department to do so for each plant or place of business. The fee for such licenses shall be computed at the rate of fifteen cents ($0.15) for each 1,000 pounds of butter cut, wrapped, packaged, or distributed during the preceding three months and shall be payable three months in advance during the first week of March, June, September and December. The renewal fee for such licenses shall be computed on the same basis as the original fee.

Fees

(b) Persons in charge of cutting, wrapping, packaging, or distributing butter, or supervisors thereof who shall be responsible for the grading of butter shall obtain and hold a butter grader's license. Application for such license shall be made to the department which shall examine each applicant as to his qualifications and knowledge of butter grades and of the law applicable to him. The fee for a butter grader's license shall be one dollar ($1) and must accompany the application. All such licenses expire on the thirty-first day of December and may be renewed by payment of a renewal fee of one dollar ($1). Grader's license

SEC. 58. Section 732 of said code is hereby amended and renumbered 530, to read as follows: Stats. 1939, p. 2277

530. The director at least once each month, shall report to the State Controller the total amount of moneys collected for fees and at the same time shall pay into the State Treasury the entire amount of such receipts which shall be credited to the Department of Agriculture Fund and expended in carrying out the provisions of this article. The director shall, within 30 days prior to each regular session of the Legislature, submit to the Governor a full and true report of the transactions under this law during the preceding biennium, including a complete statement of expenditures. Butter cutting and wrapping licenses and butter distributors licenses expire at the end of each calendar year. All licenses may be renewed each successive year, if the plant for which a previous license was issued or the business thereof shall have been conducted in accordance with the requirements of this article during the year next preceding that for which renewal is requested. The renewal fee due January 1st shall be forwarded during the first week of December. Report to Controller. Report to Governor. Expiration of licenses. Renewal

SEC. 59. Section 733 of said code is hereby amended and renumbered 531, to read as follows: Stats. 1939, p. 2278

531. Every person holding a butter cutting and wrapping license or a butter distributors license must on or before the fifth day of those months in which the fee is due file with the director a statement showing the exact number of pounds of butter cut, wrapped, packaged, or distributed during the preceding three months. Licensee's statement

SEC. 60. A new article heading, Article 6, is hereby added to said code, to precede Section 541 and to read as follows: New article heading

Article 6. Cheese

SEC. 61. Section 504 of said code is hereby amended and renumbered 541, to read as follows: Stats. 1937, p. 545

541. Cheese is the solid or semisolid product made from milk, skim milk, cream, goat's milk or sheep's milk by coagulating the casein thereof with rennet, pepsin, lactic acid or Cheese defined

such other coagulating agents as may be approved in writing by the director, with or without the addition of ripening ferments, seasoning, salt (sodium chloride), or harmless coloring matter. Milk, skim milk, cream, goat's milk or sheep's milk to be made into cheese shall conform to the minimum requirements for milk, skim milk, cream, goat's milk or sheep's milk as the case may be.

Stats 1939, p 2017 See also Stats 1941, p 1398

SEC. 62. Section 505 of said code is hereby amended and renumbered 542, to read as follows:

Pasteurized and pasteurized blended cheese

542. (a) Pasteurized cheese, pasteurized-blended cheese, is the clean, sound, pasteurized product made by comminuting and mixing, with the aid of heat and water, one or more lots of cheese into a homogeneous, plastic mass. Pasteurized cheese, pasteurized-blended cheese, bearing a varietal name, is made from cheese of the variety indicated by the name and conforms to the limits for fat and moisture for cheese of that variety.

Emulsified and process cheese

(b) Emulsified cheese, "process cheese," is the modified cheese made by comminuting and mixing one or more lots of cheese into a homogeneous, plastic mass, with the aid of heat, with or without the addition of water, and with the incorporation of not more than 3 per cent of a suitable emulsified agent.

Stats 1939, p 2017 See also Stats. 1941, p 1398

SEC. 63. Section 506 of said code is hereby amended and renumbered 543, to read as follows:

Labeling

543. The labeling, and the advertising of pasteurized cheese, pasteurized-blended cheese, emulsified or process cheese, shall be in accordance with the provisions of this article and the regulations promulgated by the director.

The standards of composition for pasteurized cheese, pasteurized-blended cheese, emulsified cheese, and "process cheese," shall be fixed by the director and shall conform as nearly as possible to those proclaimed and established by the Secretary of the United States Department of Agriculture.

Stats 1933, p 143

SEC. 64. Section 507 of said code is hereby amended and renumbered 544, to read as follows:

Whole milk cheese

544. Whole milk cheese must contain not less than 50 per cent of pure milk fat in its water-free substance. Part skim cheese must contain not less than 30 per cent of pure milk fat in its water-free substance. Skim cheese is cheese that contains less than 30 per cent of pure milk fat in its water-free substance.

SEC. 65. Section 508 of said code is hereby amended and renumbered 545, to read as follows:

Stats. 1939, p. 2018. See also Stats. 1941, pp. 1153 and 1399.

545. Established varieties of cheese are as follows:

Cheddar

(a) All varieties of cheese made by the so-called cheddar process which consists, in part, of subjecting the curd to a matting and milling process and molded under pressure, into characteristic forms approved by the director, with or without bandage, are classified as cheddar cheese. Cheddar cheese shall contain not more than 39 per cent of moisture; provided, however, that no bandage or coating of red color shall be used on cheddar cheese.

Granular

(b) Granular cheese is made by the so-called stirred curd or granular process and molded, under pressure, into characteristic forms similar to those for cheddar cheese, and containing not more than 42 per cent of moisture. Except as provided in the rules and regulations promulgated by the director, granular cheese shall have a red bandage or a red coating.

Monterey

(c) Monterey cheese is made by the so-called stirred curd or granular process, without added color, and molded, under pressure, into characteristic forms, and containing not more than 44 per cent of moisture.

Jack

(d) High moisture jack cheese is made by the so-called stirred curd or granular process, without added coloring, and molded in bags under pressure into a characteristic form or shape, and containing not more than 50 per cent of moisture.

It shall be labeled on both flat surfaces with the name, the grade, whether whole milk, part skim milk or skim milk, and the factory number in letters not less than one inch in height nor less than one-fourth inch in width.

Cream

(e) Cream cheese is an unripened cheese made by the neufchatel process or variations thereof, from cream, milk or skim milk enriched with cream or milk fat sufficient so that the resultant cheese shall contain in its water-free substance not less than 65 per cent of pure milk fat. It shall contain not more than 56 per cent of moisture. All manufacturers of cheese who manufacture cream cheese from butter shall first secure from the department a permit to do so. Said permit shall be issued subject to the rules and regulations of the director, and may be revoked for violation thereof after hearing.

Uncreamed cottage

(f) Uncreamed cottage cheese shall be made from pure, fresh milk or skim milk which has been pasteurized, with or without harmless coloring matter, and sold fresh without molding into forms.

Creamed cottage

(g) Creamed cottage cheese is uncreamed cottage cheese to which a sufficient quantity of pure fresh, pasteurized sweet cream is added so that the finished product contains not less than 4 per cent of pure milk fat. The addition of cream, milk or other fluids to uncreamed cottage cheese shall take place only in dairy products plants licensed under the provisions of Section 671 of the Agricultural Code.

Stats 1933, p 44 See also Stats 1941, p 1400

SEC. 66. Section 509 of said code is hereby amended and renumbered 546, to read as follows:

Special varieties

546. All varieties of cheese other than established varieties are special varieties and shall be made or sold under written permit from the director. The standards of composition and labeling requirements shall be promulgated by the director and designated in the special permit issued for their manufacture. No special variety of cheese shall be made, or sold in shape, form or size similar to any established variety of cheese.

Stats 1939, p 2036

SEC. 67. Section 591 of said code is hereby amended and renumbered 547, to read as follows:

Labeling of cheese

547. All cheese sold must be labeled to indicate the variety and if of different grades, the grade. whether whole milk, part skim or skim, and, if made in California, it must be labeled at the factory with the manufacturer's factory number, assigned annually by the department. If made outside of the State, it must also be labeled with the name and business address of the manufacturer or distributor. It is unlawful to expose for sale any part skim cheese, or skim cheese unless there is attached to the outside of every vessel, can, package, cheese, or piece of cheese so exposed, or sold, a tag legibly bearing in black letters at least one inch in height the words "part skim cheese" or "skim cheese" as the case may be. All part skim or skim cheddar or granular cheese shall be labeled to indicate the grade on its entire outer edge in a manner specified in the rules and regulations promulgated by the director and all such cheese shall be made in the shape and size specified by the director.

All other varieties of part skim or skim cheese shall be labeled to indicate the grade in such a manner as is outlined in the rules and regulations promulgated by the director. The provisions of Section 470 of this code shall not apply to cheese manufactured or processed in foreign countries.

New article heading

SEC. 68. A new article heading, Article 7, is hereby added to said code, to precede Section 551 and to read as follows:

Article 7. Miscellaneous Products

Stats 1933, p 134 See also Stats 1941, p 1400

SEC. 69. Section 477 of said code is hereby amended and renumbered 551, to read as follows:

Butter fat

551. Milk fat or butter fat is the fat of milk and has a Reichert-Meissl number not less than 24 and a specific gravity not less than .905 (milk fat at 40 degrees Centigrade compared with water at 40 degrees Centigrade). By "Reichert-Meissl number" is meant the number of milliliters of decinormal alkali required to neutralize the acidity of the

distillate from five grams of fat treated in the manner described in the book entitled, "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," published by that association in July, 1924.

Stats 1933, p 141 See also Stats 1941, p 1146

SEC. 70. Section 494 of said code is hereby amended and renumbered 552, to read as follows:

Skim milk

552. Skim milk is milk from which a part of the milk fat has been removed and which contains less than 3 per cent of milk fat and not less than 8.8 per cent of milk solids not fat.

Stats 1933 p. 141

SEC. 71. Section 495 of said code is hereby amended and renumbered 553, to read as follows:

Evaporated milk and cream

553. (a) Evaporated milk is milk from which a considerable portion of moisture has been evaporated. The standard of composition for evaporated milk, whether sweetened or unsweetened, shall be fixed by the director and shall conform as nearly as possible to that proclaimed and established by the Secretary of the United States Department of Agriculture.

(b) Evaporated cream or clotted cream is cream from which a considerable portion of moisture has been evaporated.

(c) Evaporated skim milk is skim milk from which a considerable portion of moisture has been evaporated and shall contain not less than 18 per cent milk solids.

(d) Evaporated goat's milk is goat's milk from which a considerable portion of moisture has been evaporated and shall conform to the requirements adopted by the department.

Stats 1939, p 1258

SEC. 72. Section 588 of said code is hereby amended and renumbered 554, to read as follows:

Condensed milk containers

554. It is unlawful to sell any condensed or evaporated skim milk in containers smaller than a "number 10 can," except that which is sold exclusively by druggists, orphan asylums, child welfare associations, hospitals and similar institutions upon prescription of a regularly licensed physician. All hermetically sealed containers containing condensed or evaporated skim milk must distinctly bear the name and address of the manufacturer thereon, together with the words "condensed skim milk" in roman letters of a size at least as large as the largest of any other words or letters appearing on said brand, indentation or label.

Stats 1933, p 141

SEC. 73. Section 496 of said code is hereby amended and renumbered 555, to read as follows:

Dried milk

555. Dried milk is the product resulting from the removal of water from milk, and shall otherwise conform to

the definition, standards and requirements established by the director, which shall conform as nearly as possible to those established by the Secretary of Agriculture of the United States for this product.

Stats 1933, p 142

SEC. 74. Section 497 of said code is hereby amended and renumbered 556, to read as follows:

Dried skim milk

556. Dried skim milk is the product resulting from the removal of water from skimmed milk and shall otherwise conform to the standards and requirements established by the director which shall conform as nearly as possible to those established by the Secretary of Agriculture of the United States for dried skim milk.

Stats 1933, p 142

SEC. 75. Section 498 of said code is hereby amended and renumbered 557, to read as follows:

Buttermilk

557. Buttermilk is that portion of sweet or ripened milk or cream which remains after the separation and complete or partial removal therefrom of milk fat in the process of butter manufacture, and, when sold for human consumption, shall be deemed to be adulterated if water is added thereto.

Stats 1933, p 142

SEC. 76. Section 499 of said code is hereby amended and renumbered 558, to read as follows:

Cultured buttermilk

558. Cultured buttermilk is pasteurized milk or pasteurized skim milk, or a combination thereof, with or without an admixture of buttermilk, which has been treated with special cultures of lactic acid bacteria, so that the product resembles buttermilk in appearance, composition and flavor.

Stats 1933, p 142
See also Stats 1941, p 1455

SEC. 77. Section 500 of said code is hereby amended and renumbered 559, to read as follows:

Acidophilus milk

559. Acidophilus milk is milk, skim milk, or a combination thereof, which has been sterilized and afterward fermented by a pure culture of Lactobacillus acidophilus (Moro).

Stats 1933, p 142
See also Stats 1941, p 3202

SEC. 78. Section 501 of said code is hereby amended and renumbered 560, to read as follows:

Modified milk

560. Modified milk is milk which has been altered in composition to conform to special nutritional requirements. Modified milk may be sold only upon prescription of a regularly licensed physician.

Stats 1933, p 156

SEC. 79. Section 625 of said code is hereby amended and renumbered 561, to read as follows:

Other licenses

561. Before engaging in the business of manufacturing, preparing, selling, distributing, or otherwise dealing in

acidophilus milk or modified milk, every person, in addition to the factory license, shall obtain and hold an acidophilus milk license or a modified milk license, as the case may be, from the department. Upon receipt of application for either of such licenses, the department shall investigate the equipment and sanitary conditions of the place where such acidophilus milk or modified milk is to be manufactured or prepared, and provide the applicant with a copy of the laws of the State pertaining thereto. If the condition of the place is found to be satisfactory, a special fee of one hundred dollars ($100) shall be paid by the applicant, whereupon the license shall be issued. Said license shall normally expire on the thirty-first day of December of each year. Separate licenses are required for acidophilus milk and modified milk.

SEC. 80. Section 473 of said code is hereby amended and renumbered 562, to read as follows: Stats. 1933, p. 133

562 Pasteurized milk or pasteurized skim milk, combined with fruit or fruit juices, chocolate, chocolate sirups, or other harmless sirups, with or without the addition of harmless coloring material, may be used in the manufacture and sale of soft drinks under a trade name. Such product shall be so colored or contain ingredients that cause it to distinctly differ from milk in appearance and other characteristics. Milk drinks

SEC. 81. A new chapter heading, Chapter 3, is hereby added to Division 4 of said code, to precede Section 576 thereof and to read as follows: New chapter heading

CHAPTER 3. IMITATION PRODUCTS

SEC. 82. A new article heading, Article 1, is hereby added to said code, to immediately follow the heading of Chapter 3 of Division 4 thereof and to read as follows: New article heading

Article 1. Oleomargarine

SEC. 83. Section 503 of said code is hereby amended and renumbered 576, to read as follows: Stats. 1933, p. 142

576. Renovated butter is the product made from impure or rancid butter reduced, for the purpose of cleansing and renovating, to a liquid state by melting and draining off the liquid milk fat and afterwards churning or otherwise manipulating it in connection with milk or any product thereof. Butter made from assembled cream made from pure milk fat (made from nonrancid butter) combined with other wholesome milk products, under special permit from the director which otherwise conforms to the standards for butter, is not renovated butter. Renovated butter

Stats 1939, p 1441

SEC. 84. Section 534 of said code is hereby amended and renumbered 577, to read as follows:

Oleomargarine

577. The following manufactured substances, mixtures, and compounds with or without butter, milk or cream, are "oleomargarine":

(a) All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral.

(b) All mixtures and compounds containing any edible oils or fats other than milk fat made in imitation or semblance of butter or when so made, intended to be sold as butter or for butter or as butter substitute.

Stats 1933, p 146

SEC. 85. Section 535 of said code is hereby amended and renumbered 578, to read as follows:

Imitation cheese

578. Every article, substance or compound, other than that produced from pure cream, pure milk or pure skim milk, made in the semblance of cheese, and designed to be used as a substitute for cheese, is imitation cheese. The use of salt, rennet or harmless coloring matter for coloring the cheese made from pure cream, pure milk or pure skim milk, does not render such product an imitation.

Stats 1933, p 146
See also Stats 1941, p 2495

SEC. 86. Section 536 of said code is hereby amended and renumbered 579, to read as follows:

Oleomargarine: Use in restaurants, etc

579. It is unlawful to render, manufacture, sell, or have in possession with intent to sell, use, or to serve to patrons, guests, boarders, or inmates in any hotel, eating house, restaurant, public conveyance or boarding house or public or private hospital, asylum or eleemosynary or penal institution, any oleomargarine, or substitute for butter or imitation cheese which is colored in imitation of butter or cheese by whatever means the coloring is accomplished. Substitutes for butter or cheese not resembling butter or cheese may be sold under regulations of the director in such manner as will advise the purchaser of the real character of the product.

Stats 1933, p 152

SEC. 87. Section 596 of said code is hereby amended and renumbered 580, to read as follows:

Labeling of oleomargarine

580. Each person, who lawfully manufactures any oleomargarine or any substitute for butter or substitute for cheese, shall comply with the following:

(a) The top and sides of each tub, firkin, box, or other package in which oleomargarine or substitute for butter or substitute for cheese is kept, and in which it may be removed from the place where the same is produced or put up shall have printed, stamped or stenciled thereon in a clear and durable manner, the words, "oleomargarine," or "substitute for butter," or "substitute for cheese," as the case may be.

in plain roman type, the letters of which shall not be less than one inch in height by one-half inch in width.

(b) A statement shall be prepared, printed in plain roman type, of a size not smaller than pica, stating the name of the product, the name and address of the manufacturer, the name of the place where manufactured or put up and the names and percentages of the various ingredients used in the manufacture of such oleomargarine, substitute for butter or substitute for cheese.

(c) A copy of said statement shall be placed within and upon the contents of each tub, firkin, box, or other package, and next to that portion of the same which is commonly and most conveniently opened.

(d) The top and sides of each tub, firkin, box, or other package shall be labeled by affixing thereto a copy of said statement in such manner as not to cover any part of the mark of "oleomargarine," "substitute for butter," or "substitute for cheese."

The absence of the markings and labelings specified in this section is a representation that the package does not contain oleomargarine, or a substitute for butter, or substitute for cheese.

SEC. 88. Section 597 of said code is hereby amended and renumbered 581, to read as follows: Stats 1933, p 153

581. It is unlawful to sell any oleomargarine or any renovated butter, unless the same shall have printed upon each and every package, roll, print, square, and upon any container of such renovated butter, or oleomargarine, the words "renovated butter," or the word "oleomargarine," as the case may be, in letters not less than one-half inch in height. Labeling mandatory

SEC. 89. Section 598 of said code is hereby amended and renumbered 582, to read as follows: Stats 1933, p 153

582. It is unlawful:

(a) For any person knowingly to ship, or for any carrier for hire knowingly to receive for shipment any oleomargarine, substitute for butter or substitute for cheese, unless it is labeled in conformity with this chapter and shipped and receipted for in its true name, or unless the same is in transit between foreign states. Possession of unlabeled oleomargarine, etc

(b) For any person knowingly to possess or have under his control any oleomargarine, substitute for butter or substitute for cheese, except for actual consumption by himself or family, unless the same is labeled in conformity with this chapter.

SEC. 90. Section 599 of said code is hereby amended and renumbered 583, to read as follows: Stats 1933, p 153

583. No person shall sell or take orders for the future delivery of any oleomargarine, or any substance designed to Sale of oleomargarine, etc.

be used as a substitute for butter or substitute for cheese, under the name of butter or cheese, or under the pretense that the same is butter or cheese, and no person shall sell any substance designed to be used as a substitute for butter or substitute for cheese, unless he shall inform the purchaser distinctly, at the time of the sale, of its true name and character, and that the same is a substitute for butter or substitute for cheese, as the case may be, and shall deliver to the purchaser at the time of the sale, a separate and distinct copy of the statement described in Section 580. No person shall use in any way in connection or association with the sale or advertisement of any oleomargarine or any substance designed to be used as a substitute for butter or as a substitute for cheese, the word "butterine," "creamery," or "dairy" or the representation of a cow or any breed of dairy cattle, or any combination of such words and representations, or any other words or symbols, or combinations thereof, commonly used by the dairy industry, except only the labeling requirements described in Section 580.

Prohibited designations

Stats 1933, p 154

SEC. 91. Section 600 of said code is hereby amended and renumbered 584, to read as follows:

Use of oleomargarine in restaurants, etc

584. No keeper or proprietor of any bakery, hotel, boarding house, restaurant, saloon, lunch counter, or other place of public entertainment, and no person having charge thereof or employed thereat, and no person furnishing board, for others than members of his own family, and no employee where such board is furnished as compensation or as a part of the compensation of any employee, shall place before any patron or employee, for use as food, any oleomargarine, or any substitute for butter or substitute for cheese, unless the same is accompanied by a copy of the statement described in Section 580, and a verbal notification that such substance is a substitute for butter or cheese.

Stats 1933, p 154

SEC. 92. Section 601 of said code is hereby amended and renumbered 585, to read as follows:

Unlawful contracts

585. No action can be maintained on account of any sale or other contract made in violation of, or with intent to violate, this chapter, by or through any person knowingly a party to such wrongful sale or contract. Every person having possession or control of any oleomargarine, or any substitute for butter or substitute for cheese, which is not marked as required by the provisions of this chapter is presumed to know that the same is oleomargarine, or a substitute for butter, or a substitute for cheese, as the case may be.

SEC. 93. A new article heading, Article 2, is hereby added to said code, to precede Section 591 thereof and to read as follows: New article heading

Article 2. Imitation Milk

SEC. 94. Section 531 of said code is hereby amended and renumbered 591, to read as follows: Stats 1933, p 145

591. Imitation milk is any substance, mixture, or compound made in imitation of, or having the appearance or semblance of milk, condensed milk, condensed skim milk, evaporated milk, evaporated skim milk, dried milk or dried skim milk, which substance, mixture, or compound contains any edible oil or fat other than milk fat. Chocolate when used in combination with either whole or skim milk and sweetened shall not be deemed to be imitation milk Imitation milk shall contain not less than 3 per cent of edible oils or fats and, if evaporated or condensed, shall contain not less than 7.8 per cent of edible oils or fats. Imitation milk

SEC. 95. Section 532 of said code is hereby amended and renumbered 592, to read as follows: Stats 1933, p 145

592. Imitation milk, not condensed or evaporated, is adulterated if it contains less than 3 per cent of edible fats, or oils, and imitation milk, if evaporated, is adulterated if it contains less than 7.8 per cent of edible fats or oils When adulterated

SEC. 96. Section 533 of said code is hereby amended and renumbered 593, to read as follows: Stats 1937, p 536

593. Imitation cream is any substance, mixture, or compound, made in imitation of or having the appearance or semblance of cream, condensed cream, evaporated cream, or dried cream, which contains any edible oil or fat other than milk fat. Imitation cream is adulterated if it contains less than 20 per cent of edible fats or oils. Imitation cream

SEC. 97. Section 594 of said code is hereby amended and renumbered 595, to read as follows: Stats 1933, p 151

595. Each person, who lawfully manufactures any imitation milk, or any substitute that may be used as and substituted for milk or evaporated milk, shall comply with the following: Labeling imitation milk

(a) The top, if the top be of sufficient size, and the sides of each package, in which containers of the article or substance are kept, and in which they may be removed from the place where the article or substance is produced or put up, shall have printed, stamped or stenciled thereon, in a clear manner the words "imitation milk," in plain roman type, the letters

of which shall not be less than one inch in height and one-half inch in width.

(b) A statement shall be prepared, printed in plain roman type of a size not smaller than pica, stating in the English language the name of the product, the name and address of the manufacturer, the name of the place where manufactured or put up, and the names of the various ingredients and the percentages of fat contained in said imitation milk and the percentage of milk fat, if any.

(c) A copy of said statement shall be placed within and upon the contents of each package, and next to that portion of each package which is commonly and most conveniently opened.

(d) Each container, within such package, containing imitation milk shall be labeled with the words "imitation milk" printed in black-face plain roman capital letters of a size not less than 12 point, and said words shall appear upon the main or principal label of the containers.

Stats 1933, p 152

SEC. 98. Section 595 of said code is hereby amended and renumbered 596, to read as follows:

Use of imitation milk in restaurants, etc.

596. No keeper or proprietor of any bakery, hotel, boarding house, restaurant, saloon, lunch counter, or any place of public entertainment, and no person having charge thereof, or employee thereat, and no employer when such board is furnished as compensation, or part of the compensation of any employee, shall place before any patron or employee for use as food, any imitation milk, unless there shall be displayed in a prominent place in each room therein where meals are served, a sign bearing the words: "Imitation milk used and served here," in black-face letters of not less than four inches in height upon a white background. Nothing in this article prohibits the use of imitation milk for cooking purposes.

New article heading

SEC. 99. A new article heading, Article 3, is hereby added to said code, to precede Section 601 thereof and to read as follows:

Article 3. Imitation Ice Cream and Ice Milk

Stats 1939, p 1252

SEC. 100. Section 538 of said code is hereby amended and renumbered 601, to read as follows:

Imitation ice cream and ice milk

601. Imitation ice cream and imitation ice milk, are substances, mixtures or compounds made in imitation of, or having the appearance of ice cream, or ice milk, and which contain any edible oil or fat, other than milk fat. Imitation ice cream shall contain not less than 10 per cent of edible oil or fat, imitation ice milk shall contain not less than 4 per cent of edible oil or fat, nor more than six-tenths of 1 per cent of pure and harmless edible stabilizer approved by the director.

Imitation ice cream, or imitation ice milk, when sold by the manufacturer or retailer shall not contain more than 75,000 bacteria per gram. Imitation ice cream, and imitation ice milk, shall otherwise conform to the composition and weight requirements specified in regulations of the director.

SEC. 101. Section 539 of said code is hereby amended and renumbered 602, to read as follows: Stats 1933, p. 147

602. The ingredients, except fruits, nuts and flavors to be used in the manufacture of imitation ice cream or imitation ice milk, shall be pasteurized. Ingredients

SEC. 102. Section 540 of said code is hereby amended and renumbered 603, to read as follows: Stats 1933, p 147

603. Imitation ice cream and imitation ice milk shall otherwise be manufactured, advertised and sold in accordance with regulations promulgated by the director. Regulations

SEC. 103. Section 541 of said code is hereby amended and renumbered 604, to read as follows: Stats 1933, p. 147

604. It is unlawful to sell imitation ice cream or imitation ice milk in bulk for purpose of resale. Sale in bulk

SEC. 104. Section 542 of said code is hereby amended and renumbered 605, to read as follows: Stats 1933, p 147

605. Imitation ice cream or imitation ice milk shall not be manufactured, processed, frozen, handled, distributed or sold in any place where ice cream or ice milk is manufactured, processed, frozen, handled, distributed or sold. Place of sale

SEC. 105. Section 602 of said code is hereby amended and renumbered 606, to read as follows: Stats 1933, p 154

606. All containers of imitation ice cream and imitation ice milk shall be conspicuously so labeled, and vehicles conveying imitation ice cream or imitation ice milk, and places where imitation ice cream or imitation ice milk is sold, shall display a conspicuous, legible sign containing the words "imitation ice cream sold here" or "imitation ice milk sold here," as the case may be, in plain, block letters not less than six inches high. Imitation ice cream Signs, etc

In the event that a trade name is used on vehicles conveying, or places where imitation ice cream or imitation ice milk is sold, the words "imitation ice cream" or "imitation ice milk," shall be at least one-half as large as the largest letters used in the trade name and as conspicuously placed. In no case shall the letters in the words "imitation ice cream,"

"imitation ice milk" be less than six inches high. No person shall use the name "creamy," "creamery," or "dairy," or the representation of a cow or any breed of dairy cattle or any combination of such words, symbols, marks, designs or representations commonly used in the sale, advertising or distribution of ice cream.

New article heading

SEC. 106. A new article heading, Article 4, is hereby added to said code, to precede Section 611 thereof and to read as follows:

Article 4. Imitation Products, Licenses and Reports

Stats 1933, p 156. See also Stats 1941, p 2495

SEC. 107. Section 626 of said code is hereby amended and renumbered 611, to read as follows:

Imitation milk products: License to handle

611. It is unlawful to engage in the business or occupation of manufacturing, selling, dealing in or furnishing, or to have in possession for any purposes other than for consumption in his own family, or for transportation in case of a boat or railroad company, or for the purpose of storage in the case of a warehouse or cold storage company, (a) imitation milk, (b) oleomargarine, renovated butter or a substitute for butter, or (c) imitation cheese or substitute for cheese, (d) imitation ice cream or imitation ice milk, without first having applied for and obtained a license so to do. To engage in any such businesses or occupations, a person shall first apply each year to the department for a license, and upon payment of the license fee mentioned in Section 612 the department shall issue a license to engage in the business for which the license is issued. Separate licenses are required for each such business or occupation.

All licenses pertaining to oleomargarine, renovated butter or substitute for butter shall contain the following proviso: provided, that this license does not authorize the holder thereof to manufacture, sell, deal in or furnish any oleomargarine, or any substitute for butter, which contains any coloring matter or which resembles yellow butter in appearance.

Stats 1933, p 157

SEC. 108. Section 627 of said code is hereby amended and renumbered 612, to read as follows:

Expiration

612. All licenses issued under Section 611 expire on June 30th of each year, and may be issued in periods of one year, or less upon the payment of a proportionate part

Fees

of the license fee. The fees for issuing said licenses are for each establishment annually:

(a) Manufacturers or processors within this State, one hundred dollars ($100).

(b) Wholesale dealers in, or importers or agents for importers, fifty dollars ($50).

(c) Retail dealers, five dollars ($5).

(d) The keeper of any hotel, restaurant, boarding house or other place where meals are served and payment is received therefor, two dollars ($2).

SEC. 109. Section 628 of said code is hereby amended and renumbered 613, to read as follows: Stats 1933, p 157

613. As used in this article

(a) Wholesale dealer means: Definitions

1. Any person who sells imitation milk in quantities of one full case or more at a time or in the same transaction;

2. Any person who sells oleomargarine, renovated butter or any substitute for butter in quantities of 10 pounds or more at a time or in the same transaction;

3. Any person who sells imitation ice cream or imitation ice milk in quantities of two gallons or more at a time or in the same transaction.

(b) Retail dealer means all persons who sell any of the above mentioned products in smaller quantities than those necessary to constitute a seller a wholesale dealer.

SEC. 110. Section 629 of said code is hereby amended and renumbered 614, to read as follows: Stats. 1933, p 157

614. All licenses while in force shall be kept conspicuously displayed in the places of business of the party or parties to whom they have been issued. Display of licenses

No license is required of any person engaged as a retail dealer in the business or occupation of selling, dealing in or furnishing imitation milk if such imitation milk is a distinctive proprietary food compound (a) not readily mistaken in taste for milk or for evaporated, skim, condensed or dried milk, (b) prepared and designed for feeding infants and young children, and (c) sold exclusively by druggists, orphan asylums, child welfare associations, hospitals and similar institutions. License exceptions

SEC. 111. Section 653 of said code is hereby amended and renumbered 615, to read as follows: Stats 1933, p. 161

615. Every person manufacturing, wholesaling or importing oleomargarine, or any substance designed as a substitute for or resembling butter, not made wholly from pure milk or cream, or any imitation dairy products, shall keep a record, separate from all other business, recorded at the time of the transaction, giving the quantity sold or purchased, the name and location of the seller and purchaser, the date, and the place to which it was shipped or delivered, and by whom the order or sale was put up and delivered. Oleomargarine reports. Dealers

Stats 1943, p 61 See also Stats 1941, p 1400

SEC. 112. Section 654 of said code is hereby amended and renumbered 616, to read as follows:

Same Warehouses, etc.

616. Every person engaged in the warehouse, cold storage or transportation business shall keep a correct record of all oleomargarine, renovated butter, substitute for butter, substitute for cheese or other imitation dairy products, which at any time may be in their possession, or which may be transported or stored by them, showing the owner, the quantity and kind of goods, the date when stored, and when removed, in case of warehouses and cold storage companies, and showing the character of goods billed, the quantity, the name and address of consignor and consignee, and the date of transportation, in case of boats and railroad companies.

Stats 1933, p 161

SEC. 113. Section 655 of said code is hereby amended and renumbered 617, to read as follows:

Records: Who may inspect

617. All records required to be kept by the two preceding sections shall, at all times during business hours, be open to the inspection of the director, any officer of any city or county board of health, and any peace officer of any city or county of the State. A failure to keep any of the records herein required to be kept or a failure to permit any authorized inspection of such records is a misdemeanor.

Stats 1933, p 161 See also Stats 1941, p 1401

SEC. 114. Section 657 of said code is hereby amended and renumbered 618, to read as follows:

Imitation dairy products: Manufacturer's reports

618. All manufacturers of imitation dairy products shall furnish the department at the end of each calendar month the names and specific locations of all persons who purchase or receive any imitation dairy products for the purpose of selling to the public in any form.

Stats 1933, p 161 See also Stats 1941, p 1401

SEC. 115. Section 658 of said code is hereby amended and renumbered 619, to read as follows:

Same

619. All manufacturers of imitation dairy products shall submit to the department at the end of each month a report of the quantity sold or purchased, the name and the address of the buyers, the dates and the places to which they were shipped or delivered.

Stats 1935, p 846 See also Stats 1941, p 1401

SEC. 116. Section 476 of said code is hereby amended and renumbered 620, to read as follows:

Addition of fats

620. Except as otherwise provided in this division it is unlawful to manufacture or sell any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them or any ice cream, ice milk, cheese or any other dairy

product to which has been added any fat or oil other than milk fat, or the fat naturally contained in chocolate and not separated therefrom either under the name of said products, articles or the derivatives thereof, or under any fictitious or trade name. The addition to the products commonly known as condensed skim milk, condensed buttermilk, or semisolid buttermilk of not more than 5 per cent of pure cod liver oil is not a violation of this section, if the product is sold for poultry or stock feed.

Stats 1933, p. 147 See also Stats 1941, p. 1401

SEC. 117. Section 543 of said code is hereby amended and renumbered 621, to read as follows:

Use in State institutions

621. No imitation dairy product shall be used in any of the charitable or penal institutions that receive assistance from the State.

New chapter heading

SEC. 118. A new chapter heading, Chapter 4, is hereby added to Division 4 of said code, to precede Section 631 thereof and to read as follows:

CHAPTER 4. GENERAL REQUIREMENTS

New article heading

SEC. 119. A new article heading is hereby added to said code, to immediately follow the heading of Chapter 4 of Division 4 thereof and to read as follows:

Article 1. Pasteurization

Stats 1933, p 147 See also Stats. 1941, p. 1401

SEC. 120. Section 561 of said code is hereby amended and renumbered 631, to read as follows:

Pasteurization defined

631. Pasteurization of milk, skim milk, cream and other dairy products, is a process for the elimination therefrom of organisms harmful to human beings. It shall consist of uniformly heating such products to a temperature of not less than 140 degrees Fahrenheit and of holding the same at a temperature between 140 and 145 degrees Fahrenheit for not less than 30 minutes, nor more than one and one-half hours, and immediately thereafter cooling the same to a temperature of not above 50 degrees Fahrenheit.

Stats 1933, p 147

SEC. 121. Section 562 of said code is hereby amended and renumbered 632, to read as follows:

Exception to cooling requirements

632. When cream is pasteurized to be used and is used in the manufacture of butter, or when milk is pasteurized to be used and is used in the manufacture of cheese, and where the process of ripening or starting in each case is to be commenced immediately, then such cream or milk shall be cooled to a degree no lower than necessary for such ripening or starting.

Stats 1933, p 147

SEC. 122. Section 563 of said code is hereby amended and renumbered 633, to read as follows:

Modification of pasteurization method

633. Milk or its derivatives that are to be used in the manufacture of milk products, and cream may be pasteurized by heating above 145 degrees Fahrenheit and when the same is uniformly heated to and held at a temperature above 151 degrees Fahrenheit, the time for holding may be decreased from 30 minutes by one minute for each degree of temperature above 145 degrees Fahrenheit.

Stats 1933, p 148

SEC. 123. Section 564 of said code is hereby amended and renumbered 634, to read as follows:

Same

634. Modification of the method of pasteurization may be practiced when approved by the director after investigation of the efficiency thereof.

Stats 1933, p. 148
See also Stats 1941, pp 1402 and 1410

SEC. 124. Section 565 of said code is hereby amended and renumbered 635, to read as follows:

Care of apparatus

635. All apparatus used for the pasteurization of milk, skim milk or cream shall be kept in strictly clean and sanitary condition and every pasteurizing plant shall be equipped with sufficient recording thermometer devices to accurately record the temperature to which, and the length of time for which the pasteurized product has been heated.

Thermometer records

All recording thermometer devices used in pasteurization shall be of a type approved by, and the use thereof shall at all times be subject to the approval of the director. All persons using pasteurizing apparatus within the State shall date, preserve and keep on file for not less than two months after the same are made, all records made by such thermometer, or in lieu of such preservation may deliver such records to any public officer authorized by law or ordinance to receive the same, and said records shall, at all times, be open to the inspection of the director, the State Board of Health, and all State, county, and municipal officers charged with the enforcement of the laws and ordinances respecting dairy products or the public health.

Stats 1933, p. 148
See also Stats 1941, p. 1402

SEC. 125. Section 583 of said code is hereby amended and renumbered 636, to read as follows:

Use of word "pasteurized"

636. It is unlawful to sell any milk, cream, skim milk, or product of milk as and for pasteurized milk, cream, skim milk, or product of milk, or to use the word "pasteurized," or any of its derivatives in connection with the sale, designation, advertising, labeling or billing of any milk, skim milk, or milk products, unless the same and all products of milk contained therein or used in the manufacture thereof consist exclusively of milk, skim milk or cream which has been pasteurized.

SEC. 126. Section 701 of said code is hereby amended and renumbered 637, to read as follows: Stats 1933, p. 167

637. Every person operating any place where milk is received and by-products distributed shall pasteurize all skim milk, whey, or other milk by-products to be used for feeding purposes for farm animals before delivering the same. Such pasteurization may be accomplished by heating the by-product to a temperature of 145 degrees Fahrenheit and holding at that temperature for not less than 30 minutes, or by heating to 185 degrees Fahrenheit without holding. All vats, tanks or containers used to store milk by-products shall be kept in a clean and sanitary condition. Pasteurization of milk products used for live stock food

SEC. 127. A new article heading, Article 2, is hereby added to said code, to precede Section 641 thereof and to read as follows: New article heading

Article 2. Sanitation

SEC. 128. Section 459 of said code is hereby amended and renumbered 641, to read as follows: Stats 1933, p 131 See also Stats. 1941, p 1403

641. It is unlawful to sell, give away, or deliver, or to knowingly purchase or receive any impure, polluted, tainted, unclean, unwholesome, stale or adulterated milk, goat's milk, sheep's milk, or cream, or any product manufactured wholly or in part therefrom, or other milk, or cream, or products thereof or imitation dairy products or substitutes for dairy products which do not conform to the standards established by this division, or to sell, give away, or deliver, or to knowingly purchase or receive as or for milk or cream any product prepared or manufactured by the mixing or blending of milk, skim milk or any of the derivatives thereof, with butter. Impure dairy products

SEC. 129. Section 460 of said code is hereby amended and renumbered 642, to read as follows: Stats 1935, p 1521 See also Stats 1941, p 1403

642. It is unlawful to sell, give away, deliver, or to knowingly purchase or receive any milk, goat's milk, sheep's milk, or product thereof which has been produced in or by a dairy or factory of dairy products in an insanitary condition, or that is handled by any carrier of milk or products thereof or in any store or depot that is in an insanitary condition; or that is produced from animals affected by any disease, except as hereinafter provided. Sale of insanitary milk products

SEC. 130. Section 691 of said code is hereby amended and renumbered 643, to read as follows: Stats 1933, p. 164 See also Stats. 1941, p. 1403

643. A dairy is insanitary in the following cases: Insanitary dairy defined

(a) If the pails, cans, bottles or other containers for milk or its products, or the strainers, coolers or other utensils,

appliances, apparatus or equipment coming in contact with the milk or its products are not thoroughly washed and afterwards sterilized by exposing them to water or water vapor at a temperature above 170 degrees Fahrenheit for a period of at least 15 minutes, or by boiling water or by superheated steam each time the same are used; or if the containers, utensils, appliances or equipment after sterilization are not adequately dried and protected from flies and dust and other contamination; or if any containers, utensils, appliances or equipment are used for any purpose other than that of handling milk or the products of milk.

(b) If the udders, flanks, hind legs and tails of cows are not reasonably clean during milking.

(c) If the milk or cream is not protected from contamination by dust and flies.

(d) If the person or wearing apparel of the dairyman, his employees or other persons who handle the milk or its products are soiled or not washed with reasonable frequency, or if the hands of milkers are not clean during the entire period of milking.

(e) If the milk or cream is not cooled to as low a temperature as practicable within one hour after it is drawn from the cows, and kept as cool as conditions will permit until delivery to the plant or consumer.

(f) If a suitable milk house or room, properly screened to exclude flies and insects is not provided and maintained for the separating, cooling, mixing, canning and keeping, or otherwise caring for the milk or cream. Said milk house or room shall not be located in or be a part of any dwelling house, barn, or poultry house, and shall not be used for any other purpose; and if any milk or cream is separated, cooled, mixed, canned or kept in any room or place which is occupied by any person as a sleeping or living apartment, or occupied by fowls, or animals.

(g) If any urinal, privy vault, open cesspool, pig pen, stagnant water, accumulation of manure or other filth is permitted within 100 feet of the milk house or room, or within 50 feet of any cow stables, or stanchions or other place where milking is done.

(h) If to the interior of cattle stables, barns, milking sheds, milk house or room, an application of lime whitewash or paint is not made, if in the judgment of an authorized inspector it is needed.

(i) If the walls become soiled with manure, urine or other filth.

(j) If the yards or inclosures are filthy or insanitary, or if any part of such yards or inclosures, other than pastures, are made the depositories of manure in heaps or otherwise, where it is allowed to ferment and decay.

(k) If the water supply for use around the dairy or for drinking by live stock is stagnant, polluted with manure, urine drainage, decaying vegetable or animal matter or pathogenic bacteria from any source.

(*l*) If the feed is spoiled, or otherwise unfit for feeding cows for the production of milk.

Stats 1935, p. 1765 See also Stats 1941, p 1405

SEC. 131. Section 692 of said code is hereby amended and renumbered 644, to read as follows:

Insanitary creamery defined

644. Any creamery, factory or building in which dairy products of any kind are manufactured, or any store or salesroom, excepting a store or salesroom where milk or milk products are sold at retail in final packaged form, depot, or other place where milk or any product of milk is handled or kept for sale, is insanitary:

(a) If milk or cream or any product of either is received that has reached an advanced stage of fermentation, or that shows a state of putrefactive fermentation, or contains foreign substances detrimental to the quality of the manufactured product.

(b) If the utensils and apparatus that come in contact with milk or its products are not thoroughly washed and sterilized by means of boiling water or superheated steam or other means equally effective and acceptable to the department, immediately following the completion of any processing operations and if the cans or containers in which the milk or cream or products of either is received, transported or delivered are not thoroughly washed, sterilized and dried after emptying and before being sent out to be used again or if any containers, utensils, or apparatus, or equipment are used for any purpose other than that of handling milk and the products of milk.

(c) If the floor is not constructed of nonabsorbent material acceptable to the department or if the floor is so constructed as to permit the flowing of water, milk or other liquids underneath or among the interstices of such floor, where fermentation and decay can take place, or if such floor can not be readily kept free from dirt.

(d) If floor drains are not provided that will convey refuse milk, water and sewage away to a point at least 50 yards distant from such creamery or factory of dairy products, or if any cesspool, privy vault, hog yard, slaughterhouse, manure or any decaying vegetable or animal matter shall be so located as to permit foul odors to reach such creamery or other factory of dairy products or storeroom or depot where milk or its products are sold or handled; or if such creamery or factory of dairy products is not adequately and conveniently supplied with water free of pollution with sewage or contamination with pathogenic bacteria unless said water be subjected to efficient chlorination or otherwise treated to make it safe for use in connection with the manufacture of food products.

(e) If such creamery or factory of dairy products does not permit access of light and air sufficient to secure good ventilation.

(f) If in any building used in connection with any creamery, or factory of dairy products, any species of animal life are

permitted. If upon the floor or walls any milk or its products or any filth is allowed to accumulate or ferment, or decay, or if the bodies or wearing apparel of persons employed, or coming in contact with any milk or its products in any creamery, or factory of any dairy products, are unclean and not washed from time to time with reasonable frequency, or if suitable toilet and lavatory facilities and clean towels are not provided for employees.

(g) If tight, sound and cleanable walls and ceilings are not provided so as to exclude flies, insects and dust.

Stats 1929, p 2235 See also Stats 1931, p 1406

SEC. 132. Section 692.5 of said code is hereby amended and renumbered 645, to read as follows:

Fruit juice containers

645. Notwithstanding any provision of subdivision (a) of Section 643 or subdivision (b) of Section 644, containers, utensils, appliances and equipment used for handling or bottling milk or dairy products may be used for handling and bottling fruit juices or fruit juice base beverages in accordance with rules and regulations of the director.

Stats 1933, p 167

SEC. 133. Section 697 of said code is hereby amended and renumbered 646, to read as follows:

Regulation of conveyances

646. All carriers of milk, cream or products of milk, whether producer, gratuitous private carrier, private carrier for hire, or common carrier, in transporting milk and cream shall maintain all conveyances in a clean and sanitary condition.

Stats. 1933, p 167

SEC. 134. Section 698 of said code is hereby amended and renumbered 647, to read as follows:

Same

647. All conveyances, while transporting milk or cream or clean empty containers intended for milk or cream, and all shipping platforms or premises where such containers are held waiting shipment, shall either be inclosed or provided with canvas covering or otherwise afforded protection from the direct rays of the sun, from warm air, dust, mud, rain and other sources of contamination when in the judgment of the director it is necessary. No milk or cream or product thereof shall be transported in connection with or close to any other commodity from which it may absorb foreign flavors or which may contaminate it, and no milk or cream or empty containers used for milk or cream shall be hauled in any vehicle used for hauling manure, or garbage, or in any other unclean conveyance. All milk or cream cans or other shipping containers for products of milk shall be handled carefully, and while containing milk, cream or other products of milk, shall be kept right end up. Nothing herein shall be construed to derogate from any powers or authority of the Railroad Commission of the State.

SEC. 135. Section 699 of said code is hereby amended and renumbered 648, to read as follows: Stats 1933, p. 167

648. No carrier of milk, cream or product of milk, whether gratuitous private carrier, private carrier for hire, or common carrier, shall receive or transport any milk or cream or product of milk after notification by the department that such product is unclean, polluted, tainted, unwholesome, stale, impure, or adulterated, or has been produced in violation of the provisions of this code. Transportation of unclean milk prohibited

SEC. 136. A new article heading, Article 3, is hereby added to said code, to precede Section 656 thereof and to read as follows: New article heading

Article 3. Adulteration

SEC. 137. Section 474 of said code is hereby amended and renumbered 656, to read as follows: Stats 1933, p 133

656. It is unlawful to produce, manufacture or prepare for sale, or sell: Prohibited substances

(a) Any milk, cream, or other product of milk to which has been added, or that contains, any compound of boron, salicylic acid, formaldehyde, or other chemical or substance for the purpose of preventing or delaying fermentation or souring.

(b) Any milk or product of milk, to which any coloring matter, except as otherwise provided in this division, has been added or to which any gelatin or other substance, except as otherwise provided in this division, has been added to increase the consistency of such milk, or product of milk, so as to make it appear richer or of better quality. This section does not prohibit the use of harmless coloring matter and common salt (chloride of sodium) in butter and cheese, the use of gelatin, sweetening, eggs or egg products, harmless coloring or flavoring, or edible stabilizer in the manufacture of ice cream, or the use of alkalies approved by the director, in the manufacture of butter, or the adjustment of the acidity of ice cream mix within limits designated by the director.

SEC. 138. A new article heading, Article 4, is hereby added to said code, to precede Section 661 thereof and to read as follows: New article heading

Article 4. Labeling and Reports

SEC. 139. Section 651 of said code is hereby amended and renumbered 661, to read as follows: Stats 1937, p 457 See also Stats 1941, p 1406

661. The director may compile and publish statistics relative to the dairy industry, oleomargarine and imitation dairy products, and disseminate the same and other information Dairy statistics: Publication

useful to the general good and development of the dairy industry of the State, and make a suitable charge or charges for publications issued under authority of this chapter.

Stats 1933, p. 160 See also Stats 1941, p. 406

SEC. 140. Section 652 of said code is hereby amended and renumbered 662, to read as follows:

Forms for reports

662. The director shall provide blanks for reporting dairy statistics, and shall, on or before the last day of December of each year, cause to be mailed to each person engaged in operating any creamery, cheese factory, ice cream or ice milk plant, milk condensory and market milk distributor when necessary, one or more of such blanks and each such person shall, on or before the first day of February following transmit to the director a full and accurate report of the amount of milk, cream, condensed or evaporated milk, butter, cheese, ice cream or other dairy products produced, purchased or manufactured or distributed during the year ending December 31st, just preceding. All milk or milk products plants purchasing milk and cream direct from farmers shall report a complete list of all persons from whom their product is obtained, giving the name and address, whenever possible, in each case. In addition to said annual reports the director may require semiannual, quarterly, or monthly reports of the same general character as the annual reports. Said reports shall be mailed to the director not later than 30 days after the date of the department's written request, upon blanks furnished by the director.

Stats 1933, p. 132

SEC. 141. Section 461 of said code is hereby amended and renumbered 663, to read as follows:

False statements

663. No person shall knowingly render any statement or bill showing the weight, grade, percentage of fat, amount of fat, price, or total amount paid, for milk or milk products which is false, deceptive or misleading in any particular.

Stats 1933, p 149

SEC. 142. Section 584 of said code is hereby amended and renumbered 664, to read as follows:

Delivery vehicles

664. All vehicles from which market milk, cream, butter, ice cream, buttermilk or ice milk are regularly sold, marketed, delivered or peddled, shall have the name and address of the owner plainly lettered thereon in letters at least three inches high, and one and a half inches wide, on both sides of such vehicle.

Stats 1937, p 538

SEC. 143. Section 582 of said code is hereby amended and renumbered 665, to read as follows:

Mutilation of labels

665. No person shall efface, erase, cancel or remove any mark, statement or label required by this division, with intent

to mislead, deceive, or to violate any of the provisions of this division.

Stats 1939, p. 1252 See also Stats 1941, p. 1406

SEC. 144. Section 581 of said code is hereby amended and renumbered 666, to read as follows:

Labeling regulations

666. All dairy products or imitation dairy products, when sold to the retail trade shall be labeled or billed with the correct name of the product and shall conform to all other requirements for special labeling of the products provided in this division, or in the rules and regulations for its enforcement. No person shall use the name of any such product, either orally, printed, or written, in connection with the sale of any product or substance unless said product or substance conforms to the definitions and standards prescribed by this division. No person shall make or cause to be made any statement either oral, written, or printed, nor make or print, or cause to be made or printed any design, symbol, picture, or illustration, in connection with the advertising or sale of any product, article, or compound defined in this division, which statement, design, symbol, picture or illustration shall be false, deceptive or misleading in any manner.

New article heading

SEC. 145. A new article heading, Article 5, is hereby added to said code, to precede Section 671 thereof and to read as follows:

Article 5. Factory Licenses

Stats. 1937, p. 740

SEC. 146. Section 621 of said code is hereby amended and renumbered 671, to read as follows:

Milk products' Manufacturing license

671. Every person before engaging in the business of dealing in, receiving, manufacturing, freezing or processing milk, goat's milk, sheep's milk, or any product of milk, goat's milk, sheep's milk or imitation ice cream, or imitation ice milk, shall obtain a license from the department to do so for each separate plant or place of business. Hotels, restaurants, boarding houses, hospitals or other concerns or agencies which manufacture products of milk for the use of patrons, guests, patients, or servants shall take out the license herein required. Nothing in this chapter applies to private homes manufacturing for their own use or to retailers dealing in finished products received from a distributor or producer in final form. Upon receipt of an application for such license, the department shall investigate the equipment and the sanitary condition of the plant where milk or the products of milk are to be received, or any of such products are to be processed, frozen or manufactured, and provide the applicant with a copy of the dairy laws of the State. If the condition of the plant is found to be satisfactory, a "factory license" shall be issued by the department to such applicant upon receipt of a license fee as hereinafter provided.

Stats 1939, p 2254

SEC. 147. Section 622 of said code is hereby amended and renumbered 672, to read as follows:

License fee for frozen products

672. (a) Every person, except hospitals and sanitariums, engaged in the business of dealing in, receiving, manufacturing, freezing, or processing ice cream, imitation ice cream, ice milk, imitation ice milk, sherbet, and all similar frozen products shall pay a factory license fee of twenty-five dollars ($25) for the calendar year for which such license is issued, and for the renewal thereof shall pay twenty-five dollars ($25), plus one dollar ($1) for each additional 10,000 gallons or fraction thereof over and above 50,000 gallons manufactured during the preceding year, ending the thirty-first day of December.

Other products

(b) The fee for a factory license for all other products for which a license is required is ten dollars ($10), and for the renewal thereof, is one dollar ($1) for each 100,000 pounds of milk fat or part thereof, or each 400,000 gallons of milk or part thereof, purchased or received during the preceding year, ending the thirty-first day of December. In no case shall the renewal fee for such products exceed ten dollars ($10).

Receipts

(c) The director at least once each month shall report to the State Controller the total amount of moneys collected under the provisions of paragraph (a) of this section and at the same time shall pay into the State Treasury the entire amount of such receipts which shall be credited to the Department of Agriculture Fund and expended in carrying out the provisions of this division relating to ice cream, ice milk, and any similar frozen products.

Report to Governor

(d) The director shall, within 30 days prior to each regular session of the Legislature, submit to the Governor a full and true report of transactions under this law during the current biennium, including a complete statement of receipts and expenditures during the period.

Stats 1933, p. 155

SEC. 148. Section 623 of said code is hereby amended and renumbered 673, to read as follows:

Expiration of license

673. Factory licenses expire at the end of each calendar year, but shall remain in force during the month of January of the next succeeding year or such part thereof as may be necessary for the renewal of said license by the department.

Renewal

All licenses may be renewed each successive year, if the plant for which a previous license was issued or the business thereof shall have been conducted in accordance with the requirements of this division during the year next preceding that for which renewal is requested. The correct amount of the fee for the renewal of said license shall be forwarded with the application for renewal.

SEC. 149. A new article heading, Article 6, is hereby added to said code, to precede Section 676 thereof and to read as follows: New article heading

Article 6. Technical Licenses

SEC. 150. Section 630 of said code is hereby amended and renumbered 676, to read as follows: Stats 1933, p. 157 See also Stats 1941, p 1407

676. (a) Persons who test milk or cream, purchased, received or sold on the basis of milk fat contained therein must hold a tester's license. Methods or processes of testing must be approved by the department. A separate license is required for each method or process used by any one person. Licenses Tester's

(b) Persons, other than licensed testers, who take samples of milk or cream purchased, received or sold on the basis of milk fat contained therein, on which sample tests are to be made as a basis of payment, and all persons who weigh milk or cream, the weight to be used as a basis of payment must hold a sampler's and weigher's license. When one person does both sampling and weighing only one license is required. In cases of emergency a person may weigh or sample for a period not exceeding one week, without a license. Any person who takes samples of milk or cream for testing shall hold the same in an unchanged condition until delivered to a licensed tester. Sampler's and weigher's

(c) Persons who make bacteriological determinations of milk or cream to be used as a basis of payment or determining value must hold a technician's license. Technician's

SEC. 151. Section 631 of said code is hereby amended and renumbered 677, to read as follows: Stats. 1935, p. 845

677. Applications for tester's, sampler's and weigher's or technician's licenses shall be made to the department which shall examine each applicant for the license applied for as to his qualifications and knowledge of the law applicable to him. Applications

The original fee for such licenses is: Fees

(a) For a tester's license, five dollars ($5).

(b) For a sampler's and weigher's license, one dollar ($1).

(c) For a technician's license, five dollars ($5).

All such licenses expire on the thirty-first day of each December and may be renewed within 30 days prior to the expiration thereof upon payment of a fee of one dollar ($1) if the licensee has complied with all the requirements of the law and rules and regulations applicable to him. Expiration

New article heading

SEC. 152. A new article heading, Article 7, is hereby added to said code, to precede Section 681 thereof and to read as follows:

Article 7. Technical Methods

Stats. 1933, p. 158. See also Stats. 1941, p. 1107

SEC. 153. Section 632 of said code is hereby amended and renumbered 681, to read as follows:

False tests

681. No person shall fraudulently manipulate the measure or weight or underread or overread or otherwise manipulate any test used for determining the grade or quality of milk or cream, or the per cent of milk fat in milk or cream, nor take an unfair sample of milk or cream on which a test is to be made, nor fraudulently manipulate such samples, or the records of any measurement, weight, or test, or combination

Records

thereof. A permanent record in duplicate of all tests of milk or cream purchased, received, or sold on the basis of the amount of milk fat contained therein, must be made by a licensed tester on standard forms supplied by, or in accordance with the specifications for such records, adopted by the department. Each test shall be legibly recorded with indelible pencil or ink in such a manner as to correctly identify the test obtained upon the milk or cream. Each sheet or page shall be authenticated by the signature of the licensed tester, and a duplicate record shall be deposited by the licensed tester immediately after completing the test on the day's samples, in a box provided by the purchaser or receiver or seller of milk or cream, as the case may be, said box to be constructed, sealed and maintained in accordance with the rules and regulations of the director. The original record shall be immediately delivered to the purchaser or receiver or seller of said milk or cream, to be retained by him for at least three months. The

Retention of samples

licensed tester shall retain an unmodified sample of all milk or cream tested by him for not less than 48 hours after tests of said milk or cream have been made and said purchaser or receiver or seller of milk or cream shall provide a suitable place where such samples so retained may be kept and such place shall be acceptable to the department. When payment for milk or cream is made on the basis of the milk fat contained therein, samples shall be taken from each lot of said milk or cream upon delivery, and payment shall be made in accordance with the percentage of milk fat actually found in said samples. Nothing in this section prohibits weighing and sampling on a route, or the use of composite samples of milk.

Stats. 1933, p. 159

SEC. 154. Section 633 of said code is hereby amended and renumbered 682, to read as follows:

Babcock test

682. In conducting the Babcock test, the milk fat column in tests on milk, in milk test bottles, shall be read from the extreme bottom of the fat column to the top of the top meniscus. In tests in cream test bottles, the meniscus at the

top of the milk fat column shall be destroyed by the use of an overlying foreign oil approved by the department, and the milk fat column shall be read from the extreme bottom of the fat column to the plane of separation between the fat column and the overlying foreign oil. The reading of the test shall be made when the temperature of the milk fat is between 130 and 140 degrees Fahrenheit.

SEC. 155. Section 455 of said code is hereby amended and renumbered 683, to read as follows: Stats 1933, p. 130

683. No tolerance in weights, measures, percentages of milk fat or moisture, or any other measure or standard shall be permitted, except where specific provisions are made therefor. Tolerance

SEC. 156. A new article heading, Article 8, is hereby added to said code, to precede Section 686 thereof and to read as follows: New article heading

Article 8. Technical Equipment

SEC. 157. Section 635 of said code is hereby amended and renumbered 686, to read as follows: Stats 1933, p. 159

686. All measuring glassware, weights or scales used by licensed testers or licensed technicians shall be accurate. All glassware shall be examined by the director and if found to be accurate, each piece shall have a legible or indelible distinguishing mark placed upon it by the department. All Babcock glassware and scales shall comply with the following specifications: Prescribed equipment

(a) Milk Test Bottle. The total per cent graduation shall be 8. The graduated portion of the neck shall have a length of not less than 63.5 millimeters and the graduation shall represent whole per cent, five-tenths per cent and tenths per cent. The error in the total graduation or in any part thereof shall not exceed one-tenth of 1 per cent. The neck shall be cylindrical for at least five millimeters below the lowest and above the highest graduation mark.

(b) Fifty Per Cent Nine-gram Long-neck Cream-test Bottle. The total per cent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 120 millimeters. The graduation shall represent 5 per cent, 1 per cent and five-tenths per cent. The cylindrical part of the neck shall extend at least five millimeters below the lowest and above the highest graduation mark. Each bottle shall bear at the top of the neck above the graduations, in plain legible characters, a mark defining the weight of the charge to be used—nine grams. The error in the total graduation or in any part thereof, shall not exceed twenty-five hundredths of 1 per cent.

(c) Fifty Per Cent 18-gram Long-neck Cream-test Bottle. The total per cent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 120 millimeters. The graduation shall represent 5 per cent, 1 per cent and five-tenths per cent. The cylindrical part of the neck shall extend at least five millimeters below the lowest and above the highest graduation mark. Each bottle shall bear at the top of the neck above the graduations, in plain legible characters a mark defining the weight of the charge to be used—18 grams. The error in the total graduation or in any part thereof shall not exceed twenty-five hundredths of 1 per cent.

(d) Seventeen and Six-tenths Milliliter Pipette. The delivery tube shall have a length of 100 to 120 millimeters and an outside diameter between 4.5 and 5.5 millimeters, and a straight nozzle. The pipette shall contain 17.6 milliliters of water at 20 degrees Centigrade when the bottom of the meniscus coincides with the mark on the suction tube. The error in the graduation shall not exceed five one-hundredths of a milliliter.

(e) Scales or Balance. The scales or balance used in weighing cream samples into the test bottles shall have a sensibility of not more than 30 milligrams.

Stats. 1939, p. 1901

SEC. 158. Section 636 of said code is hereby amended and renumbered 687, to read as follows:

Testing fee

687. A fee of one dollar ($1) shall be paid by the owner of said glassware to the department for every dozen pieces of Babcock glassware examined. The department shall charge fees for examining glassware and apparatus used in methods of testing other than the Babcock test, sufficient to cover the actual cost of such examination. All money received under this section shall be paid into the Department of Agriculture Fund.

Disposition

New chapter heading

SEC. 159. A new chapter heading, Chapter 5, is hereby added to Division 4 of said code, to precede Section 701 thereof and to read as follows:

CHAPTER 5. CONTAINERS

Stats. 1937, p 544

SEC. 160. Section 671 of said code is hereby amended and renumbered 701, to read as follows:

Registration of trade names or brands

701. Any person or association engaged in receiving, producing, manufacturing, packing, canning, bottling, handling or selling milk or any product thereof in containers, cabinets or other dairy equipment marked or otherwise identified with the name of such person or association or with any fictitious or other name or word or with any mark or device whatsoever, and any association or corporation, the members

or directors of which are so engaged, may file with the department a description of the name or word, mark, or device so used, and an application for registration of the same as a brand, accompanied by a fee of five dollars ($5) for each separate brand. There shall be included as a part of each brand the words, "Registered in California" or the abbreviation "Reg. Cal." The applicant shall also cause such description to be printed once a week for three successive weeks in one or more newspapers of general circulation published in the locality in which the principal place of business of said applicant is situated. The department may refuse to register a brand when it appears that the same or a similar brand has been previously registered by another unless the prior registrant gives his written consent to the subsequent registration. Whenever it appears that two or more applicants have applied for the registration of the same or similar brands, the director may after hearing determine the right of prior ownership in such brand; and when such right of prior ownership is determined the director shall refuse to register, or shall cancel the registration of any duplicate or similar brand. Any person acquiring any container, cabinet or other dairy equipment marked with a brand registered under the provisions of this section, by purchase or by other lawful means, and having the written consent of the registrant of such brand to use the same on the particular container, cabinet or other dairy equipment so acquired or to use such brand on containers generally, shall so notify the department and shall not thereafter be required again to file and publish said description but shall acquire as a part of said purchase all such benefit as the vendor had under this code as to the particular containers, cabinets or other dairy equipment so acquired or as to containers generally, dependent on the form of such written consent.

SEC. 161. Section 672 of said code is hereby amended and renumbered 702, to read as follows: Stats 1937, p. 545

Branded equipment Return to owner, etc

702. Every person who finds or receives any container, cabinet or other dairy equipment marked with a brand registered under the provisions of this code shall forthwith (within seven days) return the same to the owner thereof or his agent. In the event that the finder is unable to locate the owner or his agent, then the said finder shall forthwith (within seven days) notify in writing the department that he has in his possession such containers, cabinets, or other dairy equipment particularly describing the trade-mark or brand thereof.

SEC. 162. Section 673 of said code is hereby amended and renumbered 703, to read as follows: Stats 1937, p. 496

Unlawful use of branded equipment

703. It is unlawful for any person without the written consent provided for in Section 701, except the registrant

of the brand and the members of any association which is the registrant, to use or fill with milk or any product of milk, any container, cabinet or other dairy equipment, so marked or distinguished as aforesaid, of which a description shall have been filed and published, or to erase, obliterate, cover up or conceal such name, mark or device, or to sell, buy, give, take or otherwise traffic in such containers, cabinets, or other dairy equipment.

Stats 1933, p 163

SEC. 163. Section 674 of said code is hereby amended and renumbered 704, to read as follows:

Presumption of unlawful use

704. The use of any container, cabinet or other dairy equipment by any person other than the person, or association whose name, mark, or device shall be upon the same, and other than the members of any association registering the same, without the written consent provided for in Section 701, or the possession by any junk dealer or dealer in secondhand articles of any such containers, cabinets or other dairy equipment, the description of the name, mark or device of which has been so filed and published as aforesaid is presumptive evidence of unlawful use of or traffic in such containers, cabinets or other dairy equipment.

Stats 1933, p. 163

SEC. 164. Section 675 of said code is hereby amended and renumbered 705, to read as follows:

Deposit on containers

705. Whenever the owner of containers, cabinets or other dairy equipment so marked or branded or others lawfully entitled to use the same shall require a deposit for security for the safekeeping and return of such containers, cabinets or other dairy equipment it shall not constitute a sale of such containers, cabinets or other dairy equipment optional or otherwise.

Stats 1933, p 163

SEC. 165. Section 676 of said code is hereby amended and renumbered 706, to read as follows:

Search warrants

706. Whenever any person mentioned in Section 701 makes oath before any magistrate that he has reason to believe and does believe, that any registered containers, cabinets or other dairy equipment are being unlawfully sold, filled or used, or are secreted in any place, the magistrate shall issue a search warrant to discover and obtain the same, and may also cause to be brought before him, the person in whose possession such containers, cabinets or other dairy equipment may be found, and if the magistrate finds that such person has been guilty of a violation of this chapter, he shall impose the punishment herein prescribed, and also award the possession of the containers, cabinets or other dairy equipment taken upon such search warrant to the owner thereof.

SEC. 166. Section 677 of said code is hereby amended and renumbered 707, to read as follows: Stats 1933, p 164

707. Upon the representation of any interested party, the director may institute proceedings in any court of competent jurisdiction to recover for the owner thereof any container marked with a brand registered under the provisions of this chapter. The expense of such proceeding shall be paid by the interested party on whose representation such proceedings were instituted, and shall be a lien on such container. Recovery of illegally possessed equipment

SEC. 167. Section 678 of said code is hereby amended and renumbered 708, to read as follows: Stats 1933, p 164

708. This chapter applies to all brands heretofore registered with the department. Application of chapter

SEC. 168. Section 679 of said code is hereby amended and renumbered 709, to read as follows: Stats. 1933, p 164

709. "Association" as used in this chapter includes non-stock corporations. "Association" defined

SEC. 169. Section 694 of said code is hereby amended and renumbered 710, to read as follows: Stats 1939, p 1239

710. (a) Every restaurant, soda fountain or other place of public entertainment which sells milk, cream, ice cream, ice milk, buttermilk or any combination thereof for consumption on the premises, upon emptying the containers thereof in which such products were received from and are to be returned to the milk distributor or manufacturer shall cause such containers to be thoroughly washed and dried. Containers. Cleaning

(b) All containers of milk, cream or product thereof, which are delivered to the consumer by any retailer or distributor and which are to be returned to such retailer or distributor shall be thoroughly cleansed after emptying.

(c) Every private or common carrier before accepting any empty container used for the transportation of milk, cream or the product thereof, to be returned to any distributor or manufacturer, shall require that each container be plainly marked with the name and address of the person returning same. All containers, except single service containers, of any kind in which milk or any product of milk is kept, stored, transported or delivered shall be sound, smooth, free from rust or open seams, and at all times kept in a condition which will permit thorough cleansing of all surfaces with which the milk or its products come in contact. Containers commonly used for the reception, storage or delivery of milk, cream, or products thereof shall not be used for any other purpose. Marking

All empty containers delivered to any producer, manufacturer, retailer, or distributor for the reception of milk or any Condition

product of milk shall be kept in a clean, sanitary, sterile condition and shall be used for no other purpose.

Stats 1933, p 167

SEC. 170. Section 696 of said code is hereby amended and renumbered 711, to read as follows:

Condemnation of containers

711. Containers found to be used in violation of the requirements of this code shall be condemned and marked with the word "condemned" in an appropriate manner, and shall not be used again in connection with the handling of milk or any product of milk for human consumption, until they have been cleaned or repaired in a manner acceptable to the director.

New chapter heading

SEC. 171. A new chapter heading, Chapter 6, is hereby added to Division 4 of said code, to precede Section 721 thereof and to read as follows:

CHAPTER 6. PENALTIES

Stats 1935, p 847

SEC. 172. Section 453 of said code is hereby amended and renumbered 721, to read as follows:

Penalties

721. The violation of any of the provisions of this division, or the rules and regulations for its enforcement, is a misdemeanor and, unless a different penalty is specifically prescribed, is punishable by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment in the county jail not less than 10 days nor more than 90 days, or by both. Offering physical resistance or bodily attack on authorized representatives of the department or of an approved milk inspection service, engaged in the proper conduct of their official duties, is a misdemeanor, punishable by imprisonment in the county jail for not less than 10 days, without the alternative of a fine in any case.

Stats 1933, p. 155 See also Stats 1941, p 1408

SEC. 173. Section 624 of said code is hereby amended and renumbered 722, to read as follows:

Same

722. The operation of a creamery or other factory of dairy products without a license to do so is a misdemeanor and any person guilty thereof shall pay to the State the sum of one hundred dollars ($100) for each day such creamery or factory of dairy products is operated without such license. Said moneys shall be recovered by an action brought by the Attorney General in the name of the State.

Stats. 1935, p. 1585 See also Stats. 1941, p. 1408

SEC. 174. Section 637 of said code is hereby amended and renumbered 723, to read as follows:

Revocation of licenses

723. The licenses issued in accordance with the provisions of Articles 5 and 7 of Chapter 2, Article 4 of Chapter 3,

and Articles 5 and 6 of Chapter 4 of this division, upon a hearing before the director of which the licensee shall have a written notice of the time and place of said hearing and the charges made against him may be suspended or revoked by the director if, after written notice, the licensee fails, after 30 days, to comply with the laws, rules and regulations under which the license was granted. No such 30 days' notice will be required in cases of manipulation of measures, weights, samples or tests for milk fat content or bacterial counts of milk or cream upon which payment is based, or the record thereof.

New section

SEC. 175. A new section, to be numbered 724, is hereby added to the said code, to read as follows:

Short title

724. Chapters 1 to 6 of this division shall be known and may be cited as the Milk and Milk Products Act of 1941.

Repeals

SEC. 176. The following sections of this code are hereby repealed: 475, 537, 589.5, 726, 734.

Repeals

SEC. 177. The headings of the following chapters and articles of Division 4 of this code are hereby repealed: Chapter 1, Article 2 of Chapter 2, Article 3 of Chapter 2, Chapter 3, Chapter 4, Chapter 5, Chapter 6, Chapter 7, Chapter 8, Chapter 9.

Urgency

SEC. 178. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore take effect immediately. The facts constituting such necessity are as follows:

This act relates to milk and dairy products and imitations thereof and is designed to facilitate amendments to and to rearrange the provisions of law relating thereto. The regulation of milk and dairy products, including imitations thereof, is essential for the protection of the public health. If this bill is required to await the passage of the regular period before it takes effect, other amendments to the provisions covered by this bill will be rendered difficult and in the resulting confusion measures essential to the protection of the public health through regulation of the milk supply and associated food products will be retarded or prevented. In order to eliminate this hazard to the public health and welfare it is necessary that this act take immediate effect.

CHAPTER 36

Stats 1939, p 1274, amended

An act to add Division 2, consisting of Part 1, comprising Sections 6001 to 7176, inclusive, and Section 50006 to the Revenue and Taxation Code, thereby consolidating and revising the law relating to taxation and the raising of revenue, including the provisions of the Retail Sales Tax Act of 1933 and the Use Tax Act of 1935, and repealing acts and parts of acts specified herein.

Stats 1933, p 2599
Stats 1935, p. 1297

In effect July 1, 1943

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New division

SECTION 1. Division 2, consisting of Part 1, comprising Sections 6001 to 7176, inclusive, is hereby added to the Revenue and Taxation Code, to read as follows:

DIVISION 2. STATE TAXES

PART 1. SALES AND USE TAXES

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Short title

6001. This part is known and may be cited as the "Sales and Use Tax Law."

Construction

6002. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

"Sales tax"

6003. "Sales tax" means the tax imposed by Chapter 2 of this part.

"Use tax"

6004. "Use tax" means the tax imposed by Chapter 3 of this part.

"Person"

6005. "Person" includes any individual, firm, copartnership, joint adventure, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, this State, any county, city and county, municipality, district, or other political subdivision thereof, or any other group or combination acting as a unit.

"Sale"

See also Stats 1941, p 1347

6006. "Sale" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, or any withdrawal, except a withdrawal pursuant to a transaction in foreign or interstate commerce, of tangible personal property from the place where it is located for delivery to a point in this State for the purpose of the transfer of title or possession, exchange, barter,

lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of the property for a consideration.

"Transfer of possession," "lease," or "rental" includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

"Sale" includes:

(a) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(b) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(c) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(d) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(e) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer.

"Sale" does not include the transfer of any publication by the publisher thereof or subsequent distributors thereof if the publication is regularly issued at average intervals not exceeding one month. Exception

6007. A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business in the form of tangible personal property. "Retail sale"

The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor, if the delivery is to a consumer pursuant to a retail sale made by a retailer not engaged in business in this State, is a retail sale in this State by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

6008. "Storage" includes any keeping or retention in this State for any purpose except sale in the regular course of business or subsequent use solely outside this State of tangible personal property purchased from a retailer. "Storage"

6009. "Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of that property in the regular course of business. "Use"

6010. "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Purchase"

See also Stats 1941, p 1348

A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price is a purchase. A transfer for a consideration of tangible personal property which has been produced, fabricated, or printed to the special order of the customer is also a purchase.

Exception "Purchase" does not include the transfer of any publication by the publisher thereof or subsequent distributors thereof if the publication is regularly issued at average intervals not exceeding one month.

"Sales price" 6011. "Sales price" means the total amount for which tangible personal property is sold, without any deduction on account of any of the following:

(a) The cost of the property sold.

(b) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

The total amount for which the property is sold includes all of the following:

(a) Any services that are a part of the sale, valued in money, whether paid in money or otherwise.

(b) Any amount for which credit is given to the purchaser by the seller.

"Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers upon rescission of the contract of sale when the entire amount charged therefor is refunded either in cash or credit.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

"Gross receipts" 6012. "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business.

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale, valued in money, whether received in money or otherwise.

(b) All receipts, cash, credits, and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

"Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) Sale price of property returned by customers upon rescission of the contract of sale when the full sale price is refunded either in cash or credit.

(c) The price received for labor or services used in installing or applying the property sold.

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

"Business"

6013. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

"Seller"

6014. "Seller" includes every person engaged in the business of selling tangible personal property the gross receipts from the retail sale of which are required to be included in the measure of the sales tax.

"Retailer"

6015. "Retailer" includes:

(a) Every person engaged in the business of making sales at retail or in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

Public or private schools, school districts, student organizations, and parent-teacher associations serving meals exclusively to students and teachers, and employers or employee organizations serving meals exclusively to employees are not retailers of the meals served by them.

When the board determines that it is necessary for the efficient administration of this part to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, or employers the board may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for purposes of this part.

"Tangible personal property"

6016. "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses.

"In this State" 6017. "In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States of America.

CHAPTER 2. THE SALES TAX

Article 1. Imposition of Tax

Levy of tax; Rate 6051. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon retailers at the rate of 2½ per cent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on or after August 1, 1933, and to and including June 30, 1935, and at the rate of 3 per cent thereafter.

Collection 6052. The tax hereby imposed shall be collected by the retailer from the consumer in so far as it can be done.

Unlawful to advertise absorption of tax 6053. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

Separate statement of tax 6054. The board may by regulation provide that the amount collected by the retailer from the consumer in reimbursement of the tax be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sale.

Article 2. Permits

Application for permit 6066. Every person desiring to engage in or conduct business as a seller within this State shall file with the board an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the board and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the board may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority.

Fee 6067. At the time of making an application the applicant shall pay to the board a permit fee of one dollar ($1) for each permit.

Issuance of permit

6068. After compliance with Sections 6066, 6067, and 6701 by the applicant, the board shall grant and issue to each applicant a separate permit for each place of business within the State. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

Suspended permit: Renewal fee

6069. A seller whose permit has been previously suspended or revoked shall pay the board a fee of one dollar ($1) for the renewal or issuance of a permit.

Revocation or suspension of permit

6070. Whenever any person fails to comply with any provision of this part relating to the sales tax or any rule or regulation of the board relating to the sales tax prescribed and adopted under this part, the board upon hearing, after giving the person 10 days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The board shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this part relating to the sales tax and the regulations of the board.

New permit

Penalty

6071. A person who engages in business as a seller in this State without a permit or permits or after a permit has been suspended, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

Article 3. Presumptions and Resale Certificates

Gross receipts presumed taxable

6091. For the purpose of the proper administration of this part and to prevent evasion of the sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale.

Resale certificate

Conditions of validity

6092. The certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for in Article 2 of this chapter and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

Contents of certificate

6093. The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the board may prescribe.

Retail sales by purchaser giving certificate

6094. If a purchaser who gives a certificate makes any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the use shall be deemed a retail sale by the purchaser as of the time the property is first used by him, and the cost of the property to him shall be deemed the gross receipts from such retail sale. If the sole use of the property other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the cost of the property to him.

CHAPTER 3. THE USE TAX

Article 1. Imposition of Tax

Levy of tax: Rate

6201. An excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from a retailer on or after July 1, 1935, for storage, use, or other consumption in this State at the rate of 3 per cent of the sales price of the property.

Liability for tax

6202. Every person storing, using, or otherwise consuming in this State tangible personal property purchased from a retailer is liable for the tax. His liability is not extinguished until the tax has been paid to this State except that a receipt from a retailer maintaining a place of business in this State or from a retailer who is authorized by the board, under such rules and regulations as it may prescribe, to collect the tax and who is, for the purposes of this part relating to the use tax, regarded as a retailer maintaining a place of business in this State, given to the purchaser pursuant to Section 6203, is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Collection of tax by retailers

6203. Every retailer maintaining a place of business in this State and making sales of tangible personal property for storage, use, or other consumption in this State, not exempted under Chapter 4 of this part, shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

6204. The tax required to be collected by the retailer constitutes a debt owed by the retailer to this State. Tax a debt of retailer

6205. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Unlawful to advertise absorption of tax

6206. The tax required to be collected by the retailer from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales. Separate statement of tax

6207. Any person violating Sections 6203, 6205, or 6206 is guilty of a misdemeanor. Penalty

Article 2. Registration

6226. Every retailer selling tangible personal property for storage, use, or other consumption in this State shall register with the board and give the name and address of all agents operating in this State, the location of all distribution or sales houses or offices or other places of business in this State, and such other information as the board may require. Registration of retailers

Article 3. Presumptions and Resale Certificates

6241. For the purpose of the proper administration of this part and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use, or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale. Presumption of taxability Resale certificate

6242. The certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for by Article 2, Chapter 2, of this part and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. Conditions of validity

6243. The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the general character of the tangible personal property sold by Contents of certificate

the purchaser in the regular course of business. The certificate shall be substantially in such form as the board may prescribe.

Use of property purchased under resale certificate

6244. If a purchaser who gives a certificate makes any storage or use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used. If the sole use of the property, other than retention, demonstration, or display in the regular course of business, is the rental of the property while holding it for sale, the purchaser may elect to pay the tax on the use measured by the amount of the rental charged rather than the sales price of the property to him.

Presumption

6245. It shall be further presumed that tangible personal property shipped or brought to this State by the purchaser was purchased from a retailer on or after July 1, 1935, for storage, use, or other consumption in this State.

Chapter 4. Exemptions

Article 1. General Exemptions

Definition

6351. "Exempted from the taxes imposed by this part," as used in this article, means, in case of the sales tax, exempted from the computation of the amount of tax imposed.

Property not taxable by law or constitution

6352. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this State of tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

Gas, electricity, and water

6353. There are exempted from the taxes imposed by this part the gross receipts from the sales, furnishing, or service of and the storage, use, or other consumption in this State of gas, electricity, and water when delivered to consumers through mains, lines, or pipes.

Gold bullion, etc

6354. There are exempted from the taxes imposed by this part the gross receipts from the sale of gold bullion, gold concentrates, or gold precipitates by the producer or refiner and the storage, use, or other consumption in this State of gold bullion, gold concentrates, or gold precipitates when sold by the producer or refiner for storage, use, or other consumption in this State.

Public works contracts

6355. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use,

or other consumption in this State of tangible personal property used for the performance of a contract on public works executed prior to July 31, 1933.

Vessels

6356. There are exempted from the taxes imposed by this part the gross receipts from sales of vessels of more than 1,000 tons burden by the builders thereof and the storage, use, or other consumption in this State of any ship of more than 1,000 tons burden which is purchased in this State from the builders and with respect to which the use tax would, if the ship had been purchased outside this State or in interstate commerce, be inoperative because prohibited under the Constitution or the laws of the United States or the Constitution of this State.

Motor vehicle fuel

6357. There are exempted from the taxes imposed by this part the gross receipts from the distributions of and the storage, use, or other consumption in this State of motor vehicle fuel the distributions of which in this State are subject to the tax imposed by Part 2 of this division and not subject to refund.

Taxable sales

The Controller shall collect the sales tax upon sales of motor vehicle fuel which are subject to tax and refund under Part 2 of this division by way of deduction from refunds otherwise allowable under that part. He shall transfer the amount of the deductions from the Motor Vehicle Fuel Fund to the Retail Sales Tax Fund.

Live stock and poultry

6358. There are exempted from the taxes imposed by this part the gross receipts from sales of and the storage, use, or other consumption of live stock and poultry of a kind the products of which ordinarily constitute food for human consumption.

Food products

6359. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this State of food products for human consumption.

"Food products" include cereals and cereal products, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products other than candy and confectionery, coffee and coffee substitutes, tea, cocoa and cocoa products other than candy and confectionery.

"Food products" do not include spirituous, malt or vinous liquors, soft drinks, sodas, or beverages such as are ordinarily dispensed at bars and soda fountains or in connection therewith, medicines, tonics, and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

"Food products" also do not include meals served on or off the premises of the retailer or drinks or foods furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware provided by the retailer.

Conditions of exempting *food* products

6360. The exemption of food products from the use tax is subject to the condition that the gross receipts from retail sales of food products be exempted from the computation of the sales tax. If these gross receipts are not exempted from the computation of the sales tax, or if the exemption of the gross receipts from the computation of the sales tax is declared unconstitutional, or if the exemption of food products from the use tax is declared unconstitutional, the rate of the use tax set forth in Section 6201 shall be 2 per cent on and after July 1, 1935.

Effects of unconstitutionality

Same

6361. If any of the exemptions of gross receipts from the computation of the sales tax specified in Sections 6352, 6353, 6354, 6355 and 6359 is declared unconstitutional, the rate of the sales tax set forth in Section 6051 shall be 2 per cent on and after July 1, 1935.

Article 2. Exemptions From Sales Tax

Sales to U. S.

6381. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to the United States or any agency or instrumentality thereof except a corporate agency or a corporate instrumentality.

Aircraft

6382. There are exempted from the computation of the amount of the sales tax the gross receipts from sales of aircraft and parts therefor made to the United States for purposes of National defense.

Silver bullion

6383. There are exempted from the computation of the amount of the sales tax the gross receipts from the sales of silver bullion by the producer or refiner.

Article 3. Exemptions From Use Tax

Property subject to sales tax

6401. The storage, use, or other consumption in this State of property, the gross receipts from the sale of which are required to be included in the measure of the sales tax, is exempted from the use tax.

Newsprint

See also Stats 1941, p. 1348

6402. The storage, use, or other consumption in this State of newsprint is exempted from the use tax.

Golden Gate International Exposition

6403. The storage, use, or other consumption in this State of all tangible personal property of the San Francisco Bay

Exposition, a nonprofit corporation organized under the laws of the State of California, sponsoring the Golden Gate International Exposition at the City and County of San Francisco, used or exhibited in connection with the exposition, and all tangible personal property of each exhibitor in the exposition used or exhibited in connection therewith is exempted from the use tax.

CHAPTER 5. DETERMINATIONS

Article 1. Returns and Payments

When tax due and payable

6451. The taxes imposed by this part are due and payable to the board quarterly on or before the fifteenth day of the month next succeeding each quarterly period.

Tax returns

6452. On or before the fifteenth day of the month following each quarterly period of three months, a return for the preceding quarterly period shall be filed with the board in such form as the board may prescribe.

Persons required to file returns

For purposes of the sales tax a return shall be filed by every seller. For purposes of the use tax a return shall be filed by every retailer maintaining a place of business in the State and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

Contents

6453. For purposes of the sales tax the return shall show the gross receipts of the seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him, the storage, use, or consumption of which property became subject to the use tax during the preceding reporting period; in case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use, or consumption of which became subject to the use tax during the preceding reporting period.

The return shall also show the amount of the taxes for the period covered by the return and such other information as the board deems necessary for the proper administration of this part.

Remittance of tax

6454. The person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the office of the board.

Returns other than quarterly

See also Stats 1941, p 1348

6455. The board, if it deems it necessary in order to insure payment to the State of the amount of taxes, may require

returns and payment of the amount of taxes for other than quarterly periods.

Return on termination of business

6456. If any retailer liable for any sales tax, any amount of use tax required to be collected by him, interest, or penalties sells out his business or stock of goods or quits the business, he shall make a final return and payment within 15 days after the date of selling out or quitting business.

Returns of rentals

6457. For the purposes of the sales tax gross receipts from rentals or leases of tangible personal property shall be reported and the tax paid in accordance with such rules and regulations as the board may prescribe.

Revenue stamps

6458. The board, if it deems it necessary to insure the collection of the taxes, may provide by rule and regulation for the collection of the taxes by the affixing and canceling of revenue stamps and may prescribe the form and method of the affixing and canceling.

Extension of time

6459. The board for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this part.

Interest

Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the rate of 6 per cent per annum from the date on which the tax would have been due without the extension until the date of payment.

Article 2. Deficiency Determinations

Deficiency determinations

See also Stats 1941, p. 1349

6481. If the board is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the State by any person, it may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession. A deficiency determination may be made of the amount due for more than one period.

Interest

6482. The amount of the determination, exclusive of penalties, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

Offsets

6483. In making a determination the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the

underpayments. The interest on underpayments and overpayments shall be computed in the manner set forth in Sections 6591 and 6907.

Penalty for negligence

6484. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 per cent of the amount of the determination shall be added thereto.

Penalty for fraud

6485. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade this part or authorized rules and regulations, a penalty of 25 per cent of the amount of the determination shall be added thereto.

Notice

6486. The board shall give to the retailer or person storing, using, or consuming tangible personal property written notice of its determination. The notice may be served personally or by mail; if by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the retailer or person storing, using, or consuming tangible personal property at his address as it appears in the records of the board.

Time for mailing notice

See also Stats 1941, p 1349

6487. Except in the case of a fraudulent return, neglect or refusal to make a return, or claim for additional amount pursuant to Section 6563, every notice of a deficiency determination shall be mailed within three years after the fifteenth day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

Exceptions

The limitation specified in this section does not apply in case of a sales tax proposed to be determined with respect to sales of property for the storage, use, or other consumption of which notice of a deficiency determination has been or is given pursuant to Sections 6486, 6515, and 6537 and to the first paragraph of this section.

Article 3. Determinations if No Return Made

Determinations on failure to make returns

See also Stats 1941, p 1349

6511. If any person neglects or refuses to make a return, the board shall make an estimate of the amount of the gross receipts of the person, or, as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person, the storage, use, or other consumption of which in this State is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come in its possession. Upon the basis of this estimate

the board shall compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a
Penalty penalty equal to 10 per cent thereof. A determination may be made for more than one period.

Offsets 6512. In making a determination the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments. The interest on underpayments and overpayments shall be computed in the manner set forth in Sections 6591 and 6907.

Interest 6513. The amount of the determination, exclusive of penalties, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

Additional penalty
See also Stats 1941, p 1350 6514. If the neglect or refusal of any person to file a return is due to fraud or an intent to evade this part or rules and regulations, a penalty of 25 per cent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 10 per cent penalty provided in Section 6511.

Notice 6515. Promptly after making its determination the board shall give to the person written notice of the estimate, determination, and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 4. Jeopardy Determinations

Jeopardy determinations 6536. If the board believes that the collection of any tax or any amount of tax required to be collected and paid to the State or of any determination will be jeopardized by delay, it shall thereupon make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount determined is immediately due and payable.

When determination final 6537. If the amount specified in the determination is not paid within 10 days after service of notice thereof upon the person against whom the determination is made, the amount becomes final at the expiration of the 10 days, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and the interest provided in Section 6591 shall attach to the amount of the tax or the amount of the tax required to be collected.

6538. The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to Article 5 of this chapter. He shall, however, file the petition for redetermination with the board within 10 days after the service upon him of notice of the determination. The person shall also within the 10-day period deposit with the board such security as it may deem necessary to insure compliance with this part. The security may be sold by the board in the manner prescribed by Section 6701. Petition for redetermination

Article 5. Redeterminations

6561. Any person against whom a determination is made under Articles 2 or 3 of this chapter may petition for a redetermination within 30 days after service upon the person of notice thereof. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period. Same
See also Stats 1941, p 1350

6562. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary. Hearing

6563. The board may decrease or increase the amount of the determination, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Increase or decrease

6564. The order or decision of the board upon a petition for redetermination becomes final 30 days after service upon the petitioner of notice thereof. When order final

6565. All determinations made by the board under Articles 2 or 3 of this chapter are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 per cent of the amount of the determination, exclusive of interest and penalties, shall be added thereto. Due date
Penalty

6566. Any notice required by this article shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. Notice

Article 6. Interest and Penalties

6591. Any person who fails to pay any tax to the State or any amount of tax required to be collected and paid to the State, except amounts of determinations made by the board under Articles 2 or 3 of this chapter, within the time required shall pay a penalty of 10 per cent of the tax or amount of the Penalty

Interest

tax, in addition to the tax or amount of tax, plus interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the date on which the tax or the amount of tax required to be collected became due and payable to the State until the date of payment.

CHAPTER 6. COLLECTION OF TAX

Article 1. Security for Tax

Security for tax

See also Stats 1941, p 1350

6701. The board, whenever it deems it necessary to insure compliance with this part, may require any person subject thereto to deposit with it such security as the board may determine. The board may sell the security at public auction if it becomes necessary so to do in order to recover any tax or any amount required to be collected, interest, or penalty due. Notice of the sale may be served upon the person who deposited the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his address as it appears in the records of the board. Upon any sale any surplus above the amounts due shall be returned to the person who deposited the security.

Withhold notices

See also Stats. 1941, p. 1350

6702. If any person is delinquent in the payment of the amount required to be paid by him, the board may within three years after the payment became delinquent give notice of the amount of the delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 20 days elapse after the receipt of the notice. All persons so notified shall within five days after receipt of the notice advise the board of all such credits, other personal property, or debts in their possession, under their control, or owing by them.

Article 2. Suit for Tax

Action to collect delinquent tax

6711. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected the board may bring an action in the courts of this State, of any other State, or of the United States in the name of the people of the State of California to collect the amount delinquent together with penalties and interest.

6712. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings. Attorney General to prosecute

6713. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment is required. Attachment

6714. In the action a certificate by the board showing the delinquency shall be prima facie evidence of the determination of the tax or the amount of tax, of the delinquency of the amounts set forth, and of the compliance by the board with all the provisions of this part in relation to the computation and determination of the amounts. Certificate of delinquency

6715. In any action relating to the use tax brought under this part process may be served according to the Code of Civil Procedure and the Civil Code of this State or may be served upon any agent or clerk in this State employed by any retailer in a place of business maintained by the retailer in this State. In the latter case a copy of the process shall forthwith be sent by registered mail to the retailer at his principal or home office. Service of process

Article 3. Judgment for Tax

6736. If any amount required to be paid to the State under this part is not paid when due, the board may within three years after the amount is due file in the office of the county clerk of Sacramento County, or any county, a certificate specifying the amount required to be paid, interest and penalty due, the name and last known address of the person liable, the compliance of the board with this part in relation to the determination of the amount required to be paid, and a request that judgment be entered against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate. Summary judgment

6737. The county clerk immediately upon the filing of the certificate shall enter a judgment for the people of the State of California against the person in the amount required to be paid, together with interest and penalty as set forth in this certificate. The county clerk may file the judgment in a loose-leaf book entitled, "Special Judgments for State Retail Sales or Use Tax." Entry of judgment

6738. An abstract of the judgment or a copy may be recorded with the county recorder of any county. From the time of the recording, the amount required to be paid together with interest and penalty set forth constitutes a lien upon all the real property in the county owned by the Recordation See also Stats 1941, p 1351 Lien

person liable or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien.

Execution

6739. Execution shall issue upon the judgment upon request of the board in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure.

Article 4. Priority and Lien of Tax

Priority of tax

See also Stats 1941, p 2314

6756. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the State a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

Recordation of certificate of delinquency

See also Stats 1941, p 1351

6757. If any amount required to be paid to the State under this part is not paid when due, the board may within three years after the amount is due file in the office of any county recorder a certificate specifying the amount, interest, and penalty due, the name and last known address of the person liable for the sum, and the fact that the board has complied with all provisions of this part in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned by the person or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien.

Lien

Release or subordination of lien

6758. The board may at any time release all or any portion of the property subject to any lien provided for in this part from the lien or subordinate the lien to other liens and encumbrances if it determines that the amount, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amount, interest, and penalties.

Certificate of release or subordination

6759. A certificate by the board to the effect that any property has been released from the lien or that the lien has been subordinated to other liens and encumbrances shall be

conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Article 5. Warrant for Collection of Tax

Warrant
See also Stats 1941, p 1352

6776. The board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the State under this part. The warrant shall be directed to any sheriff or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

Expenses of levying warrant
See also Stats 1941, p 1352

6777. The board shall pay the sheriff or constable, upon the completion of his services pursuant to a warrant, the same fees, commissions, and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

Collection of expenses

6778. The fees, commissions, and expenses are the obligation of the person required to pay any amount under this part and may be collected from him by virtue of the warrant or in any other manner provided in this part for the collection of the tax.

Article 6. Seizure and Sale

Seizure of property

6796. At any time within three years after any person is delinquent in the payment of any amount, the board may forthwith collect the amount in the following manner: The board shall seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

Any seizure made to collect a sales tax due shall be only of property of the retailer not exempt from execution under Section 690 of the Code of Civil Procedure.

Notice of sale

6797. Notice of the sale and the time and place thereof shall be given to the delinquent person in writing at least 10 days before the date set for the sale in the following manner: The notice shall be inclosed in an envelope addressed to the person, in case of a sale for use taxes due, at his last known address or place of business, and, in case of a sale for sales taxes due, at his last known residence or place of business in this State. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the

property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 10 days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

Contents

Sale

6798. At the sale the board shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

Disposal of excess proceeds

6799. If upon the sale the moneys received exceed the total of all amounts, including interest, penalties, and costs due the State, the board shall return the excess to the person liable for the amounts and obtain his receipt. If any person having an interest in or lien upon the property files with the board prior to the sale notice of his interest or lien, the board shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the board shall deposit the excess moneys with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his heirs, successors, or assigns.

Article 7. Payment on Termination of Business and Successor's Liability

Withholding purchase money

See also Stats 1941, p. 1352

6811. If any retailer liable for any sales tax, any amount of use tax required to be collected by him, interest, or penalties sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase money to cover the amount of the taxes, interest, and penalties due and unpaid until the former owner produces a receipt from the board showing that they have been paid or a certificate stating that no amount is due.

Liability of purchaser

See also Stats 1941, p. 1352

6812. If the purchaser of a business or stock of goods fails to withhold purchase money as required, he becomes personally liable for the payment of the amount required to be withheld by him.

Article 8. Miscellaneous Provisions

Report of collections

6826. The board shall report to the Controller the amount of collections under this part, and he shall keep a record thereof.

Remedies cumulative

6827. The remedies of the State provided for in this chapter are cumulative, and no action taken by the board or Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

Authority of board

6828. In all proceedings under this chapter the board may act on behalf of the people of the State of California.

Chapter 7. Overpayments and Refunds

Article 1. Claim for Refund

Credit or refund of overpayments

See also Stats 1941, p 1353

6901. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid to the board. If approved by the State Board of Control the excess amount collected or paid shall be credited on any amounts then due from the person under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

Use tax

Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to Article 1, Chapter 3, of this part shall be credited or refunded by the State to the purchaser.

Time for filing claim

See also Stats 1941, p 1353

6902. No credit or refund shall be allowed unless a claim therefor is filed with the board within three years from the fifteenth day after the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under Articles 2 or 3 of Chapter 5 of this part, within six months after the determinations become final, whichever period expires the later.

Use tax

6903. No credit or refund of any amount paid pursuant to Chapter 3 of this part shall be allowed on the ground that the storage, use, or other consumption of the property is exempted under Section 6401 unless in addition to the overpayment for which the claim is filed the claimant also reimburses his vendor for the amount of the sales tax imposed upon his vendor with respect to the sale of the property and paid by the vendor to the State.

Contents of claim

6904. Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

Waiver

6905. Failure to file a claim within the time prescribed in this article constitutes a waiver of any demand against the State on account of overpayment.

Notice

6906. Within 30 days after disallowing any claim in whole or in part the board shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

Interest

6907. Interest shall be paid upon any overpayment of any amount of tax at the rate of one-half of 1 per cent per month from the fifteenth day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the fifteenth day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

Disallowance of interest

6908. If the board determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

Article 2. Suit for Refund

Injunction against collection

6931. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this part of any tax or any amount of tax required to be collected.

Claim for refund

6932. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Article 1 of this chapter.

Action to recover tax paid

6933. Within 90 days after the mailing of the notice of the board's action upon a claim filed pursuant to Article 1 of this chapter, the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in the County of Sacramento for the

recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

Failure to bring action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.

Failure to mail notice

6934. If the board fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the board of its action on the claim, consider the claim disallowed and bring an action against the board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Judgment

6935. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited as follows:

(a) If the judgment is for a refund of sales taxes, it shall be credited on any sales or use tax or amount of use tax due from the plaintiff.

(b) If the judgment is for a refund of use taxes, it shall be credited on any use tax or amount of use tax due from the plaintiff under Chapter 3 of this part.

The balance of the judgment shall be refunded to the plaintiff.

Interest

6936. In any judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

Action in name of assignee

6937. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

Article 3. Recovery of Erroneous Refunds

Erroneous refunds

6961. The Controller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California.

Venue

6962. The action shall be tried in the County of Sacramento unless the court with the consent of the Attorney General orders a change of place of trial.

Attorney General to prosecute

6963. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

Article 4. Cancellations

Cancellation of illegal determinations

6981. If any amount has been illegally determined, the board shall certify this fact to the State Board of Control and the latter shall authorize the cancellation of the amount upon the records of the board.

Chapter 8. Administration

Enforcement: Rules and regulations

7051. The board shall enforce the provisions of this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Employees

7052. The board may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of this part and may designate representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by this part or other laws of this State upon the board.

Records, etc.

7053. Every seller, every retailer as defined in subdivision (b) of Section 6015, and every person storing, using, or otherwise consuming in this State tangible personal property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the board may require.

Examinations and investigations

7054. The board or any person authorized in writing by it may examine the books, papers, records, and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

Reports: Use tax

7055. In administration of the use tax the board may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property the storage, use, or other consumption of which is subject to the tax. The reports shall be filed when the board requires and shall set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the board may require.

7056. It is unlawful for the board or any person having an administrative duty under this part to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person. However, the Governor may, by general or special order, authorize examination of the returns by other State officers, by tax officers of another State, by the Federal Government, if a reciprocal arrangement exists, or by any other person.

Unlawful to divulge information

See also Stats 1941, p 1353

Exception

Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars ($1,000), by imprisonment not exceeding one year, or by both in the discretion of the court.

Penalty

CHAPTER 9. DISPOSITION OF PROCEEDS

7101. All fees, taxes, interest, and penalties imposed and all amounts of tax required to be paid to the State under this part shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the State Treasurer to be deposited in the State Treasury to the credit of the Retail Sales Tax Fund.

Remittances to board

Retail Sales Tax Fund

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part or be transferred to the General Fund of the State.

Refunds

7103. For expenditure by the board in carrying out the provisions of this part for each fiscal year there is appropriated out of the Retail Sales Tax Fund a sum of money which together with any other appropriations for this purpose shall be equal to 3 per cent of all money deposited in the fund during the next preceding fiscal year.

Appropriation

CHAPTER 10. VIOLATIONS

7151. Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, or who renders a false or fraudulent return, is guilty of a misdemeanor and subject to a fine of not exceeding five hundred dollars ($500) for each offense.

Penalty Failure to furnish return

7152. Any person required to make, render, sign, or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due

False returns

required by law to be made is guilty of a misdemeanor. He shall for each offense be fined not less than three hundred dollars ($300) and not more than five thousand dollars ($5,000), or be imprisoned for not exceeding one year in the county jail, or be subject to both the fine and imprisonment in the discretion of the court.

Penalty 7153. Any violation of this part, except as otherwise provided, is a misdemeanor.

CHAPTER 11. RES JUDICATA

Res judicata 7176. In the determination of any case arising under this part the rule of *res judicata* is applicable only if the liability involved is for the same quarterly period as was involved in another case previously determined.

New section SEC. 2. Section 50006 is hereby added to said code, to read as follows:

Repeals 50006. The Retail Sales Tax Act of 1933 and the Use Tax Act of 1935 and all acts amendatory thereof and supplementary thereto are hereby repealed.

Effective date SEC. 3. The provisions of this act shall take effect on July 1, 1943.

CHAPTER 37

Stats 1939, p 1274, amended
Stats 1923, p 571

An act to add Part 2, comprising Sections 7301 to 8402, inclusive, to Division 2 of, and to add Sections 50007 and 50008 to, the Revenue and Taxation Code, thereby consolidating and revising the law relating to taxation and the raising of revenue, including the provisions of the Motor Vehicle Fuel License Tax Act, and repealing acts and parts of acts specified herein.

In effect July 1, 1943 [Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New part SECTION 1. Part 2, comprising Sections 7301 to 8402, inclusive, is hereby added to Division 2 of the Revenue and Taxation Code, to read as follows:

PART 2. MOTOR VEHICLE FUEL LICENSE TAX

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Short title 7301. This part is known and may be cited as the "Motor Vehicle Fuel License Tax Law."

7302. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part. Construction

7303. "Motor vehicle" includes every self-propelled vehicle operated or suitable for operation on the highway. "Motor vehicle"

7304. "Motor vehicle fuel" includes gasoline, natural gasoline, and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type of engine. It does not include kerosene. "Motor vehicle fuel"

7305. "Distribution" includes any of the following: "Distribution" See also Stats 1941, p 2422

(a) The refining, manufacturing, producing, blending, or compounding of motor vehicle fuel in this State, and the sale, donation, consignment for sale, barter, or use of the fuel in this State.

(b) The importing of motor vehicle fuel into this State, and the sale, donation, consignment for sale, barter, or use of the fuel in this State whether in the original package or container in which imported or otherwise.

(c) The acquiring of motor vehicle fuel in this State in the original package or container in which it was imported, and the sale, donation, consignment for sale, barter, or use of the fuel in this State whether in the original package or container in which imported or otherwise.

"Distribution" does not include the exchange of motor vehicle fuel for motor vehicle fuel, gallon for gallon.

7306. "Distributor" includes every person who, within the meaning of the term "distribution" as defined in this chapter, distributes motor vehicle fuel. "Distributor"

7307. "Producer" includes every person, other than a distributor, engaged in the business of producing or manufacturing any petroleum product used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel. Crude oil which it is necessary to refine before it may be used in such blending, compounding, or manufacturing is not a petroleum product within the meaning of this definition. "Producer"

7308. "Broker" includes every person, other than a distributor, dealing, either as the owner or as the agent of another, in motor vehicle fuel or any petroleum product used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel. "Broker" does not include anyone dealing in such fuel or product only in quantities of less than 200 gallons. Crude oil which it is necessary to refine before it may be used in such blending, "Broker"

compounding, or manufacturing is not a petroleum product within the meaning of this definition.

"In this State" 7309. "In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States of America.

CHAPTER 2. IMPOSITION OF TAX

Levy of tax; rate 7351. For the privilege of distributing motor vehicle fuel a license tax is hereby imposed upon distributors at the rate of three cents ($0.03) for each gallon of fuel distributed by them in this State, except that no tax shall be paid in respect to the following distributions:

Exceptions (a) The sale, donation, consignment for sale, barter, or use by a distributor of motor vehicle fuel, imported into this State by the distributor, in the original package or container in which it was imported.

(b) The sale, donation, consignment for sale, barter, or use by a distributor of motor vehicle fuel, acquired in its original package or container by the distributor after its importation into this State, in its original package or container.

Presumptions 7352. For the purpose of the proper administration of this part and to prevent evasion of the license tax, unless the contrary is established, it shall be presumed that:

(a) All motor vehicle fuel sold, donated, consigned for sale, bartered, or used has been distributed.

(b) All motor vehicle fuel refined, manufactured, produced, blended, or compounded in this State or imported into this State and no longer in the possession of the distributor has been distributed.

Natural gasoline 7353. Under such regulations as the board may prescribe, sales and other deliveries of natural gasoline may be made to a duly licensed distributor free of tax.

Tax upon one distribution 7354. The license tax shall be imposed upon only one distribution of the same motor vehicle fuel.

CHAPTER 3. EXEMPTIONS

Exempt transactions 7401. The provisions of this part requiring the payment of license taxes do not apply to any of the following:

(a) Motor vehicle fuel imported into this State in interstate or foreign commerce and intended to be sold in the original and unbroken tank cars or other original containers and so sold while it is in interstate or foreign commerce.

(b) Motor vehicle fuel exported from this State by the distributor or delivered by the distributor to any vessel clearing from a port of this State for a port outside of this State and actually exported from this State in the vessel.

(c) Motor vehicle fuel sold to the United States or any department thereof for official use. Report

Every distributor claiming an exemption shall report the exports or sales to the board in such detail as the board may require; otherwise the exemption granted in this section shall be null and void and all the fuel shall be considered distributed in this State subject fully to the provisions of this part.

7402. In support of any exemption from license taxes claimed under this chapter on account of the exportation of motor vehicle fuel, every distributor shall execute an export certificate in such form as shall be prescribed, prepared, and furnished by the board, containing a sworn statement made by some person having actual knowledge of the fact of the exportation that the motor vehicle fuel has been exported from the State and giving such details with reference to the shipment as the board may require. Export certificates See also Stats 1941, p 2423

7403. All export certificates shall be completed and be on file in the office of the board within 60 days after the close of the calendar month in which the shipments to which they relate are made. A certificate not completed and filed within this period shall not be recognized for any purpose by the State. Filing

7404. The board may demand of any distributor such additional data as it deems necessary to support any export certificate. Failure to supply the data constitutes a waiver of all right to the export exemption. Additional information

7405. Any claim for exemption based on a sale to the United States or any department thereof may be made by the distributor within six months from the date of sale by filing the claim in the office of the board. No claim made after the expiration of the period of six months shall be recognized for any purpose by the State. Sales to U S , claim of exemption

Chapter 4. Licenses and Bonds

Article 1. Licenses for Distributors

7451. Every person before becoming a distributor shall apply to the board for a license authorizing the person to engage in business as a distributor. It is unlawful for any person to be a distributor without first securing a license. License required

7452. Applications shall be made on forms to be prescribed, prepared, and furnished by the board. Application

Distributor's bond

7453. Before granting a license authorizing a person to engage in business as a distributor, the board shall require the person to file with the board, in such form as it prescribes, a bond or bonds duly executed by the person as principal and a corporation, such as is mentioned in Section 1056 of the Code of Civil Procedure, as surety, payable to the people of the State of California, conditioned upon faithful performance of all the requirements of this part, and expressly providing for the payment of all license taxes, penalties, and other obligations of the person arising out of this part.

Amount of bond

7454. Subject to the limitations provided in this section, the board shall fix the total amount of the bond or bonds required of any distributor and may increase or reduce the amount at any time. In fixing the total amount the board shall require a bond or bonds equivalent in total amount to twice the distributor's estimated monthly license tax ascertained in such manner as the board may deem proper. If any distributor binds himself to pay his license tax weekly, the board shall fix his bond or bonds in a total amount equivalent to twice the license tax accruing on account of his estimated weekly distributions ascertained in such manner as the board deems proper. The total amount of the bond or bonds required of any distributor shall never be less than one thousand dollars ($1,000) nor more than one hundred thousand dollars ($100,000).

Validity

See also Stats 1941, p 2679

7455. No recoveries on any bond or any execution of any new bond shall invalidate any bond, and no revocation of any license shall affect the validity of any bond.

Deposit in lieu of bond

7456. In lieu of a bond or bonds, under such conditions as the board may prescribe, a distributor may deposit with the State Treasurer an amount of lawful money of the United States equivalent to the amount of the bond or bonds, or he may deposit bonds or other obligations of the United States, the State of California, or any county or city and county of this State of an actual market value not less than the amount of the bond or bonds fixed by the board.

License non-transferable

7457. The license issued to any distributor is not transferable and is valid until revoked.

Article 2. Licenses for Producers and Brokers

Application

See also Stats 1941, p. 2423

7481. Every person before becoming a producer or broker shall register as such with the board and apply for a license on forms to be prepared and furnished by the board. Each application shall be accompanied by a license fee of ten dollars ($10).

Issuance of license

See also Stats 1941, p. 2423

7482. Upon the receipt of the application of the producer or broker, accompanied by the license fee, the board shall issue

to the applicant a license to engage in business as a producer or broker from the date of the issuance thereof to and including the following December 31st.

Renewal
See also Stats 1941, p 2423

7483. On or before January 1st of each year every producer or broker shall renew his license for the calendar year by filing an application therefor.

Nontransferability

7484. The license issued is not transferable.

Penalty

7485. If any producer or broker fails to apply for the license required and to pay the fee specified prior to January 1st of each year, a penalty of 25 per cent of the fee shall be added thereto on account of the delinquency.

Article 3. Revocation of Licenses

Cause for revocation
See also Stats 1941, p. 2423

7506. The board may revoke the license of any distributor, producer, or broker who refuses or neglects to comply with the provisions of this part.

Notice

7507. Before revoking any license the board shall send notice by registered mail to the licensee at his last known address ordering him to show cause before the board at Sacramento or such other place in this State as the board may designate, at a time not less than 10 days after the mailing of the notice, why his license should not be revoked.

Hearing

7508. Before revoking a license the board shall allow the distributor, producer, or broker an opportunity to be heard pursuant to the notice.

Chapter 5. Determinations and Payments

Article 1. Returns and Determinations

Distributor's monthly report
See also Stats 1941, p 2424

7651. Each distributor shall on or before the fifteenth day of each month file on forms prescribed, prepared, and furnished by the board a sworn statement showing the total number of gallons of motor vehicle fuel distributed by him within this State during the preceding calendar month. The distributor need not report distributions not taxable under this part. The report shall also contain such other information as the board may require.

Failure to file report

7652. If any distributor fails, neglects, or refuses to file the report within the time prescribed by this article, the board shall note the failure, neglect, or refusal upon the tax roll provided for in this article. The board shall estimate the motor vehicle fuel distributions of the distributor, shall determine the license tax thereon, and shall add to the license

Penalty

tax a penalty of 15 per cent thereof. The distributor is estopped from complaining of the amount of the estimate.

Penalty additional

7653. The penalty for failure to report is in addition to the 10 per cent penalty imposed for delinquency in the payment of the tax; but the penalty for delinquency shall be imposed upon only the amount of tax due, exclusive of the penalty for failure to report.

Tax roll

7654. The board shall on or before the twenty-second day of each calendar month make a determination of the license tax due and prepare a roll showing the amount of the license tax determined to be due from each distributor. Immediately after completion of the roll, the board shall deliver it to the Controller.

Article 2. Payments Generally

When tax due and payable

7676. The license taxes imposed by this part are due and payable to the Controller monthly on or before the first day of the second calendar month following the month during which taxable distributions are made.

Penalty

See also Stats 1941, p 2680

7677. If not paid prior to 5 p.m. of the day on which due and payable, the taxes become delinquent. A penalty of 10 per cent of the amount of the taxes due shall be added for delinquency.

Additional penalty

See also Stats 1941, p. 2424

7678. If the license tax and penalties incurred thereon are not fully paid by the delinquent date specified, the Controller shall forthwith notify the board which shall cite the distributor to appear within 10 days before the board and show cause why his license should not be revoked.

Article 3. Weekly Payments

Weekly payments

7701. Subject to such terms and conditions as the board may prescribe, any distributor may undertake to pay on each Tuesday the license tax accruing on all of his distributions of motor vehicle fuel during the week ending the Saturday next preceding.

Monthly report

7702. A distributor undertaking to make weekly payments is not relieved of the duty of filing the sworn monthly statement required by Article 1 of this chapter. The determination of the amount of the tax of any distributor who makes weekly payments shall be shown on the roll prepared under Article 1 of this chapter in the same manner as the determinations of the taxes of other distributors are shown thereon, and the Controller shall apply the payments to the credit of the distributor on the roll for the month during which the distributions covered by the payments were made.

Delinquency; revocation of license

7703. Whenever any distributor undertaking to pay his license tax in weekly installments fails to pay the full amount in accordance with the terms and conditions prescribed by the board, his license may be revoked forthwith, unless he complies immediately with the requirement of Section 7454 relating to the filing of a bond or bonds equivalent in total amount to twice his estimated monthly license tax.

Collection of delinquent taxes

7704. If a distributor fails to pay any weekly installment of the license tax, or any part thereof, pursuant to his undertaking, the full amount of the installment becomes immediately due and payable, and the Controller and the Attorney General shall forthwith collect the license tax due from the distributor in the manner prescribed by Chapter 6 of this part. All provisions of that chapter, where relevant, apply to collections required to be made under this article.

Penalties

See also Stats 1941, p 2680

7705. If any weekly installment of tax is not paid at 5 p.m. on the Tuesday when required to be paid, a penalty of 5 per cent shall be added thereto. In addition, if any weekly installment of tax remains unpaid at 5 p.m. on the first day of the second calendar month following the month during which the last of the distributions occurred on which the weekly installment was levied, a penalty of 10 per cent of the installment, exclusive of penalties, shall be added thereto.

Article 4. Payments by Unlicensed Distributors

Unlicensed distributor

7726. If any person becomes a distributor without first securing a license, the license tax becomes immediately due and payable on account of all motor vehicle fuel distributions made by him.

Tax and penalty

7727. The board shall forthwith ascertain as best it may the amount of the distributions, and the unlicensed distributor is estopped from complaining of the amount so ascertained. The board shall determine immediately the license tax on the amount, adding to the license tax a penalty of 100 per cent of the amount of the tax.

Collection of same

7728. The board shall file a certificate of the determination with the Controller who shall forthwith collect the license tax and penalty due from the unlicensed distributor by seizure and sale of property in the manner prescribed for the collection of a delinquent monthly license tax.

Action to collect tax

7729. At the request of the Controller the Attorney General shall commence and prosecute to final determination an action at law to collect the license tax and penalty, or any part thereof, determined against an unlicensed distributor.

Certificate of determination

7730. In the suit the certificate of determination made by the board, or a copy thereof certified by the Controller, shall

be prima facie evidence that the unlicensed distributor is indebted to the State in the amount of the license tax and penalties.

Remedies cumulative

7731. The foregoing remedies of the State are cumulative.

Criminal prosecution not waived

7732. No action taken pursuant to this article relieves the unlicensed distributor in any wise from the penal provisions of this part.

Article 5. Installment Payments

Definitions

7751. Unless the context otherwise requires, as used in this article:

(a) "Tax" includes any penalties, interest, or both, accruing or accrued.

(b) "Distributor" includes any receiver or trustee in bankruptcy executing the obligation provided for in this article.

Tax due before Jan. 1, 1935, payable in installments

7752. When any license tax which accrued and became payable prior to January 1, 1935, remains unpaid, the delinquent tax may be made payable in installments and the collection thereof postponed by filing with the Controller prior to January 1, 1936, a written instrument or obligation executed by any of the following persons:

(a) The original distributor.

(b) The trustee in bankruptcy of the original distributor or a receiver of the original distributor appointed by any court of this State or the United States.

(c) Another distributor or a broker, duly licensed as a distributor or broker, who has succeeded to the ownership of any of the property used in the distribution of motor vehicle fuel in respect to which the delinquent license tax accrued.

Contents of obligation

7753. The obligation shall contain an undertaking to pay all delinquent license taxes which accrued and became payable prior to January 1, 1935, by the original distributor and all penalties accrued thereon by reason of the nonpayment thereof. The payment shall be made in equal monthly installments, not exceeding 180 in all, payable on or before the first day of the calendar month next after the filing of the obligation and of each month thereafter until full payment of the delinquent taxes and penalties together with interest on each monthly installment. Interest shall be paid on each installment from January 1, 1935, to the time of payment of the installment at the rate of 4 per cent per annum for a period of 10 years after filing of the obligation and at the rate of 7 per cent per annum thereafter.

Default

7754. If default occurs in the payment of any monthly installment or the interest thereon and continues for a period of 90 days, or if default occurs in the payment of any

license tax imposed by this part which became due and payable by the distributor executing the obligation subsequent to the filing thereof, the Controller shall collect all installments provided for in the obligation and then unpaid, whether due or not, with interest thereon at the rate specified in Section 7753 from January 1, 1935, to the date of the collection. He may proceed in any manner provided in this part in respect to other license taxes becoming delinquent.

Lien

7755. The total amount to be collected by reason of default constitutes a lien upon all property of any distributor executing the obligation with the same force and effect as if the amount had accrued as a license tax upon motor vehicle fuel distributed in the month preceding the default under the provisions of this part. Nothing in this article shall be construed or shall operate to release any property from any lien created by this part for or in respect to any license tax the collection of which is postponed or authorized to be postponed under this article.

Remedies cumulative

7756. In the event of default the remedies provided in this article are cumulative and in addition to any other remedies which may be provided by law for the collection of the delinquent license tax.

Chapter 6. Collection of Tax

Article 1. Security for Tax

Withhold notice

7851. If any distributor is delinquent in the payment of his license tax, the Controller may give notice of the amount of the delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to the distributor, or owing any debts to the distributor.

Transfers prohibited

7852. After receiving the notice the persons so notified shall neither transfer nor make other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the Controller consents to a transfer or disposition or until 20 days elapse after the receipt of the notice.

Notice of property owed to distributor

7853. All persons so notified shall within five days after receipt of the notice advise the Controller of all such credits, other personal property, or debts in their possession, under their control, or owing by them.

Article 2. Lien of Tax

Lien of tax

7871. The license tax is a lien upon all property of the distributor, attaching at the time of the distribution subject to

the license tax. The lien has the effect of an execution duly levied against all property of the distributor and remains until the license tax is paid or the property sold in payment thereof.

Article 3. Seizure and Sale

Seizure of

7891. Whenever any distributor is delinquent in the payment of the license tax, the Controller or his authorized representative may forthwith collect the license tax due in the following manner: The Controller shall seize any property, real or personal, used by the distributor in the operation of his business, and thereafter sell the property, or a sufficient part of it, at public auction to pay the tax due together with any penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

Notice of sale

7892. Notice of the sale and the time and place thereof shall be given to the delinquent distributor in writing at least 10 days before the date set for the sale. The notice shall be inclosed in an envelope addressed to the distributor at his last known place of business in this State and shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 10 days prior to the date set for the sale. The notice shall

Contents

contain a description of the property to be sold, a statement of the amount of the taxes, penalties, and costs, the name of the distributor, and the further statement that unless the taxes, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

Sale

7893. At the sale the Controller or his authorized agent shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the distributor.

Bids

7894. The Controller may bid at the sale.

Disposal of excess proceeds

7895. If upon the sale the moneys received exceed the amount of all license taxes, penalties, and costs due the State from the distributor, the Controller shall return the excess to the distributor and obtain his receipt. If for any reason the receipt of the distributor is not available, the Controller

shall deposit the excess moneys with the State Treasurer, as trustee for the distributor, subject to the order of the distributor, his heirs, successors, or assigns.

Article 4. Forfeiture of Bonds

Forfeiture of bonds or deposits

7916. The Controller shall immediately transmit notice of the delinquency of any distributor in the payment of the license tax to the Attorney General who shall at once collect all sums due to the State from the distributor by bringing suit against the necessary parties to effect forfeiture of the bond or bonds of the distributor or of the money or securities deposited by him with the State Treasurer, reducing any deficiency to judgment against the distributor.

Article 5. Sale of State-acquired Property

Sale of property acquired

7931. Whenever the State acquires any real or personal property seized and sold for delinquent taxes of the distributor, the Controller may, with the consent of the Department of Finance, sell the property or any part thereof at private sale or at public auction.

Notice of sale

7932. He may advertise the sale by one publication, at least 10 days before the date set for the sale, in a newspaper of general circulation in the county in which the property to be sold is situated. If there is no newspaper of general circulation in the county, publication may be made by posting notice in three public places in the county 10 days prior to the date of sale.

Conduct of sale

7933. The Controller or his authorized representative shall conduct the sale, and he may reject any or all bids at the sale.

Distribution of proceeds

7934. The Controller shall distribute the proceeds of the sale in the following order:

(a) The payment of all expenses of the sale.

(b) The payment of taxes and penalties accruing under this part which are a lien on the property.

(c) The remainder to the General Fund of the State.

Title conveyed

7935. At the sale the Controller shall deliver to the purchaser a bill of sale for any personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser free from any existing lien for taxes and penalties accruing under this part.

Article 6. Payment on Termination of Business

Notice of termination of business

7956. Whenever a distributor ceases to engage in business as a distributor within the State by reason of the discontinuance, sale, or transfer of the business, he shall give notice in

writing thereof to the board on or before the date of the discontinuance, sale, or transfer.

Contents 7957. The notice shall give the date of discontinuance or, in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee.

Report and payment of tax due 7958. All amounts under this part, not yet due and payable under other provisions hereof, become due and payable concurrently with the discontinuance, sale, or transfer. The distributor shall forthwith make a report and pay all such amounts due and shall surrender his license to the board.

Liability of transferee 7959. Unless notice is given as provided by Section 7956, the purchaser or transferee becomes liable for all taxes and penalties under this part accrued against the vendor or transferor to the date of the sale or transfer, but only to the extent of the value of the property and business thereby acquired.

Article 7. Miscellaneous Provisions

Tax roll prima facie evidence 7981. In any suit brought to enforce the rights of the State under this part the tax roll prepared by the board, or a copy of so much thereof as is applicable in the suit, duly certified by the Controller, showing unpaid license taxes determined against any distributor, shall be prima facie evidence of the following:

(a) The determination of the license tax, the delinquency thereof, and the amount of the license tax, penalties, and costs due and unpaid to the State.

(b) The indebtedness of the distributor to the State in the amount of the license tax and penalties therein appearing unpaid.

(c) The full compliance by all persons required to perform administrative duties under this part with all the forms of law in relation to the determination and levy of the license tax.

Remedies cumulative 7982. The remedies of the State provided for in this chapter are cumulative, and no action taken by the Controller or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

Chapter 7. Overpayments and Refunds

Article 1. Refunds on Certain Sales

Tax refunds 8101. The following persons who have paid a license tax for motor vehicle fuel, either directly or to the vendor from whom it was purchased, or indirectly by the adding of the

amount of the tax to the price of the fuel, shall be reimbursed and repaid the amount of the tax:

(a) Any person who buys and uses the motor vehicle fuel for purposes other than in motor vehicles operated upon the public highways of the State.

(b) Any person who exports the motor vehicle fuel for use outside of this State. Motor vehicle fuel carried from this State in the fuel tank of a motor vehicle is not deemed to be exported from this State.

(c) Any employee of the United States who buys the motor fuel and uses it exclusively in the transportation of rural free delivery mail and special delivery mail.

(d) The United States or any department thereof which buys the motor vehicle fuel for official use and on which fuel no claim for exemption from payment of the tax could be filed in accordance with Chapter 3 of this part.

Affidavit

8102. The claimant of a refund shall present to the Controller an affidavit supported by the original invoice showing the purchase. The affidavit shall be verified by the oath of the claimant and shall state the total amount of the fuel purchased, the fact that the claimant has paid the price of the fuel, and the manner and the equipment in which the claimant has used the fuel.

Payment of refund

8103. The Controller, upon the presentation of the affidavit and the invoice, shall cause to be paid to the claimant from the license taxes collected under this part an amount equal to the license taxes collected on the motor vehicle fuel in respect to which the refund is claimed.

Examination of books, etc.

8104. In order to establish the validity of any claim the Controller may, upon demand, examine the books and records of the claimant for such purpose. The failure of the claimant to accede to such demand constitutes a waiver of all right to the refund claimed on account of the transactions questioned. The examination may be made either through employees of the office of the Controller or of the office of the board.

Time of application

8105. All applications for refund based upon exportation of motor vehicle fuel from this State shall be filed with the Controller within 90 days from the date of exportation. All other applications shall be filed within 12 months from the date of the purchase of the motor vehicle fuel. Any application filed after the time prescribed shall not be considered for any purpose by the Controller, the State Treasurer, or the State.

Credit in lieu of refund

8106. In lieu of the collection and refund of the tax on motor vehicle fuel used by a distributor in such a manner as would entitle a purchaser to claim refund under this article,

credit may be given the distributor upon his tax return and the determination of the amount of his tax.

Losses in handling, etc.

8107. No refund shall be granted for losses in handling, transporting, or storing motor vehicle fuel.

Article 2. Claim for Refund

Refunds

8126. If the board determines that any amount not required to be paid under this part has been paid by any person and that a correction of the erroneous payment can not be made pursuant to Section 8191, the board shall set forth in its records and certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected and, if the State Board of Control approves, shall certify the amount to the Controller for credit or refund.

Credit and refund

8127. The Controller shall thereupon credit the excess on any amounts then due from the person under this part and refund the balance to the person or his successors, administrators, executors, or assigns.

Time for filing claim

8128. No credit or refund under this article shall be allowed after three years from the date of overpayment unless a claim therefor is filed with the board within three years from the date of overpayment.

Contents

8129. The claim shall be in writing and shall state the specific grounds upon which it is founded.

Article 3. Suit for Refund

Injunction against collection

8146. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this part of any license tax determined by the board.

Action to recover tax paid

8147. After payment of a license tax under protest duly verified and setting forth the grounds of objection to the legality of the tax, the distributor paying the tax may bring an action against the State Treasurer in the Superior Court of the County of Sacramento for the recovery of the tax so paid.

Waiver

8148. No action may be instituted more than 90 days after the last day prescribed for the payment of the license tax without penalty. Failure to bring suit within the 90 days constitutes a waiver of any demand against this State on account of alleged overpayment of license taxes.

8149. The court shall not consider any grounds of illegality of the license tax other than those set forth in the protest filed at the time of the payment of the license tax. Grounds of action

8150. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any license taxes due from the plaintiff under this part, and the balance of the judgment shall be refunded to the plaintiff. Judgment

8151. In any judgment, interest shall be allowed at the rate of 7 per cent per annum upon the amount of the license tax found to have been illegally collected from the date of payment thereof to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board. Interest See also Stats 1941, p 2618

8152. A judgment shall not be rendered in favor of the plaintiff in any action brought against the State Treasurer to recover any license tax paid when the action is brought by or in the name of an assignee of the distributor paying the license tax or by any person other than the person who paid the license tax. Action in name of assignee

Article 4. Recovery of Erroneous Refunds

8171. The Controller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California. Erroneous refunds

8172. The action shall be tried in the County of Sacramento unless the court with the consent of the Attorney General orders a change of place of trial. Venue

8173. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings. Attorney General to prosecute

Article 5. Corrections and Cancellations

8191. If examinations of the records of distributors or investigations made by the board disclose that any reports of distributors filed with the board show incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax accruing thereon, the board may make such changes in subsequent determinations of the taxes of the distributors as it deems necessary to correct the errors so disclosed. Correction of reports

Cancellation of illegal determinations

8192. If the board determines that any amount has been illegally determined to be due from any person and that a correction for the erroneous determination can not be made pursuant to Section 8191, the board shall set forth in its records and certify to the State Board of Control the amount determined in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the Controller.

CHAPTER 8. ADMINISTRATION

Enforcement, rules and regulations

8251. The board shall enforce the provisions of this part, except in so far as duties and powers are vested in the Controller, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Employees

8252. The board may employ attorneys, accountants, auditors, investigators, and other expert and clerical assistance necessary to enforce its powers and perform its duties under this part.

Investigations

8253. The board may make such examinations of the records of distributors and such other investigations as it may deem necessary in carrying out the provisions of this part.

CHAPTER 9. RECORDS

Distributor's records

8301. Every distributor shall keep an accurate record in such form as the board may prescribe of all of the following:

(a) All stocks of petroleum products on hand.

(b) All raw gasoline, gasoline stock, kerosene distillates, casinghead gasoline, and other petroleum products used in, or which may be used in, compounding, blending, or manufacturing motor vehicle fuel.

(c) The amount of crude oil refined, the gravity of the crude oil refined, and the yield from the crude oil.

(d) Such other matters relating to transactions in petroleum products as the board may require.

Physical inventory

See also Stats 1941, p. 2425

8302. Every distributor shall take a physical inventory each month of the petroleum products on hand on the first day of the month and keep a record of the inventory.

Producer's records

8303. Every producer shall keep an accurate record in such form as the board may prescribe of all manufacture, sales, and deliveries of any petroleum product used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel.

8304. Every broker shall likewise keep an accurate record of all purchases and sales of motor vehicle fuel and petroleum products mentioned in Section 8303, the record to show the vendor or vendee, the quantity purchased or sold, the correct description of the commodity, and the means of transportation from the vendor to the broker or from the broker to the vendee. Broker's records

8305. All records required by this chapter shall be available at all times for the inspection of the board or its representatives. Inspection of records

8306. Upon demand of the board or its representatives every distributor, producer, or broker shall furnish a statement under oath reflecting the contents of any records kept by them under this chapter. Statements in support of records See also Stats 1941, p 2425

CHAPTER 10. DISTRIBUTION OF PROCEEDS

8351. The Controller shall transmit all money received by him in payment of license taxes and license fees to the State Treasurer who shall deposit it in the State Treasury and credit it to the Motor Vehicle Fuel Fund, which fund is continued in existence. Motor Vehicle Fuel Fund

8352. The money in the Motor Vehicle Fuel Fund is hereby appropriated, subject to the provisions of any Budget Bill heretofore or hereafter enacted and Section 661 of the Political Code, as follows: Appropriation

(a) To pay the refunds authorized in this part, including refunds due on account of judgments for the return of license taxes illegally collected.

(b) To the Controller, to carry out any duties imposed upon him by this part.

(c) To the board, to carry out any duties imposed upon it by this part.

(d) To the counties, as provided in this chapter.

(e) To the State Highway Fund, as provided in this chapter.

(f) To pay the pro rata share of the overhead and general administrative expense of the Controller and the board attributable to duties imposed by this part. The pro rata share is payable upon presentation of a claim against any appropriation from the Motor Vehicle Fuel Fund for the support of the Controller or the board, as the case may be.

8353. One-third of all money in the Motor Vehicle Fuel Fund, after the biennial appropriations to the Controller and the board have been deducted and all refunds have been paid, shall be paid to the counties as follows: First, each county shall be paid seven thousand five hundred dollars ($7,500) for each quarter of a year. Secondly, the balance remaining Apportionment to counties

after making the apportionment of seven thousand five hundred dollars ($7,500) quarterly shall be apportioned to the counties in the proportion that the registration of vehicles in each of the counties bears to the total number of vehicles registered in this State.

County road improvement fund

8354. The amounts paid to the several counties shall be paid into a special road improvement fund established by the counties and be expended as provided by law. If any county has not established such a road fund, its proportion of the appropriation shall be retained by the State until provision for such a road fund has been made, and it shall then be paid over to the county.

Payments to counties

8355. In the months of January, April, July, and October of each year, the Controller shall ascertain the gross amounts received and the net receipts remaining after deducting the amounts withdrawn for the support of the Controller and the board and the payment of refunds during the preceding three months. Thereupon the Controller shall draw his warrant upon the Motor Vehicle Fuel Fund in favor of each county in the State for the amount to which the county is entitled.

Conditions of payment

8356. The Controller shall not draw a warrant in favor of any county which has not established a road fund or which is delinquent in its annual report to the State Department of Public Works. Whenever the annual report by any board of supervisors has not been duly filed in the manner and form provided by law and at or before the time specified by law, the Controller shall not draw his warrant in favor of the treasurer of the county until the report is filed.

State Highway Fund

8357. All money in the Motor Vehicle Fuel Fund not otherwise appropriated shall be paid by the State Treasurer into the State Highway Fund.

Same: Appropriation to Department of Public Works

8358. The money paid into the State Highway Fund is appropriated to the Department of Public Works to be expended in accordance with law for the payment of all necessary charges incurred in carrying out the provisions of the Streets and Highways Code, and of any other law relating to the acquisition of real property for and the construction, maintenance, or improvement of highways.

Revolving fund

8359. The board may, without at the time furnishing vouchers and itemized statements, draw from the Motor Vehicle Fuel Fund a sum not to exceed five thousand dollars ($5,000). The sum so drawn shall be used as a revolving fund where cash advances are necessary.

Enforcement expenses

8360. The board may pay out of the appropriations made to it from the Motor Vehicle Fuel Fund all expenses incurred

in the prosecution before any court of this State of any person charged with the violation of any provision of this part.

CHAPTER 11. VIOLATIONS

Offenses

8401. It is unlawful for any person, firm, association, or corporation, or any officer or agent thereof, through false statement, trick or device, or otherwise, to do any of the following:

(a) Obtain motor vehicle fuel for export and fail to export it, or cause it not to be exported.

(b) Divert motor vehicle fuel, or cause it to be diverted, from interstate or foreign transit begun in this State.

(c) Return motor vehicle fuel to this State and sell or use it, or cause it to be used or sold in this State, without complying with the provisions of this part and without notifying the distributor from whom the motor vehicle fuel was originally purchased of his act.

It is unlawful for any distributor or other person to conspire with any person, firm, association, or corporation, or any officer or agent thereof, to withhold motor vehicle fuel from export, or to divert it from interstate or foreign transit begun in this State, or to return it to this State for sale or use so as to avoid any of the taxes imposed by this part.

Penalties

Any person violating any provision of this section is guilty of a misdemeanor, unless the act is by any other law of this State declared to be a felony, and upon conviction thereof is punishable by a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment.

Each shipment illegally diverted or illegally returned constitutes a separate offense, and the unit of each shipment is the cargo of one vessel, or one railroad carload, or one automobile truck load, or such truck and trailer load, or one drum, or one barrel, or one case, or one can.

Same

8402. It is unlawful for any person, firm, association, or corporation, or any officer or agent thereof, to do any of the following:

(a) Fail to pay the license tax.

(b) Fail, neglect, or refuse to make and file any statement required by this part in the manner or within the time required.

(c) Make any false statement or conceal any material fact in any record, report, affidavit, or claim provided for in this part.

(d) Violate any other provision of this part.

Any person violating any provision of this section is guilty of a misdemeanor, unless the act is by any other law of this State declared to be a felony, and upon conviction is punishable by a fine of not less than five hundred dollars ($500)

nor more than five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment.

New section

SEC. 2. Section 50007 is hereby added to said code, to read as follows:

Repeal

50007. The Motor Vehicle Fuel License Tax Act and all acts amendatory thereof and supplementary thereto are hereby repealed.

New section

SEC. 3. Section 50008 is hereby added to said code, to read as follows:

Repeal

50008. Section 3900a of the Political Code is hereby repealed.

Effective date

SEC. 4. The provisions of this act shall take effect on July 1, 1943.

CHAPTER 38

Stats 1939, p 1274 amended

Stats 1937, p 763

An act to add Part 3, comprising Sections 8601 to 9354, inclusive, to Division 2 of, and to add Section 50009 to, the Revenue and Taxation Code, thereby consolidating and revising the laws relating to taxation and the raising of revenue, including the provisions of the Use Fuel Tax Act of 1937, and repealing acts and parts of acts specified herein.

In effect July 1, 1943

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New part

SECTION 1. Part 3, comprising Sections 8601 to 9354, inclusive, is hereby added to Division 2 of the Revenue and Taxation Code, to read as follows:

PART 3. USE FUEL TAX

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Short title

8601. This part is known and may be cited as the "Use Fuel Tax Law."

Construction

8602. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

"Motor vehicle"

8603. "Motor vehicle" includes every self-propelled vehicle operated or suitable for operation on the highway, except a vehicle used exclusively upon stationary rails or

tracks and except implements of husbandry, trucks, or tractors used in agricultural operations and only incidentally operated or moved upon a highway.

"Fuel" 8604. "Fuel" includes any combustible gas or liquid, by whatever name the gas or liquid may be known or sold, of a kind used in an internal combustion engine for the generation of power to propel a motor vehicle on the highways, except fuel that is subject to the tax imposed by Part 2 of this division.

"Highway" 8605. "Highway" includes every way or place generally open to the use of the public for the purpose of vehicular travel, notwithstanding that the way or place may be temporarily closed for the purpose of construction, reconstruction, maintenance, or repair.

"Person" 8606. "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this State, any county, city and county, municipality, district, or other political subdivision thereof, or any other group or combination acting as a unit.

"Use" 8607. "Use" includes the placing of fuel into any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the vehicle and, with respect to fuel brought into this State in any such receptacle, the consumption of the fuel in this State. A person placing fuel in a receptacle on a motor vehicle of another who holds a valid use fuel tax permit is not deemed to have used the fuel.

"User" 8608. "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

"In this State" 8609. "In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States of America.

CHAPTER 2. IMPOSITION OF TAX

Levy of tax; rate 8651. An excise tax is hereby imposed at the rate of 3 cents per gallon on the use of fuel by any user thereof.

Exemptions 8652. No tax shall be imposed if the user establishes to the satisfaction of the board that the fuel is used to propel an implement of husbandry, truck, or tractor used in agricultural operations and only incidentally operated or moved upon a highway, or is used for a purpose other than the generation of power to propel a motor vehicle in this State.

CHAPTER 3. PERMITS

Use fuel tax permit

8701. Every person desiring to become a user of fuel within this State shall first secure a use fuel tax permit.

Application

8702. Applications for permits shall be made to the board upon forms prescribed by the board.

Issuance

See also Stats 1941, p 2749

8703. On receipt of an application the board shall issue to the applicant a use fuel tax permit authorizing him to become a user of fuel taxable under this part. The permit is valid until revoked.

Revocation

8704. Whenever any user fails to comply with any provision of this part or any rule or regulation of the board prescribed and adopted under this part, the board upon hearing, after giving the user 10 days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit should not be revoked, may revoke the permit held by him. The notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The board shall not issue a new permit to a user whose permit has been revoked unless it is satisfied that he will comply with the provisions of this part and the rules and regulations of the board.

CHAPTER 4. DETERMINATIONS

Article 1. Returns and Payments

When tax due and payable

8751. The excise tax imposed by this part is due and payable monthly on or before the fifteenth day of the month following each calendar month in which a taxable use of fuel occurs.

Tax report

8752. On or before the fifteenth day of each month, every user shall file on forms prescribed by the board a report showing the amount of fuel used during the preceding calendar month by the user in this State and such other information as the board may require to carry out the purposes of this part.

Remittance

8753. The user shall accompany each report with a remittance payable to the board for the amount of tax due.

Extension of time

8754. The board for good cause may extend for not to exceed 15 days the time for making any report or paying any tax required under this part.

Any user to whom an extension is granted and who pays the excise tax within the period for which the extension is

Interest

granted shall pay, in addition to the tax, interest at the rate of 6 per cent per annum from the date on which the tax

would have been due without the extension to the date of payment.

Article 2. Deficiency Determinations

Deficiency determinations

8776. If the board is dissatisfied with the report filed, it may compute and determine the amount to be paid upon the basis of any information available to it. A deficiency determination may be made of the amount of tax due for more than one month.

See also Stats 1941, p 2449

Interest

8777. The amount of the determination, exclusive of penalties, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the month for which the amount of the tax, or any portion thereof, should have been reported until the date of payment.

Offsets

8778. In making a determination the board may offset overpayments for a month or months against underpayments for another month or months and against the interest and penalties on the underpayments.

Penalty for negligence

8779. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this part or the rules and regulations adopted under this part, a penalty of 25 per cent of the amount of the determination shall be added thereto.

Penalty for fraud

8780. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade this part or the rules and regulations adopted under this part, a penalty of 50 per cent of the amount of the determination shall be added thereto.

Notice

8781. The board shall give the user written notice of its determination. The notice may be served personally or by mail; if by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the user at his address as it appears in the records of the board.

Time for giving notice

8782. Except in the case of a fraudulent report or neglect or refusal to make a report, every notice of a deficiency determination shall be given within three years after the date when the amount should have been reported.

See also Stats 1941, p 2449

Article 3. Determinations if No Return Made

Determinations on failure to make reports

8801. If any user neglects or refuses to make a report, the board shall make an estimate of the amount of fuel used by the user which is subject to the tax. The estimate shall be made for the month or months in respect to which the user

See also Stats 1941, p 2449

failed to make a report and shall be based upon any information available to the board. Upon the basis of this estimate the board shall compute and determine the amount required
Penalty to be paid to the State, adding to the sum thus fixed a penalty equal to 25 per cent thereof. A determination may be made for more than one month.

Offsets 8802. In making a determination the board may offset overpayments for a month or months against underpayments for another month or months and against interest and penalties on the underpayments.

Interest 8803. The amount of the determination, exclusive of penalties, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the month for which the amount, or any portion thereof, should have been reported until the date of payment.

Additional penalty
See also Stats 1941, p 2450 8804. If the neglect or refusal of a user to file a report is due to fraud or an intent to evade the tax, a penalty of 50 per cent of the amount required to be paid by the user, exclusive of penalties, shall be added thereto in addition to the 25 per cent penalty provided in Section 8801.

Notice 8805. Promptly after making its determination the board shall give to the user written notice of its estimate and determination, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 4. Jeopardy Determinations

Jeopardy determinations 8826. If the board believes that the collection of any amount of excise tax imposed under this part will be jeopardized by delay, it shall thereupon make a determination of the amount of tax, noting that fact upon the determination. The amount determined is immediately due and payable.

When determination final 8827. If the amount of the tax, interest, and penalty specified in the jeopardy determination is not paid within 10 days after service upon the user of notice of the determination, the determination becomes final, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and interest provided in Article 6 of this chapter shall attach to the amount specified.

Petition for redetermination 8828. The user against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to Article 5 of this chapter. He shall, however, file the petition for redetermination with the board within 10 days after the service upon him of notice of the determination. The user shall also within the 10-day period deposit with the

board such security as it may deem necessary to insure compliance with this part. The security may be sold by the board in the manner prescribed by Section 8951.

Article 5. Redeterminations

Same

8851. Any user against whom a determination is made under Articles 2 or 3 of this chapter may petition for a redetermination within 15 days after service upon the user of notice thereof. If a petition for redetermination is not filed within the 15-day period, the determination becomes final at the expiration of the period.

Hearing

8852. If a petition for redetermination is filed within the 15-day period, the board shall reconsider the determination and, if the user has so requested in his petition, shall grant him an oral hearing and shall give him 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

When order final

8853. The order or decision of the board upon a petition for redetermination becomes final 15 days after mailing of notice thereof.

Due date

8854. All determinations made by the board under Articles 2 or 3 of this chapter are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 25 per cent of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

Penalty

Notice

8855. Any notice required by this article shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 6. Interest and Penalties

Penalty

8876. Any user who fails to pay any tax, except taxes determined by the board under Articles 2 or 3 of this chapter, within the time required shall pay a penalty of 25 per cent of the amount of the tax, in addition to the tax, plus interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the date on which the tax became due and payable until the date of payment.

Interest

Chapter 5. Collection of Tax

Article 1. Security for Tax

Deposit of security

8951. The board, whenever it deems it necessary to insure compliance with this part or any rule or regulation adopted under this part, may require any user to deposit with it such security as it may determine. The board may sell the security at public sale if it becomes necessary so to do in order to

Sale

recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by mail in the manner prescribed for service of notice of a deficiency determination. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

Withheld notices

8952. If any user is delinquent in the payment of any obligation imposed under this part, the board may give notice of the amount of the delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to the user, or owing any debts to the user. After receiving the notice the persons so notified shall neither transfer nor make other disposition of the credits, personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 20 days elapse after the receipt of the notice. All persons so notified shall within five days after the receipt of the notice advise the board of all such credits, personal property, or debts in their possession, under their control, or owing by them.

Article 2. Suit for Tax

Action to collect delinquent tax

8971. Whenever any user is delinquent in the payment of any obligation imposed under this part, the board may transmit notice of the delinquency to the Attorney General who shall at once proceed by appropriate legal action to collect all sums due the State.

Attachment

8972. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment is required.

Certificate of delinquency

8973. In the action a certificate by the board showing the delinquency shall be prima facie evidence of the levy of the tax, of the delinquency of the amount of tax, interest, and penalty set forth, and of compliance by the board with all provisions of this part in relation to the computation and levy of the tax.

Article 3. Lien of Tax

Lien of tax

See also Stats 1941, p 2450

8991. The excise tax is a lien upon and has the effect of an execution duly levied against any motor vehicle in which fuel taxable under this part is used.

Time lien attaches

8992. The lien attaches at the time the vehicle is operated in this State through the use of the fuel.

8993. The lien shall not be removed until the excise tax is paid or the vehicle subject to the lien is sold in payment of the tax. Extinguishment of lien
See also Stats 1941, p 2450

8994. The lien is paramount to all private liens or encumbrances of whatever character, and to the rights of any conditional vendor or any other holder of the legal title, in or to any such motor vehicle. Priority

8995. The Department of Motor Vehicles may transfer the registered ownership of any motor vehicle subject to the lien of the tax only after a certificate of excise tax clearance has been issued by the board. Transfers of vehicles subject to lien
See also Stats 1941, p 2450

Article 4. Seizure and Sale

9011. Whenever any user is delinquent in the payment of the obligations imposed under this part, the board or its authorized representative may collect the amount due in the following manner: The board shall seize any motor vehicle subject to the lien of the tax and sell the vehicle at public auction to pay the tax due together with any penalties or interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Seizure of property
See also Stats 1941, p 2450

9012. Notice of the sale and the time and place thereof shall be given in writing to the delinquent user and to all persons appearing of record to have an interest in the motor vehicle seized at least 10 days before the date set for the sale. The notice shall be inclosed in an envelope addressed to the user at his last known residence or place of business in this State and, in the case of any person appearing of record to have an interest in the motor vehicle seized, addressed to the person at his last known residence or place of business in this State. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the vehicle seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 10 days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, the name of the user, and the further statement that unless the amount is paid on or before the time fixed in the notice of sale, the property will be sold in accordance with law and the notice. Notice of sale

9013. At the sale the board or its authorized agent shall sell the vehicle in accordance with law and the notice and shall deliver to the purchaser a bill of sale which vests title in the purchaser. Sale

Disposal of excess proceeds

9014. If upon the sale the moneys received exceed the amount due to the State from the user, the board shall return the excess to the user and obtain his receipt. If any person having an interest in or lien upon the motor vehicle files with the board prior to the sale notice of his interest or lien, the board shall withhold payment of any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the user is not available, the board shall deposit the excess moneys with the State Treasurer, as trustee for the user, subject to the order of the user, his heirs, successors, or assigns.

Article 5. Miscellaneous Provisions

Remedies cumulative

9031. The remedies of the State provided for in this chapter are cumulative, and no action taken by the board constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

Chapter 6. Overpayments and Refunds

Article 1. Claim for Refund

Credit or refund of overpayments

9151. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom paid to the board. If the State Board of Control approves, the excess shall be credited on any amounts then due from the person under this part, and the balance shall be refunded to the person, or his successors, administrators, executors, or assigns.

Time for filing claim

9152 No credit or refund shall be allowed after three years from the date of overpayment unless a claim therefor is filed with the board within three years from the date of overpayment.

Contents

9153. The claim shall be in writing and shall state the specific grounds upon which it is founded.

Article 2. Suit for Refund

Injunction against collection

See also Stats 1941, p 2451

9171. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this part of any excise tax or other amounts required to be collected.

Action to recover tax paid

9172. After payment of any amount, the user making the payment may bring an action against the board in a court of

competent jurisdiction in the County of Sacramento for the recovery of the amount paid.

Waiver

9173. No action may be instituted more than one year after the amount required to be paid to the State has been paid. Failure to bring suit within one year constitutes a waiver of any demand against the State on account of alleged overpayments.

Judgment

9174. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part, and the balance of the judgment shall be refunded to the plaintiff. In any judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

Action in name of assignee

9175. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any amount paid when the action is brought by or in the name of an assignee of the user.

Article 3. Cancellations

Cancellation of illegal determinations

9196. If any amount has been illegally determined, the board shall set forth in its records and certify to the State Board of Control the amount determined in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board.

Chapter 7. Administration

Enforcement, rules and regulations

9251. The board shall enforce the provisions of this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Employees

9252. The board may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of this part.

Records

9253. Every user and every person dealing in, transporting, or storing fuel in this State shall keep such records, receipts, invoices, and other pertinent papers with respect thereto in such form as the board may require.

Examinations and investigations

9254. The board or its authorized representative may examine the books, papers, records, and equipment of any user or person dealing in, transporting, or storing fuel and may investigate the character of the disposition which the user or person makes of the fuel in order to ascertain whether all excise taxes due under this part are being properly reported and paid.

Unlawful to divulge information

9255. It is unlawful for the board or any person having an administrative duty under this part to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any user visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any report, or to permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person. However, the Governor may, by general or special order, authorize examination of the reports by other State officers, by tax officers of another State, by the Federal Government, if a reciprocal arrangement exists, or by any other person.

Exception

Penalty

Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars ($1,000), by imprisonment not exceeding one year, or by both in the discretion of the court.

Registration of vehicles using taxable fuel

9256. Before registering any motor vehicle, the Department of Motor Vehicles shall ascertain from the applicant for registration whether or not the motor vehicle sought to be registered is propelled by a fuel the use of which is subject to the excise tax imposed under this part. If the motor vehicle is propelled by the use of such a fuel, the department shall notify the board.

CHAPTER 8. DISTRIBUTION OF PROCEEDS

Motor Vehicle Fuel Fund

9301. The board shall transmit all money received by it under this part to the State Treasurer to be deposited in the State Treasury to the credit of the Motor Vehicle Fuel Fund. The board shall at the same time furnish copies of the schedules covering the transmittals to the Controller.

Appropriation

9302. All money deposited in the fund under this part is hereby appropriated as follows:

(a) To pay the refunds authorized in this part.

(b) To the State Highway Fund as provided in this chapter.

State Highway Fund

9303. The Controller shall transfer the balance of all money deposited in the Motor Vehicle Fuel Fund under this part, after the payment of refunds, to the State Highway

Fund. The amount so transferred shall be expended for the repair, reconstruction of, or additions to those bridges on State highways which have been posted for less than legal speeds or weights under Sections 516 and 715 of the Vehicle Code or for the construction of new bridges or highways to replace such posted bridges.

9304. The Controller shall make the transfers at the same time as the transfers to the State Highway Fund of moneys received under the Motor Vehicle Fuel License Tax Law are made. Time for transfers of money

CHAPTER 9. VIOLATIONS

9351. Any person who places or causes to be placed fuel into any receptacle on a motor vehicle from which receptacle fuel is supplied for the propulsion of the vehicle is guilty of a misdemeanor unless a valid use fuel tax permit is held by the owner of the vehicle. Penalty No permit See also Stats 1941, p 2451

9352. Any user who fails or refuses to file any report required to be made, or who fails or refuses to furnish a supplemental report or other data required by the board, or who renders a false or fraudulent return is guilty of a misdemeanor and subject to a fine of not exceeding five hundred dollars ($500) for each offense. Same Failure to make report, etc

9353. Any person required to make, render, sign, or verify any report who makes any false or fraudulent report with intent to defeat or evade the determination required by law to be made is guilty of a misdemeanor. He shall for each offense be fined not less than three hundred dollars ($300) and not more than five thousand dollars ($5,000), or be imprisoned for not exceeding one year in the county jail, or be subject to both fine and imprisonment in the discretion of the court. Same False reports

9354. Any violation of the provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such. Penalty

SEC. 2. Section 50009 is hereby added to said code, to read as follows: New section

50009. The Use Fuel Tax Act of 1937 and all acts amendatory thereof and supplementary thereto are hereby repealed. Repeal

SEC. 3. The provisions of this act shall take effect on July 1, 1943. Effective date

CHAPTER 39

Stats 1939, p 1274, amended

Stats 1933, p 928

An act to add Part 4, comprising Sections 9601 to 10501, inclusive, to Division 2 of, and to add Section 50010 to, the Revenue and Taxation Code, thereby consolidating and revising the law relating to taxation and the raising of revenue, including the provisions of "An act imposing a license fee or tax for the transportation of persons or property for hire or compensation upon the public streets, roads and highways in the State of California by motor vehicle and providing that this act shall take effect immediately," approved May 15, 1933, as amended, and repealing acts and parts of acts specified herein.

In effect July 1, 1943

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New part

SECTION 1. Part 4, comprising Sections 9601 to 10501, inclusive, is hereby added to Division 2 of the Revenue and Taxation Code, to read as follows:

PART 4. MOTOR VEHICLE TRANSPORTATION LICENSE TAX

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Short title

9601. This part is known and may be cited as the "Motor Vehicle Transportation License Tax Law."

Construction

9602. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

"Operator"

9603. "Operator" includes:

(a) Any person engaging in the transportation of persons or property for hire or compensation by or upon a motor vehicle upon any public highway in this State, either directly or indirectly.

(b) Any person who furnishes any motor vehicle for the transportation of persons or property under a lease or rental agreement when pursuant to the terms thereof the person operates the motor vehicle furnished or exercises any control of, or assumes any responsibility for, or engages either in whole or in part in, the transportation of persons or property in the motor vehicle furnished.

"Operator" does not include any of the following:

(a) Any person transporting his own property in a motor vehicle owned or operated by him unless he makes a specific charge for the transportation. This subdivision does not in any way limit any other exemption granted by this section.

(b) Any farmer, resident of this State, who occasionally transports property for other farmers, or who transports his own farm products, or who transports laborers to and from farm work incidentally in his farming operations.

(c) Any nonprofit agricultural cooperative association, organized and acting within the scope of its powers under Chapter 4 of Division 6 of the Agricultural Code, to the extent only that it is engaged in the transporting of its own property or the property of its members.

(d) Any person whose sole transportation of persons or property for hire or compensation consists of the transportation of children to or from any public school and whose total compensation from all sources for providing such transportation does not exceed fifty dollars ($50) in any calendar month.

(e) Any person engaged in the business of operating a hearse or other vehicle in a procession to a burial ground or place of interment and from the burial ground or place of interment to a garage or place of storage.

(f) Any registered owner of a pleasure vehicle who, while operating the vehicle, transports persons to his work or to a place through which he passes on the way to his work, whether for or without compensation, if he is not in the business of furnishing such transportation.

"Person"

9604. "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

"Motor vehicle"

9605. "Motor vehicle" includes any automobile, truck, tractor, or other self-propelled vehicle used for the transportation of persons or property upon the public highways, otherwise than upon fixed rails or tracks, and any trailer, semitrailer, dolly, or other vehicle drawn thereby, not exempt from registration fees under the laws of this State.

"Gross receipts"

9606. "Gross receipts" include all receipts from the operation of motor vehicles entirely within this State and a proportion, based upon the proportion of the mileage within this State to the entire mileage over which such operations extend, of the receipts from the operation of motor vehicles passing through, into, or out of this State, or partly within and partly without this State. "Gross receipts" as applied in connection with operations under lease or rental agreements include such amounts as the board under such rules and regulations as it may prescribe determines to be reasonable compensation for the transportation services rendered by the operator.

"Gross receipts" do not include revenue derived by an express company from the shipment of property over the lines of common carriers, but do include revenue derived by an express company from the transportation of property in motor vehicles operated by it.

"Department." 9607. "Department" means the Department of Motor Vehicles.

CHAPTER 2. IMPOSITION OF TAX

Levy of tax, rate 9651. A license tax is hereby imposed upon operators at the rate of 3 per cent of the gross receipts of the operators from operations.

Presumption 9652. For the purpose of the proper administration of this part and to prevent evasion of the tax it shall be presumed that the gross receipts from all operations of operators are subject to the tax until the contrary is established.

Exemptions 9653. This part does not apply to operators of motor vehicles operated exclusively within incorporated cities or between incorporated cities or incorporated cities and private property where no portion of the public highway outside the corporate limits of the cities is traversed in such operation.

The tax does not apply to the gross receipts derived from the transportation of persons or property wholly within incorporated cities or between incorporated cities or incorporated cities and private property or wholly on private property where no portion of the public highway outside the corporate limits of the cities or private property is traversed in such operation.

CHAPTER 3. LICENSES AND EMBLEMS

Article 1. Issuance of License

Application for license 9701. Every operator of a motor vehicle within this State who transports or desires to transport for compensation or hire persons or property upon any public highway within this State shall apply to the board, on such forms as the board may prescribe, for a license to operate motor vehicles for the transportation of persons or property for hire or compensation upon public highways in this State.

Fee 9702. Each application for a license shall be accompanied by a fee of five dollars ($5) payable to the board.

Issuance of license 9703. Upon the receipt of the application, accompanied by the required fee, the board shall issue to the applicant a license to transport for compensation or hire persons or property upon any public highway within this State. The board may refuse to issue a license to any person to whom a license was previously issued and subsequently revoked for a violation of this part.

9704. No license issued authorizes the operation of any motor vehicle upon the public highways of this State contrary to the laws in effect regulating the operation of motor vehicles. Effect of license

9705. No license issued is assignable by operation of law or otherwise. Nonassignable

9706. Every license issued expires on December 31st next succeeding the date upon which it is issued. Expiration
See also Stats 1941, p 3107

9707. If any person becomes an operator and fails to apply for the license and pay the fee required within 30 days thereafter or fails to apply for the renewal of a license and pay the license fee of five dollars ($5) prior to January 1st of the succeeding year and continues to act as an operator taxable under this part, the amount of five dollars ($5) shall be added to the license fee to be charged to the person. Penalty
See also Stats 1941, p 3107

Article 2. Emblems

9726. After obtaining the required license the operator shall obtain from the department number plates or emblems for each motor vehicle operated by him indicating, in such manner as the department may determine, that the license has been obtained. Emblems

9727. The number plates or emblems shall be attached to and conspicuously displayed upon each of the motor vehicles authorized to be operated by the license in such manner as the department may require. Display

9728. The department may charge and collect from operators required to display number plates or emblems the pro rata cost to the State of the designing, manufacturing, and distributing of the number plates or emblems. Cost

9729. Upon the issuance of any number plates or emblems for display on any motor vehicle licensed under this part, the department shall immediately notify the board thereof. Notice to board

Article 3. Revocation of License

9751. Whenever any operator licensed under this part fails to comply with any provision of this part or any rule or regulation of the board prescribed and adopted under this part, the board upon hearing, after giving the operator 10 days' notice in writing of the time and place of the hearing to show cause why his license should not be revoked, may revoke the license. Cause for revocation

9752. The department upon receiving written notice from the board that the license of an operator has been revoked by Suspension of vehicle registration

the board or that an operator has failed, neglected, or refused to obtain a license shall forthwith suspend the registration of the motor vehicles of the operator which are specified in the notice and shall cause to be removed from such motor vehicles all number plates or emblems issued by the department for display upon the vehicles.

Unlawful to operate after suspension

9753. After the suspension of registration of a motor vehicle and the removal of number plates or emblems therefrom it is a misdemeanor to operate the vehicle upon the public highways of this State until the operator fully complies with the provisions of this part, a certificate to that effect is issued by the board to the department, and the registration of the vehicle is restored by the department.

Impounding vehicles

9754. The board or its authorized representatives may impound the vehicles of an operator whose license has been revoked and who continues to engage in the transportation of persons or property for hire or compensation after having been duly notified by the board of the revocation. The board or its representatives may retain possession of the vehicles until all taxes, interest, and penalties due from the operator and all costs incurred in connection with the impounding or storage of the vehicles have been paid.

Article 4. Reinstatement of License

Reinstatement of license

9776. Subsequent to the revocation of the license of an operator the board shall reinstate the license when the operator pays the amount of license tax determined together with interest and penalties, fully complies with the provisions of this part, and pays a fee of five dollars ($5) to the board for reinstatement.

Restoration of registration

9777. The department shall restore the registration of the motor vehicles of the operator and the number plates and emblems removed therefrom upon the issuance by the board to the department of a certificate to the effect that the operator has fully complied with the provisions of this part and upon the payment by the operator to the department of a fee of five dollars ($5) for the restoration of the registration of each motor vehicle.

Re-registration or transfer of registration

9778. If the registration of any motor vehicle has been suspended under Article 3 of this chapter, the department shall not thereafter reregister the motor vehicle or transfer the registration of ownership thereof upon the records of the department until the board issues to the department a certificate to the effect that the operator has fully complied with the provisions of this part.

Certificate of license tax clearance

See also Stats 1941, p 3107

9779. Transfer by the department of the registered ownership of any motor vehicle licensed under this part may be

effected only after a certificate of license tax clearance has been issued therefor by the board. The certificate of license tax clearance completely extinguishes the lien provided for in Article 3, Chapter 5, of this part in the motor vehicle described in the certificate.

Payments by legal owner

9780. If the operator of any motor vehicle is merely the registered owner thereof and the legal owner of record repossesses the vehicle and pays the full amount of the license tax determined together with all interest and penalties, the legal owner shall not be required to pay the fees required for reinstatement of license and restoration of registration, nor shall any provision of Articles 3 and 4 of this chapter be applicable.

Chapter 4. Determinations

Article 1. Returns and Payments

When tax due and payable

9851. The tax imposed by this part is due and payable monthly on or before the twentieth day of the month following each calendar month during which taxable operations occur.

Tax returns

9852. Each operator shall on or before the twentieth day of each month prepare a return for the preceding calendar month in such form as the board may prescribe, showing the gross receipts of the operator, the amount of tax due for the month covered by the return, and such other information as the board deems necessary for the proper administration of this part. Returns shall be signed by the operator or his duly authorized agent but need not be verified by oath.

Remittance

9853. The operator shall deliver the return to the office of the board together with a remittance payable to the Controller for the amount of tax due.

Extension of time

See also Stats 1941, p 3108

9854. The board for good cause may extend for not to exceed 10 days the time for making any return or payment required under this part.

Article 2. Deficiency Determinations

Deficiency determinations

See also Stats 1941, p 3108

9876. If the board is not satisfied with the return made by any operator, it may make a deficiency determination of the tax required to be paid by the operator based upon information contained in the return or upon any information in its possession.

Interest

9877. All deficiency determinations, exclusive of penalties, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the twentieth day after the

close of the month or months for which the deficiency determination is made until the date of payment.

Penalty or negligence

9878. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 per cent of the amount of the determination shall be added thereto.

Penalty for fraud

9879. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade the tax, a penalty of 25 per cent of the amount of the determination shall be added thereto.

Notice

9880. The board shall give the operator written notice of its determination. The notice may be served personally or by mail; if by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the operator at his address as it appears in the records of the board.

Time for mailing notice

9881. Except in the case of a fraudulent return or neglect or refusal to make a return, every notice of a deficiency determination shall be mailed to the operator within three years after the return of the operator is filed.

Article 3. Determinations if No Return Made

Determinations on failure to make returns

See also Stats 1941, p 3108

9901. If any operator fails, neglects, or refuses to file a return within the time required, the board shall make an estimate of the amount of the taxable gross receipts of the operator for the month or months for which the operator failed to make a return. Upon the basis of this estimate the board shall compute and determine the tax payable by the operator,

Penalty

adding to the amount of tax so determined a penalty equal to 10 per cent thereof.

Interest

9902. All determinations so made, exclusive of penalties, shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the twentieth day after the close of the month or months for which the determinations are made until the date of payment.

Additional penalty

9903. If the neglect or refusal of an operator to file a return is due to fraud or an intent to evade the tax, a penalty of 25 per cent of the tax shall be added thereto in addition to the 10 per cent penalty provided in Section 9901.

Notice

9904. Promptly after making its determination the board shall give to the delinquent written notice of the estimate, tax, and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 4. Redeterminations

Petition for redetermination

9926. Any operator against whom a determination is made by the board under Articles 2 or 3 of this chapter may petition for a redetermination within 15 days after the date of mailing the notice thereof to the operator. If a petition for redetermination is not filed within the 15-day period, the determination becomes final at the expiration of the period.

Hearing

9927. If a petition for redetermination is filed within the 15-day period, the board shall reconsider the determination and, if the operator has so requested in his petition, shall grant the operator an oral hearing and shall give him 10 days notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

When order final

9928. The order or decision of the board upon a petition for redetermination becomes final 15 days after the date of mailing the notice thereof to the operator.

Due date

Penalty

9929. All determinations made by the board under Articles 2 or 3 of this chapter are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 per cent of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

Notice

9930. Any notice required by this article shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 5. Interest and Penalties

Penalty

9951. Any operator who fails to pay any tax, except taxes determined by the board under Articles 2 or 3 of this chapter, within the time required shall pay a penalty of 10 per cent of the unpaid amount of the tax, in addition to the tax, plus interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the date on which the tax became due and payable until the date of payment.

Interest

Chapter 5. Collection of Tax

Article 1. Security for Tax

Withhold notices

10051. If any operator is delinquent in the payment of the license tax, the Controller may give notice of the amount of the delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to the operator, or owing any debts to the operator.

Transfers prohibited

10052. After receiving the notice the persons so notified shall neither transfer nor make other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the Controller consents to a transfer or disposition or until 20 days elapse after the receipt of the notice.

Notice of property owed operator

10053. All persons so notified shall within five days after receipt of the notice advise the Controller of all such credits, other personal property, or debts in their possession, under their control, or owing by them.

Article 2. Suit for Tax

Suit for tax

10071. The Controller may request the Attorney General to bring suit for the recovery of any unpaid license tax, interest, penalties, and costs.

Attorney General to prosecute

10072. The Attorney General shall bring suit for any amount due and costs on the written request of the Controller and in the name of the people of the State of California in a court of competent jurisdiction in the County of Sacramento.

Part payment

10073. Payment of an amount to the board for and on account of the license tax and the acceptance thereof does not bar an action by the State to recover any additional amount which is actually due.

Attachment

10074. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment is required.

Certificate of delinquency

10075. In the action a certificate issued by the board showing unpaid license taxes determined against any operator shall be prima facie evidence of all of the following:

(a) The determination of the license tax, the delinquency thereof, and the amount of the license tax, interest, penalties, and costs due and unpaid to the State.

(b) The indebtedness of the operator to the State in the amount of the license tax, interest, and penalties therein appearing unpaid.

(c) The full compliance by all persons required to perform administrative duties under this part with all the forms of law in relation to the determination and levy of the license tax.

Article 3. Lien of Tax

Lien of tax

10096. The license tax, penalties, and interest accruing under this part constitute a lien upon all property of the operator used in producing gross receipts from operations.

10097. The lien attaches at the time of the earning of the gross receipts and has the effect of an execution duly levied against all property of the operator mentioned in Section 10096. The lien remains until the tax and all penalties and interest accruing thereon are paid, or the property is sold for the payment thereof. Time lien attaches

10098. The lien is paramount to all private liens or encumbrances of whatever character, and to the rights of any holder of the legal title, in or to any motor vehicle the privilege of operating which is subject to the license tax. Priority of lien

Article 4. Seizure and Sale

10121. Whenever an operator is delinquent in the payment of any amount due under this part, the Controller may forthwith collect the amount due from the operator in the following manner: The Controller may seize any property, real or personal, subject to the lien of the tax and thereafter sell the property, or a sufficient part of it, at public auction to pay the tax due together with any interest and penalties imposed for the delinquency and any costs incurred on account of the seizure and sale. Seizure of property

10122. Notice of the sale and the time and place thereof shall be given in writing to the delinquent operator and to all persons appearing of record to have an interest in the property at least 10 days before the date set for the sale. The notice shall be inclosed in an envelope addressed to the operator at his last known residence or place of business in this State and, in the case of any person appearing of record to have an interest in the property, addressed to the person at his last known place of residence. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 10 days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, interest, penalties, and costs, the name of the operator, and the further statement that unless the tax due, interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice. Notice of sale

Contents

10123. The Controller may seize any motor vehicle subject to the lien of the tax and thereafter sell the vehicle at private sale to pay the license tax due, together with any interest and Seizure of vehicles

penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

Notice of sale

10124. Notice of the sale shall be given in writing to the delinquent operator and to all persons appearing of record to have an interest in the motor vehicle at least 10 days before the date set for the sale of the vehicle. The notice shall be inclosed in an envelope addressed to the operator at his last known residence or place of business in this State and, in the case of any person appearing of record to have an interest in the motor vehicle, addressed to the person at his last known place of residence. It shall be deposited in the United States mail, postage prepaid. The notice shall contain a description of the motor vehicle to be sold, a statement of the amount due, interest, penalties, and costs, the name of the operator, and the further statement that unless the tax due, interest, penalties, and costs are paid within 10 days the motor vehicle will be sold at private sale.

Sale

10125. At any sale the Controller shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the operator.

Disposal of excess proceeds

10126. If upon any sale the moneys received exceed the amount of all license taxes, interest, penalties, and costs due the State from the operator, the Controller shall return any excess to the operator and obtain his receipt. If for any reason the receipt of the operator is not available, the Controller shall deposit the excess moneys with the State Treasurer, as trustee for the operator, subject to the order of the operator, his heirs, successors, or assigns.

Article 5. Miscellaneous Provisions

Remedies cumulative

10146. The remedies of the State provided for in this chapter are cumulative, and no action taken by the Controller constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

Chapter 6. Overpayments and Refunds

Article 1. Claim for Refund

Credit or refund of overpayments

10251. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person from whom it was collected. If the State Board of Control approves, the excess

shall thereupon be credited on any taxes then due from the operator under this part, and the balance shall be refunded to the operator, or his successors, administrators, executors, or assigns.

Time for filing claim

10252. No credit or refund shall be allowed after three years from the date of overpayment unless a claim therefor is filed with the board within three years from the date of overpayment.

Contents

10253. The claim shall be in writing and shall state the specific grounds upon which it is founded.

Taxes in excess of 2% of gross receipts

10254. If the total taxes and licenses paid during a calendar year in which due and payable to this State or its political subdivisions, including municipalities, by an operator upon or on account of the operations of his property used exclusively to produce gross receipts from his operations taxable under this part exceed 2 per cent of such gross receipts from his operations during the year, the amount of excess, not exceeding the amount of license taxes paid under this part during the year, is subject to refund or credit. There shall not be included in the computation of the total taxes and licenses paid by the operator any State taxes or licenses which are imposed on or according to, or measured by, gross receipts, pay rolls, or net income, or imposed with respect to motor vehicle fuel.

Same: Time for filing claim

10255. No credit or refund shall be allowed unless the operator files a verified claim therefor with the board within 90 days after the close of the year in which an excess was paid.

Allowance of claim

10256. The board shall examine the claim and, if it is satisfied that a refund is due, shall certify to the State Board of Control the amount thereof. If approved by the State Board of Control, the amount shall be credited on any taxes then due from the operator under this part, and the balance shall be refunded to the operator, his successors, administrators, executors, or assigns.

Article 2. Suit for Refund

Injunction against collection

See also Stats 1941, p. 3110

10276. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this part of any license tax sought to be collected by the board.

Action to recover tax paid

See also Stats 1941, p. 3110

10277. After payment of any license tax under protest duly verified and setting forth the grounds of objection to the legality of the tax, the operator paying the tax may bring an action against the State Treasurer in the Superior Court of

the County of Sacramento for the recovery of the license tax so paid.

Waiver

10278. No action may be instituted more than 60 days after the last day prescribed for the payment of the license tax without penalty. Failure to bring suit within the 60 days constitutes a waiver of any demand against this State on account of alleged overpayments.

Grounds of action

10279. The court shall not consider any grounds of illegality of the license tax other than those set forth in the protest filed at the time of the payment of the tax.

Judgment

10280. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any tax, interest, or penalties due from the plaintiff under this part, and the balance of the judgment shall be refunded to the plaintiff.

Interest

10281. In any judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount of license tax found to have been illegally collected from the date of payment of the license tax to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

Action in name of assignee

See also Stats 1941, p 3110

10282. A judgment shall not be rendered in favor of the plaintiff in any action brought against the State Treasurer to recover any license tax paid when the action is brought by or in the name of an assignee of the operator paying the tax or by any person other than the person who paid the tax.

Article 3. Recovery of Erroneous Refunds

Erroneous refunds

10301. The Controller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California.

Venue

10302. The action shall be tried in the County of Sacramento unless the court with the consent of the Attorney General orders a change of place of trial.

Attorney General to prosecute

10303. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

Article 4. Cancellations

Cancellation of illegal determinations

10321. If any amount has been illegally determined, the board shall set forth in its records and certify to the State Board of Control the amount determined in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board.

Chapter 7. Administration

Enforcement; rules and regulations

10401. The board shall enforce the provisions of this part, except in so far as duties and powers are vested in the department and the Controller, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Authority of board

10402. In enforcing this part the board and its authorized representatives have the powers conferred by law upon peace officers.

Employees

10403. The board may employ accountants, auditors, investigators, and other expert and clerical assistants necessary to enforce its powers and perform its duties under this part.

Records

10404. Every operator shall keep an accurate record in such form as the board may prescribe of all gross receipts from his operations. All records required shall be available at all times for the inspection of the board or its representatives who may require a statement under oath reflecting the contents of the records.

Form of records; examinations

10405. The board may prescribe the forms of all reports of gross receipts from operations and the forms for keeping records of gross receipts from operations and may make any examinations of the records of operators and other investigations it may deem necessary in carrying out the provisions of this part.

Chapter 8. Distribution of Proceeds

Motor Vehicle Transportation Tax Fund

See also Stats 1941, p 3110

10451. All taxes, interest, and penalties due under this part shall be paid in the form of remittances payable to the State Controller. The Controller shall transmit the payments to the State Treasury to be deposited to the credit of the Motor Vehicle Transportation Tax Fund, which fund is continued in existence.

Refunds, etc

10452. All money in the Motor Vehicle Transportation Tax Fund, unless otherwise appropriated, shall, upon order of the

Controller, be drawn therefrom for the purpose of making refunds under this part or be transferred to the General Fund of the State.

Motor Vehicle Fund

10453. All money paid to the department under this part shall be deposited in the State Treasury to the credit of the Motor Vehicle Fund. The money deposited is hereby appropriated out of the fund for the support of the department.

Record of remittances

10454. All remittances for taxes together with interest and penalties thereon received by the board under this part shall be transmitted daily to the Controller with the names of the operators who sent the remittances. The Controller shall keep an appropriate record of the payments.

Record of determinations

10455. The board shall notify the Controller of all determinations made under Articles 1, 2 and 3 of Chapter 4 of this part, and the Controller shall keep an appropriate record of all the determinations.

CHAPTER 9. VIOLATIONS

Offenses

10501. It is unlawful for any person to do any of the following:

(a) Use any public highway in this State for the transportation of persons or property for hire or compensation without first obtaining the license required under this part or without carrying upon each motor vehicle so used the number plates or emblems required under this part.

(b) Fail, neglect, or refuse to make any return required under this part or any report required by the board or make any false return.

(c) Refuse to permit the board or any of its representatives to make any examination which the board may make.

(d) Fail to keep records of gross receipts from operations as the board may prescribe.

Penalty

(e) Violate any other provision of this part.

Any person who violates any provision of this section is guilty of a misdemeanor, unless the act is by any other law of this State declared to be a felony.

New section

SEC. 2. Section 50010 is hereby added to said code, to read as follows:

Repeal

50010. The act entitled "An act imposing a license fee or tax for the transportation of persons or property for hire or compensation upon the public streets, roads and highways in the State of California by motor vehicle and providing that this act shall take effect immediately," approved May 15, 1933, and all acts amendatory thereof and supplementary thereto are hereby repealed.

Effective date

SEC. 3. The provisions of this act shall take effect on July 1, 1943.

CHAPTER 40

An act to add Part 5, comprising Sections 10701 to 11005, inclusive, to Division 2 of, and to add Section 50011 to, the Revenue and Taxation Code, thereby consolidating and revising the law relating to taxation and the raising of revenue, including the provisions of "An act relating to licensing and taxing of vehicles, providing for license fees for the privilege of operating certain vehicles, providing for the exemption of such vehicles from all taxes according to value for State, county or municipal purposes, providing for the administration and enforcement of this act, creating a fund to be known as the Motor Vehicle License Fee Fund, and making an appropriation of the moneys therein," approved June 25, 1935, as amended, and repealing acts and parts of acts specified herein.

Stats 1939, p 1274, amended

Stats 1935, p 1312

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

In effect July 1, 1943

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

SECTION 1. Part 5, comprising Sections 10701 to 11005, inclusive, is hereby added to Division 2 of the Revenue and Taxation Code, to read as follows:

New part

PART 5. VEHICLE LICENSE FEE

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

10701. This part is known and may be cited as the "Vehicle License Fee Law."

Short title

10702. "Vehicle" means every vehicle subject to registration under the Vehicle Code.

"Vehicle"

10703. "Department" means the Department of Motor Vehicles.

"Department"

CHAPTER 2. IMPOSITION OF FEE

Article 1. Computation of Fee

10751. A license fee is hereby imposed for the privilege of operating upon the public highways in this State any vehicle of a type subject to registration under the Vehicle Code.

Levy of license fee

10752. The annual amount of the license fee shall be a sum equal to 1¼ per cent of the actual market value of the vehicle as determined by the department.

Rate

10753. The department annually shall compile and publish a list showing the market values as determined by it of

List of market values

each class of vehicle subject to the license fee, the vehicles being classified by make, type, and year first sold.

Alterations, etc., includable

10754. In computing the amount of the license fee, the department shall include the actual market value of alterations and additions made to the chassis, engines, or bodies of the vehicles.

Vehicles registered for first time

10755. Upon vehicles registered for the first time in this State after January 31st of any year, the fee imposed by this part for the year shall be reduced one-twelfth for each month which has elapsed since the beginning of the year.

Vehicles ceasing to be exempt

10756. If any vehicle which is exempt under Section 10781 ceases to be so exempt after the beginning of any registration year by reason of change of ownership, the fee imposed for the year shall be reduced one-twelfth for each month which has elapsed while the vehicle was exempt during the year.

No transfer fee

10757. No additional license fee shall be imposed under this part upon any vehicle upon the transfer of ownership of the vehicle if any license fee due thereon has already been paid for the year in which the transfer of ownership occurs.

Exemption from ad valorem taxes

10758. The license fee imposed under this part is in lieu of all taxes according to value levied for State or local purposes on vehicles of a type subject to registration under the Vehicle Code whether the vehicles are registered under the Vehicle Code or not.

Article 2. Exemptions

Government vehicles

10781. The license fee imposed by this part does not apply to any vehicle owned by the United States, by any foreign government, by a consul or other official representative of any foreign government, by the State, by any political subdivision of the State, or by any city, city and county, county, district, or public corporation.

Vehicles operated under lease

10782. The license fee imposed by this part does not apply to any vehicle operated by the State, or by any county, city and county, city, district, or political subdivision of the State, as lessee under a lease, lease-sale, or rental-purchase agreement which grants possession of the vehicle to the lessee for a period of 12 months or more.

This section does not apply to any vehicle leased under a lease, lease-sale, or rental-purchase agreement made after February 5, 1940, which is used or maintained for the transportation of persons for hire, compensation, or profit.

CHAPTER 3. COLLECTIONS AND REFUNDS

Article 1. Payments

Date fee payable

10851. Except as otherwise provided, the license fee is due and payable to the department on January 1st of each year. The fee shall be paid to the department at the time provided in the Vehicle Code for the registration or renewal of registration of the vehicle for the privilege of operating which the fee is imposed.

Receipt

10852. The department shall collect the license fee and shall give to each person paying the license fee a receipt which shall sufficiently designate and identify the vehicle upon which the fee is paid.

Delinquent fee

10853. Whenever any vehicle is operated upon any highway of this State without the license fee having first been paid as required by this part, the fee is delinquent.

Penalty

10854. If the fee is not paid within 30 days after it becomes delinquent, a penalty equal to one-half of the fee shall be added thereto and be collected therewith. If, however, the annual registration of a vehicle is being renewed, the penalty shall be added to any payment made on or after February 5th unless the vehicle has not been operated on the highways since the expiration of the prior registration.

Exception

Affidavit of nonoperation

10855. Evidence of nonoperation of a vehicle shall be given by an affidavit executed by a person having knowledge of the fact. The affidavit shall accompany the application for renewal of registration.

Collection of fee

10856. Upon receipt of the application for renewal and affidavit of nonoperation, the department shall collect the proper fee for the current calendar year. No penalty shall be imposed if the department receives the application and affidavit within 30 days after the date of first operation of the vehicle during the current year.

Article 2. Seizure and Sale

Lien of fee

10876. Every license fee and any penalty added thereto, from the date on which the fee becomes due, constitute a lien upon the vehicle for which due.

Seizure and sale

10877. The department shall collect the fee and any penalty by seizure and sale of the vehicle.

Same
Manner of conducting

10878. The department shall conduct and carry out the seizure and sale in the same manner as is provided by law for the seizure and sale of personal property by county assessors for the collection of taxes due on personal property.

Notice to legal owner

10879. If the records of the department indicate that the registered owner of a vehicle seized is not the legal owner thereof, as those terms are defined by the Vehicle Code, the department shall, before selling the vehicle, give notice to the legal owner of the vehicle. The notice shall be given by registered mail addressed to the legal owner at his last known address as shown by the records of the department at least 10 days prior to the sale.

Payment of fee by legal owner

10880. At any time before the sale the legal owner of the vehicle to be sold may pay the department the full amount of the delinquent fee and penalty, plus any costs incurred by the department in arranging for the sale. In this event the sale shall not be held, and the department shall return the vehicle seized to the person entitled to its possession.

Article 3. Refunds

Refund of fees erroneously collected

10901. Whenever the department erroneously collects any license fee not required to be paid under this part, the amount shall be refunded to the person paying it upon application therefor made within six months after the date of the payment.

Chapter 4. Administration

Enforcement

10951. The department shall enforce the provisions of this part.

Employees

10952. The director of the department may employ and fix the salaries of employees necessary to administer and enforce the provisions of this part.

Chapter 5. Distribution of Proceeds

Motor Vehicle License Fee Fund

11001. All money collected by the department under this part shall be reported daily to the Controller and at the same time deposited in the State Treasury to the credit of the Motor Vehicle License Fee Fund, which fund is continued in existence.

Appropriation

11002. The money in the Motor Vehicle License Fee Fund is hereby appropriated as provided in this chapter.

Amount necessary for enforcement

11003. There shall be first appropriated from the Motor Vehicle License Fee Fund for the use of the Department of Motor Vehicles such amount as the Department of Finance shall determine, and shall so certify to the Controller, is necessary for the enforcement of this part. The total amount shall not exceed 3 per cent of the money paid into the fund.

11004. On order of the Controller there shall be transferred to the General Fund and set apart sufficient money in the amount of the principal and interest paid or necessarily to be paid during each fiscal year on bonds of the State issued under: To general fund Principal and interest on highway bonds

(a) The "State Highways Act," approved by the Governor March 22, 1909, and by a majority of the electors at the general election held November 8, 1910. Stats. 1909, p. 647

(b) The "State Highways Act of 1915," approved by the Governor May 20, 1915, and by a majority of the electors at the general election held November 7, 1916. Stats. 1915, p. 650

(c) Section 2 of Article XVI of the Constitution as approved by a majority of the electors at a special election held July 1, 1919. Const., Art. XVI, Sec. 2

(d) Section 3 of Article XVI of the Constitution, as approved by a majority of the electors at the general election held November 2, 1920. Const., Art. XVI, Sec. 3

11005. The balance of the money in the Motor Vehicle License Fee Fund shall, on order of the Controller, be disbursed as follows: Balance in fund See also Stats. 1941, p. 2385

(a) Twenty per cent thereof shall be paid to the General Fund of the State. Payments to General Fund

(b) Forty per cent thereof shall be paid quarterly during each fiscal year to the cities and cities and counties of this State in the proportion that the total population of each city or city and county bears to the total population of all cities and cities and counties in this State, as certified by the department. For the purpose of this subdivision the population of each city or city and county is that determined by the last Federal census. In the case of a city incorporated subsequent to the last census, or in the case of an unincorporated territory being annexed to a city subsequent to the last census, the department shall ascertain the population of the city or the annexed territory by multiplying the number of registered electors therein by three. In the case of the consolidation of one city with another subsequent to the last census the population of the consolidated city for the purpose of this subdivision is the aggregate population of the respective cities as determined by the last Federal census. Payment to cities

The money so paid shall be expended by the cities and cities and counties for law enforcement and the regulation and control and fire protection of highway traffic.

(c) Forty per cent thereof shall be paid quarterly during each fiscal year to the counties and cities and counties of the State in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the State, as certified by the department. For the purpose of this subdivision the population of each county or city and county is that determined by the last Federal census. Payment to counties

New section SEC. 2. Section 50011 is hereby added to said code, to read as follows:

Repeal 50011. The act entitled "An act relating to licensing and taxing of vehicles, providing for license fees for the privilege of operating certain vehicles, providing for the exemption of such vehicles from all taxes according to value for State, county or municipal purposes, providing for the administration and enforcement of this act, creating a fund to be known as the Motor Vehicle License Fee Fund, and making an appropriation of the moneys therein," approved June 25, 1935, and all acts amendatory thereof and supplementary thereto are hereby repealed.

Effective date SEC. 3. The provisions of this act shall take effect on July 1, 1943.

CHAPTER 41

Stats 1939, p 1274, amended Stats 1937, p 621

An act to add Part 6, comprising Sections 11201 to 11752, inclusive, to Division 2 of, and to add Section 50012 to, the Revenue and Taxation Code, thereby consolidating and revising the law relating to taxation and the raising of revenue, including the provisions of the Private Car Tax Act of 1937, and repealing acts and parts of acts specified herein.

In effect July 1, 1943 [Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New part SECTION 1. Part 6, comprising Sections 11201 to 11752, inclusive, is hereby added to Division 2 of the Revenue and Taxation Code, to read as follows:

PART 6. PRIVATE CAR TAX

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Short title 11201. This part is known and may be cited as the "Private Car Tax Law."

Construction 11202. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

"Private car" See also Stats 1941, p 1203 11203. "Private car" includes a passenger car, sleeping car, dining car, express car, refrigerator car, oil or tank car, horse or stock car, fruit car, or car designed for the carrying

of a special commodity, operated upon the railroads in this State, which car is owned by any of the following:

(a) A sleeping car, dining car, drawing room or palace car company, refrigerator, oil, stock, or other car loaning, or other car company.

(b) By a person engaged in manufacturing, commerce, or other business.

(c) By any other person.

"Private car" does not include:

(a) Freight train or passenger train cars owned by railroad companies which are used or subject to use under the ordinary per diem agreement common to all railroads.

(b) Freight train or passenger cars handled under mileage or through line contract arrangements between companies.

(c) Cars owned by or leased to any railroad company operating in this State, or by any railroad company operated as a part of the same railroad system as the company operating in this State, and used by the railroad company in the operation, maintenance, construction, or reconstruction of its property and assessed and taxed in this State as a part of the property of a railroad company operating in this State.

"Person"

11204. "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

"In this State"

11205. "In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States of America.

CHAPTER 2. ASSESSMENTS

Article 1. General Provisions

Assessment of private cars

11251. Private cars operated upon railroads into, out of, or through this State shall be assessed by the board and taxed as prescribed in this part.

Exemption from ad valorem taxes

11252. The tax imposed in this part is in lieu of all other State, county, municipal, or district taxes, according to value, upon private cars and property incidental to their operations, the value of which property is included in the assessment of the cars.

Article 2. Reports

Annual report

11271. Every person whose private cars are operated upon the railroads in this State at any time during a calendar year shall file with the board on or before April 15th of the following calendar year a report under oath setting forth specifically

the information prescribed by the board to enable it to make the assessment required in this part.

Extension of time

11272. The board for good cause may extend for not to exceed 30 days the time for making a report.

Article 3. Valuations

What include in assessing value

11291. The value of private cars assessed under this part shall include all materials and supplies held, stored, or used in this State by the person owning the private cars, or the receiver or trustee in control thereof, for the purpose of repairing, improving, servicing, or operating the cars. The value of the cars assessed shall not include tools, shop equipment, or other like items of personal property customarily kept or maintained at fixed locations for use in repairing, improving, servicing, or operating the cars.

Equalization of value

11292. In determining the value of private cars for the purposes of this part, the board shall equalize the value determined with the average assessed value of tangible property throughout the State as fixed for the purposes of county taxation.

Basis of assessment

11293. In making assessments the board shall determine the average amount of private cars habitually in the State upon the basis of car mileage, track mileage, or such other factors or combination thereof as may be reasonably calculated to establish the situs of such private cars. The board shall use the average amount so determined as the basis for the assessment of the property.

Article 4. Arbitrary Assessments

Neglect or refusal to report, assessment

11311. If any person neglects or refuses to make a report as required by Article 2 of this chapter, the board shall make an estimate of the matters required to enable the board to make the assessment. The estimate shall be made for the year in respect to which the person failed to make the report and shall be based upon any information available to the board.

Notice

11312. After making its estimate the board shall give to the person written notice of the estimate and its assessment. The notice shall be served personally or by mail; if by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the person at his address as it appears in the records of the board.

Penalty

11313. A penalty of 10 per cent of the amount of the tax shall be added to the tax levied against any person who neglects or refuses to make a report.

11314. If the board is dissatisfied with the report filed by any person, it may compute and determine the assessment upon the basis of any information available to it. Assessment when report unsatisfactory

11315. If any property required to be assessed escapes assessment for any year, the board shall immediately assess the property when it is discovered. The assessment so made shall be included among the assessments to be completed on or before the third Monday in August following the discovery. Assessment of escaped property

11316. After inclusion of the assessment of escaped property the assessment included shall be treated as though made for the same year as the other assessments among which it is included. Same

Article 5. Reassessments

11336. The board shall complete the assessment of all property required to be assessed on or before the third Monday in August of each year. Time for completing assessments

11337. Between the first and third Mondays in August of each year, the assessments made by the board shall be open for inspection by all persons interested. Inspection of assessments

11338. At any time prior to the third Monday in August, the owner of any property assessed, or the one to whom it may be assessed, shall be heard by the board upon a petition for reassessment. Petition for reassessment

Chapter 3. Levy and Payment of Tax

11401. The board shall levy upon private cars assessed under this part, for each year, a tax computed at the next preceding year's average rate of taxation in the State and shall enter the tax upon a record maintained by the board for that purpose. Levy of tax

11402. The levy shall be completed on or before the third Monday in August of each year. Completion of levy

11403. The board shall compute the average rate of taxation in the State by adding the county, city, school district, and other general and special taxes, but not special assessments, and dividing the amount obtained by the total assessed valuation in the State as shown by the county tax rolls for the same year. Computation of rate of taxation

"Special assessments," as used in this section, mean any amount levied solely against real estate or real estate and improvements.

11404. On or before October 15th in each year the board shall cause to be mailed to each person against whom a tax Notice

is levied a notice stating the amount of the assessment, the rate and amount of tax, and a demand that the tax be paid to the board not later than December 5th following.

Penalty

11405. If the tax is not paid on or before December 5th following the levy of the tax, a penalty of 10 per cent of the amount of the tax shall be added thereto plus interest on the amount of the tax at the rate of one-half of 1 per cent per month, or fraction thereof, from December 5th until the date of payment.

Failure to send notice

11406. Failure to pay the tax is not excused nor is any assessment or levy invalidated because of the failure of the board to send the notice prescribed by Section 11404, the sending of an erroneous notice, or the failure of the person whose property is assessed to receive the notice.

CHAPTER 4. COLLECTION OF TAX

Article 1. Security for Tax

Withhold notices

11451. If any person is delinquent in the payment of any obligation imposed under this part, the board may give notice of the amount of the delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent.

Transfers prohibited

11452. After receiving the notice the persons so notified shall neither transfer nor make other disposition of the credits, personal property, or debts until the board consents to a transfer or disposition, or until 30 days elapse after receipt of the notice.

Notice of property owed taxpayer

11453. All persons so notified shall advise the board within five days after receipt of the notice of all such credits, personal property, or debts in their possession, under their control, or owing by them.

Article 2. Suit for Tax

Suit for tax

11471. Whenever any person is delinquent in the payment of any obligation imposed under this part, the board may transmit notice of the delinquency to the Attorney General who shall at once proceed by appropriate legal action to collect all sums due the State.

Attachment

11472. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment is required.

Certificate of delinquency

11473. In the action a certificate by the board showing the delinquency shall be *prima facie* evidence of the levy

of the tax, of the delinquency of the amount of tax, interest, and penalties set forth in the certificate, and of compliance by the board with all provisions of this part in relation to the assessment of the property and computation and levy of the tax.

Article 3. Lien of Tax

Lien of tax

11491. The tax, together with the interest and penalties thereon, constitutes a lien upon, and has the effect of an execution duly levied against, all property, real, personal, or mixed, belonging to or owned by the person against whom the tax is levied.

Time of attachment

11492. The lien attaches on the first Monday in March of each year with respect to taxes, together with the interest and penalties thereon, to be levied during the year.

Removal of lien

11493. The lien shall not be removed until the tax, interest, and penalties are paid, or the property subject to the lien is sold in payment of the tax, interest, and penalties.

Priority of lien

11494. The lien is paramount to all private liens or encumbrances of whatever character, and to the rights of any conditional vendor or other holder of the legal title, in or to any private car assessed under this part.

Chapter 5. Overpayments and Refunds

Article 1. Claim for Refund

Credit or refund of overpayments

11551. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom paid to the board.

Same

11552. If the State Board of Control approves, the excess shall be credited on any amounts then due from the person under this part, and the balance shall be refunded to the person, or his successors, administrators, executors, or assigns.

Time for filing claim

11553. No credit or refund shall be allowed after three years from the date of overpayment unless a claim is filed therefor with the board within three years from the date of overpayment.

Contents

11554. The claim shall be in writing and shall state the specific grounds upon which it is founded.

Article 2. Suit for Refund

Injunction against collection

11571. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of the State to prevent or enjoin under this part the assessment of property or the collection of any amount required to be collected.

Action to recover tax paid

11572. After payment of any amount under protest, duly verified and setting forth the grounds of objection to the legality thereof, the person making the payment may bring an action against the State Treasurer in a court of competent jurisdiction in the County of Sacramento for the recovery of the amount so paid.

Waiver

11573. No action may be instituted more than 90 days after the amount required to be paid to the State has been paid. Failure to bring suit within the 90 days constitutes a waiver of any demand against the State on account of alleged overpayments.

Grounds of action

11574. The court shall not consider any grounds of illegality other than those set forth in the protest filed at the time of the payment of the amount required to be paid to the State.

Judgment

11575. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part, and the balance of the judgment shall be refunded to the plaintiff.

Interest

11576. In any judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

Action in name of assignee

11577. A judgment shall not be rendered in favor of the plaintiff in any action brought against the State Treasurer to recover any amount paid when the action is brought by or in the name of an assignee of the person who paid the amount.

Article 3. Cancellations

Cancellation of illegal assessments

11596. If any amount has been illegally assessed, the board shall set forth in its records and certify to the State Board of Control the amount assessed in excess of the amount legally due and the person against whom the assessment was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board.

CHAPTER 6. ADMINISTRATION

Enforcement, rules and regulations

11651. The board shall enforce the provisions of this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Records

11652. Every person whose property is subject to tax under this part shall keep such records and other pertinent data with respect to the operation of his private cars in this State as the board requires. The board or its authorized representative may examine the records and data.

Same

11653. Every railroad company with lines in this State shall keep such records and other data with respect to the operation of private cars over those lines as the board requires. The company shall on demand make the records and data available to the board or its authorized representative.

CHAPTER 7. DISPOSITION OF PROCEEDS

Disposition of proceeds

11701. All money received by the board under this part shall be transmitted to the State Treasurer and shall be deposited in the State Treasury to the credit of the General Fund.

Appropriation for refunds

11702. The money so deposited, or so much thereof as may be necessary, is hereby appropriated for the purpose of making refunds under this part and shall, upon warrant of the Controller, be withdrawn from the State Treasury for such purpose.

CHAPTER 8. VIOLATIONS

Unlawful to make false reports

11751. Every person required to make, render, sign, or verify any report under this part or to furnish data or information to the board is guilty of a misdemeanor if he makes any false or fraudulent report or furnishes false or fraudulent data or information with intent to defeat or evade the assessment or levy required by law. Upon conviction he shall for each offense be fined not less than three hundred dollars ($300) and not more than five thousand dollars ($5,000), or be imprisoned for not exceeding one year in the county jail, or be subject to both fine and imprisonment in the discretion of the court.

Penalty

Penalty

11752. Any violation of this part is a misdemeanor and, except where otherwise provided, is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment not exceeding one year, or both in the discretion of the court.

New section SEC. 2. Section 50012 is hereby added to said code, to read as follows:

Repeal 50012. The Private Car Tax Act of 1937 and all acts amendatory thereof and supplementary thereto are hereby repealed.

Effective date SEC. 3. The provisions of this act shall take effect on July 1, 1943.

CHAPTER 42

Stats 1937, p 1229, amended *An act to add Chapter 3, comprising Sections 1200 to 1305, inclusive, to Division 2 and to add Section 30035 to Division 30 of the Business and Professions Code, thereby consolidating and revising the law relating to the regulation of clinical laboratory technologists and clinical laboratory technicians, and repealing acts and parts of acts specified herein.*

In effect September 13, 1941 [Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New chapter SECTION 1. Chapter 3, comprising Sections 1200 to 1305, inclusive, is hereby added to Division 2 of the Business and Professions Code, to read as follows:

CHAPTER 3. CLINICAL LABORATORY TECHNOLOGY

Article 1. General Provisions

Construction 1200. Every provision of this chapter shall be liberally construed to protect the interests of all persons affected.

Definitions 1201. As used in this chapter, "person" includes firm, association and corporation.

1202. As used in this chapter, "board" means the State Board of Health.

1203. As used in this chapter, "clinical laboratory technologist" means any person who engages in the work and direction of a clinical laboratory.

1204. As used in this chapter, "clinical laboratory technician" means any person other than a physician and surgeon who, under the direction of a clinical laboratory technologist or a physician and surgeon, performs the technical procedure called for in a clinical laboratory.

"Clinical laboratory" defined

1205. As used in this chapter, "clinical laboratory" means any place, establishment or institution organized and operated for the practical application of one or more of the fundamental sciences by the use of specialized apparatus, equipment and methods for the purpose of obtaining scientific data which may be used as an aid to ascertain the presence, progress and source of disease.

Article 2. Administration and Regulation

Regulations

1220. The board shall by regulation require that all clinical laboratories be conducted, maintained and operated without injury to the public health.

Examinations

1221. The board may employ special examiners, and may make regulations for the conduct of examinations under this chapter.

Exemptions

1222. The board shall by regulation provide for the exemption from the licensing provisions of this chapter of one or more apprentice technicians in each laboratory.

Other regulations

1223. The board shall make all other regulations necessary for the enforcement of this chapter.

Operation of laboratories

1224. Agents of the board may inspect and inquire into the methods and equipment used by clinical laboratories operating under this chapter. The board shall, when such methods or equipment are in its judgment a menace to public health, make recommendations for change to the director in charge.

Report

1225. The board shall, within 30 days prior to the regular session of the Legislature, submit to the Governor a full and true report of transactions under this chapter during the preceding biennium, including a complete statement of receipts and expenditures during the period.

Article 3. Application of the Chapter

Practice of medicine

1240. This chapter does not authorize any person to practice medicine and surgery or to furnish the services of physicians for the practice of medicine and surgery. This chapter does not repeal or in any manner affect any provision of this code relating to the practice of medicine.

Exemptions

1241. This chapter does not apply to a clinical laboratory operated by any of the following:

(a) Nonprofit hospitals.

(b) Nonprofit hospital associations.

(c) Any nonprofit hospital department which is chiefly maintained by dues or contributions from employees of a

common employer or of a group of affiliated employers, the services of which are principally confined to such employees, their dependents and members of their families and persons disabled in or by reason of the operations of the employer or group of employers.

(d) The State of California, or the United States of America, or any department, official or agency thereof.

(e) Nonprofit foundations engaged in research work.

Article 4. Licensing

Qualifications

1260. The board shall issue a clinical laboratory technologist's license to each person who holds a degree in one or more of the fundamental sciences issued by a recognized institution and whom the board finds by written, oral and practical examination to be properly qualified.

Licenses

1261. The board shall issue a clinical laboratory technician's license to each person found by it to be properly qualified and it may hold examinations either written, oral or practical, to aid it in judging the qualifications of applicants.

Same

1262. The board may issue a temporary clinical laboratory technologist's license or a temporary clinical laboratory technician's license, to cover a period sufficient for the giving of examinations, or for the determination of the qualifications of applicants.

Scope of license

1263. Licenses issued under this chapter may cover work in any one basic science, or may cover proficiency in the entire field of clinical laboratory work.

Display of license

1264. Any person maintaining, conducting or operating a clinical laboratory shall display in a prominent place in the clinical laboratory, the license of each person supervising and directing the clinical laboratory.

Revocation

1265. A license under this chapter may be revoked by the board for good cause after hearing on notice.

Article 5. Offenses Against the Chapter

Licenses required

1280. It is unlawful for any person to act as a clinical laboratory technologist unless he is licensed in that capacity under this chapter.

Same

1281. It is unlawful for any person to act as a clinical laboratory technician unless he is licensed in that capacity under this chapter.

Tests prohibited

1282. It is unlawful for any person to make any test or examination in a clinical laboratory which requires the application of one or more of the fundamental sciences such as

bacteriology, biochemistry, serology and parasitology, unless the person is one of the following:

(a) A licensed clinical laboratory technician in the subject or subjects concerned with the test or examination.

(b) A licensed clinical laboratory technologist.

(c) A physician and surgeon licensed under the chapter on medicine of this code.

Supervision required

1283. It is unlawful for any person to conduct, maintain or operate a clinical laboratory unless such clinical laboratory is under the immediate supervision and direction of one of the following:

(a) A licensed clinical laboratory technologist.

(b) A physician and surgeon licensed under the chapter on medicine of this code.

Employees

1284. It is unlawful for any person conducting, maintaining or operating a clinical laboratory to employ any technician except a licensed clinical laboratory technician or an apprentice technician exempted from the licensing provisions of this chapter under the regulations of the board.

Apprentices

1285. It is unlawful for an apprentice technician to work or be employed in a clinical laboratory unless there are on the active laboratory staff one or more licensed clinical laboratory technicians.

Same

1286. It is unlawful for more than two apprentice technicians to work or be employed at the same time in the same clinical laboratory.

Penalty

1287. Any person who violates this chapter is guilty of a misdemeanor.

Article 6. Revenue

Fee schedule

1300. The amount of application and license fee under this chapter shall be fixed by the board, subject to the following:

(a) The application fee for a clinical laboratory technologist's license shall not exceed ten dollars ($10).

(b) The annual fee for a clinical laboratory technologist's license shall not exceed ten dollars ($10).

(c) The application fee for a clinical laboratory technician's license shall not exceed five dollars ($5).

(d) The annual fee for a clinical laboratory technician's license shall not exceed one dollar ($1).

Application fee

1301. The application fee required by this chapter covers the issuance of the license and the license fee for the remainder of the calendar year during which the license is issued.

Failure of applicant

1302. If any applicant fails an examination given under this chapter, no part of the application fee shall be returned.

Payment

1303. The annual fee set under this chapter shall be paid within 60 days after the commencement of each calendar year.

Failure to pay the annual license fee within 60 days after the commencement of the year in which it is due shall automatically cancel any license issued under this chapter, subject, however, to reinstatement under such rules and regulations as the board may make therefor.

Collections

1304. All fees set under this chapter shall be collected by and paid to the board. Within 10 days after the beginning of each month the board shall report to the State Controller the amounts and sources of the collections made under this chapter during the preceding month, and at the same time, all such moneys shall be paid into the State Treasury to the credit of the Clinical Laboratory Fund, which fund is hereby continued in existence.

Appropriation

1305. All moneys in the Clinical Laboratory Fund are hereby appropriated to the board, to be expended only for the administration of this chapter.

New section

SEC. 2. Section 30035 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeal. Stats 1937, p 2276

30035. Chapter 804 of the Statutes of 1937, at page 2276, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

CHAPTER 43

Stats 1937, p 1229, amended

An act to add Chapter 11, comprising Sections 7500 to 7593, inclusive, to Division 3 and to add Section 30039 to Division 30 of the Business and Professions Code, relating to the licensing and regulation of private detectives, investigators, and detective agencies and repealing acts and parts of acts specified herein.

In effect Sept 13 1941

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New chapter

SECTION 1. Chapter 11, comprising Sections 7500 to 7593, inclusive, is hereby added to Division 3 of the Business and Professions Code, to read as follows:

CHAPTER 11. DETECTIVES

Article 1. General Provisions

"Person" defined

7500. As used in this chapter, "person" includes firm, partnership, association or corporation.

Definitions

7501. As used in this chapter, "board" means the State Board of Prison Directors.

7502. As used in this chapter, "licensee" means a person licensed under this chapter.

Article 2. Application of the Chapter

"Private detective" defined

7510. As used in this chapter, "private detective" means any of the following:

(a) Any person who engages in business or who accepts employment for hire, fee or reward to furnish or supply information as to the personal character or actions or identity of any person or as to the character or kind of the business or occupation of any person.

(b) An investigator for hire or reward.

(c) Any person who owns or conducts a bureau or agency for the purposes set forth in subdivision (a).

(d) Any person who furnishes policemen, guards or watchmen.

Private watchman

7511. As used in this chapter, "private detective" does not include a private watchman regularly employed.

Exemption

7512. This chapter does not apply to any detective or officer belonging to the police force of this State, or of any county or city thereof.

Police departments

7513. This chapter does not apply to any person in the employ of any police force, or of any police department of this State, or in any county or city thereof, while such person is engaged in the performance of his official duties.

License required

7514. Unless he is licensed under this chapter no person shall do any of the following:

(a) Engage in the business of private detective for hire or reward.

(b) Advertise his business to be that of private detective irrespective of the name or title actually used.

Violation of the provisions of this section is a misdemeanor, punishable by a fine not to exceed five hundred dollars ($500) or by imprisonment not to exceed one year in the county jail or by both such fine and imprisonment.

Credit agencies

7515. This chapter does not apply to any person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

Single employers

7516. This chapter does not apply to any person employed as special agent, detective or investigator for one employer exclusively in connection with the affairs of that employer.

Charitable organizations

7517. This chapter does not apply to any charitable philanthropic society or association duly incorporated under the laws of this State which is organized and maintained for the public good and not for private profit.

Article 3. Issuance of Licenses

Board of Prison Directors

7520. The State Board of Prison Directors when satisfied from recommendations and investigation that the applicant is of good character, competency and integrity shall issue and deliver to such applicant a license entitling the applicant to conduct the business of private detective and investigator during good behavior.

Employees

7521. A license obtained from the board under this chapter gives the licensee or any employee of the licensee authority to act as a private detective in any county or city in this State.

Applications

7522. Every applicant for a license under this chapter shall file with the board a written application in accordance with this chapter.

Individuals

7523 If the applicant for a license under this chapter is an individual the application shall be signed and verified by that individual.

Partnerships

7524. If the applicant for a license under this chapter is a firm or partnership the application shall be signed and verified by each individual composing or intending to compose such firm or partnership.

Corporations

7525. If the applicant for a license under this chapter is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof and shall specify the name of the corporation, the date and place of its incorporation, the amount of the corporation's outstanding paid-up capital stock, whether such stock was paid for in cash or property, and if in property the nature and description of the property.

The application shall also be accompanied by a duly certified copy of its certificate of incorporation.

The successor to every such officer shall, prior to entering upon the discharge of his duties, sign and verify a like statement, approved in like manner, as this article prescribes for the individuals signatory to the application.

In the event of the death, resignation or removal of such officer due notice of that fact shall forthwith be given in writing to the board.

Statements

7526. Every application for a license under this chapter shall state all of the following:

(a) The full name, age, residence, present and previous occupations of each signatory.

(b) That each signatory is a citizen of the United States.

(c) A specific description of the location of the principal place of business of the applicant.

(d) Such further facts as may be required by the board to show the good character, competency and integrity of each signatory.

Approval of applications

7527. Every individual signatory to an application for a license under this chapter shall be approved by not less than five reputable freeholders of the county where the individual resides or where the applicant proposes to conduct business. Each such approver shall certify to all of the following:

(a) That he has personally known the individual for a period of at least five years prior to the filing of the application.

(b) That he has read the application and believes each of the statements made therein to be true.

(c) That the individual is honest, of good character and competent.

(d) That the individual is not related or connected to the approver by blood or marriage.

Acknowledgement

7528. The certificate of approval shall be acknowledged by the approver before an officer authorized to take acknowledgments of deeds.

Investigations

7529. The board shall make such additional investigation of applicants for a license under this chapter as it may deem necessary.

Associations

7530. All provisions of this article applying to corporations shall also apply to joint stock associations, except that each joint stock association shall file a duly certified copy of its certificate of organization in place of the certified copy of the certificate of incorporation.

Article 4. Bonds

Surety bond

7540. No license shall be issued under this chapter unless the applicant files with the board a surety bond executed by such applicant with two or more sureties or by a surety company authorized to do business in this State in the sum of two thousand dollars ($2,000) conditioned for the faithful and honest conduct of the business of private detective and investigator by such applicant. Such bond as to its form, execution and sufficiency of the sureties shall be approved by the board.

Action on bond

7541. The bond required by this article shall be taken in the name of the people of this State and every person injured by the wilful, malicious or wrongful act of the principal may bring an action on the bond in his own name to recover

damages suffered by reason of such wilful, malicious or wrongful act.

Failure to maintain

7542. Every licensee shall at all times maintain on file the surety bond required by this article in full force and effect and upon failure to do so the license of such licensee shall be forthwith suspended until such a bond is so placed on file.

Article 5. Regulations

Unlicensed employees

7560. A licensee may employ in connection with the business of private detective as many unlicensed persons as may be necessary.

Good conduct

7561. Every licensee is at all times accountable for the good conduct of every person employed by him in connection with the business of private detective.

Unlawful acts

7562. (a) It is unlawful for any licensee or any employee, officer or member of any licensee to divulge to anyone (except as he may be required by law so to do) any information acquired by him except at the direction of the employer or client for whom the information was obtained.

(b) It is unlawful for any licensee or any employee, officer or member of any licensee wilfully to make a false report to his employer or client.

(c) Any violation of the provisions of this section is a misdemeanor punishable by fine not to exceed five hundred dollars ($500) or by imprisonment, not to exceed one year, in the county jail, or by both such fine and imprisonment.

False statements

7563. Any person falsely stating or representing that he is engaged in the business of private detective or that he is employed by a private detective is guilty of a misdemeanor.

Board may employ

7564. The board shall employ persons to investigate all alleged violations of this chapter and prosecute violators thereof. Such employees shall have the authority of peace officers.

Article 6. Revocation of Licenses

Charges

7570. Any person may file charges against a licensee or an employee of a licensee with the board in the form of sworn affidavits which shall be corroborated or supported by witnesses.

Support of charges

7571. Failure of the accuser for a period of 10 days to furnish sworn affidavits and corroboration of his complaint is sufficient grounds for a dismissal of charges filed under this article.

7572. Upon receipt of charges properly substantiated the board shall set a date of hearing and notice shall be given in writing and served upon the person accused at least 30 days prior to the date of the hearing. Hearing

7573. The notice required by this article shall be served on the accused by one of the following methods: Notice

(a) Personal service.

(b) Leaving the notice at the place of business of the accused with some person of suitable age and discretion.

(c) Forwarding the notice by registered mail to the last known address of the accused.

7574. The notice required by this article shall state the grounds of the complaint against the accused, the name of the accuser and the time and place of the hearing. Contents

7575. Licenses granted under Chapter 635 of the Statutes of 1915 shall be revoked only after a public hearing by the board, notice of which shall be given by a letter placed in the registered mail at least a month before such hearing, directed to the last known address of the person against whom such action is to be taken, and designating an appropriate time and place for the hearing, at which any interested party may appear and show cause why such action should or should not be taken. Stats. 1915, p. 1253

7576. The board may issue subpenas to compel attendance of witnesses at hearings under this article. Subpenas

7577. Upon demand of either the accused or the accuser and the deposit of the statutory fee, all testimony adduced upon a hearing for the disciplining of a licensee shall be recorded and transcribed at the expense of either party demanding it. Transcripts

7578. The board may discipline any licensee by revoking or suspending his license for any of the following causes: Discipline

(a) Conviction of a felony or of any offense involving moral turpitude.

(b) Violation of any of the provisions of this chapter.

(c) A false statement by the licensee that any person is or has been in his employ.

(d) Any other cause which the board deems sufficient.

Article 7. Revenue

7590. No license under this chapter shall be issued until the applicant pays to the board a license fee of fifty dollars ($50). Original fee

7591. Every licensee shall annually, on July 1st of each year, pay to the board a license fee of fifty dollars ($50). Renewal fee

Special fund 7592. All receipts under this chapter shall be reported at the beginning of each month, for the month preceding, to the State Controller and the entire amount received shall be paid into the State Treasury to the credit of the Board of Prison Directors' Private Detective Agency Contingent Fund, which fund is hereby continued in existence.

Appropriation 7593. The fund continued by this article shall be used by the board for the administration of this chapter.

New section SEC. 2. Section 30039 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeal Stats 1927, p 1938 30039. Chapter 885 of the Statutes of 1927, at page 1938, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

CHAPTER 44

Stats 1937, p 1220, amended *An act to add Division 8, comprising Chapter 1, Section 18400 to 18413, inclusive, and to add Section 30032 to Division 30 of the Business and Professions Code, thereby consolidating and revising the law relating to the regulation of sales of motor vehicles, and repealing acts and parts of acts specified herein.*

In effect September 13, 1941 [Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New division SECTION 1. Division 8, consisting of Chapter 1, Sections 18400 to 18413, inclusive, is hereby added to the Business and Professions Code, to read as follows:

DIVISION 8. SPECIAL BUSINESS REGULATIONS

CHAPTER 1. AUTOMOBILES

Short title 18400. This chapter may be cited as the Automobile Dealers Anti-coercion Act.

Cumulative 18401. The provisions of this chapter are cumulative of each other and of any other provision of law relating to the same subject in effect September 15, 1935.

Definitions 18402. As used in this chapter:

(a) "Person" means any individual, firm, corporation, partnership, association, trustee, receiver or assignee for the benefit of creditors.

(b) "Sell," "sold," "buy," and "purchase" include exchange, barter, gift, and offer of contract to sell or buy.

(c) "Manufacturer" means (i) any person who is engaged, directly or indirectly, in the manufacture of motor vehicles, and (ii) any other person directly or indirectly owned by him who is engaged in the sale or distribution of motor vehicles or any interest therein at wholesale.

(d) "Retailer" means any person who is engaged or who intends to engage in the business of selling motor vehicles at retail in this State.

(e) "Lender" means any person other than an automobile dealer or automobile distributor who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this State.

Finance restrictions

18403. It is unlawful for a manufacturer to sell or contract to sell motor vehicles to a retailer on the condition or with an agreement or understanding, either express or implied, that the retailer shall finance the purchase or sale of motor vehicles only with or through a designated person or class of persons or shall sell and assign the conditional sales contracts, chattel mortgages or leases arising from the sale of motor vehicles only to a designated person or class of persons, when the effect of the condition, agreement or understanding so entered into may be to lessen competition, or tend to create a monopoly in the person or class of persons designated.

Threats

18404. Any threat, express or implied, made to a retailer by a manufacturer that the manufacturer will cease to sell, or refuse to contract to sell, or will terminate a contract to sell, motor vehicles to the retailer, unless such retailer finances the purchase or sale of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his retail sales of motor vehicles only to a designated person or class of persons is prima facie evidence that the manufacturer has sold or intends to sell motor vehicles on the condition or with the agreement or understanding prohibited by this chapter.

Same

18405. Any threat, express or implied, made to a retailer by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles in this State and is affiliated with or controlled by a manufacturer that such manufacturer will terminate his contract with or cease to sell motor vehicles to such retailer unless such retailer finances the purchase or sale of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from his retail sale of motor vehicles only to such person so engaged in financing the purchase or sale of motor vehicles

or in buying conditional sales contracts, chattel mortgages or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of such manufacturer, and is prima facie evidence that the manufacturer has sold or intends to sell the motor vehicles on the condition or with the agreement or understanding prohibited by this chapter.

Subsidy unlawful

18406. It is unlawful for any manufacturer to pay or give or to contract to pay or give any subsidy to any lender or to discriminate in favor of or against any lender if the effect of any such subsidy or discrimination may be to lessen competition or tend to create a monopoly in the person or class of persons who accepts the subsidy or who are benefited by the discrimination.

Same

18407. It is unlawful for any lender to accept or contract or agree to accept either directly or indirectly any subsidy or the benefit resulting from any discrimination made unlawful by this chapter from any manufacturer if the effect of the acceptance of any such subsidy or benefit may be to lessen competition or tend to create a monopoly in the person or class of persons who accepts such subsidy or who is benefited by such discrimination.

Same

18408. It is unlawful for any person other than an automobile dealer or automobile distributor who accepts either directly or indirectly any subsidy or the benefit resulting from any discrimination made unlawful by this chapter or contracts either directly or indirectly to accept any such subsidy or benefit to finance or attempt to finance the purchase or sale of any motor vehicle or buy or attempt to buy any conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail in this State thereafter.

Void contracts

18409. Any contract or agreement in violation of the provisions of this chapter is void and is not enforceable at law or in equity.

Domestic corporations

18410. Upon a violation of this chapter by any corporation or association the Attorney General or the district attorney of the proper county shall institute proceedings in any court of competent jurisdiction for the forfeiture of charter rights, franchises or privileges and powers exercised by such corporation or association, and for the dissolution of the corporation or association.

Foreign corporations

18411. Every foreign corporation or association, exercising any of the powers, franchises or functions of a corporation in this State which violates this chapter, is hereby denied those powers, franchises or functions and is prohibited from doing any business in this State. The Attorney General shall enforce this provision by bringing proper proceedings. The

Secretary of State may revoke the license of any such corporation or association heretofore authorized to do business in this State.

Penalty

18412. (a) Any person who violates this chapter, any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by this chapter, any employee, agent or officer of any such person who participates in making, executing, enforcing, performing or in urging, aiding or abetting in the performance of any such contract, condition, agreement or understanding, any person who pays or gives or contracts to pay or give any thing or service of value prohibited by this chapter, and any person who accepts or contracts to accept any thing or service of value prohibited by this chapter, is guilty of a misdemeanor.

(b) Each day's violation of this provision constitutes a separate offense.

Civil remedies

18413. (a) In addition to the criminal and civil penalties herein provided, any person who is injured in his business or property by reason of anything declared to be unlawful by this chapter may sue therefor in any court having jurisdiction in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and recover twofold the damages sustained by him, and the costs of suit.

(b) Whenever it appears to the court before which any proceedings under this chapter may be pending, that the ends of justice require that other parties be brought before the court, the court may cause them to be made parties defendant and summoned, whether or not they reside in the county where such action is pending.

New section

SEC. 2. Section 30032 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeal Stats 1935, p 1755

30032. Chapter 622 of the Statutes of 1935, at page 1755, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

CHAPTER 45

Stats 1937 p 1529, amended

An act to add Chapter 2, comprising Sections 18600 to 18782, inclusive, to Division 8, and to add Section 30031 to Division 30, of the Business and Professions Code, thereby consolidating and revising the law relating to the regulation of boxing contests and sparring and wrestling matches and exhibitions, and repealing acts and parts of acts specified herein.

In effect September 13, 1941

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New chapter

SECTION 1. Chapter 2, comprising Sections 18600 to 18782, inclusive, is hereby added to Division 8 of the Business and Professions Code, to read as follows:

CHAPTER 2. BOXING AND WRESTLING

Article 1. General Provisions

Constitution

18600. The repeal either in fact or effect of any provision of this chapter may be accomplished only in accordance with Section 25¾ of Article IV of the California Constitution.

Definitions

18601. As used in this chapter:

"Club" includes corporation, organization or association.

"Commission" means the State Athletic Commission.

"Secretary" means the secretary to the State Athletic Commission.

Professional boxer

18602. A professional boxer or professional wrestler is one who competes for a money prize or purse or teaches or pursues or assists in the practice of boxing or wrestling as a means of obtaining a livelihood or pecuniary gain.

Amateur boxing contest

See also Stats. 1941, p 2866

18603. An amateur boxing contest is one in which no contestant has received or will receive, directly or indirectly, any money, prize, reward or compensation either for the expenses of training for such contest or for taking part therein, except as provided in this chapter.

Definition

18604. As used in this chapter, "school, college, or university," includes every school, college, or university supported in whole or in part from public funds and every other school, college, or university which is determined by the State Board of Education to be maintained primarily for the giving of general academic instruction.

Boxing contest

18605. Any boxing or sparring contest conforming to the rules, regulations, and requirements of this chapter is deemed a boxing contest and not a prize fight.

18606. As used in this chapter, "contest" and "match" include "exhibition." Exhibition

Article 2. Administration

18620. There is in the Department of Military and Veterans Affairs a Division of Athletics. The division is administered by the State Athletic Commission, which consists of five members appointed by the Governor. Division of Athletics

18621. Members of the commission shall be appointed by the Governor for a four-year term. Athletic Commission

The terms of members of the commission in office when this chapter takes effect shall expire as follows: One member, January 1, 1942; one member, January 1, 1943; one member, January 1, 1944; two members, January 1, 1945. Terms

The terms shall expire in the same relative order as to each member as the term for which he holds office before this chapter takes effect.

Vacancies occurring shall be filled by appointment in the same manner for the unexpired term.

18622. Three members of the commission constitute a quorum for the transaction of business. The concurrence of at least three commissioners is necessary to render a decision. Quorum

18623. The commission shall maintain a general office for the transaction of business in the City of Sacramento. It may hold meetings at any other place when the convenience of the commissioners requires. Office

18624. The members of the commission shall elect one of their number chairman, adopt a seal and make, amend or abrogate rules for the administration of their office, not inconsistent herewith, as they may deem expedient. Chairman

18625. The members of the commission shall receive no compensation for their services except actual traveling and other expenses incurred by them in the performance of their official duties. Compensation

18626. The commission shall appoint a secretary who shall attend all meetings of the commission, keep a full and true record of all its proceedings, preserve at its general office all its books, documents and papers, prepare for service such notices and other papers as may be required of him by the commission and perform such other duties as the commission may prescribe. Secretary

18627. The secretary may, under the direction of the commission, issue subpenas for the attendance of witnesses before the commission with the same effect as if they were issued in an action in the superior court, and he may, under direction Subpenas

of the commission, administer oaths, in all matters appertaining to the duties of his office or connected with the administration of the affairs of the commission.

Disobedience of subpena

18628. Disobedience of a subpena issued by the secretary and false swearing before such secretary are attended by the same consequences and subject to the same penalties as if such disobedience or false swearing occurred in an action in the superior court.

Inspectors

18630. The commission shall appoint official representatives designated as "inspectors," each of whom shall receive from the commission a card, authorizing him to act as such inspector whenever the commission may designate him to act.

The commission may also appoint necessary clerical employees.

Salaries and expenses

18631. The necessary traveling expenses and other necessary expenses of the secretary and the members of the commission, and the salaries of the secretary, the inspectors and the clerical employees shall be paid monthly by the State Treasurer on the warrant of the State Controller and the certificate of the chairman of the commission out of the money appropriated to be used therefor.

Receipts

18632. All money receipts of the commission shall be paid over to the State Treasurer within one month.

Appropriation Administration

18633. All moneys received by the commission to the amount of forty thousand dollars ($40,000) annually are hereby appropriated to be used to defray the expenses of the commission and to pay the salaries of the officers and employees provided for in this chapter.

Same Homes for veterans

18634. All moneys remaining in the State Treasury from the money receipts paid under this chapter are hereby appropriated for the purpose of maintaining homes established by the laws of this State for the care of veterans of any war of the United States. Such moneys are to be apportioned as the Legislature may direct.

Fiscal procedure

18635. The commission is, with respect to accounting, auditing, budget, financial and personnel matters, subject to all regulations and requirements now or hereafter imposed by law upon, or applicable to, State departments, boards, bureaus, commissions, and offices.

Annual report

See also Stats 1941, p 2866

18636. The commission shall annually make to the Legislature a full report of its proceedings for the year ending with the first day of the preceding December and it may submit with the report recommendations pertaining to its affairs.

Article 3. Application of the Chapter

Exempt contests

18650. This chapter does not apply to any boxing contest, or sparring or wrestling match conducted under the supervision and control of the National Guard or Naval Militia where all of the contestants are members of the active National Guard or Naval Militia.

Contests by educational institutions

18651. This chapter does not apply to any amateur boxing contests or sparring or wrestling matches conducted by or participated in exclusively by any school, college, or university or by any association or organization composed exclusively of schools, colleges, or universities when each contestant in such contest or match is a bona fide student regularly enrolled for not less than one-half time in a school, college or university.

Article 4. Licensing

Sole authority

18670. The commission has the sole direction, management, and control of and jurisdiction over all boxing contests, and sparring and wrestling matches conducted, held or given within this State, and no boxing contest, or sparring or wrestling match shall be conducted, held or given within the State except in accordance with this chapter.

Amateur contests

18671. The commission has the sole direction, management, and control of and jurisdiction over all amateur boxing contests conducted in accordance with the provisions of this chapter and Section 412 of the Penal Code, wherein an admission fee is received. Amateur boxing contests are subject to this chapter.

Licenses for participants

18672. The commission has the sole direction, management, and control of and jurisdiction over all licenses to any person who participates in boxing contests or sparring or wrestling matches.

Licenses for clubs
See also Stats 1941, p 2866

18673. The commission may license clubs to conduct, hold, or give, and may license physicians, referees, and timekeepers to participate in, professional or amateur boxing contests or sparring or wrestling matches.

No club may conduct, hold, or give, and no physician, referee, or timekeeper may participate in, any such boxing contests or sparring or wrestling matches unless the club or person has been licensed for that purpose by the commission.

Licenses for handlers
See also Stats 1941, p 2867

18674. The commission may license professional boxers, professional wrestlers, and managers, trainers, and seconds of each.

No such person shall participate in any boxing contest or sparring or wrestling match unless he has been licensed for that purpose by the commission.

Compliance with conditions

18675. The commission shall not issue any license to conduct, hold, or give boxing contests or sparring or wrestling matches, where an admission fee is received, to any club which has not complied with the conditions of this chapter.

The commission may revoke any such license at any time if the licensee does not comply with the conditions of this chapter.

Lease required

18676. The commission shall not issue any license to conduct, hold, or give boxing contests or sparring or wrestling matches, where an admission fee is received, to any club unless the club holds a lease for a term of at least six months of the premises in which the contest or match is to be held, except where such matches or contests are to be conducted, held, or given in an armory.

Applications

18677. Any application for a license to conduct, hold and give a boxing contest or sparring or wrestling match shall be in writing, addressed to the commission, and verified by some officer of the club on whose behalf the application is made.

Recitals

18678. Any application for a license to conduct, hold or give a boxing contest or sparring or wrestling match shall contain a recital of facts showing compliance with this chapter and, in addition thereto, such other facts and recitals as the commission may by rule require.

Club fees

18679. Any application for a license to conduct, or give a boxing contest, or a sparring or wrestling match shall be accompanied by an annual fee, which shall be:

(a) Twenty-five dollars ($25) in cities of not more than 5,000 inhabitants.

(b) Forty dollars ($40) in cities of not more than 50,000 inhabitants.

(c) Fifty dollars ($50) in cities of not more than 75,000 inhabitants.

(d) Seventy-five dollars ($75) in cities of not more than 150,000 inhabitants.

(e) One hundred dollars ($100) in cities having a population of more than 150,000 inhabitants.

Individual fees
See also Stats 1941, p 2867

18680. Each person who is an applicant for a license shall, before a license is issued by the commission, and annually thereafter during the life of such license, pay to the commission, a license fee as follows: Physicians, five dollars ($5); referees, twenty-five dollars ($25); timekeepers, five dollars ($5); professional boxers, five dollars ($5); professional wrestlers, five dollars ($5); managers, twenty-five dollars ($25); trainers, five dollars ($5); seconds, five dollars ($5).

Revocation
See also Stats 1941, p 2867

18681. Licenses issued under this chapter may be revoked by the commission upon such cause as it deems sufficient.

18682. Every club or person licensed under this chapter is subject to such rules and regulations, and amendments thereof, as the commission may prescribe. Rules

Article 5. Bond

18690. Before any license is granted to any club, to conduct, hold or give a boxing contest or a sparring or wrestling match the applicant therefor shall file a bond of two thousand dollars ($2,000) with good and sufficient surety with the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of the taxes herein imposed. Bond See also Stats 1941, p 2868

18691. In case of default in a performance by any club licensed under this chapter, the commission may impose upon the delinquent club a penalty in the sum of not more than one thousand dollars ($1,000) for each offense, which may be recovered by the Attorney General in the name of the people of the State of California in the same manner as other penalties are recovered by law. Penalty See also Stats 1941, p 2868

Article 6. Revenue

18710. All tickets of admission to any boxing contest, sparring or wrestling match or exhibition shall have printed clearly upon the face thereof the purchase price of the ticket and no such tickets shall be sold for more than that price. Tickets

18711. Every club licensed under this chapter shall, within 72 hours after the determination of every contest or match for which an admission fee is charged and received, furnish to the commission a written report, duly verified by one of its officers, showing the number of tickets sold for such contest or match, the amount of the gross receipts thereof, and such other matters as the commission may prescribe. Such club shall also within the same time pay to the commission a tax of 5 per centum of such total gross receipts, exclusive of any Federal taxes paid thereon. Financial report See also Stats 1941, p 2868

18712. An inspector or the secretary shall be present at all contests and matches and see that the rules are strictly observed, and also be present at the counting of the gross receipts of all such contests or matches. The inspector or secretary shall immediately mail to the commission the official statement of gross receipts received by him from the officers of the club. Inspectors

18713. No tax shall be levied or collected under this chapter on the receipts of a boxing contest or sparring or wrestling match all the proceeds or net earnings of which inure exclusively to the benefit of any post of the American Legion or any Exemption

other duly recognized organization of veterans of any war of the United States and not to the benefit of any individual member thereof.

Investigations

18714. Whenever any club fails to make a report of any contest or match within the period prescribed by this chapter or whenever such report is unsatisfactory to the commission the secretary may examine or cause to be examined the books and records of the club and subpena and examine under oath its officers and other persons as witnesses for the purpose of determining the total amount of its gross receipts for any contest or match and the amount of tax due pursuant to this chapter, which tax he may upon and as the result of such examination fix and determine.

Default

18715. In case of default in the payment of any tax ascertained to be due under this chapter, together with the expenses incurred in making such examination, for a period of 30 days after notice to such delinquent club of the amount fixed by the secretary, such delinquent shall, without action by the commission, forfeit its license and shall be thereby disqualified from receiving any new license or any renewal of license.

It shall, in addition, forfeit to the people of the State of California the sum of five hundred dollars ($500), which may be recovered by the Attorney General in the name of the people of the State of California, in the same manner as other penalties are by law recovered.

Article 7. Regulation

Days open

18730. Boxing contests, sparring and wrestling matches for prizes or purses, or where an admission fee is received, may be held on any day except Sundays, May 30th and November 11th.

Buildings

See also Stats 1941, p 2869

18731. All boxing contests, sparring or wrestling matches may be held in any building for which the commission in its discretion may issue a license. Where the contest or match is authorized to be held in a State or city owned armory the provisions of the military law in respect thereto must be complied with. No such contest or match shall be held in a building wholly or partly used for religious services.

Same

18732. All buildings or structures used or intended to be used for holding or giving boxing contests, or sparring or wrestling matches shall be properly ventilated and provided with fire exits and fire escapes, and shall in all manner conform to the laws, ordinances and regulations pertaining to buildings in the city or town where the building or structure is situated.

Minors

18733. No person under the age of 16 years shall be admitted to a boxing contest, or a sparring or wrestling match, unless he is accompanied by his parent or guardian.

Same
See also Stats 1941, p 2869

18734. No person under the age of 18 years shall participate as a contestant in any boxing contest, or sparring or wrestling match.

Amateur contests
See also Stats 1941, p 2869

18735 No person shall appear as contestant in any amateur boxing contest who prior thereto has received any compensation or reward in any form for displaying, exercising or giving any example of his skill in or knowledge of athletic exercises, or for rendering services of any kind to any athletic organization or to any person or persons as trainer, coach, instructor or otherwise, or who shall have been employed in any manner professionally by reason of his athletic skill or knowledge.

Weight
See also Stats 1941, p 2869

18736. No boxing contest or sparring match shall be allowed in which the difference in weight of the respective contestants exceeds 12 pounds. This provision shall not apply to boxers who weigh more than 170 pounds.

Gloves
See also Stats 1941, p. 2870

18737. During every boxing contest, or sparring match, each contestant shall wear gloves weighing not less than five ounces, if such contestant weighs in ring attire 145 pounds or less, and six ounces if such contestant weighs more than 145 pounds.

Padding

18738. All gloves used by contestants in boxing contests or sparring matches shall be constructed so that the soft padding between the outside coverings shall be evenly distributed over the back of the gloves and cover the knuckles and back of the hands.

Rounds

18739. No boxing contest or sparring match shall be more than 12 rounds of not more than three minutes each in length. There shall be one minute rest between consecutive rounds. No boxer shall be allowed to participate in more than 12 rounds within 12 consecutive hours.

Number

18740. The commission may in respect to any boxing contest or in respect to any class of contestants limit the number of rounds within the maximum.

Time
See also Stats 1941, p 2870

18741. (a) No amateur boxing contest shall be more than four rounds, of not more than three minutes each in length.
(b) The interval between each round shall be one minute.

Physician

18742. Every club holding a license to conduct boxing contests, or sparring or wrestling matches shall have at its own expense in attendance at every boxing contest, or sparring or wrestling match, a licensed physician who has had

not less than three years' medical practice, who shall observe the physical condition of the boxers and wrestlers, and advise the referee with regard thereto.

One hour before the contestants enter the ring such physician shall certify in writing over his signature, as to the contestants' physical condition to engage in such contest or match. A report of the medical examinations shall be filed with commission not later than 24 hours after the termination of a contest or match.

Referee

18743. At each boxing contest or sparring match there shall be in attendance a duly licensed referee, who shall direct and control.

Seconds

18744. Before starting a boxing contest or sparring match the referee shall ascertain from each contestant the name of his chief second, and shall hold such chief second responsible for the conduct of his assistant seconds during the progress of the contest or match.

Superiority

18745. The referee shall stop the contest or match when either of the contestants shows a marked superiority or is apparently outclassed.

Decision

See also Stats 1941, p 2870

18746. No decision shall be rendered at the termination of any boxing contest or sparring match which is of a longer duration than 10 rounds, but the referee shall, at the termination of all boxing contests or sparring matches which are of 10 rounds or less render his decision.

Forfeiture

18747. The referee may declare forfeited any prize, remuneration or purse, or any part thereof, belonging to the contestants or one of them, or any part of the gate receipts for which the contestants are competing, if in his judgment the contestant or contestants are not honestly competing.

Payment

18748. No contestant shall be paid for services before a contest, and should it be determined by the referee and the commission that the contestant did not give an honest exhibition of his skill, such services shall not be paid for.

Medal and Trophy

See also Stats 1941, p 2870

18749. A medal or trophy may be awarded to each contestant in any amateur boxing contest, not to exceed in value the sum of thirty-five dollars ($35), which medal or trophy shall have engraved thereon the name of the winner and the date of the event. But no portion of any admission fee or fees charged or received for any amateur boxing contest shall be paid or given to any contestant in such amateur boxing contest, either directly or indirectly, nor shall any gift be given to or received by such contestants for participating in such boxing contest, except the medal or trophy.

18750. No club nor any member or stockholder thereof, shall have, either directly or indirectly, any financial interest in a boxer or wrestler competing on premises owned or leased by the club or on premises in which such club, member or stockholder thereof is otherwise interested. Financial interest

18751. This article where not otherwise indicated applies to wrestling matches except that the commission shall by rule and regulation prescribe the length or duration of such match, the manner in which the contestants shall engage in such match and such further safeguards and conditions as shall insure fair, sportsmanlike and scientific wrestling matches. Wrestling matches

Article 8. Enforcement of the Chapter

18760. Any contestant who participates in any sham or fake boxing contest or sparring or wrestling match shall be penalized in the following manner: For the first offense he shall be restrained for a period of six months, the period to begin immediately after the occurrence of the offense, from participating in any boxing contest or sparring or wrestling match held by any club duly licensed to hold such contests or matches; for a second offense he shall be permanently disqualified from further participation in any boxing contest or sparring or wrestling match held or given under this chapter. Sham and fake contests

18761. Any club which holds or participates in, any sham or fake boxing contest or sparring or wrestling match shall thereby forfeit its license under this chapter, which shall thereupon be canceled and declared void by the commission. Such club may not thereafter receive any license under this chapter. No license shall be issued to any club which has among its members any member who belonged to a club which had its license revoked. Forfeiture

18762. Every officer of any club, and any physician, referee, timekeeper, boxer, wrestler, manager, trainer, second or person, who conducts, gives or participates in any sham or collusive boxing contest, or sparring or wrestling match, shall be deprived of his license by the commission. Revocation

18763. At every amateur boxing contest held in this State, any sheriff, constable, marshal, policeman or other peace officer of the city, county or other political subdivision, where such exhibition is being held shall stop such contest whenever it appears to him that the contestants are unevenly matched, that the contestants, or either of them, has been seriously injured, or that there is danger that the contestants, or either of them, will be seriously injured if such contest continues. Such person may call to his assistance in enforcing his order to stop the contest, as many peace officers or male citizens of the State as may be necessary. Power of peace officers See also Stats. 1941, p. 2871

Local control 18764. Nothing in this chapter prevents any county or city from prohibiting, by ordinance, the holding or conducting of any boxing contest, or any person from engaging in any such boxing contest therein.

Article 9. Crimes and Penalties

Penalty 18780. Every club or person who directly or indirectly holds any boxing contest, or sparring or wrestling match except where all contestants are amateurs and no admission fee is charged, without first having procured a license is guilty of a misdemeanor.

Same 18781. Any contestant who continues to participate in an amateur boxing contest after an order to stop the contest is given by a peace officer, or who violates any of the regulations herein prescribed for governing amateur boxing contests, is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and be imprisoned in the county jail not less than 30 days nor exceeding one year.

See also Stats 1941, p 2871

Same 18782. Any club or person who violates any of the provisions of this chapter, for which a penalty is not herein expressly prescribed, is guilty of a misdemeanor.

New section SEC. 2. Section 30031 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeal: Stats 1925, p lxxxix 30031. An act entitled "An act to authorize boxing and wrestling contests for prizes or purses, or where an admission fee is charged, and limiting such boxing contests to 12 rounds; to create an Athletic Commission empowered to license such contests and the participants therein; to prescribe conditions under which licenses shall be issued and contests held; to declare that amateur boxing contests conducted under Section 412 of the Penal Code shall be subject to the provisions of this measure and under the sole jurisdiction of such commission in all cases wherein an admission fee is charged spectators to witness such amateur boxing contests," submitted by initiative and approved by electors November 4, 1924, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

CHAPTER 46

An act to add Chapter 3, comprising Sections 19000 to 19221, inclusive, to Division 8, and to add Section 30030 to Division 30 of the Business and Professions Code, thereby revising and consolidating the law relating to the regulation of persons engaged in the business of manufacturing and selling at wholesale and retail, repairing, renovating and sterilizing upholstered furniture and bedding and repealing acts and parts of acts specified herein.

Stats 1937, p 1229, amended

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

In effect September 13, 1941

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

SECTION 1. Chapter 3, comprising Sections 19000 to 19221, inclusive, is hereby added to Division 8 of the Business and Professions Code, to read as follows:

New chapter

CHAPTER 3. FURNITURE AND BEDDING

Article 1. General Provisions

19000. This chapter may be cited as the Furniture and Bedding Inspection Act.

Short title

19001. Unless the context otherwise requires, the general provisions hereinafter set forth govern the construction of this chapter.

Construction

19002. "Person" includes individual, copartnership, association, firm, auctioneer, trust, and corporation, and the agents, servants and employees of any of them.

"Person"

19003. "Sell," or any of its variants, includes any of, or any combination of, the following: Sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess with an intent to sell or dispose of in any other commercial manner.

"Sell"

19004. (a) "Bureau" refers to the Bureau of Furniture and Bedding Inspection.

"Bureau"

(b) "Chief" refers to the chief of the bureau.

(c) "Inspector" refers to an inspector of the bureau.

(d) "Director" refers to the Director of Professional and Vocational Standards.

(e) "Department" refers to the Department of Professional and Vocational Standards.

19005. "Annually," or any of its variants, means that period beginning July 1st of each year and ending June 30th of the succeeding year, or any unexpired portion of that period.

"Annually"

"Upholstered furniture" defined

19006. "Upholstered furniture" includes any furniture, including children's furniture, movable or stationary which (a) is made or sold with cushions or pillows, loose or attached, or (b) is itself stuffed or filled in whole or in part with any material, hidden or concealed by fabric or any other covering, including cushions or pillows belonging to or forming a part thereof, together with the structural units, the filling material and its covering and its container, that can be used as a support for the body of a human being, or his limbs and feet when sitting or resting in an upright or reclining position.

"Bedding" defined

19007. "Bedding" includes any quilted pad, packing pad, mattress pad, hammock pad, mattress, comforter, bunk quilt, sleeping bag, box spring, studio couch, pillow, cushion, or any bag or container made of leather, cloth or any other material, or any other device that is stuffed or filled in whole or in part with concealed material in addition to the structural units and filling material used therein and its container, all of which can be used by any human being for sleeping or reclining purposes.

"Bedding" includes pillows which are hereby defined as a bag or case of cloth filled or stuffed with feathers, down, kapoc, cotton, hair, wool, or other sanitary filling not prohibited by this chapter to be used as a rest or support for the head in reclining or sleeping.

"Secondhand" defined

See also Stats 1941, p 2986

19008. "Secondhand" means any material or article of which prior use has been made, and includes shoddy made of either new or used defabricated material, and sweepings not otherwise classed as new in this chapter.

Any article of upholstered furniture, or bedding is secondhand if it contains any secondhand material in whole or in part.

Any article of upholstered furniture, or bedding on sales floors in a private residence or room, which is not separated from living quarters, is secondhand furniture or bedding.

"Manufacturer" defined

See also Stats 1941, p 2986

19009. "Manufacturer" means a person who either by himself or through employees or agents, makes any article of manufactured furniture or bedding in whole or in part, or who does the upholstery or covering of any structural unit thereof, using either new or secondhand material.

"Wholesaler" defined

See also Stats 1941, p 2986

19010. A "wholesaler" is a person who sells any article or thing to another for the purpose of resale.

A "retailer" is a person who sells any article or thing to a consumer or user of the article as purchased.

"Repairer" defined

19011. "Repairer" and "renovator" means a person who repairs, makes over, recovers, restores, renovates or renews upholstered furniture or bedding.

19012. "Sterilizer" means a person licensed by the bureau to sterilize any upholstered furniture or bedding. "Sterilizer" defined

19012.5. "Supply dealer" means a person licensed by the bureau to manufacture, process or sell at wholesale any felt, or batting, or any pads, or loose material in bags or containers, for use in bedding or upholstered furniture. "Supply dealer" defined

19013. A "supply depot" means any warehouse or storeroom used as a merchandising center, or supply outlet, to supply cars or for the purpose of supplying merchandise subject to this chapter in the locality, or in other localities, either directly or indirectly at wholesale or retail, which merchandise is sold or held for the purpose of such sale to any person, regardless of whether the purchaser is in business or the employee of any person. "Supply depot" defined

19014. Branches are defined as follows: "Branches" defined

(a) A wholesale branch house is a branch situated in another locality and conducting a wholesale business independent of the parent house in so far as showroom and service to the trade is concerned, excepting, however, sales or showrooms in established furniture marts or exchanges.

(b) A retail branch store is any subordinate establishment, place, or private residence, maintaining a sales service, other than one situated immediately next door to the main store, office or headquarters.

(c) A branch factory is one separated from the parent factory, manufacturing in whole or in part any article of upholstered furniture or bedding.

(d) A branch renovating shop is one separated from the parent shop, renovating any article of bedding.

(e) A branch repair shop is one separated from the parent shop, repairing any article of upholstered furniture.

(f) A supply car means any store service car, vehicle or like conveyance used in the transportation, display, distribution and sale of merchandise subject to this chapter to any person, either directly or indirectly at wholesale or retail, regardless of whether the purchaser is in business or whether he is the employee of any person.

19015. "Residence dealer" means any person who sells any new or used article of upholstered furniture or bedding from his own, or any other person's place of abode, or from any salesroom not having a recognized and ordinary store entrance. "Residence dealer" defined

19016. "Slip cover" means any casing or cover meeting any of the following requirements: "Slip cover" defined

See also Stats. 1941, p. 2086

(a) Which is for use, or is, or is to be placed, on or over any article of upholstered furniture or bedding.

(b) Which covers or conceals the upholstered furniture or bedding in whole or in part.

(c) Which is closed or held in place by snaps, or hooks and eyes, or lacing so that it may be removed without the use of tools or instruments.

(d) Which is not permanently attached by tacking, sewing, or in any other manner.

"Owner's material" defined

19017. "Owner's material" means any article or material belonging to a person for his own, or tenant's use, that is sent to any manufacturer, repairer or renovator to be repaired or renovated, or used in repairing or renovating.

"Sweepings" See also Stats 1941, p 2987

19018. "Sweepings" does not include new material which is free from refuse, dirt or other contamination.

Article 2. Administration

Administration

19030. There is in the Department of Professional and Vocational Standards a Bureau of Furniture and Bedding Inspection under the supervision and control of the Chief of the Bureau of Furniture and Bedding Inspection.

Chief

19031. The chief shall be appointed and his compensation shall be fixed by the Director of Professional and Vocational Standards in accordance with the State Civil Service Act.

Stats 1937, p 2085

The duty of enforcing and administering this chapter is vested in the chief and he is responsible to the director therefor.

Personnel

19032. In accordance with the State Civil Service Act, the director may appoint and fix the compensation of such inspectors, investigators and other personnel as may be necessary for the administration of this chapter.

Powers

19033. Except as qualified by this chapter the chief has all the powers and duties of a head of a department under Article 2, Chapter 3, Title 1, Part 3, of the Political Code.

Rules and regulations

19034. With the approval of the director, the chief may adopt rules and regulations necessary for the administration of this chapter and declaring the policy of the bureau.

All rules and regulations shall become effective not earlier than 30 days after approval by the director.

Article 3. Licensing

License required See also Stats 1941, p 2987

19050. Except as otherwise provided in this chapter, any person who advertises or solicits work on upholstered furniture or bedding, and who either does the work himself or has others do it for him, shall secure the particular license required by this chapter for the particular type of work that he solicits or advertises that he will do, regardless of whether he has a shop or factory.

19051. Every person manufacturing upholstered furniture shall annually obtain a furniture manufacturer's license from the bureau, bearing a serial number assigned by the bureau. Furniture manufacturing

19052. A wholesaler of upholstered furniture, unless he holds a furniture manufacturer's license, shall annually obtain a wholesale furniture dealer's license from the bureau. Furniture wholesaling

19053. Every person repairing upholstered furniture or sterilizing any article of upholstered furniture or bedding, unless he holds a furniture manufacturer's license, shall annually obtain a wholesale furniture repairer's license from the bureau, bearing a serial number assigned by the bureau. Furniture repairing See also Stats 1941, p 2987

19054. Every person selling any upholstered furniture at retail, including upholstered antique furniture regardless of its condition, unless he holds a furniture manufacturer's license, a wholesale furniture dealer's license or a furniture repairer's license, shall annually obtain a retail furniture dealer's license from the bureau. This does not apply to upholstered furniture sold by a peace officer when so ordered by a court. Furniture selling

19055. Every person manufacturing bedding shall annually obtain a bedding manufacturer's license from the bureau, bearing a serial number assigned by the bureau. Bedding manufacturing

19056. A wholesaler of bedding, unless he holds a bedding manufacturer's license, shall annually obtain a wholesale bedding dealer's license from the bureau. Wholesaling

19057. Every person manufacturing, processing or selling at wholesale, any felt or batting or any pads, or loose material in bags or containers for use in bedding or upholstered furniture, unless he holds a bedding manufacturer's or an upholstered furniture manufacturer's license, shall procure a supply dealer's license. Each and every branch house is likewise subject to this license provision. Processing See also Stats 1941, p 2988

19058. Every person renovating any article of bedding or sterilizing any article of upholstered furniture or bedding, unless he holds a bedding manufacturer's license, shall annually obtain a bedding renovator's license from the bureau, bearing a serial number assigned by the bureau. Renovating

19059. Every person selling any bedding at retail, unless he holds a bedding manufacturer's license, a wholesale bedding dealer's license or a bedding renovator's license, shall annually obtain a retail bedding dealer's license from the bureau. Dealers

19060. Every person in any class shall secure a separate license for each branch house; but one whose manufacturing Branches See also Stats 1941, p 2988

plant is located in another State or foreign country, and who is licensed to manufacture upholstered furniture or bedding for sale in California, may have one wholesale outlet covered by the license issued to the factory.

Any person who sells either directly or indirectly to any person either at wholesale or retail any merchandise subject to this chapter by means of a supply depot, car, catalog, office or in any other manner, shall secure the proper license for each such method of sale or distribution.

Name

19061. Every person doing business at the same address under more than one firm name is subject to the license provisions for each firm name.

Transfer

19062. Licenses are not transferable.

Removal of any business licensed under this chapter to another location under identical ownership does not affect licenses. Due notice in writing on forms furnished by the bureau, giving new and old addresses shall be given the bureau.

Number

19063. Every serial number issued by the bureau shall be exclusively for the person to whom it is issued and the number shall not thereafter be reissued to any person.

Same

19064. Every manufacturer and repairer of upholstered furniture and every manufacturer and renovator of bedding, who applies for an additional serial number, shall pay an additional license fee for each serial number.

Article 4. Application of the Chapter

Out-of-state material
See also Stats 1941, p 2988

19070. Upholstered furniture and bedding repaired, renovated or manufactured for sale outside of this State is not covered by this chapter other than by the sterilization regulations which also apply to secondhand upholstered furniture and bedding shipped out of this State.

Sterilization
See also Stats 1941, p 2988

19071. Secondhand upholstered furniture or bedding received from outside of this State shall comply with all the sterilization provisions of this chapter before it is accepted, sold or delivered, either directly or indirectly by any person.

Unlabeled material

19072. Every person importing or selling either at wholesale or retail, directly or indirectly, any unlabeled foreign made upholstered furniture or bedding shall fully comply with all the requirements of this chapter, including the license and label provisions, before any such upholstered furniture or bedding can be offered or exposed for sale.

Article 5. Labeling

Labeling required See also Stats 1941, p 2989

19080. A person shall not, at wholesale or retail, or otherwise, directly or indirectly, make or sell any article of new or secondhand upholstered furniture or bedding for use in any household, or place of abode, or which can be used by human beings, if it is made of any new or secondhand material which is hidden or concealed by fabric, or any other covering unless such article is plainly and indelibly stamped, or labeled as provided in this chapter and approved by the bureau.

Same See also Stats 1941, p 2989

19081. A person shall not, directly or indirectly, sell in this State at wholesale or retail any article of upholstered furniture or bedding manufactured out of the State unless it is labeled in accordance with the provisions of this chapter and fully complies with all the requirements of this chapter.

Exception See also Stats 1941, p 2989

19082. If any secondhand upholstered furniture is not repaired or renovated before being offered for sale, it is not required to be labeled or stamped in order to be sold.

If the secondhand upholstered furniture is repaired, or if the secondhand upholstered furniture is renovated, it shall be labeled or stamped as required by this chapter before being sold.

This section does not affect any provision of this chapter requiring sterilization.

Attaching labels

19083. Before display, sale, or delivery of any article of upholstered furniture or bedding, all labels required by this chapter shall be securely attached to the article at the factory. Such labels shall be fixed in such position that they may be conveniently examined.

Contents of label See also Stats 1941, p 2990

19084. The label shall show or state:

(a) Whether the concealed materials are new or secondhand. If the materials are wholly new, the heading shall read "All New Material." If the materials are in whole or in part secondhand, the heading shall read "Secondhand Material."

(b) The filling contents, grades and percentages by avoirdupois weight of materials so used.

(c) A statement that "This label is attached as required by law as a certification that this article is as represented."

(d) The serial number of the manufacturer, assigned by the bureau.

(e) The name of the vendor, or manufacturer, which shall be printed, stamped or written in ink on the label by either the manufacturer or the vendor.

(f) If desired, the label may describe the frame, cover and style of the article.

Bedding label
See also Stats 1941, p 2990

19085. In addition to the contents of a label required by other provisions of this chapter, the bedding label shall show:

(a) The quantity of each material used, expressed in terms of avoirdupois weight, or percentages arrived at on a basis of avoirdupois weight.

(b) The finished size expressed in linear measure, clearly indicating its length and breadth.

(c) The gross weight of mattresses, not including springs or metal construction.

Comforter labels
See also Stats 1941, p 2990

19086. Comforter labels shall show the cut size and net weight of the filling material.

Pillow labels

19087. Pillow labels shall state the finished size and not the cut size. Pillow labels shall show the percentage of filling material arrived at on a basis of avoirdupois weight. Such labels need not show weight of filling materials or gross weight.

Cushion labels

19088. Labels on decorative, boudoir and fancy cushions need not show the size and weight.

Chair Labels

19089. Slip seat chairs and benches, or upholstered stools and similar articles of upholstered furniture having a wood bottom may be legibly and indelibly stamped at the factory, in lieu of a label, with a stamp not smaller than one and one-half by three inches, approved by the bureau.

The stamp shall show or state:

(a) Whether new or secondhand. If the former, the heading shall read "All New Material." If the latter, the heading shall read "Secondhand Material."

(b) The percentages by weight of the kind, or kinds, of material used.

(c) The serial number of the manufacturer, assigned by the bureau.

Component material
See also Stats 1941, p 2990

19090. Cotton and wool batting, kapoc, feathers, downs, or any other material, or any combination thereof, concealed or not concealed, to be used in articles of bedding or upholstered furniture shall be labeled in accordance with this chapter.

Feathers

19091. All feathers and downs, excepting raw stocks sold in bulk or packages, shall be labeled with a tag or other marking upon each and every parcel setting forth the true contents according to the requirements of this chapter.

Damaged material

19092. Filling materials, which may have been damaged by fire, water, or otherwise, or improperly prepared for use shall be designated on the label as "Damaged," "Reclaimed," "Waste," "Residue," or any other proper description approved by the bureau. A white "All New Material" label may be used if the condition of the material warrants.

Pads

19093. Any material used in the form of a pad shall be designated on the label as a pad, and the label shall show grades and percentages by avoirdupois weight of every kind of material used in the pad.

Owner's material label

19094. Any person who repairs or renovates upholstered furniture or bedding either at wholesale or retail or otherwise, for any owner or customer, for his own or a tenant's use, shall attach, when completed, the "Owner's Material" label, approved by the bureau.

Same Attachment See also Stats 1941, p 2991

19095. The "Owner's Material" label shall be securely attached to the article at the factory, or shop, and it shall be fixed in position so that it may be conveniently examined.

Same Contents See also Stats 1941, p 2991

19096. The "Owner's Material" label shall show or state:

(a) This article not for sale.

(b) This article is repaired, or renovated, under the provisions of the Furniture and Bedding Inspection Act and this label is attached as required by the act as a certification that this article is as represented.

(c) That this article contains the same material as it did when it was received from the owner.

(d) In the space provided, the kind and quantity of any material added, which shall be new material.

(e) The date repaired or renovated, together with the name and address of the owner, which shall be either stamped or written in ink.

(f) The serial number of the repairer or renovator, assigned by the bureau.

Changes

19097. The wording, or any other changes, on labels necessary to carry out the provisions of this chapter shall be approved by the chief.

Tag labels

19098. The material from which furniture and bedding labels are made shall be fabric of a good quality, approved by the chief.

Statements

19099. Statements as headings required on labels by this chapter shall be in the following forms on materials approved by the chief.

(a) "All New Material"—24-point condensed gothic type on white fabric.

(b) "Secondhand Material"—24-point condensed gothic type on red fabric.

(c) "Owner's Material"—24-point condensed gothic type on green fabric.

Size of label

19100. The bedding labels shall not be smaller than three by three inches exposed.

Size of label

19101. Labels shall not be smaller than four inches by five inches for all articles of upholstered furniture having loose cushions or pillows, including studio couches, and not smaller than three inches by three inches for "Owner's Material" labels, partially upholstered furniture or furniture upholstered without loose cushions or pillows.

Cushions

19102. Decorative, boudoir and fancy cushions, or similar articles, may have labels two and one-half inches by three inches.

Print

19103. The data required by law shall be printed on one side of the label only.

No mark, tag, sticker or any other device shall be placed upon labels by any dealer or any other person in such a way as to cover the required statements.

Misleading

19104. It is unlawful to use in the description in the statement on any label any misleading term or designation, or term or designation likely to mislead.

Defacing

19105. Every person, except the purchaser for his own use, who attempts to or does remove, deface, alter, or causes to be removed, defaced or altered, the label or any mark or statement placed upon any upholstered furniture or bedding under the provisions of this chapter is guilty of a violation of this chapter.

Article 6. Sterilization

Sterilization

19120. The enforcement of all sterilization regulations approved by the California State Department of Public Health pertaining to any article subject to the provisions of this chapter is vested in the bureau.

Dirt

19121. Filthy or soiled articles of new or used upholstered furniture or filthy or soiled articles of bedding can not be sold, offered or exposed for sale unless the fabric covering them is either properly cleaned or replaced by a new covering and then subjected to sterilization if so provided for in this chapter.

License required

19122. No person shall engage in the business of sterilizing articles as provided in this chapter without first obtaining a license from the bureau. Every such person shall apply for a license and set forth the place where the sterilizer's apparatus will be located, the type and kind of equipment to be used, the names and addresses of true owners of the sterilizing business and such other data as the bureau may from time to time require. The chief shall cause an investigation to be made and if he is satisfied that the apparatus will comply with the requirements set forth for sterilization pursuant to this chapter, the license shall be issued. Inspection shall be made

from time to time to determine whether the sterilizer is fully and faithfully complying with all of the provisions and regulations promulgated as to sterilization.

Application of article

19123. The provisions of this article apply only to persons subject to the license provisions of this chapter.

Sterilization
See also Stats 1941, p 2992

19124. Every person who at wholesale or retail or otherwise receives for sterilization any upholstered furniture or bedding for resale shall sterilize all such articles in accordance with this chapter and shall affix a sterilization label, approved by the bureau, immediately after the sterilization has been completed. The label shall be securely attached to the article at the sterilizing plant as evidence that the article has been sterilized by a process approved by the California State Department of Public Health. Such label shall be fixed in position where it may be conveniently examined.

All articles required to be sterilized shall bear the sterilization label required by this chapter.

Sterilization label
See also Stats 1941, p 2992

19125. The sterilization label shall show or state:

(a) That the article has been sterilized by a process approved by the California State Department of Public Health.

(b) The lot number and serial number of the attached sterilization label.

(c) The kind of article sterilized, and a statement as to the cushions, pads and pillows belonging to or forming a part of it.

(d) The name of the person for whom sterilized.

(e) The date sterilized.

(f) The name, address and serial number of the sterilizing plant, assigned by the bureau.

Record

19126. The sterilizer shall keep a record of the above data, showing the disposition of every label. The records shall be accessible at all times to the chief and the inspectors.

Printing
See also Stats 1941, p 2992

19127. All sterilization labels shall be printed by the State and sold at cost by the bureau to licensed sterilizers only, who shall be held responsible for them. Illegal possession of any sterilization label is a violation of this chapter.

Void or mutilated labels shall be returned to the bureau.

The bureau shall keep an accurate record of the serial numbers of all sterilization labels issued.

Size

19128. The sterilization labels shall be three inches by three inches.

Headings on such labels shall be in 24-point condensed gothic type. The paper in the label shall be yellow paper approved by the chief.

Sterilized articles

19129. The following articles of secondhand upholstered furniture or bedding shall be sterilized before being offered

Sterilized articles

or exposed for sale in any manner, or leased, rented, consigned or given away:

Couches	Sleeping bags
Chesterfields	Bed box springs
Davenports	Settees, over 42 inches in length between the arms
Bed davenports	Bunk quilts
Gliders	Comforters
Duofolds	Cushions (other than chair pads)
Lounges	Feather beds
Morris chair cushions	Pillows
Studio couches	Quilted pads
Packing pads	Hammocks
Mattresses	
Mattress pads	
Upholstered baby carriages	

In addition to the foregoing articles of secondhand upholstered furniture and bedding, any other article of secondhand upholstered furniture or article of bedding that could be used for sleeping or reclining purposes, or any contaminated article of upholstered furniture or bedding shall be sterilized under the provisions of this section.

New articles
See also Stats 1941, p 2993

19130. No provision of this chapter prohibits the sale as new of any upholstered furniture made from all new materials or requires the sterilization of any such upholstered furniture where no prior use has been made thereof except for display or exhibition purposes, or in the filming of motion pictures, or by a customer of a retailer to whom said upholstered furniture has been delivered on approval and which is later returned to said retailer for credit or exchange unless in any of the foregoing cases the upholstered furniture is damaged or contaminated by such use.

Diseases

19131. Every article of upholstered furniture or bedding from any private or public hospital, jail or other institution, or which has been used by any person, suffering from an infectious or contagious disease, shall be sterilized before it is repaired or renovated.

Articles to be kept separate

19132. New or sterilized articles of upholstered furniture or bedding or materials shall at all times be kept separate from any secondhand articles or materials that are unsterilized.

Article 7. Regulations

False advertising

19150. Every person who falsely advertises or misrepresents in any way any merchandise coming under the provisions of this chapter either directly or indirectly by any medium of advertising, including false statements made on the recognized California State labels or any other label or tag attached to the merchandise in question, is guilty of a violation of this chapter.

Hair
See also Stats 1941, p 2993

19151. It is unlawful to use in the statement concerning any upholstered furniture or bedding the word "hair" unless the material so named is entirely manufactured of animals' hair.

Kapoc
See also Stats 1941, p 2993

19152. It is unlawful to use in the statement concerning any upholstered furniture or bedding the word "floss" or words of like import, if there has been used in filling such articles any material which is not termed as "kapoc."

Silk

It is unlawful to use in the description of kapoc the word "silk."

Felt

19153. Whenever the word "felt" is used in any statement required by this chapter the materials designated thereby shall be in layers as processed by felting machines, and the statement shall indicate whether the felt is "Felted staple cotton" or "Felted cotton linters" or, if any other material is felted, its name shall be indicated. Felt mixtures shall state the percentages of each kind of material used in the felt.

Dirt

19154. Any filling material to be used in the manufacture of upholstered furniture or bedding shall be free from foreign matter, dirt or trash.

Mattresses
See also Stats 1941, p 2993

19156. Mattresses or any articles of upholstered furniture or bedding received for renovation shall contain the same filling material, if same is used, when returned as it did when received, together with any material added which shall be new material unless otherwise agreed on.

Filling material belonging to upholstered furniture or bedding received for repairs, if used, shall be put back in the same furniture or bedding from which it came, or in a group received from the same customer. Such filling material shall not be used in another customer's work.

Tolerances
See also Stats 1941, p 2993

19157. The bureau shall establish grades, specifications and tolerances on the kinds and qualities of materials which are used or intended to be used in the manufacture of upholstered furniture or bedding, and may approve or adopt standard designations and rules for the proper labeling of articles filled with these materials not in conflict with any provisions of this chapter. All grades, specifications, tolerances and labeling rules shall be enforced by all inspectors.

No rule, regulation, grade, specification or tolerance promulgated by the bureau shall be operative or in effect until the rule, regulation, grade, specification or tolerance has been approved by the director.

Affixing tags

19158. Every person, upon receiving upholstered furniture or bedding for repairing or renovating shall securely affix, immediately, a tag of identification showing the owner's or dealer's name, address and the date upon which it was

received. The tag shall remain affixed until the article is to be repaired or renovated.

Violations
See also Stats 1941, p 2993

19159. A person shall not, directly or indirectly, sell any upholstered furniture or bedding made, repaired, renovated, or sterilized in violation of this chapter.

Cleanliness

19160. The premises, delivery equipment, machinery, appliances and devices of all persons licensed under this chapter shall at all times be kept free from refuse, dirt contamination, insects or vermin.

Article 8. Fees

Fee schedule
See also Stats 1941, p 2994

19170. The annual fee imposed for each license granted under this chapter shall be ascertained by reference to the following table:

Furniture manufacturer's license	$30.00
Wholesale furniture dealer's license	$30.00
Bedding manufacturer's license	$30.00
Wholesale bedding dealer's license	$30.00
Supply dealer's license	$30.00
Wholesale furniture repairer's license	$20.00
Bedding renovator's license	$20.00
Sterilizer's license	$20.00
Retail furniture dealer's license	$5.00
Retail bedding dealer's license	$5.00

Prorating

19171. All licenses applied for by a new firm during the license year shall be prorated on the monthly basis. The license period shall begin the month the person engages in business. The fee shall be paid in full up to the next July 1st. This section does not apply to any person who has been licensed during the preceding license year in any capacity.

Reclassifications

19172. Reclassification for any licensee whose license is paid for the current license year shall be obtained by paying the full license fee on the prorated basis for the entire remaining period of the license year, unless the original classification was paid for in error.

Renewal fees
See also Stats 1941, p 2994

19173. Renewal license fees, which are not paid before September 1st, shall become delinquent, and there shall be added to the requisite fee a penalty of 20 per cent. An additional 10 per cent delinquency penalty shall be added to the renewal fee remaining unpaid after December 1st.

Special Fund

19174. All fees collected under this chapter shall be reported to the State Controller and paid to the State Treasurer and credited to the Bureau of Furniture and Bedding Inspection Fund, to be expended only in carrying out this chapter.

The chief may withdraw from the fund one thousand five hundred dollars ($1,500) to be used as a revolving fund. Revolving fund

Article 9. Enforcement

19200. The chief, or any inspector has access to any premises, including those of jobbers, processors and wholesalers of filling material, or to any records held by any person containing any information pertaining to any article or material subject to this chapter, and may inspect on the premises materials intended for the manufacture of upholstered furniture or bedding, partly finished and finished articles of upholstered furniture and bedding, may open such articles, including pillows or cushions belonging to or forming a part thereof, for the purpose of inspecting concealed filling material, and may take either the entire article, or samples of filling material in such quantities as may be necessary for analysis. Inspections

19201. The chief or any inspector may determine the fitness of any secondhand or damaged article of upholstered furniture or bedding for sterilization and sale, and for any materials intended to be used in the manufacture of any article or articles of upholstered furniture or bedding. Fitness

19202. The bureau may condemn, seize or destroy any upholstered furniture or bedding which is found to be in violation of this chapter. Unfit material See also Stats. 1941, p. 2994

The bureau may condemn, seize or destroy any filling material, units or other constructural parts, intended to be used in the manufacture, repair or renovation of upholstered furniture or bedding in violation of this chapter.

19203. The tag to be affixed to any article of condemned upholstered furniture or bedding, or any material by an inspector shall be a red tag and shall contain such information as may be required by the chief. Labeling See also Stats. 1941, p. 2994

Such tag shall be three and one-quarter inches by one and five-eighths inches The headings on such tags shall be in 24-point condensed gothic type.

19204. Every person who removes, or causes to be removed any tag or device placed upon any upholstered furniture or bedding or any material, by an inspector is guilty of a violation of this chapter. Removals

19205. The failure of any person to produce upon demand of an inspector any article that has been condemned and ordered held on an inspection notice signed by such person, or an inspection notice that the person has refused to sign, is a violation of this chapter. Production

19206. No person shall interfere with, obstruct or otherwise hinder any inspector of the bureau in the performance of Interference

his duties. The chief, his deputies, and assistants, and all inspectors in the performance of their official duties, shall have the same powers as are possessed by peace officers in this State.

Prosecutions
See also Stats 1941, p 2094

19207. Any inspector having knowledge of a violation of any of the provisions of this chapter shall notify the chief of the violation, or cause the violator to be prosecuted.

Citations
See also Stats 1941, p 2095

19208. The chief, or any inspector, may cite any person engaged in manufacturing, repairing, renovating, sterilizing or selling any upholstered furniture or bedding or materials intended to be used in its manufacture, repair, or renovation, to a hearing before the chief or the inspector to show cause why he should not be subject to disciplinary action or prosecution for any act or omission in violation of this chapter.

Article 10. Penalties

Penalty

19220. Every person who violates any of the provisions of this chapter is guilty of a misdemeanor and punishable for each offense by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by imprisonment for not less than three nor more than six months or by both such fine and imprisonment.

Unit of offense

19221. The unit for a separate and distinct offense in violation of this chapter is each and every article of improperly labeled, or not labeled, upholstered furniture or bedding made, repaired, recovered, renovated, sterilized, sold, exposed or offered for sale, delivered, consigned, rented, or possessed with intent to sell contrary to the provisions of this chapter.

Responsibility for compliance with this chapter rests not only with the manufacturer but also with any person having in his possession any article of bedding or upholstered furniture contrary to the provisions of this chapter.

New section

SEC. 2. Section 30030 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeal
Stats 1939, p 2573

30030. Chapter 918 of the Statutes of 1939 at page 2573, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

CHAPTER 47

An act to add Chapter 4, comprising Sections 19400 to 19663, inclusive, to Division 8 and to add Section 30034 to the Business and Professions Code, thereby consolidating and revising the law relating to the regulation of horse racing, horse race meetings and wagering on the results thereof, and repealing acts and parts of acts specified herein.

Stats. 1937, p. 1229, amended

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

In effect September 13, 1941

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

SECTION 1. Chapter 4, comprising Sections 19400 to 19663, inclusive, is hereby added to Division 8 of the Business and Professions Code, to read as follows:

New chapter

CHAPTER 4. HORSE RACING

Article 1. General Provisions

19400. As used in this chapter:

Definitions

"Board" means the California Horse Racing Board.

"Secretary" means the secretary of the California Horse Racing Board.

"Fund" means the Fair and Exposition Fund.

Article 2. Administration

19420. The jurisdiction and supervision over meetings in this State where horse races on the result of which there is wagering are held or conducted and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board.

Supervision

The board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter.

19421. The board consists of three members, appointed by the Governor.

Members of board

Members shall hold office for a term of four years, commencing at the expiration of the previous term.

The term of the members of the board in office when this chapter takes effect shall expire as follows: One member July 26, 1943, one member July 26, 1944, and one member July 26, 1945. The terms shall expire in the same relative order as to each member as the term for which he holds office before this chapter takes effect.

Vacancies shall be filled by the Governor for the unexpired term. Each member of the board shall be eligible for reappointment in the discretion of the Governor.

Residence 19422. Each member of the board shall have been a resident of this State for two years next preceding his appointment.

Disqualification 19423. Every person who holds any financial interest in a race track or in the operation thereof within this State or in the operation of licensed wagering on the results of races, or who accepts any pecuniary reward from any race track in this State or from its operation or from the operation of licensed wagering on the result of races is disqualified for membership on the board or appointment or employment by the board.

19424. No board member is disqualified to receive a share of any purse awarded him as the result of any race or as a breeder of California-bred horses.

Compensation 19425. The members of the board shall serve without compensation other than their necessary traveling expenses.

Removal 19426. The Governor may remove any board member for cause, first giving the member a copy of the charges against him and an opportunity to be heard.

Subpena 19427. The board may summon witnesses before it and administer oaths or affirmations to such witnesses whenever, in the judgment of the board, it may be necessary for the effectual discharge of its duties. Any person failing to appear before the board at the time and place specified, in answer to the summons or refusing to testify, is guilty of a misdemeanor.

Records 19428. The board may require that the books and financial or other statements of any person, corporation or association licensed under the provisions of this chapter shall be kept in any manner which to the board may seem best.

Enforcement 19429. The board may visit, investigate, and place expert accountants and such other persons as it may deem necessary in the offices, tracks or places of business of any such person, corporation or association, for the purpose of satisfying itself that the board's rules and regulations are strictly complied with.

Subpenas 19430. The board may compel the production of any and all books, memoranda or documents showing the receipts and disbursements of any person, corporation or association licensed under the provisions of this chapter.

Office 19431. The board shall maintain a general office for the transaction of its business in the City of Sacramento. The board may hold meetings at any other place when the convenience of the members of the board requires.

A majority of the board constitutes a quorum for the transaction of business or for the exercise of any power of the board. Quorum

19432. The board shall biennially make a full report to the Legislature of its proceedings for the two years ending with the first day of December, preceding the meeting of the Legislature, and shall embody therein such recommendations as it deems desirable. Report

19433. The board shall appoint a secretary who shall be placed under bond, the cost of the bond to be charged as a part of the necessary expenses of the board. Secretary
See also Stats. 1941, p. 3129

19434. The secretary shall keep a full and true record of all proceedings of the board, preserve at the general office all books, documents and papers of the board, prepare for service such notices and other papers as may be required of him by the board, and perform such other duties as the board may prescribe. Proceedings

19435. The secretary may, under the direction of the board, issue subpenas for the attendance of witnesses before the board with the same effect as if they were issued in an action in the superior court, and may, under direction of the board, administer oaths, in all matters pertaining to the duties of his office or connected with the administration of the affairs of the board. Subpenas

19436. Disobedience of a subpena issued by the secretary and false swearing before such secretary shall be attended by the same consequence and shall be subject to the same penalties as if such disobedience or false swearing occurred in an action in the superior court. Disobedience

19437. The board shall appoint such employees as may be necessary to carry out the provisions of this chapter. Employees

19438. The salaries of the secretary and of the other employees of the board, and the necessary traveling expenses and other expenses of the secretary and members of the board shall be paid monthly by the State Treasurer on the warrant of the State Controller and the certification of the chairman of the board out of the money appropriated to be used therefor. Appropriation

Article 3. Licenses Generally

19460. All licenses granted under this chapter are subject to all rules, regulations and conditions from time to time prescribed by the board and shall contain such conditions as are deemed necessary or desirable by the board for the purposes of this chapter. Licenses

Revocation

19461. All licenses granted under this chapter are subject to suspension or revocation by the board in any case where the board has reason to believe that any condition of its license has not been complied with or that any law or any rule or regulation of the board has been broken or violated.

Publicity

19462. If any license is suspended or revoked, the board shall state publicly its reasons for so doing and shall cause an entry of such reasons to be made on the minute book of the board.

Review

19463. The action of the board in revoking or suspending a license issued under this chapter is final, except that the propriety of such action is subject to review, upon questions of law only, by the superior court of the county within which such license was to be exercised. The action of the board shall stand unless and until reversed by the court.

Article 4. Licenses for Track Operators

Track licenses

19480. The board may issue to any person who makes application therefor in writing, who has complied with the provisions of this chapter and who makes the deposit to secure payment of the license fee required by this article a license to conduct a horse racing meeting in accordance with this chapter at the place, inclosure or track specified in the application.

Place of meeting

19481. Every license issued under this article shall specify the person, association or corporation to whom the license is issued, the place, inclosure or track where such horse racing meeting is to be held or conducted, and the days and hours of the day upon which the meeting will be permitted, and shall recite the payment to and receipt by the board of the deposit to secure the payment of license fees provided for in this chapter.

Transfer

19482. No license issued under this article shall be transferable nor shall it apply to any place, track or inclosure except the one specified in the license.

Deposit

See also Stats 1941, p 3130

19483. Each application for a license to conduct a horse racing meeting shall be accompanied by a certified check payable to the Treasurer of the State of California, as ex officio treasurer of the board, in either of the following sums, dependent upon the classification of the county where the meeting is to be held.

Counties of the first class ---------- $10,000
Counties of the second class ---------- $10,000
Counties of the third class, at the rate of fifty dollars ($50) per day for such racing meeting.

Deposit fee

19484. No deposit fee shall be required for horse racing meetings conducted by a county fair or by a district agricultural association.

License fee
See also Stats. 1941, p. 3130

19485. Every licensee under this article conducting a horse racing meeting shall pay a license fee consisting of 4 per cent of all money handled in the pari-mutuel pools. The payment of the license fee shall be made by the licensee daily during each racing meeting.

Return of deposit

19486. When the horse racing meeting for which the license is granted has terminated, if the licensee has fully paid the license fee required by this article, the sum deposited with the application for a license shall be returned to the licensee.

If the licensee fails, refuses or neglects to pay the license fee required by this article, the amount thereof shall be deducted from the sum deposited with the application for a license and the balance if any shall be returned to the licensee.

Change in days

19487. If by reason of any cause beyond control, and through no fault or neglect of any licensee, and when such licensee is not in default, it becomes impossible for the licensee to hold or conduct racing upon any date or dates licensed by the board, the board in its discretion and at the request of the licensee may return the fees paid by the licensee for racing upon the days upon which it is impossible for such licensee to hold or conduct racing or may specify any other day or days which may replace the days omitted and take their place.

Local taxes

19488. No license or excise tax or fee in excess of one hundred dollars ($100) for each racing day, except as provided in this chapter, shall be assessed or collected from any licensee by the State or by any town, district, city, township, village or any other body having the power to assess or collect a tax, license or fee.

County fairs

19489. Except as provided in this chapter no tax, license or fee shall be assessed or collected from any district agricultural association or any county fair conducting horse racing meetings, except when such meetings are conducted for such district agricultural association or county fair by a private person, firm or corporation.

Article 5. Other Licensees

Employees

19510. All horse owners, riders, agents, trainers, stewards, starters, timers, judges and others acting as officials at any horse racing meeting, including all employees of the pari-mutuel department, shall be licensed by the board, pursuant to such rules and regulations as the board may adopt, and upon the payment of a license fee as fixed and determined by the board.

Period 19511. All licenses under this article shall be granted for a period of one year and shall be valid at all horse racing meetings in this State during that period.

Revocation 19512. All licenses issued under this article are subject to revocation and no person shall be eligible to or permitted to participate in any horse racing meeting unless at the time he holds a valid and unrevoked license for that form of participation.

Just cause 19513. No qualified person shall be refused a license under this article nor shall a license be revoked without just cause.

Residents 19514. At least 90 per cent of all employees in the parimutuel department of any track shall have been residents or registered voters of this State for at least two years prior to the issuance of a license to them or any of them.

Registered voter 19515. No license shall be issued by the board to any person who is eligible to vote in this State who has not registered as a voter in this State.

Dishonesty 19516. The board may at any time require the removal of any employee or official employed by any licensee hereunder in any case where it has reason to believe that the employee or official has been guilty of any dishonest practice in connection with horse racing and has failed to comply with any condition of such licensee's license, or has violated any law or any rule or regulation of the board.

Article 6. Racing Days

Counties classified See also Stats 1941, p 3130 19530. For the purpose of this chapter there are three classes of counties in the State of California, as follows:

1. Counties of the first class are those having a population of 1,000,000 or over;

2. Counties of the second class are those having a population of 600,000 or over and less than 1,000,000;

3. Counties of the third class are those counties having a population of less than 600,000.

Racing days 19531. In each county of the first class the board may allow not to exceed 100 racing days per year.

Same See also Stats 1941, p 3130 19532 In the area embraced within each county of the second class and such territory as may lie within 20 miles from the exterior boundaries thereof, the board may allow not to exceed 100 racing days per year for the entire area and county.

Size of track 19533. In counties and areas of the first and second classes no license shall be granted to conduct a horse race meeting

upon a track less than one mile in circumference or length, to any applicant except to a county fair or a rodeo.

The period for which licenses may be issued under this section shall not in any such county or area exceed 14 racing days.

Racing days allowed by the board under this section in any county or area of the first or second class, shall not diminish the 100 days racing per year permitted to be allowed to tracks of one mile or more in circumference or length by the preceding sections of this article.

Counties of third class

19534. In each county of the third class, but outside the additional area included in counties of the second class, the board may allow not to exceed 14 racing days per year in each county.

In addition, in counties of the third class having a population of over 200,000, but outside of the additional area included in counties of the second class, the board may allow not to exceed 25 racing days additional per year.

Size of track

19535. In counties of the third class licenses may be granted in the discretion of the board to conduct race meetings on tracks of less than a mile in circumference or length.

19536. No license shall be granted to any county fair or rodeo unless the track upon which horse racing would be held, is less than one mile in circumference or length.

Apportioning days
See also Stats 1941, p 3131

19537. The board may apportion racing days, not to exceed the maximum number of racing days permitted in the respective counties and areas to one or more licensees as in its judgment appears to be for the best interests of legitimate racing and of the public.

Article 7. Regulation Generally

Compliance

19560. No person, association or corporation shall hold or conduct or assist, aid or abet in holding or conducting, any meeting within this State where there is horse racing with wagering on the results thereof unless such person, association or corporation complies with this chapter.

Rules

19561. The board may prescribe rules, regulations and conditions consistent with the provisions of this chapter under which all horse races, upon the results of which there is wagering, shall be conducted within this State.

Breeding encouraged
See also Stats 1941, p 3131

19562. It is hereby declared that since the purpose of this chapter is the encouragement of agriculture and the breeding of horses in this State 3 per cent of the first money of every purse won by an animal bred in this State shall be paid to the breeder of such animal.

Every licensee shall run at least one race each racing day which shall be limited to horses foaled in California. If, however, sufficient competition can not be had among such class of horses, the race may be eliminated for the day and a substitute race provided.

Hours 19563. No horse races shall be held except during daylight hours.

Article 8. Wagering

Pari-mutuel wagering 19590. The board shall make rules governing, permitting and regulating mutual wagering on horse races under the system known as the pari-mutuel method of wagering, which shall be conducted only by the licensee and only within the inclosure and only on the dates for which horse racing has been licensed by the board.

Space for 19591. Any licensee conducting a horse racing meeting shall provide a place or places in the meeting grounds or inclosure at which such licensee may conduct, operate and supervise the pari-mutuel method of wagering upon the results of the races conducted within its inclosure.

Equipment 19592. The pari-mutuel system of wagering shall be operated only by the installation and use of the totalisator or such other mechanical equipment as may be approved by the board. The board shall not require any particular make of mechanical equipment.

19593. No other method of betting, pool making or wagering shall be permitted or used by the licensee under this chapter.

Wagering 19594. Any person within the inclosure of a horse racing meeting may wager on the result of a horse race held at that meeting by contributing his money to the pari-mutuel pool operated by the licensee under this chapter. Such wagering shall not be unlawful, any other statute of the State of California to the contrary notwithstanding.

Wagering by agent 19595. A wager made inside an inclosure under the pari-mutuel system for a principal who is not within the inclosure shall be considered a wager made within the inclosure for the purpose of this chapter and any activity of the principal in connection with such wager shall not be considered a wager made outside the inclosure.

Prohibition 19596. All other forms of wagering or betting on the result of a horse race are illegal and any and all wagering or betting on horse races outside the inclosure where such horse races are licensed by the board is illegal.

19597. The commission deducted by any licensee from pari-mutuel pools shall not exceed 8 per cent of the gross amount of money handled, and the odd cents of all redistributions made on all mutual contributions exceeding a sum equal to the next lowest multiple of 10. The amount deducted by the licensee shall be in addition to the license fee required by this chapter. Commission
See also Stats 1941, p 3132

Article 9. Revenue

19620. All fees, commissions, and other moneys received by the board shall be paid into the State Treasury immediately upon receipt and credited to a special fund hereby continued in existence, known as the "Fair and Exposition Fund." Fair and Exposition Fund
See also Stats 1941, p 3133

19621. There is hereby appropriated annually out of the fund the following: Thirty thousand dollars ($30,000) to the board to defray the expenses of the officers and employees provided for herein; and ten thousand dollars ($10,000) to the Department of Finance for supervision and auditing of district agricultural fairs and district agricultural associations. Appropriation
See also Stats 1941, p 3133

19622. There is hereby annually appropriated out of the fund the following: (i) one hundred twenty-five thousand dollars ($125,000) for the support of the California State Fair; (ii) one hundred twenty-five thousand dollars ($125,000) to the Los Angeles County Fair; and (iii) fifteen thousand dollars ($15,000) to the Sixth District Agricultural Association of the State of California, for the purpose of holding a permanent exposition and exhibition of all citrus products and of all of the industries and industrial enterprises, resources, and products of every kind and nature of the State of California, with a view of improving, exploiting, encouraging and stimulating such industries, resources and products, and for the support of the buildings and grounds and other property of the Sixth District Agricultural Association. No admission fee shall be charged by such exposition. Same

The money apportioned to the Los Angeles County Fair under this section may be expended for the payment of premiums, and, with the approval of the Department of Finance, for capital outlay, including purchase of land, construction, improvements and equipment for such fair.

19623. The balance of the money remaining in the fund after the deduction of the moneys appropriated by the foregoing sections of this article, shall constitute the first balance of the fund. First balance

Appropriation of first balance
See also Stats 1941, p 3133

19624. The first balance of the fund is hereby annually appropriated as follows: Five per cent for payment to and use

of those certain fruit fairs defined in Section 94 of the Agricultural Code, but not to district agricultural associations or county fairs, to be apportioned between such citrus fruit fairs upon the basis of the population of the several counties in which such fairs are held, and if only one such fair is held, then it shall receive all of the appropriation; 40 per cent for the encouragement of county, district, or combined county and district agricultural fairs (exclusive of the Los Angeles County Fair, the Sixth District Agricultural Association and citrus fruit fairs) to be apportioned by and expended under the supervision of the Department of Finance in the manner and for the purpose prescribed by Section 92 of the Agricultural Code and other applicable provisions of law.

No county, district or combined county and district agricultural fair shall receive a sum greater than sixty-five thousand dollars ($65,000) from the fund in any one year. If in any year the sum appropriated to county, district or combined county and district agricultural fairs under this section is less than two hundred twelve thousand one hundred seventy-two dollars and seventy-nine cents ($212,172.79), then during that year the apportionment to all fairs shall be made in the manner and upon the basis prescribed by Section 13 of Chapter 769 of the Statutes of 1933 and by Section 92 of the Agricultural Code.

Second balance

19625. The money remaining in the fund after the deduction of the amount appropriated by the preceding sections of this article shall constitute the second balance of the fund.

Appropriation of second balance

19626. The second balance of the fund is hereby allocated for expenditure without regard to fiscal years, as follows: Twenty-five per cent for permanent improvements at, or support of, the California Polytechnic School; 33 per cent for permanent improvements at, or support of, the University of California; the remainder for permanent improvements upon the property of the State, citrus, county, or district agricultural associations for fair purposes, in such amounts as may be allocated by executive order of the Director of Finance.

Article 10. Penalties

Penalty

19660. Any corporation, organization, association or person who directly or indirectly holds any horse racing meeting with mutual pools on the result thereof, without having first procured a license under this chapter, is guilty of a misdemeanor.

Same

19661. Any corporation, organization, association or person who violates any of the provisions of this chapter, for which a penalty is not herein expressly provided, is guilty of a misdemeanor.

19662. Any person wagering upon the results of a horse race, except in the pari-mutuel or mutual method of wagering, when the wagering is conducted by a licensee and upon the grounds or inclosure of the licensee, shall be punished as provided in the Penal Code. Penalty

19663. The Attorney General of this State and the district attorneys of the respective counties thereof shall enforce this chapter. Enforcement

SEC. 2. Section 30034 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30034. Chapter 769 of the Statutes of 1933 at page 2046, together with all acts amendatory thereof and supplementary thereto, is hereby repealed. Repeal Stats 1933, p 2046

CHAPTER 48

An act to add Chapter 6, comprising Sections 20500 to 20502, inclusive, to Division 8, and to add Section 30035 to Division 30, of the Business and Professions Code, thereby consolidating and revising the law relating to the adulteration of paints, oil, varnishes and pigments, and repealing acts and parts of acts specified herein. Stats 1937, p 1229, amended

[Approved by Governor March 19, 1941 Filed with Secretary of State March 19, 1941] In effect September 13, 1941

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

SECTION 1. Chapter 6, comprising Sections 20500 to 20502, inclusive, is hereby added to Division 8 of the Business and Professions Code, to read as follows: New chapter

CHAPTER 6. PAINTS

20500. No person shall within this State manufacture for sale, offer for sale or sell any article, mixture, compound or substance, used in making paints, oils, varnishes or pigments, which is adulterated within the meaning of this chapter. Adulterated paints

20501. An article under this chapter is adulterated within the meaning of this chapter: "Adulterated" defined

(a) In case of oils, turpentines, alcohol or other vehicles under any of the following circumstances:

(1) If it contains any other substance or ingredient different from the article under the name of which it is offered for sale or sold.

(2) If any substance has been mixed with it so as to lower, depreciate or injuriously affect the quality, strength or purity of the article.

(3) If any inferior or cheaper substance or substances have been substituted wholly or in part for it.

(4) If it is an imitation, or is sold under the name of any other article.

(b) In case of lead, zinc, ocher or other metal, mineral or chemical paints, or any or other pigments in paste form and labeled pure, used in the painting or decorating industry under any of the following circumstances:

(1) If any substance which lowers, depreciates or injuriously affects the quality, strength or purity of the article has been mixed with it, or substituted wholly or in part for it.

(2) If it is an imitation of any other article.

Penalty 20502. Every person who adulterates or dilutes any article mentioned in this chapter and sells or offers for sale the same so diluted or adulterated, as undiluted and unadulterated, every person who sells or offers for sale a different article without informing the purchaser of such difference, and every person who violates any of the provisions of this chapter is guilty of a misdemeanor.

New section SEC. 2. Section 30035 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeal: Stats 1907, p 852 30035. Chapter 467 of the Statutes of 1907 at page 852, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

CHAPTER 49

Stats 1937, p 1229, amended *An act to add Chapter 8, comprising Sections 21200 to 21290, inclusive, to Division 8 and to add Section 30037 to Division 30, of the Business and Professions Code, thereby consolidating and revising the law relating to the sale, disposition of, and regulation of prophylactics, and repealing acts and parts of acts specified herein.*

In effect September 13, 1941 [Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New chapter SECTION 1. Chapter 8, comprising Sections 21200 to 21290, inclusive, is hereby added to Division 8 of the Business and Professions Code, to read as follows:

CHAPTER 8. PROPHYLACTICS

Article 1. General Provisions

Construction 21200. Definitions of terms in this chapter shall not affect the construction of the same terms elsewhere in this code.

21201. "Person" includes firm, association, partnership or corporation. "Person"

21202. "Pharmacy" includes any person operating a retail drug store, a pharmacy or drug department who complies with the requirements of Chapter 9 of Division 2 of this code, relating to pharmacy and who has a permit to operate issued by the board. "Pharmacy"

21203. "Wholesaler" includes any person operating as a wholesale druggist, manufacturer or surgical supply house, recognized by the board through the granting of a license to sell prophylactics for purposes of resale. "Wholesaler"

21204. "Retailer" includes any person operating a pharmacy recognized by the board through the granting of a license to sell prophylactics for use in the prevention of venereal disease. "Retailer"

21205. "Physician" includes any person who holds a certificate issued by the State Board of Medical Examiners or the State Board of Osteopathic Examiners. "Physician"

21206. "Board" means the California State Board of Pharmacy. "Board"

21207. "Prophylactic" includes any device, appliance, or medicinal agent used in the prevention of venereal disease. "Prophylactic"

21208. The board shall administer and enforce this chapter. It shall issue licenses and shall promulgate and issue rules and regulations not inconsistent with this chapter. Administration

21209. The board may cause the arrest of any person who violates any provision of this chapter. Arrest

21210. Disposition of prophylactics by physicians are exempt from this chapter when such disposition is made in the regular practice of their profession and to their patients, in the manner specified for a licensee. Disposition

Article 2. Licensing

21220. The board shall issue wholesale and retail licenses to persons qualifying therefor under this chapter. Licenses

21221. The fee for a wholesale license shall be fifty dollars ($50). Fees

21222. The fee for a retail license shall be two dollars ($2).

Retail license

21223. A retail license shall be issued only to pharmacies and rural dealers licensed by the board under Chapter 9 of Division 2 of this code relating to pharmacy.

Renewals

21224. Every license issued under this chapter shall be valid for one year and shall be renewed annually.

Transfer

21225. A license under this chapter may be transferred with the written consent of the board.

Revocation

21226. The board may revoke the license of any licensee who violates any provision of this chapter.

Separate license

21227. A separate license shall be obtained by the licensee for each separate location where prophylactics are sold by him.

21228. No person shall hold both a wholesale and retail license for any one address or location.

Article 3. Standards

Sheath

21240. All sheath prophylactics shall be nonporous.

Names

21241. All sheath prophylactics shall bear the manufacturer's name, address and trade-mark. Such name, address, and trade-mark shall have previously been registered with the board by the manufacturer.

Construction

21242. All prophylactics shall be constructed of such material that their efficacy shall not be destroyed by the application of lubricants commonly used in connection therewith, including prophylactic ointments, petroleum jellies, mineral oils, or lubricating creams.

Standards

21243. The board shall adopt and promulgate from time to time, and shall have jurisdiction over, the establishing of such standards relating to and governing prophylactics as are deemed necessary by it in the interest of disease prevention.

Seizures

21244. The board shall seize any prophylactic not conforming to the standard under this chapter.

Article 4. Regulation

Disposition

21260. It is unlawful for any person other than a licensee under this chapter to sell, give away or otherwise dispose of prophylactics. Such licensee may dispose of prophylactics only under the conditions specified in this article.

Wholesalers

21261. Licensed wholesalers may sell in the usual manner of conducting sales at wholesale, but only to other licensees.

Such wholesalers shall place upon the invoice in connection with such sale the license number of the purchaser and their own license numbers.

Wholesale rules

21262. The manufacturer who has a wholesaler license shall follow the rule of this chapter regulating sales by wholesalers in selling to either a wholesale or a retail licensee under this chapter.

Sales

21263. No licensed wholesaler shall sell any prophylactics unless such prophylactics bear the manufacturer's name, address and trade-mark.

21264. Nothing in this article prevents a licensed wholesaler from selling prophylactics to physicians.

Retailer

21265. A licensed retailer may sell to other licensees, to physicians or upon their order, to any married person or to any other person over 18 years of age.

Place of sale

21266. Sales of prophylactics by a licensed retailer shall be confined to the place of business for which his license has been granted. Deliveries of prophylactics may be made to purchasers by such retailer or his agent to any designated address.

21267. No licensed retailer shall sell any prophylactic except upon a prescription, unless such prophylactic specifically identifies the manufacturer thereof.

Displays

21268. It is unlawful for any person to display or expose for sale any prophylactic, or any containers or packages containing or advertising prophylactics.

Devices

21269. The use of any mechanical device or vending machine in connection with the sales or disposition of prophylactics is unlawful.

21270. The board shall seize any mechanical device or vending machine containing any prophylactic. The owner of such machine, and the occupier of the premises where seizure is made, may be charged with a violation of this chapter.

Article 5. Revenue

Deposit of fees

21280. The amount of all fees and one-half of all fines collected under this chapter shall be reported each month for the month preceding to the State Controller and at the same time such amount shall be paid into the State Treasury and shall be credited to the Pharmacy Board Contingent Fund.

The other one-half of fines collected under this chapter shall be deposited in the general fund of the county or city

whose funds are used for the support of the court in which the prosecution was had.

Appropriation

21281. The board shall have the use of all moneys paid into the Pharmacy Board Contingent Fund under this chapter for the enforcement of this chapter.

Article 6. Penalties

Penalty

21290. Any person who violates any provision of this chapter is guilty of a misdemeanor.

New section

SEC. 2. Section 30037 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeal
Stats 1937, p 1861

30037. Chapter 669 of the Statutes of 1937 at page 1861, together with all acts amendatory thereof and supplementary thereto, is hereby repealed.

CHAPTER 50

Stats 1937, p 1229, amended

An act to add Chapter 9, comprising Sections 21500 to 21556, to Division 8, and to add Section 30038 to Division 30, of the Business and Professions Code, thereby consolidating and revising the law relating to the regulation of sale or disposition of secondhand goods, and repealing acts and parts of acts specified herein.

In effect September 13, 1941

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.]

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

New chapter

SECTION 1. Chapter 9, comprising Sections 21500 to 21556, is hereby added to Division 8 of the Business and Professions Code, to read as follows:

CHAPTER 9. SECONDHAND GOODS

Article 1. Watches

Definitions

21500. As used in this article:

(a) "Person" means an individual, firm, partnership, association or corporation engaged in the business of selling watches.

(b) "Consumer" means an individual, firm, partnership, association or corporation who buys for his own use, or for the use of another, but not for resale.

21501. Except as provided in this article "secondhand watch" means any of the following:

(a) A watch which, as a whole, or the case thereof, or the movement thereof, has been sold to a consumer.

(b) Any watch whose case or movement, serial numbers or other distinguishing numbers or identification marks have been erased, defaced, removed, altered or covered.

Returns

21502. A watch which is returned to the same person who sold the watch to the consumer, either through an exchange or for credit, within one year from the date of the original sale, if such seller keeps a written record of such sales, is not subject to the provisions of this article, unless the case, movement, serial number or other distinguishing identification marks have been removed.

Records

21503. The written record referred to in this article shall contain all of the following information:

(a) The name and address of the consumer.

(b) The date of the sale to the consumer.

(c) The name of the watch or its maker.

(d) The serial number of the watch, if any, on its case or movement or any other distinguishing numbers or identification marks.

Retention

21504. The written record referred to in this article shall be kept for at least three years from the date of the original sale of the watch. Such record shall be open for inspection during all business hours by the district attorney or his representative, of the county in which the vendor is engaged in business.

Tags

21505. Any person who sells, exchanges, offers to sell or exchange, exposes for sale or exchange, or possesses with intent to sell or exchange, a secondhand watch, shall affix and keep affixed to the same a tag with the words "secondhand" legibly written or printed thereon in the English language.

Sales of watches

21506. Any person who sells a secondhand watch shall deliver to the vendee a written invoice setting forth the name and address of the vendor, the name and address of the vendee, the date of the sale, the name of the watch or its maker, and the serial numbers, if any, or other distinguishing numbers or identification marks on its case and movement. If the serial numbers, or other distinguishing numbers or identification marks have been erased, defaced, removed, altered or covered, this shall be set forth in the invoice.

Invoice duplicate

21507. A duplicate of the invoice required by this article shall be kept on file by the vendor of the secondhand watch for at least one year from the date of the sale thereof and shall be open to inspection during all business hours by the district attorney, or his representative, of the county in which the vendor is engaged in business.

Advertising

21508. Any person advertising in any manner secondhand watches for sale shall state clearly in such advertising that the watches so advertised are secondhand watches.

Penalty

21509. Violation of this article is a misdemeanor.

Article 2. Builders' Tools

Definitions

21550. "Person" as used in this article includes firm and corporation.

"Builders' tools" as used in this chapter includes all tools customarily used in the construction, alteration, or repair of buildings.

Contents of register

21551. Every person dealing in secondhand goods, wares or merchandise, either as pawnbroker or otherwise, who buys or receives as a pledge any builders' tools shall keep a register in which shall be entered all of the following:

(a) The place, date and hour of the sale or pledge of any such tools.

(b) The name, address and description of the seller or pledgor.

(c) A description of the tools, including all numbers, letters, names and other identification marks appearing thereon.

(d) The name and address of the individual to whom such tools were sold or pledged.

Disposal of tools

21552. Whenever any person referred to in this article ships or otherwise transmits any builders' tools bought or received as a pledge, to any place outside the county in which the tools were so bought or so received, such person shall enter in the register required to be kept by this article the date on which such tools were shipped or otherwise transmitted, and the name and the place of business or residence of the person to whom such tools were so shipped or transmitted.

Police report

21553. Every person referred to in this article shall each day, except legal holidays, deliver a full, true and complete copy of the register required to be kept by this article to the chief of police, city marshal, town marshal, or other head of the police department of the city, city and county, town, or other municipality or district wherein such builders' tools were bought or received in pledge.

21554. The report shall include references to all builders' tools bought or received as a pledge or shipped or otherwise transmitted since the preceding report.

Report to sheriff

21555. If there is no police department in the municipality or district in which builders' tools are bought or received in pledge, or from which they are shipped or otherwise transmitted, the report required by this article shall be

delivered or mailed each day, except legal holidays, to the sheriff of the county.

21556. Any person who violates this chapter is guilty of a misdemeanor. Penalty

SEC. 2. Section 30038 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30038. The following acts, together with all acts amendatory thereof and supplementary thereto, are hereby repealed: Repeals

GENERAL LAWS

Year	Chapter	Page
1937	845	2364
1925	311	508

CHAPTER 51

An act to repeal Article 2 of Chapter 4, Part 2, Division 1 of the Insurance Code; to add a new article to said Chapter 4, to be numbered Article 2, comprising Sections 1580 to 1599, inclusive, relating to alien insurers; declaring the urgency thereof, and providing that it shall take effect immediately. Stats 1935, p 496, amended

[Approved by Governor March 19, 1941. Filed with Secretary of State March 19, 1941.] In effect September 13, 1941

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

SECTION 1. Article 2 of Chapter 4, Part 2, Division 1 of the Insurance Code is hereby repealed. Stats 1935, p 574

SEC. 2. Article 2 is hereby added to Chapter 4, Part 2, Division 1 of the Insurance Code, to read as follows: New article

Article 2. Alien Insurers

1580. As used in this article, the term "alien insurer" means a foreign insurer organized under the laws of any jurisdiction other than a State of the United States. "Alien insurer" defined

1581. Except as otherwise expressly provided for particular insurers, an alien insurer shall not transact any insurance in this State without first making the deposit required by this article nor, subject to the exception specified in Section 1582, without first complying with all other provisions of this article. Deposit required

1582. An alien insurer transacting insurance in this State at the time this article takes effect shall not, after 90 days Compliance with article

from the effective date hereof, transact insurance in this State without first complying with all provisions of this article.

Conditions of deposit

1583. The deposit required by Section 1581

(a) Shall be continuously maintained so long as any obligation arising out of any insurance transacted by such alien insurer in the United States remains in existence for any purpose whatever;

(b) Shall consist of securities authorized for investment of the assets of domestic incorporated insurers;

(c) Shall be in addition to any deposits required by law for purposes other than those specified in Section 1586;

(d) May be made with the insurance authority, or with the auditor, controller or general fiscal officer of any State of the United States in which such alien insurer is authorized to transact insurance, or otherwise held in trust as provided by the laws of the State of deposit, for the purposes specified in Section 1586.

Amount of deposit

1584. The amount of such deposit shall be equal to the minimum amount of the paid-in capital required of incorporated insurers issuing policies on a reserve basis and doing the same classes of insurance for which such alien insurer is admitted. Such deposit may be treated as a part of the assets of the depositing insurer. For the purpose of computing the amount of the deposit, the value of the securities shall not be estimated in excess of the par value nor of the market value thereof.

Deposit in other State

1585. If such deposit is not so maintained in this State, it shall be deemed to be in existence as required by this article only when a certificate, issued by the proper authority of the State of deposit and showing in detail the constituent securities thereof and the purpose thereof, is delivered to the commissioner at least annually and at such other times as may be required by the commissioner.

Deposit for all policyholders and creditors

1586. Such deposit, if maintained in this State, shall be for the benefit and security of all the policyholders and creditors of such alien insurer in the United States, and if maintained in another State, for the benefit and security of all the policyholders, or of all the policyholders and creditors, of such alien insurer in the United States.

Deposit of securities

1587. Securities deposited with the commissioner pursuant to this article shall be specially deposited by him in the State Treasury, in packages marked with the name of the insurer from whom the securities were received.

Income from securities

1588. As long as the depositing insurer is solvent and the deposited securities are sufficient under this article, it may collect the income on the deposited securities. From

time to time it may withdraw such securities if it deposits other securities, of the character and value specified in this article in the stead of those to be withdrawn, but deposited securities shall not be withdrawn from the State Treasury except upon the written order of the depositing insurer, indorsed by the commissioner or, if such indorsement is refused, under the authority of some court of competent jurisdiction.

Certificate of deposit

1589. Whenever such a deposit is made with the commissioner, he shall issue to the depositing insurer a certificate under his official seal stating the items and amount of securities so deposited, and their value, to the best of his knowledge. In case of withdrawal and substitution, he shall issue a supplemental certificate of similar nature.

Supplemental certificate

Fee

1590. The commissioner shall require the payment of five dollars ($5) in lawful money of the United States, in advance, as a fee for issuing a certificate of deposit of securities or filing a certificate of deposit of securities, under this article.

Statement of condition

1591. In addition to complying with all other applicable requirements of this code, every admitted alien insurer shall, on or before the first day of March in each year after the year 1941, file with the commissioner a statement on a form prescribed by him, showing as of the thirty-first day of December then next preceding, the following information:

"General State deposits"

(a) All of its assets within the United States on deposit with officers of any State thereof for the benefit and security of all the policyholders, or of all the policyholders and creditors, of such alien insurer within the United States. Such assets so deposited are designated "general State deposits."

"Special State deposits"

(b) All of its assets within the United States, other than general State deposits, on deposit with officers of any State thereof for the benefit and security of all or, as the case may be, certain classes of, the policyholders, or policyholders and creditors, of such alien insurer within the State of deposit. Such assets so deposited are designated "special State deposits." The value to be allowed in such statement for any special State deposit shall not exceed the liability secured thereby.

"Trusteed assets"

(c) All of its assets within the United States, other than general State deposits and special State deposits, held by any trustee for the benefit and security of all the policyholders, or of all the policyholders and creditors, of such alien insurer within the United States. Such assets so held are designated "trusteed assets."

Interest receivable

(d) The amount of interest receivable, accrued at the date of such statement on the general State deposits, the special State deposits, and the trusteed assets of such alien insurer, if such interest is collectible by the State or trustee.

"Liabilities in U. S." (e) All of the reserves and other liabilities arising out of policies or obligations issued, assumed or incurred by such alien insurer in the United States. Said reserves and other liabilities are designated as "liabilities in the United States."

Determination of liabilities in U. S. For the purpose of determining the liabilities in the United States of such alien insurer there may be deducted:

(1) From the amount of such liabilities for unpaid losses, the amount of reinsurance recoverable from insurers authorized to do business in any State in which such alien insurer maintains a general State deposit or a special State deposit.

(2) From the amount of such liabilities for unearned premiums, first, the unearned portion, included in such amount, of premiums receivable by such insurer from its agents or policyholders under policies issued by it in the United States and not more than 90 days past due on the date of such statement, and second, the amount of reinsurance premiums receivable by such alien insurer from other insurers authorized to do business in any State in which such alien insurer maintains a general State deposit or a special State deposit.

(3) Those liabilities in the United States, pertaining to any asset in the United States of such alien insurer for which no value is claimed or allowed in such statement, but such deduction shall in no case exceed the unclaimed or disallowed value of such asset.

(4) If such alien insurer is a life insurer, the amount of the unpaid principal and interest of any loan made by it to the holder of, and solely on the security of, any policy of life insurance issued or assumed by it, on the life of any person in the United States. Such amount shall in no case exceed the amount of the reserve required to be maintained on such policy by such insurer. Such amount is designated as "policy loans in the United States."

(f) Such further information required by the commissioner, as he deems necessary to apply the provisions of this article.

Statement to be verified 1592. The statement required by Section 1591 shall be verified in the manner prescribed in Sections 903 and 903.5 and there shall be filed therewith the certificate of each trustee in the United States holding trusteed assets of such alien insurer, showing the description and amount of such trusteed assets, and the purpose for which they are held. Said statement and two certified copies thereof shall be filed by such alien insurer with the office of the division in San Francisco. Of said certified copies, one shall be filed by the commissioner in the office of the division in Los Angeles, and one in the office of the division in Sacramento.

The commissioner may at other times require any admitted alien insurer to file with him similar statements, showing the information specified in Section 1591 with respect to such other date as he may prescribe.

"Trusteed surplus in U. S."

1593. The excess of the sum of those items in such statement, which are described in subdivision (a), (b), (c) and (d) of Section 1591, over the liabilities in the United States of such alien insurer is designated the "trusteed surplus in the United States" of such alien insurer.

Repair of deficiency

1594. Whenever it appears to the commissioner that the trusteed surplus in the United States of an alien insurer is less than the minimum amount of the capital paid in or available cash assets required by this code for the transaction of the classes of insurance for which such alien insurer is admitted, he shall determine the amount of such deficiency and make requisition upon such alien insurer in writing, addressed to its attorney in the United States or to its United States manager, to repair such deficiency within such time, not less than 60 nor more than 90 days from the service of such requisition as he may therein designate. The commissioner may revoke or suspend the certificate of authority of such alien insurer or order it to cease issuing new policies in the United States, while such deficiency exists.

Proceedings on failure to repair deficiency

If at the expiration of the period designated in such requisition such alien insurer has failed to repair such deficiency, the commissioner may proceed against it under the provisions of Article 14, Chapter 1, Part 2, Division 1 as against an insurer whose condition is such that its further transaction of business will be hazardous to its policyholders, or creditors, or to the public.

Nature of trustee

1595. Whenever an admitted alien insurer is required or permitted to deposit assets with a trustee for the benefit and security of its policyholders, or of its policyholders and creditors, in the United States, the trustee of any such trust hereafter created shall be a solvent bank or trust company in the United States acceptable to the commissioner and authorized to act as such trustee by the laws of any State or of the United States. All trusteed assets shall be continuously kept within the United States. Any such trust heretofore created and now existing and any such trust hereafter created and existing when such alien insurer seeks to be admitted, shall be continued in accordance with the terms of the instrument creating it, unless inconsistent with the provisions of this article, in which case said instrument shall, after reasonable notice to and hearing of the alien insurer by the commissioner, be amended to conform to the requirements of this article.

Amendment of deed of trust

No amendment of any deed of trust, whether heretofore or hereafter created, shall be effective unless approved in writing by the commissioner. If the trustees of any such trust heretofore created are natural persons, and if the number of such trustees is reduced, by death, resignation, or from any other cause, to less than three, then the commissioner shall require the substitution for such trustees of a solvent bank or trust company in the United States acceptable to him and authorized to act as such trustee by the laws of any

State or of the United States. The commissioner may from time to time approve modifications of, or variations in, any deed of trust, which in his judgment are not prejudicial to the interests of the people of this State.

Deed of trust

1596. To satisfy the purposes of this article, any alien insurer admitted or seeking to be admitted is hereby authorized to make and execute a deed of trust by virtue of which any assets of an alien admitted insurer are held by a trustee as trusteed assets within the meaning of subdivision (c) of Section 1591. Such deed of trust shall:

Legal title in trustee

(a) Vest the legal title to the trusteed assets in the trustee and its successors lawfully appointed, in trust for the benefit and security of all the policyholders, or of all the policyholders and creditors, of such alien insurer within the United States;

New trustee

(b) Provide for the substitution of a new trustee in the event of a vacancy by death, resignation or from any other cause, subject to the approval of the commissioner;

Separation of trusteed assets

(c) Require that the trusteed assets shall at all times be maintained within the United States as a trust fund separate and distinct from all other assets, and that the trustee shall continuously maintain a record at all times sufficient to identify such fund;

Distribution of income

(d) Prescribe the conditions, satisfactory to the commissioner and not inconsistent with the purposes of this article, under which any or all income, earnings, dividends or interest accumulations of such fund may be paid over to the United States manager of such alien insurer;

Withdrawal of trusteed assets

(e) Prohibit the withdrawal, other than as provided in accordance with subdivision (d), of any trusteed assets from such fund without the written approval of the commissioner, except as follows:

1. For the purpose of making general State deposits required by law in any State.

2. For the purpose of paying obligations due from such alien insurer to policyholders and creditors in the United States, and for the purpose of making special State deposits required by law in any State, if such payments and deposits do not impair the trusteed surplus in the United States of such alien insurer to an amount less than the minimum amount specified in Section 1594, and such fact is certified to the trustee by the insurer or its United States manager duly authorized for that purpose.

3. For the purpose of substituting other assets permitted by law and at least equal in value to those to be withdrawn, upon the specific written direction of the United States manager or an assistant United States manager or other representative in the United States of such alien insurer when duly empowered and acting pursuant to either general or specific written authority previously given or delegated by the board of directors thereof, except as provided in the paragraph numbered 5 of this subdivision.

4. For the purpose of transferring such assets to an official conservator, rehabilitator, or liquidator pursuant to an order of a court of competent jurisdiction.

5. In the case of an alien life insurer organized under the laws of the Dominion of Canada or of any province thereof, the provisions of this section applicable to the United States manager or an assistant United States manager or other representative in the United States of such alien insurer shall be deemed to refer to the president, vice president, secretary or treasurer of such insurer at its principal place of business in said Dominion or province thereof, when duly authorized for such purpose.

Approval of officer of other State

1597. In respect of the appointment or substitution of a trustee in another State in which an admitted alien insurer is authorized to transact insurance, in respect of withdrawal of trusteed assets held in such another State (except withdrawals as provided in Section 1596), and in respect of the amendment of such deed of trust not affecting the interests or security of the beneficiaries thereof, written approval under any provision in the deed of trust which requires such written approval by the official of such other State, supervising insurance therein, shall be deemed compliance with any applicable approval requirements of Sections 1595 and 1596.

Canadian insurers

Where an alien insurer organized under the laws of the Dominion of Canada or of any province thereof maintains trusteed assets in another State and under the deed of trust written approval is required by an official supervising insurance in any State in which such insurer is authorized to transact insurance and in which it heretofore maintained and hereafter continues to maintain a general State deposit at least equal in amount to the deposit required by Section 1584, written approval by such official in respect of the appointment or substitution of a trustee thereunder, in respect of withdrawal of such trusteed assets (except withdrawals as provided in Section 1596), and in respect of the amendment of such deed of trust not affecting the interests or security of the beneficiaries thereof, shall also be deemed compliance with any applicable approval requirements of Sections 1595 and 1596.

Proof of approvals

The alien insurer shall furnish proof of approvals authorized by this section to and notify the commissioner in writing of such appointment or substitution, of the nature and extent of such withdrawal, and of the text of such amendment.

Examination of trusteed assets

1598. The commissioner may from time to time examine the trusteed assets of any alien admitted insurer pursuant to Section 736, and may from time to time require the trustee holding trusteed assets of an alien admitted insurer to file with the commissioner a statement, in such form as he may prescribe, certifying such trusteed assets and the amounts thereof. Refusal or neglect on the part of such trustee to comply with such requirement shall be ground for the revocation of such alien insurer's certificate of authority or for proceedings

Certificate of trustee

against it under the provisions of Article 14, Chapter 1, Part 2, Division 1.

Fee 1599. The commissioner shall require the payment of five dollars ($5) in lawful money of the United States, in advance, as a fee for filing each certificate of a trustee required to be filed by Section 1592.

Urgency SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

Present world conditions have directed attention to the large amount of their resources which alien insurance companies maintain in this country for the protection of their United States policyholders. This act affords necessary protection in the case of those alien admitted insurers which do not already conform to its provisions by compliance with similar provisions in the laws of other States, and it is therefore necessary that it be given immediate effect.

CHAPTER 52

Monterey Peninsula Airport District Act

An act creating a public airport district designated "Monterey Peninsula Airport District"; defining its boundaries; providing for its organization, government and maintenance: prescribing its powers, duties, and liabilities; providing for the alteration of its boundaries, and the dissolution of said district.

In effect immediately [Approved by Governor March 22, 1941. Filed with Secretary of State March 22, 1941.]

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

Monterey Peninsula Airport District SECTION 1. Monterey Peninsula Airport District Created. A public airport district is hereby created, designated "Monterey Peninsula Airport District," and the territory and boundaries of said district shall be all of the certain territory in the County of Monterey, State of California, situate, lying and being, within the boundaries particularly described as follows, to wit:

Boundaries Beginning at the mouth of the Carmelo River at the shore line of the Pacific Ocean; thence easterly up the Carmelo River to the southeast corner of Lot 1 of the Rancho Canada de la Segunda; thence north along the east line of Lot 1 of said rancho to the northeast corner of said Lot 1 on the north line of said rancho; thence east following the north

line of Rancho Canada de la Segunda and the north boundary line of the James Meadow Tract to the northeast corner of the James Meadow Tract; thence northeasterly to the most easterly corner of Tract No. 2 of the City Lands of Monterey on the south boundary of Laguna Seca Rancho; thence following the boundary of Laguna Seca Rancho southeasterly to the southeast corner thereof; thence north following the east boundary to the northeast corner of said Laguna Seca Rancho; thence leaving the boundary of said ranch northwesterly along a direct line connecting the northeast corner of the Laguna Seca Rancho with the northeast corner of the Noche Buena Rancho, to its intersection with the produced division line of Lots 9 and 1 of the said Noche Buena Rancho; thence west along the said produced line and boundary of said Lots 9 and 1 to the shore of Pacific Ocean; thence southerly and westerly along said shore line to the place of beginning. Reference is hereby made for further particulars to the Official Map of Monterey County, compiled by Lou G. Hare, 1898, on file in the office of the county recorder of said county.

Purposes of act

SEC. 2. Purposes of Act. The object of this act is to empower and enable said district to acquire, own, lease, improve, operate, and maintain, or cause to be operated and maintained, a public airport or airports, with the necessary lands, devices, appurtenances, and approaches, for civil and military purposes.

Powers of district

SEC. 3. Corporate Powers. Said Monterey Peninsula Airport District is hereby declared to be, and established as, a body corporate and politic, and, in addition to other powers herein granted, shall have and is hereby granted the following powers, namely:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of, real or personal property of every kind within or without the district necessary to the full exercise of its power.

5. To acquire or contract to acquire lands, rights of way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve, any works or improvements acquired by it as herein authorized.

6. To have and exercise the right of eminent domain, and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to carry out any of the objects or purposes of this act, whether such property be already devoted to the same use by any

district, or other public corporation or agency, or otherwise, and to condemn any existing works or improvements in said district now used for airport purposes.

Borrowing powers

7. To incur indebtedness, and to issue bonds in the manner herein provided.

7a. Borrowing Money From Federal Agencies, Etc. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, or any agency or department thereof, or from any person, or from any corporation organized under the laws of this State, or elsewhere, for the acquisition of lands and improvement thereof for airport district purposes authorized under this act, and to repay the same in annual installments over a period of not to exceed twenty (20) years, with interest at a rate not to exceed five per cent (5%) per annum, payable semiannually; and, without the necessity of an election, when authorized so to do by resolution of the board of directors of said district, and as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes or bonds, or other evidences of indebtedness, signed by the chairman of said board of directors, and the secretary thereof, which notes, bonds or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution providing for their issuance, and said notes, bonds or other evidences of indebtedness may have interest coupons attached to evidence interest payments, signed by the facsimile signature of the chairman of said board. All applications for such loans shall specify the particular airport district work or project or projects for which the funds will be expended, and when received, the money shall be deposited in a special fund, and expended for those purposes only which are described and referred to in the application, or applications. If a surplus remains after the completion of said work, said surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness executed, as aforesaid, for the loan, including interest coupons. The board of supervisors, on demand of the board of directors of the district, shall annually levy a tax upon the taxable property therein sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by resolution of said board of supervisors; provided, however, that the amount of taxes levied in any fiscal year, pursuant to the provisions of this subsection, shall pro tanto, reduce to the extent of such special taxes the authority of said board of directors to demand, and of the board of supervisors, during any such year, to levy taxes under Sections 19 and 23 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection.

Limitation on Amount Borrowed. Notwithstanding anything in this subsection to the contrary, the total amount which said district may borrow under the authority of any and all the provisions of this subsection is limited to and shall not exceed in the aggregate two hundred fifty thousand dollars ($250,000).

Bonds as legal investments

7b. Such Bonds as Legal Investments. Such bonds or notes, when declared negotiable instruments, as in Subsection 7a hereinabove provided, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, trust companies, and for the State Department of Finance, and State school funds, and whenever any money or funds may by law, now in effect or hereafter enacted, be invested in bonds of cities, cities and counties, counties, or school districts, in the State of California, such money or funds may be invested in the said negotiable bonds or notes of said Monterey Peninsula Airport District; provided, however, no bank shall invest or loan more than 5 per centum of its assets on any one such bond or note issue.

Taxes

8. Taxes. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner herein provided.

9. Exercise of Powers—Contracts. To make contracts, and to employ persons and labor, and to do all acts necessary for the full exercise of all powers vested in said district, or in any of the officers thereof, by this act.

Disposal of property

10. Disposal of Property. To lease, sell or dispose of any property (or any interest therein) acquired in fee, or otherwise, whenever in the judgment of said board of directors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act.

11. Operation and Concession Agreements. To make contracts for the operation, or operation maintenance, of any airport of said district, or for any concession thereupon necessary or convenient thereto.

Police powers

12. Police Powers of District. To adopt ordinances and resolutions and make regulations for the protection of the public peace, health, or safety, in or upon any airport of the district, or in or upon any approach thereto, owned or controlled by the district and to prescribe penalties for the violation thereof; provided, that the police powers of said district, hereby granted, shall be limited strictly to the provisions of this subsection.

Violation of any such ordinance, resolution or regulation shall constitute a misdemeanor.

13. General Powers. To possess and exercise all powers necessary or appropriate to a public airport district which are not prohibited by the Constitution, including all powers

granted by, or which may be hereafter granted by, any general law of the State to any public airport district therein, and all powers incidental to, and necessary or convenient in connection with, the exercise of the powers generally or specifically granted to the district by the provisions of this act.

Board of directors

SEC. 4. Board of Directors. All powers granted to and vested in the district by the provisions of this act shall, except as herein otherwise provided, be exercised by the board of directors of said district, to be designated the "Board of Directors of Monterey Peninsula Airport District." The board of directors shall be the governing body of the district and, subject to the express limitations of this act, shall be vested with all powers necessary or convenient for a complete and adequate system of government for said district, consistent with the Constitution of the State, including all powers now or hereafter granted by general law to boards of directors or other governing bodies of airport districts in the State.

The board of directors shall be comprised of five members, and shall be the legislative body of the district, each of the members of which shall have the right to vote upon all questions coming before it.

The first board of directors shall be appointed by the board of supervisors at its first regular meeting, or adjournment thereof or at a special meeting held prior thereto called for such purpose, subsequent to the effective date of this act, in the manner following: One of such directors shall be appointed from each municipality, one thereof from the unincorporated territory, and one thereof at large, in the district.

The members of the board of directors so selected, upon qualification, shall meet and organize at the chambers of said board of supervisors in the courthouse at Salinas, California, at 2 o'clock p.m. on Monday next succeeding the making of such appointments by the board of supervisors. Said board of directors shall thereupon forthwith elect one of their number as chairman and a qualified stenographer as secretary of said board of directors.

The members of said board of directors shall then select by lot two of their number whose respective terms of office shall terminate upon the election and qualification of their successors at the first general district election held thereafter at the time and in the manner as prescribed in this act. The respective terms of office of the remaining three members of said board of directors shall end upon the election and qualification of their successors on said board two years subsequent to said first general district election at the time and in the manner hereinafter prescribed.

General district elections

SEC. 5. General District Elections. A general district election shall be held therein on the second Tuesday in April in each even-numbered year. At each such election members of the board of directors equal in number to the members whose terms on said board are expiring thereat, and upon the qualification of their successors, shall be elected for the term

of four years each and until each of their successors have been elected and have qualified for such office. All such elections shall be noticed, held, the returns thereof canvassed and the results thereof declared, pursuant to the provisions of the general laws and Elections Code of the State of California governing elections in cities of the sixth class, so far as the same may be applicable, except as in this act otherwise provided. Sections 9000 to 10057, inclusive, of the Elections Code shall apply to such district elections in so far as the same may be relevant and appropriate; provided, however, that the powers and duties vested by said code provisions in the governing bodies and city clerks, respectively, of cities of the sixth class shall be vested in the board of directors and secretary thereof of said district.

Special district elections

SEC. 5A. Special Elections. All other district elections that may be held by authority of this act or general law shall be known as special district elections, and shall be held substantially as in this act provided for general district elections; provided, however, that special elections to authorize any district public improvement or acquisition, or to create a district bonded indebtedness under any general law of the State relative thereto, shall be held in conformity with the provisions of such general law relative thereto in case such general law provides for the procedure and manner of holding elections thereunder.

Propositions

SEC. 5B. Propositions. Any proposition to authorize the incurring of a bonded indebtedness pursuant to any general law of the State, or other proposition which may lawfully be submitted to the voters of the district for their approval or rejection, may be so submitted by the board of directors at any district general, or special election called for that purpose.

Meetings of directors

SEC. 5C. Meetings of the Board of Directors. The board of directors shall provide by ordinance or resolution for the time and place of holding its meetings and the manner in which its special meetings may be called; provided, however, that there shall be at least one regular meeting in each month. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes. All legislative sessions of the board of directors, whether regular or special, shall be open to the public.

Quorum

SEC. 5D. Quorum. A majority of the board of directors shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and postpone the consideration of, or action upon, any business which may be pending.

Conduct of meetings

SEC. 5E. Conduct of Meetings. The board of directors shall determine its own rules of procedure and may punish its members or other persons present at any meeting for disorderly conduct.

Legislation

SEC. 6. Legislation. The board of directors shall act in legislative matters by ordinance or resolution only. Other

action of the board of directors, unless herein otherwise provided, may be taken by resolution, motion, or order.

The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the record of the proceedings of the board of directors. Upon the request of any members of the board of directors the ayes and noes shall be taken and recorded upon any vote. All members present at any meeting must vote.

No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the board of directors.

Each ordinance shall be headed by a brief title which shall indicate the purport thereof.

The ordaining clause of all ordinances adopted by the board of directors shall be, "The Board of Directors of Monterey Peninsula Airport District do ordain as follows:". The ordaining clause of all ordinances passed by the vote of the electors of the district, through the exercise of the initiative shall be, "The People of the Monterey Peninsula Airport District do ordain as follows:".

No ordinances shall be passed by the board of directors on the day of its introduction, or within five days thereafter, or at any time other than at a regular meeting, or until publication at least once in the official newspaper of the district at least three days before its adoption. In case of an ordinance being amended before its final adoption, and after its publication, it shall in like manner be republished in full as amended at least one day before its adoption as amended; provided, however, that where such amendment is made for the correction of clerical errors or omissions of form only, then such ordinances need not be given a first reading or a republication as corrected.

Except as otherwise provided by general law, or this act, no action providing for any specific public improvement, or for the appropriation or expenditure of public money, in any amount over one thousand dollars ($1,000), or for the acquisition, sale, lease, incumbrancing, or disposition of, any real property of the district, or any interest therein, or for the levying of any tax or assessment, or for the granting of any franchise, or for the imposing of any penalty, shall be taken except by ordinance.

No ordinance or portion thereof, shall be repealed except by ordinance. No ordinance shall be revised, reenacted or amended by reference to its title only; but the ordinance to be revised or reenacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted according to the method provided in this section for the enactment of ordinances, and such revision, reenactment, amendment, or addition, shall be made by ordinance only.

All ordinances shall be signed by the chairman of said board and attested by the secretary thereof.

All ordinances shall take effect and be in force 30 days from and after their final passage and approval; provided, however, that any such ordinance determined and declared by said board of directors to be urgent and necessary for the immediate preservation of the public peace, health or safety, of said district shall take effect and be in force forthwith from and after its final passage and approval; provided further, that a statement of such urgency be set forth in any such ordinance last mentioned.

Officers and employees

SEC. 7. District Officers and Employees. The officers of the district shall comprise the members of the board of directors, the secretary thereof, a district manager and district counsel. No officer of the district shall be qualified for election or appointment as such unless he is a qualified elector of said district residing therein and shall have been such elector and resident at least one year immediately prior to such election or appointment. The board of directors shall, by ordinance, prescribe the powers, duties and compensation, of all said officers, except where the same are prescribed by the provisions of this act and in such case, may, by ordinance, prescribe additional powers and duties for any such officer consistent with the provisions hereof; provided, however, that the members of the board of directors shall serve as such without compensation.

SEC. 8. Subordinate Officers and Employees. The board of directors shall have the power to create and abolish, by ordinance or resolution, all offices and employments other than those created by this act; to fix the compensation, powers and duties, thereof and to determine the procedure for removing any officer or employee therefrom.

Official bonds

SEC. 9. Official Bonds. The board of directors shall fix the amount of all bonds to be required of district officers and employees, the mode of approving the same, and shall determine the particular officers and employees who shall be required to furnish such bonds.

Oath of office

SEC. 10. Oath of Office. Every officer of the district before entering upon the duties of his office, shall take and subscribe the oath of office as provided for in the Constitution of the State and shall file the same forthwith with the secretary of the board of directors.

Vacancies

SEC. 11. Vacancies. A vacancy on the board of directors shall be filled by appointment of said board, such appointee to hold office until the next general district election and until his successor is elected and qualified. Such successor shall be elected for the unexpired term of his predecessor at the general district election next succeeding such appointment.

If any officer or employee of the district shall die, or absent himself, from the district for more than 60 days consecutively without permission of the board of directors, or for said period shall wilfully fail or refuse to perform the duties of his office, though able so to do, or shall fail to qualify, or

shall resign, or be adjudged insane, or incompetent, or convicted of a felony, his office shall thereupon become vacant.

Delegation of powers

SEC. 12. Delegation of Powers by Board of Directors. The board of directors may delegate any power, or powers, granted to said district, or to said board of directors, by the provisions of this act, except legislative powers and ministerial functions specifically required by this act to be performed by said board or its officers, to such other officers and employees of the district as to said board may seem proper and in the public interest; and provided, that such delegation of power is not in conflict with the Constitution of the State.

County officers

SEC. 13. County Officers to Act as District Officers. In addition to the powers and duties vested in the board of supervisors of the County of Monterey by other provisions of this act, said board of supervisors is hereby vested with the following additional powers and duties relative to said district: Except as otherwise herein provided, the board of supervisors, at the time and in the manner provided by general law for the levy and equalization of county taxes, shall levy annually upon the property in said district the district taxes as formally directed by the board of directors of the district, and as limited by the provisions of this act, and shall sit and act as a board of equalization for the purpose of equalizing such district taxes at the time and in the form and manner prescribed by general law for the equalization of county taxes. The county clerk, the county assessor, the county tax collector and the county auditor of said Monterey County shall, without additional compensation, be vested with like powers and duties with relation, respectively, to the assessment, equalization and collection of district taxes as they are vested and charged with with relation to county taxes of said Monterey County; and the county treasurer (together with said county auditor), of said county is vested with the same powers and charged with the same duties with relation to the receipt, deposit and withdrawal, of district funds and moneys as he is vested and charged with with relation to funds and moneys of the County of Monterey, without additional compensation therefor.

District funds

SEC. 14. Disposition of District Moneys. Every officer, employee or agent of the district receiving, or in possession of any moneys belonging to or for the use of said district, shall, forthwith, notify the county auditor thereof in writing and, thereupon, forthwith pay the same to the County Treasurer of Monterey County for the benefit and to the credit of the funds of the district to which such moneys severally belong.

Payment from district funds

SEC. 15. Payment of District Moneys. Money shall be drawn from district funds on deposit with the county treasurer only upon warrants as herein prescribed. All such withdrawals shall be by warrant of said district allowed by the

board of directors, signed by the chairman and secretary of the board, and approved by the county auditor.

Bids

SEC. 16. Contract Work. In the erection, construction, improvement and repair of all public buildings, structures and airports of said district, and in supplying materials for the same, when the expenditure in any such case shall exceed the sum of one thousand dollars ($1,000) the contract for the same shall be awarded by the board of directors to the lowest responsible bidder after notice by publication in a newspaper of general circulation printed, published and circulated in said district under such conditions as said board may specify. The detailed procedure for carrying out the provisions of this section shall be prescribed by ordinance.

Provided, that the board of directors may reject any and all bids presented, and may, in its discretion, readvertise for other bids.

Provided further, that the board of directors may determine and declare by a four-fifths vote of all its members that the work or improvement in question may be more economically or satisfactorily performed as a project of the Works Projects Administration, or other agency of the Federal or State Government, and after the adoption of a resolution to such effect it may proceed to have said work or improvement made through such administration or agency without further observance of the foregoing provisions of this section.

Acquisitions and improvements

SEC. 17. District Airport Acquisition and Improvements. All public improvements of said district, including the acquisition of land for district airport purposes, or the improvement thereof, or the acquisition of lands for airport approaches, or the improvement thereof, may be made or done in pursuance of general laws of the State empowering municipalities to acquire lands for any public purpose or to make local improvements and to assess the costs thereof upon the frontage or district of lands benefited thereby; or said acquisitions or improvements may be made and done in pursuance of local improvement and assessment ordinances adopted by the board of directors, or the electors of said district, and the whole or any portion of the cost thereof paid out of the district treasury, or assessed on the property fronting thereon or the district of lands benefited thereby; provided, however, that whenever it is proposed to include the whole or any part of the lands within a municipality in said district in the frontage, or within the district of lands, to be assessed for such acquisition or improvement, the formal consent of the legislative body of such municipality shall first be obtained before the institution of such proceeding; provided further, that such consent shall be dispensed with in any local improvement proceeding or proceeding to acquire land, or make improvements, for district purposes where all lots and lands within the airport district are included in the assessment district and all assessments proposed or levied upon the taxable property in said district are computed on an ad valorem basis. In addition to

other acts mentioned herein, the provisions of that certain act, entitled "An act to provide for work in and upon streets, avenues, lanes, alleys, courts, places and sidewalks within municipalities——," etc, approved April 7, 1911. and the acts amendatory thereto; and the provisions of that certain act, entitled "An act to provide for the issuance of improvement bonds to represent and be secured by certain assessments made for the cost of certain work and improvements——," etc., approved June 11, 1915, and of acts amendatory thereto, are hereby made applicable to the "Monterey Peninsula Airport District" and local airport district work and improvements therein; provided, however, that the words "city council" and "council" used in said, and other such, acts, shall be understood to mean the board of directors of said airport district: the words "city" and "municipality" shall be understood to mean the "Monterey Peninsula Airport District": the words "clerk" and "city clerk" shall be understood to mean "secretary" of said board of directors: the words "superintendent of streets" and "street superintendent" and the words "city engineer" shall be understood to mean the manager and the engineer, respectively, of said airport district: the words "tax collector" and the words "treasurer" or "city treasurer" shall be understood to mean the county tax collector and the county treasurer, respectively, of the County of Monterey; and provided further, that all of the powers and duties conferred by the provisions of said acts, and the acts amendatory or supplementary thereto, upon city councils, superintendents of streets, clerks and city clerks, tax collectors, treasurers and engineers, are hereby conferred and imposed upon respective officers and boards above specified.

Stats 19 1, p 730

Stats. 19 5, p. 1441

Fiscal year

SEC. 18. Fiscal Year. The fiscal year of the Monterey Peninsula Airport District shall commence on the first day of July of each year, or at such other time as may be fixed by ordinance.

Regular tax levy

SEC. 19. Regular Tax Levy. The board of supervisors must, at the time of levying the county taxes, levy annually a tax upon all the taxable property within the district sufficient to defray the cost of the maintenance thereof and of making such other expenditures as are authorized by this act in connection therewith and as estimated by the board of directors to be necessary for such purposes; provided, however, that no such tax levy shall exceed the limitations placed thereon by the provisions of this act. The taxes so levied shall be computed and entered on the assessment roll and collected at the same time and in the same manner as are the taxes of said Monterey County, and when collected shall be deposited in the county treasury to the credit of said district and for the purposes and uses of the district for which the tax was authorized.

Special tax levy

SEC. 20. Levy of Special Tax. A special tax, in addition to other taxes or assessments herein authorized, may be levied upon the taxable property within the district; provided, the same is authorized by a two-thirds vote of the voters voting on

such proposition at a regular or special district election, for airport district purposes, including the acquisition of lands for a public airport or airports and/or the improvement thereof, pursuant to the procedure set forth in that certain act entitled "California Airport District Act" (Statutes 1929, page 1857), Sections 12 to 17, inclusive, which are hereby made applicable to Monterey Peninsula Airport District. Stats 1929, p 1857

SEC. 21. Lien of District Taxes. All district taxes provided for in this act shall become delinquent at the time the county taxes become so and shall bear like penalties for delinquency. All such district taxes shall be a lien on all the taxable property in the territory comprising the district and shall be of the same force and effect as liens for county taxes, and their collection shall be enforced by the same means as provided for the enforcement of liens for county taxes. Lien of district taxes

SEC. 22. Temporary Borrowing of Money by District on Anticipated Revenue From Taxes. The provisions of Section 3719 of the Political Code relative to temporary borrowing of money by counties, cities and regional park and school districts, in anticipation of the receipt of income through taxes, shall be applicable to the Monterey Peninsula Airport District, and the powers and duties vested in the board of supervisors, the legislative body of each city, the board of directors of each regional park district, and the governing board of each school district, by said Section 3719 of the Political Code are hereby vested in the board of directors of said airport district. Borrowing in anticipation of taxes

SEC. 23. Limited Tax Levy. The tax levy authorized and directed by the board of directors of the district, and levied for such district by the board of supervisors of said county annually to meet the district expenses for each fiscal year, shall not exceed the rate of two mills ($0.002) on each dollar of the assessed valuation of the real and personal property within the district, except as in this act otherwise provided. Limit on tax levy

SEC. 24. Alteration of Boundaries, Annexation of Contiguous Territory; Dissolution of District, Bonded Indebtedness Upon Dissolution. The boundaries of the district may be altered and contiguous territory in the same county annexed thereto and said district may be dissolved, the property owned by said district disposed of, and any bonded indebtedness of the district at the time of such dissolution liquidated, pursuant to the provisions of Sections 21 and 22 of said "California Airport District Act," which are hereby made applicable to said "Monterey Peninsula Airport District." Annexation. Dissolution. Stats 1929, p 1857

SEC. 25. Inapplicable Statutes. The certain acts known, respectively, as the "District Investigation Act of 1933" (Statutes 1933, page 2141), and acts amendatory thereto, and "Special Assessment, Investigation, Limitation and Majority Protest Act of 1931" (Statutes 1931, page 1372), and acts amendatory thereto, shall not be applicable to the "Monterey Peninsula Airport District." Inapplicable statutes. Stats 1933, p 2141. Stats 1931, p 1372

SEC. 26. Value of Bonds. All bonds issued by said district under the provisions of this act are hereby given the same Tax exemption of bonds

force, value, effect and use, as bonds issued by any municipality in this State, and shall be free and exempt from all taxation within the State of California.

Contract terms prescribed by U. S.

SEC. 27. Insertion of Provisions Prescribed as Condition for Federal Aid. The board of directors of said district shall have full authority to cause to be inserted in specifications and contracts for any airport district improvement or acquisition financed or paid for in whole or in part out of moneys obtained from the United States of America, or any department or agency thereof, as a loan, grant or appropriation, such provisions or terms as may be prescribed by the United States of America, or such department or agency, as a condition upon which such Federal funds are loaned, granted or appropriated.

Effect of repeal

SEC. 28. Repeal of Act Not to Effect Bonds. No repeal or amendment of this act shall in any way affect or release any of the property in said district from the obligations of any outstanding bond or indebtedness of said district, nor shall any such repeal or amendment become effective or operative in so far as such bonds or indebtedness are concerned until the same have been fully paid and discharged.

Construction of act

SEC. 29. Construction of Act. This act, and every part thereof, shall be liberally construed to promote the objects thereof, and to carry out its intents and purposes.

Constitutionality

SEC. 30. Constitutionality. In case any section, or sections, or part of any section, of this act, shall be found to be unconstitutional or invalid, for any reason, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

Short title

SEC. 31. Title. This act may be designated and referred to as the "Monterey Peninsula Airport District Act," and any reference thereto by such designation shall be deemed sufficient for all purposes.

Urgency

SEC. 32. Urgency Measure. This act is hereby declared to be an urgency measure, being necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution, and as such shall take effect immediately. The facts constituting such necessity are as follows:

The Legislature declares that:

(a) The prevalence of wars and general resort to force and violence in numerous areas throughout the world constitute a menace to the peace and safety of the United States, and render essential the fullest preparation and cooperation for the National defense.

(b) The precarious state of world affairs constitutes an emergency recognized by proclamation of the President of the United States and the Governor of the State of California, and by the enactment of various measures by Congress designed to strengthen the land, naval and air forces, of the Nation, including the Selective Training Act of 1940.

(c) In consequence of the vast program for National defense now developing, one of the greatest military concentrations of

military forces in the United States is now being made and centered at Fort Ord, adjacent to the Monterey Peninsula Airport District herein created.

(d) The existing municipal airport owned by the City of Monterey, in said district, is totally inadequate in size and character for the use of modern military or civil aircraft, and due to the conformation of the terrain in that vicinity is the only site capable of adequate development for airport purposes in that area.

(e) This airport has been certified by the War Department as of value for use by military aircraft and necessary for development in connection with the National Defense Preparedness Program.

(f) Pursuant to this certification, the President of the United States, on the twenty-seventh day of February, 1941, approved an appropriation in the sum of seven hundred four thousand three hundred thirteen dollars ($704,313) for the adequate improvement and enlargement of the airport facilities thereat.

(g) This appropriation does not include the cost of acquiring the additional land necessary for the enlargement of said airport, and such acquisition is immediately required in order to make the improvements and the expenditures therefor authorized by the President.

(h) The purpose of this act is to immediately form the "Monterey Peninsula Airport District" so that the area benefited will be enabled forthwith to improve said airport and to acquire the additional lands needed for military and civil airport purposes of Fort Ord, the Presidio of Monterey and the district in question.

CHAPTER 53

An act to amend Section 9 of an act entitled "An act to establish an institution for the punishment, treatment, supervision, custody and care of females convicted of felonies; to provide for its government, charge and superintendence, and to make an appropriation therefor," approved May 9, 1929, relating to the confinement and care of women convicted of crime, to take effect immediately.

Stats. 1929, p. 490, amended

[Approved by Governor March 22, 1941. Filed with Secretary of State March 22, 1941.]

In effect immediately

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

SECTION 1. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Sec. 9. If any woman received by or committed to said institution have a child under two years of age, or gives birth to a child while an inmate of said institution, such child may be admitted to, and retained in said institution until it reaches

Children of prisoners

the age of two years, at which time said board may arrange for its care elsewhere; and provided, further, that at its discretion in exceptional cases said board may retain such child for a longer period of time.

Birth of children

Any woman inmate who would give birth to a child during her term of imprisonment may be temporarily taken to a hospital outside the prison for the purposes of childbirth, and the charge for hospital and medical care shall be charged against the funds allocated to the institution. The board shall provide for the care of any children so born and shall pay for their care until suitably placed.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Existing facilities of the California Institution for Women are inadequate to properly care for women during childbirth. In order to protect the life and health of certain women now confined in the institution and to provide them with adequate care and treatment during childbirth it is necessary that this act go into effect immediately.

CHAPTER 54

Stats 1941, p 122, and Stats 1935, p 1850, amended

Supplementary Relief Act of 1941

An act to add Section 1.5 to the Unemployment Relief Appropriation Act of 1940, and to amend Section 4 of the California Unemployment Relief Act of 1935, and to add Section 8.5 to the California Unemployment Relief Act of 1935, relating to the relief of hardship and destitution due to and caused by unemployment and the administration thereof, providing terms and conditions upon which such relief may be granted, making an appropriation therefor, declaring the urgency thereof.

[Approved by Governor March 27, 1941. Filed with Secretary of State March 27, 1941.]

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

New section

SECTION 1. Section 1.5 is hereby added to the Unemployment Relief Appropriation Act of 1940, to read as follows:

Appropriation

Sec. 1.5. (a) Out of any money in the State Treasury, not otherwise appropriated, the sum of two million forty-two thousand dollars ($2,042,000) is hereby appropriated to the Relief Administrator and the Relief Commission for the relief of hardship and destitution due to and caused by unemployment and the administration thereof as provided in this act and the California Unemployment Relief Act of 1935, during

Relief

Stats 1935, p 1850

the fourth quarter of the Ninety-second Fiscal Year, including not to exceed forty-two thousand dollars ($42,000) for the administrative expenses of the Controller.

(b) Except for the apportionment for the administrative expenses of the Controller, all sums remaining unexpended under Sections 1 and 3 of this act shall be available for expenditure during the fourth quarter of the Ninety-second Fiscal Year by the Relief Administrator and the Relief Commission. The apportionment for the administrative expenses of the Controller provided in Section 1 of this act remaining unexpended shall be available for expenditure by the Controller during the fourth quarter of the Ninety-second Fiscal Year, in addition to the sum provided by subdivision (a) of this section.

(c) The money appropriated by subdivisions (a) and (b), except the apportionment for the administrative expenses of the Controller, is directed, but not required, to be expended in accordance with the following monthly schedule:

(1) April, all money previously unexpended plus $400,000
(2) May ---------- 900,000
(3) June ---------- 700,000

(d) The revolving funds established under Sections 3.5, 3.8 and 3.9 of this act are hereby continued in existence during the fourth quarter of the Ninety-second Fiscal Year and all money heretofore made available for such revolving funds shall continue available therefor during such fourth quarter.

(e) As used in this section, (i) "Unexpended" describes sums of money which are unencumbered and against which no commitments have been made by the Relief Administrator and Relief Commission or which having been encumbered or committed, have been unencumbered and the commitment released by the Relief Administrator and the Relief Commission, and (ii) "Expended" describes sums of money which are encumbered and against which commitments are made.

(f) "Appropriation," as used in this act (including Section 18) refers to the appropriation made by this section.

(g) The sum appropriated by subdivision (a), except the money available for the administrative expenses of the Controller, shall, upon order of the State Controller, be transferred to the Unemployment Relief Fund and shall be disbursed therefrom for the purposes herein provided. Until such time as such transfer is made, or when there is no money in said fund, the procedure for transfer of money from other funds prescribed by Section 1a of the California Unemployment Relief Act of 1935 shall be applicable hereto.

SEC. 2. Section 4 of the California Unemployment Relief Act of 1935 is hereby amended to read as follows: Stats 1935, p 1852

Sec. 4. No person shall be entitled to relief under this act who refuses to accept employment when the same is available unless the Relief Administrator or his duly authorized agent shall certify in writing to the Relief Commission that, in the opinion of such Relief Administrator or his duly Persons not entitled to relief

authorized agent, such person was justified in refusing to accept such employment.

New section SEC. 3. Section 8.5 is hereby added to the California Unemployment Relief Act of 1935, to read as follows:

Certificat on to Federal agencies Sec. 8.5. Notwithstanding the ineligibility of any person and his dependents for relief under this act or from any appropriation made for the relief of the hardship and destitution due to and caused by unemployment, the Relief Commission and the Relief Administrator may, if such person and his dependents are eligible for assistance under Chapter 2 of Division 4 of the Welfare and Institutions Code and have the residence qualifications required by Sections 2555 and 2556 of the Welfare and Institutions Code, certify him and his dependents to the Works Projects Administration or any other agency of the Federal Government for public assistance.

Short title SEC. 4. This act shall be known and may be cited as the Supplementary Relief Act of 1941.

Urgency SEC. 5. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows:

The appropriation for unemployment relief is about to be totally expended and it is necessary that additional funds be made available immediately. Unless this act providing immediate funds and the means for the expenditure thereof and safeguards upon their use takes effect immediately relief operations will have to be suspended at a time when the need is great, which will result in untold hardship and suffering to a great number of persons receiving relief in this State at this time, and will cause serious unrest throughout the State.

CHAPTER 55

An act to amend School Code Section 3.93, relating to the maintenance of public school classes on Saturday and declaring the urgency thereof and providing that this act shall take effect immediately.

In effect immediately [Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

Stats 1941, p 361 SECTION 1. School Code Section 3.93 is hereby amended to read as follows:

Special Saturday classes 3.93. The governing board of any high school district or unified school district may provide for the maintenance on Saturday of special day and evening classes in vocational training authorized or provided for by any Program of

National Defense of the Federal Government, or any agency thereof, acting through the State Department of Education.

The average daily attendance of pupils upon classes conducted on Saturday pursuant to this section shall not be considered in computing the average daily attendance for the purpose of making apportionments from State funds.

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows: Urgency

The Federal Government is making preparations to defend this Nation against possible aggression, and in preparing for the National defense, it is necessary to construct large amounts of military weapons, stores and supplies. The Federal Government has requested that the facilities of the public schools be used to the fullest possible extent in training persons for such purposes. Under the present law of this State, the facilities of high schools will not be available on Saturdays on and after April 1, 1941, for such purposes. The inability to use the schools and the large amounts of equipment and other facilities of the schools to the fullest extent will hamper plans for the National defense. Upon this act becoming effective, the training facilities and the preparations for the defense of the State and Nation will be materially enhanced.

CHAPTER 56

An act to add Division 6, comprising Sections 14000 to 14004, inclusive, to the Business and Professions Code, thereby consolidating and revising the law relating to general provisions concerning business rights, defining the terms used in connection therewith, describing the effect of the provisions on business rights and providing the manner in which said rights may be asserted. Stats 1937, p 1229, amended

[Approved by Governor April 4, 1941 Filed with Secretary of State April 7, 1941] In effect September 13, 1941

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

SECTION 1. Division 6, comprising Sections 14000 to 14004, inclusive, is hereby added to the Business and Professions Code, to read as follows: New division

DIVISION 6. BUSINESS RIGHTS

GENERAL PROVISIONS

14000. Definitions in this division shall not affect the construction of the same terms in any other division of this code. Definitions

"Person" 14001. As used in this division, "person" means any person, association, organization, partnership, business trust or corporation.

Agents 14002. Every act which, according to this division, may be done by or to any person, may be done by or to the agent of such person for that purpose, unless a contrary intention clearly appears.

"Trade Union" 14003. As used in this division, "trade union" means any trade union, labor organization, or labor association, organized and existing in this State, whether incorporated or not.

Cumulative 14004. The provisions of this code for the registration and use of trade-marks by trade unions are cumulative to, and are not a limitation upon, the provisions of the Labor Code relating to the same subject.

CHAPTER 57

Stats 1937, p 1329, amended *An act to add Chapter 1, comprising Sections 14100 to 14103, inclusive, to Division 6, and to add Section 30023 to Division 30 of the Business and Professions Code, thereby consolidating and revising the law relating to the definition and transfer of good will, and repealing acts and parts of acts specified herein.*

In effect September 13, 1941 [Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

New chapter SECTION 1. Chapter 1, comprising Sections 14100 to 14103, inclusive, is hereby added to Division 6 of the Business and Professions Code, to read as follows:

CHAPTER 1. GOOD WILL

"Good will" 14100. The "good will" of a business is the expectation of continued public patronage.

Previous owner 14101. The good will of a business does not include a right to use the name of any person from whom the business was acquired.

14102. The good will of a business is property and is transferable.

Transfer 14103. The person transferring the good will of a business may transfer with it the right of using the name under which the business is conducted.

SEC. 2. Section 30023 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30023. The following acts and sections, together with all acts amendatory thereof and supplementary thereto, are hereby repealed: Repeals
Civil Code, Sections 992 and 993.

CHAPTER 58

An act to add Chapter 2, comprising Sections 14200 to 14325, inclusive, to Division 6, and to add Section 30024 to Division 30, of the Business and Professions Code, thereby consolidating and revising the law relating to trade-marks, and repealing acts and parts of acts specified herein. Stats. 1937, p. 1229, amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect September 13, 1941

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

SECTION 1. Chapter 2, comprising Sections 14200 to 14325, inclusive, is hereby added to Division 6 of the Business and Professions Code, to read as follows: New chapter

CHAPTER 2. TRADE-MARKS

Article 1. Appropriation of Trade-marks

14200. Except as otherwise provided in this chapter, a trade-mark may consist of any form, symbol, or name. Trade-mark

14201. A trade-mark may not consist of a designation or part of a designation that relates only to any of the following: Restrictions
(a) The name of the thing marked.
(b) The quality of the thing marked.
(c) The description of the thing marked.
(d) The place where the thing marked is produced.

14202. Any person who produces or deals in a particular thing, may appropriate a trade-mark to his exclusive use, to designate the origin of the thing. Appropriation

14203. No person may appropriate a trade-mark which has been appropriated by another person.

14204. Any trade union may adopt and use a trade-mark and affix the same to any goods made, produced, or manufactured by the members of such trade union, or to the box, cask, case, or package containing such goods. Trade unions

Article 2. Registration of Trade-marks

"Trade-mark" defined

14229. As used in this article "trade-mark" includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman, to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, and also any name or names, marks or devices, branded, stamped, engraved, etched, blown, or otherwise attached or produced upon any cask, keg, bottle, vessel, siphon, can, case, or other package, used by any mechanic, manufacturer, druggist, merchant or tradesman, to hold, contain or inclose the goods so imported, manufactured, produced, compounded or sold by him.

Registration

14230. Any person may register any trade-mark used by him in this State by filing a claim to it with the Secretary of State.

Classes

14231. The Secretary of State shall establish classes of merchandise for the purpose of trade-mark registration, and shall determine the particular descriptions of goods comprising each class.

Single claims

14232. On a single claim a trade-mark may be registered at the option of the claimant for any goods comprising a single class of merchandise, upon which the mark has actually been used if the particular description of goods is stated.

Supporting material

14233. Every claim for registration filed with the Secretary of State under this article shall be accompanied by all of the following:

(a) Copies and description of such trade-mark.

(b) A statement of the first date of use of the trade-mark.

(c) A statement of the class of merchandise and the particular description of goods in the class to which the trade-mark is applied.

(d) A statement of the mode in which the trade-mark is applied and affixed to the goods.

Affidavit

14234. Every claim for registration shall contain an affidavit, certified to by any officer authorized to take acknowledgments of conveyances, setting forth that the claimant is the exclusive owner of the trade-mark.

Execution

14235. Where the claimant is a trade union, all documents prescribed by this article shall be executed by the president of the claimant.

Record

14236. The Secretary of State shall keep for public examination a record of all trade-marks registered in his office, with the date when the claim was filed and the name and address of the claimant.

14237. At the time of filing, the Secretary of State shall issue to the claimant a certificate of registration under the Great Seal of the State. Certificate

14238. Every certificate of registration shall remain in force for 20 years and all registrations of record as of September 19, 1939, shall remain in force for a period of 20 years from that date, subject, however, to the provisions of this article. Duration

14239. Certificates of registration may be, from time to time, renewed for like periods upon request by the registrant, the registrant's legal representatives, or transferees of record in the office of the Secretary of State. Renewals

14240. A request for renewal may be made at any time not more than six months prior to the expiration of the period for which the certificates of registration are issued or renewed. Request

14241. The Secretary of State shall mail to the registrant or his transferee of record a notice of the date of expiration of the period of registration, not less than seven months prior to that date. Notice

14242. The Secretary of State shall refuse to register any trade-mark which consists of or comprises any of the following: Refusals to register

(a) Immoral or scandalous matter.

(b) The flag or coat of arms or other insignia of the United States, or any simulation thereof, or of any State or municipality, or of any foreign nation.

(c) Any design or picture that has been adopted by any fraternal society as its emblem, unless it is shown to the satisfaction of the Secretary of State that the mark was adopted and used as a trade-mark by the claimant or claimants' predecessors, from whom title is derived, at a date prior to its adoption by the fraternal society as its emblem.

(d) Merely the name of any person not written, printed, impressed or woven in some particular or distinctive manner or in association with a portrait of the person applying for registration.

(e) Words or devices which are merely descriptive of the goods or merchandise with which they are used, or of the class, character or quality of the goods or merchandise.

(f) Merely a geographical name or term.

(g) The portrait of a living person except by consent of the person evidenced by an instrument in writing.

14243. The Secretary of State shall refuse to register any trade-mark which is used in unlawful business, or upon any merchandise injurious in itself, or which has been used with Refusals

the design of deceiving the public in the purchase of the merchandise.

Deception

14244. The Secretary of State shall refuse to register any trade-mark which so closely resembles a trade-mark registered in this State, and appropriated to merchandise of the same descriptive properties, as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers.

Bona fide use

14245. No trade-mark shall be registered until it is in bona fide use as a trade-mark.

Cancellation

14246. The Secretary of State shall cancel registrations of trade-marks of record in his office under any of the following circumstances:

(a) Upon the filing of a voluntary request for the cancellation signed by the claimant, or a duly qualified officer if it is a corporation, a member of the firm, or the assignee of record.

(b) Upon the filing of a certified copy of a final judgment by a court ordering the registration canceled, when it appears upon the face of the judgment that the court had jurisdiction of the subject matter and the parties.

(c) Upon the filing of satisfactory proof that the claimant or his assignee of record has intentionally abandoned the use of the trade-mark.

Rehearings

14247. Upon petition by a claimant whose claim has been rejected on reference to a prior registration, and upon a showing of priority of adoption and use in this State, of the mark in controversy by the claimant, satisfactory to the Secretary of State, he may issue a certificate of registration to the claimant and cancel the prior registration.

Rules

14248. The Secretary of State may make rules and regulations, not inconsistent with law, for the conduct of proceedings in the registration and cancellation of trade-marks provided in this article.

Article 3. Ownership of Trade-marks

Original owner

14270. Any person who has first adopted and used a trade-mark, whether within or beyond the limits of this State, is its original owner.

Prima facie evidence

14271. Every trade-mark registration on the records of the Secretary of State is prima facie evidence of the ownership of the mark.

Transfer

14272 Any trade-mark may be transferred in the same manner as personal property in connection with the good will of the business in which it is used or the part to which it is

appurtenant, and the owner is entitled to the same protection by suits at law or in equity.

Assignment

14273. Every registered trade-mark and every mark for the registration of which a claim has been filed, together with the claim for its registration is assignable in connection with the good will of the business in which the mark is used or the part to which it is appurtenant.

Writing required

14274. Every assignment of a registered trade-mark shall be by an instrument in writing and duly acknowledged according to the laws of the country or State in which it is executed.

Recordation

14275. Every assignment of a registered trade-mark shall be void as against any subsequent purchaser for a valuable consideration, without notice, unless such assignment is recorded with the Secretary of State within three months from its date.

Certificate

14276. A certificate of recordation shall be issued by the Secretary of State to the assignee of a registered trade-mark.

Article 4 Fees

Fees

14290. The Secretary of State shall charge and collect a fee of five dollars ($5) for each of the following:

(a) Filing a claim to a trade-mark and issuing a certificate of filing.

(b) Recording an assignment of a trade-mark.

(c) Renewing the registration of a trade-mark.

Article 5. Civil Remedies for Infringement

Injunctions

14300. Any court of competent jurisdiction may restrain, by injunction, any use of trade-marks in violation of the rights defined in this chapter and the use of any trade-mark registered in the office of the Secretary of State.

Right to prosecute

14301. The president or other presiding officer of any trade union which has complied with this chapter, may commence and prosecute in his own name any action or proceedings he may deem necessary for the protection of any trade-mark adopted or in use under this chapter, or for the protection or enforcement of any rights or powers which may accrue to the trade union by the use or adoption of the trade-mark.

Article 6. Penalties

Definitions

14320. "Forged trade-mark" and "counterfeited trade-mark," as used in this article, include every alteration, imitation, copy, or reproduction of any trade-mark so resembling the original as to be likely to deceive.

Forgery

14321. Every person who wilfully forges or counterfeits, or procures to be forged or counterfeited, a trade-mark registered with the Secretary of State or the Commissioner of Patents in the United States Patent Office, or who affixes such a forged or counterfeited trade-mark to goods of essentially the same descriptive qualities as those referred to in the registration of the trade-mark, with intent to pass off or assist any other person to pass off any goods to which the trade-mark is attached or applied as those of the registrant is guilty of a misdemeanor.

Goods with illegal marks

14322. Every person who sells, or keeps for sale, or manufactures or prepares, for the purpose of sale, any goods upon or to which any forged, or counterfeited trade-mark, or label, or brand, composed in whole or in part of a forged, or counterfeited trade-mark, has been affixed, after the trade-mark has been registered with the Secretary of State, or with the Commissioner of Patents in the United States Patent Office, intending to represent the goods as the genuine goods of the person owning the trade-mark, knowing it to be forged, or counterfeited, is guilty of a misdemeanor.

Contents

14323. Every person who has in his possession, or who uses any cask, bottle, vessel, case, cover, label, brand, or other thing bearing, or having in any way connected with it, the trade-mark of another, which has been registered with the Secretary of State, or with the Commissioner of Patents in the United States Patent Office for the purpose of disposing of any article other than that which such cask, bottle, vessel, case, cover, label, brand, or other thing originally contained, or is connected with by the owner of such trade-mark, with intent to deceive or defraud, is guilty of a misdemeanor.

Defacing

14324. Every person who wilfully defaces, obliterates, or otherwise removes, destroys, or conceals the trade-mark of another, which has been registered with the Secretary of State, or with the Commissioner of Patents in the United States Patent Office, printed, branded, stamped, engraved, etched, blown, impressed, or otherwise attached to, or produced upon any cask, keg, bottle, vessel, siphon, can, case, or other package, for the purpose of selling or trafficking in such cask, keg, bottle, vessel, siphon, can, case, or other package, or refilling such cask, keg, bottle, vessel, siphon, can, case, or other package, with intent to defraud the owner thereof, without the consent of the owner, or unless the same has been purchased from the owner, is guilty of a misdemeanor.

Containers

14325. Every person who wilfully sells, or traffics in any cask, keg, bottle, vessel, siphon, can, case, or other package bearing the trade-mark of another, which has been registered with the Secretary of State, or with the Commissioner of Patents in the United States Patent Office, or refills any such

cask, keg, bottle, vessel, siphon, can, case, or other package with intent to defraud the owner thereof, is guilty of a misdemeanor

SEC. 3. Section 30024 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30024. The following acts and sections, together with all acts amendatory thereof or supplementary thereto, are hereby repealed: Repeals

Civil Code

Section
991

Penal Code

Section	Section
350	354
351	354½
352	354¾
353	

Political Code

Section	Section
3196	3197c
3197	3198
3197a	3199
3197b	3200
	3201

CHAPTER 59

An act to add Chapter 3, comprising Sections 14400 to 14491, inclusive, to Division 6, and to add Section 30040 to Division 30 of the Business and Professions Code, thereby consolidating and revising the law relating to trade names and designations, and repealing acts and parts of acts specified herein. Stats. 1937, p. 1229, amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect September 13, 1941

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

SECTION 1. Chapter 3, comprising Sections 14400 to 14491, inclusive, is hereby added to Division 6 of the Business and Professions Code, to read as follows: New chapter

CHAPTER 3. TRADE NAMES AND DESIGNATIONS

Article 1. Trade Names

14400. Any person who has first adopted and used a trade name, whether within or beyond the limits of this State, is its original owner. Owner

Transfers 14401. Any trade name may be transferred in the same manner as personal property in connection with the good will of the business in which it is used or the part thereof to which it is appurtenant, and the owner is entitled to the same protection by suits at law or in equity.

Injunctions 14402. Any court of competent jurisdiction may restrain, by injunction, any use of trade names in violation of the rights defined in this chapter.

Fraud 14403. Every person who has in his possession, or who uses any cask, bottle, vessel, case, cover, label, brand, or other thing bearing, or having in any way connected with it, the trade name of another, for the purpose of disposing of any article other than that which such cask, bottle, vessel, case, cover, label, brand or other thing, originally contained, or is connected with by the owner of the trade name, with intent to deceive or defraud, is guilty of a misdemeanor.

Defacing 14404. Every person who wilfully defaces, obliterates, or otherwise removes, destroys, or conceals the trade name of another, printed, branded, stamped, engraved, etched, blown, impressed, or otherwise attached to, or produced upon any cask, keg, bottle, vessel, siphon, can, case, or other package, for the purpose of selling or trafficking in such cask, keg, bottle, vessel, siphon, can, case, or other package, or refilling such cask, keg, bottle, vessel, siphon, can, case, or other package, with intent to defraud the owner thereof, without the consent of the owner, or unless the same has been purchased from the owner, is guilty of a misdemeanor.

Containers 14405. Every person who wilfully sells, or traffics in any cask, keg, bottle, vessel, siphon, can, case or other package bearing the trade name of another, printed, branded, stamped, engraved, etched, blown, or otherwise attached or produced thereon, or refills any such cask, keg, bottle, vessel, siphon, can, case, or other package with intent to defraud the owner thereof, without the consent of the owner, or unless it has been purchased from the owner, is guilty of a misdemeanor.

Article 2. Container Brands

Definitions 14425. As used in this article:

(a) "Containers," "equipment" and "supplies" means containers, equipment or supplies bearing a brand.

(b) "Brand" means any mark, name or device filed and published as a brand under this article.

(c) "Registrant" means a person who files and publishes a brand under this article.

Association 14426. Any corporation or association whose members might register a brand under this article, may itself register a brand under this article.

As used in this article, "member of a registrant" means a member who would be entitled to register the same brand under this article.

County recording

14427. Any person, who is engaged in the manufacture, packing, canning, bottling or selling of any substance in containers with his name, or other mark or device impressed or produced thereon, or whose equipment or supplies, owned by and used in his business, bears a name or other mark or device impressed or produced thereon, may file in the office of the county clerk of the county in which his principal place of business, or the principal place of business of its members, is situate, or if his place of business is situate out of the State, then in the office of the county clerk of any county of the State, and also in the office of the Secretary of State, a description of the name, mark or device so used, as a brand.

Publication

14428. Any person filing a description under this article shall also cause the description to be printed once a week for three successive weeks in a newspaper published in the county in which the description has been filed.

14429. There shall be included as a part of each brand the words, "Registered in California," or the abbreviation, "Reg. Cal."

Unlawful acts

14430. It is unlawful for any person except a person named in subdivision (a) to do any of the acts named in subdivision (b).

(a) Persons excepted:

(1) The owner of the brand which has been filed and published in accordance with this article

(2) The registrant.

(3) Members of any corporation or association which is the registrant.

(4) A person who has the written consent of the registrant describing the containers, equipment or supplies to which it applies.

(5) A person who has purchased the container, equipment or supplies from the owner of the brand appearing thereon.

(b) Prohibited acts:

(1) Using or filling with any substance any container.

(2) Obliterating or concealing the brand on any container, supplies or equipment.

(3) Selling, buying, giving, taking or otherwise trafficking in any container, equipment, or supplies.

Unlawful use

14431. The use by any person other than the registrant, or owner of the brand and other than the members of the registrant of any container, supplies or equipment, without the written consent provided for in this article, or the possession by any junk dealer, or dealer in secondhand articles, of

any containers, supplies or equipment, is presumptive evidence of unlawful use of or traffic in such containers, supplies, or equipment.

Consents 14432. Any person acquiring containers, supplies or equipment, by purchase or other lawful means, and having the written consent provided for in this article is not required again to file and publish the description, but acquires as a part of his purchase all benefit that the vendor has.

Deposits 14433. The acceptance by the owner, or any person lawfully entitled to their use, of any money as a deposit to secure the safekeeping and return of containers, equipment or supplies does not constitute a sale of the containers, supplies or equipment, either optional or otherwise, in any proceeding under this article.

Search 14434. It is the duty of every person who finds or receives in the regular course of business or in any other manner, any containers, supplies or equipment to make diligent effort to find the owner and return the containers, supplies or equipment to him.

Search warrants 14435. (a) Whenever any registrant or any member of the registrant takes an oath before any magistrate that he has reason to believe, and does believe, that any of the containers, supplies or equipment mentioned in this article, are being unlawfully sold, filled or used, or are secreted in any place, the magistrate shall issue a search warrant to discover and obtain them;

(b) The magistrate may cause to be brought before him, the person in whose possession the containers, equipment or supplies are found, and if he finds that the person has been guilty of a violation of this article, he shall impose the punishment prescribed in this article, and also award the possession of the containers, equipment or supplies taken upon the search warrant to the owner, or to the corporation or association of which the owner is a member.

Penalty 14436. The violation of any of the provisions of this article is a misdemeanor, punishable:

(a) For the first offense by imprisonment for not less than 10 days nor more than six months or by a fine of fifty cents ($0.50) for each and every container, or article of supply or equipment so filled, sold, used, disposed of, held, bought or trafficked in, or by both such fine and imprisonment.

(b) For each subsequent offense by imprisonment for not less than 20 days nor more than one year, or by a fine of not less than one dollar ($1) nor more than five dollars ($5) for each and every container, or article of supply or equipment so filled, sold, used, disposed of, held, bought or trafficked in, or by both such fine and imprisonment.

14437 Every brand registered and published under Chapter 431 of the Statutes of 1921, as amended, prior to the effective date of Chapter 1162 of the Statutes of 1931, and all containers, equipment and supplies bearing such a brand shall be entitled to all the protection and benefits of this chapter, and it is not necessary for any such brand to be changed, reregistered or republished on account of the provisions of Chapter 1162 of the Statutes of 1931 and the provisions of this article which constitute a restatement and continuation thereof. Stats. 1921, p. 627. Stats. 1931, p. 2465.

Article 3. Farm Names

14460. "Farm," as used in this article, includes ranch, estate and villa. "Farms"

14461. Any farm owner or lessee in this State, may upon the payment of one dollar ($1) to the Secretary of State, have the name of his farm registered in a register which the Secretary of State shall keep for that purpose. Registration

The owner or lessee shall be furnished a certificate, issued under seal, setting forth the name and location of the farm and the name of the owner.

14462. Any person selling or marketing the products grown on a farm may use the name of the farm as a trade-mark on the products of the farm, in the same manner as provided for other trade-marks, and subject to the same rights and duties, as provided in this code. Products

14463. Registration under this article shall have the same effect as the registration of a trade-mark. Effect

14464. When any name has been registered as the name of any farm, that name shall not be registered as the name of any other farm in this State, unless designating words have been prefixed or added thereto. The Secretary of State shall register such name only for the person entitled thereto. Exclusive

14465. Any person who registers as his own, any name already in use in this State, knowing that the name is already adopted as the name of a farm, or makes use of the name when regularly registered and in use by any other person entitled thereto under this article is guilty of a misdemeanor. Penalty

Article 4. Laundry Supply Designations

14480. As used in this article: Definitions

(a) "Registrant" means any person who files and publishes a name, mark or device under this article.

(b) "Supplies" means supplies bearing a name, mark or device filed and published under this article.

Registration

14481. Any person engaged in the business of supplying clean laundered garments, towels, table linen or other articles, the property of the supplier, in a regular service, periodically exchanging clean articles for soiled for a fixed compensation, may adopt and use a name or other mark or device woven, impressed or produced thereon as an indicium of ownership, and may register the name, mark or device by filing and publishing it under this article.

Procedure

14482. In order to register a name, mark or device under this article, the supplier shall do all of the following:

(a) File in the office of the Secretary of State and also in the office of the county clerk of the county in which the principal place of business of the supplier is located, or if such place of business is located outside of the State then in the office of the county clerk of any county of the State, a description of the names, marks or devices so used.

(b) Cause the description of the name, mark or device to be printed once a week for three successive weeks in a newspaper published in the county in which the description has been filed.

Fee

14483. The registrant shall pay to the Secretary of State a filing fee of ten dollars ($10) for each registration and to the county clerk a filing fee of one dollar ($1) for each registration

Prohibited acts

14484. It is unlawful for any persons except a person named in subdivision (a) to do any of the acts named in subdivision (b):

(a) Persons excepted:

(1) The registrant.

(2) A person who has the written consent of the registrant.

(3) A person who has purchased the supplies from the registrant.

(b) Prohibited acts:

(1) Selling, buying, renting, giving, taking or otherwise trafficking in any supplies bearing a name, mark or device filed and published under this article.

(2) Obliterating or otherwise covering up, concealing or removing a name, mark or device filed and published under this article, from such supplies.

Deposit

14485. The acceptance by the registrant of any sum of money as a deposit to secure the safekeeping and return of the supplies does not constitute a sale of the supplies either optional or otherwise, in any proceeding under this article.

Presumptive evidence

14486. The use by any person, other than the registrant of any supplies without the written consent provided in this article or the possession of supplies so marked by any junk

dealer or dealer of secondhand articles is presumptive evidence of unlawful use of or traffic in such supplies.

Purchase

14487. Any person or any member of any firm, corporation or association acquiring supplies by purchase or other lawful means and having the written consent provided for in this article, is not required again to file and publish the description but shall, as to supplies described in the written consent, acquire as part of the purchase all such rights and benefits as the vendor has under this article.

Effort to find owner

14488. It is the duty of every person who finds or receives in the regular course of business or in any other manner, any supplies to make diligent effort to find the owner and restore or return the supplies.

Search warrant

14489. Whenever the registrant or any member of any corporation or association which is the registrant takes an oath before any magistrate that he has reason to believe and does believe that any supplies are being unlawfully used, sold or secreted in any place, the magistrate shall issue a search warrant to discover and obtain the supplies and may also bring before him the person in whose possession the articles are found.

Penalty

14490. If the magistrate finds that any person brought before him has been guilty of a violation of this article he shall impose the punishment prescribed in this article and also award the possession of the property taken upon the search warrant to the owner.

14491. The violation of any of the provisions of this article is a misdemeanor.

New section

SEC. 2. Section 30040 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeals

30040. The following acts, together with all acts amendatory thereof or supplementary thereto, are hereby repealed:

General Laws

Year	Chapter	Page
1911	87	255
1921	431	627
1937	667	1829

Political Code

Section
3196a
3196b

CHAPTER 60

Stats 1937, p 1279, amended

An act to add Chapter 4, comprising Sections 14700 to 14740, inclusive, to Division 6, and to add Section 30025 to Division 30 of the Business and Professions Code, thereby consolidating and revising the law relating to protection of the rights of authorship and repealing acts and parts of acts specified herein.

In effect September 13, 1941

[Approved by Governor April 4, 1941 Filed with Secretary of State April 4, 1941]

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

New chapter

SECTION 1. Chapter 4, comprising Sections 14700 to 14740, inclusive, is hereby added to Division 6 of the Business and Professions Code, to read as follows:

CHAPTER 4. AUTHORSHIP

Article 1. Literature

Filing

See also Stats 1941, p 2834

14700. Any person may file with the Secretary of State a printed or typewritten copy of any lecture, sermon, address, dramatic composition, story or motion picture scenario together with an affidavit attached thereto setting forth that the person is the author of the printed or typewritten matter, and is entitled to all the rights and benefits accruing therefrom.

Certificate

14701. Upon receipt of the printed or typewritten matter and accompanying affidavit, the Secretary of State shall file them in his office, keeping a record thereof showing the date of filing, name of the claimant, and the title of the lecture or other printed or typewritten matter.

The Secretary of State shall at the time of filing, issue to the claimant a certificate of filing under the Great Seal of State, which certificate shall set forth the facts recorded.

Prima facie evidence

14702. The certificate of filing or a certified copy together with a certified copy of the document filed shall be admitted in any court as prima facie evidence of the facts recited therein.

Fee

14703. A filing fee of five dollars ($5) shall be paid to the Secretary of State for each certificate of filing. All fees received therefrom shall be deposited in the State Treasury.

Article 2. Opera

Prohibition

14720. Any person who causes publicly to be performed or represented for profit any unpublished or undedicated dramatic composition or dramatic-musical composition known as an opera, without the consent of its owner or proprietor, or

who, knowing that such dramatic or musical composition is unpublished or undedicated, and without the consent of its owner or proprietor, permits, aids, or takes part in such a performance or representation, or who sells a copy or a substantial copy of any unpublished, undedicated or copyrighted dramatic composition or musical or dramatic-musical composition, known as an opera, without the consent of the author or proprietor of such dramatical, or dramatic-musical composition is guilty of a misdemeanor, and upon conviction, he shall be punished by a fine of not less than fifty dollars ($50), and not more than three hundred dollars ($300), or by imprisonment for not less than 30 days or more than three months, or by both such fine and imprisonment.

Article 3. Music

14740. Whoever wilfully prints, publishes, sells, distributes or circulates, or causes to be printed, published, sold, distributed or circulated for profit any circular, pamphlet, card, handbill, advertisement, printed paper, book, newspaper or other document containing the words or musical score of any musical composition which or any part of which is copyrighted under the laws of the United States, without first having obtained the consent of the owner or proprietor of such copyrighted musical composition, is guilty of a misdemeanor. Music

SEC. 2. Section 30025 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30025. The following acts, together with all acts amendatory thereof or supplementary thereto, are hereby repealed: Repeals

Political Code	Penal Code
Section	Section
3202	367a
	367b

CHAPTER 61

An act to add Division 7, comprising Part 1, Chapters 1 to 3, inclusive, Sections 16000 to 16240, inclusive, and to add Section 30026 to Division 30 of the Business and Professions Code, thereby consolidating and revising the law relating to licensing by the State, counties and cities, and repealing acts and parts of acts specified herein. Stats 1937, p 1229, amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect September 13, 1941

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

SECTION 1. Division 7, consisting of Part 1, Chapters 1 to 3, inclusive, Sections 16000 to 16240, inclusive, is hereby New division

added to the Business and Professions Code, to read as follows:

DIVISION 7. GENERAL BUSINESS REGULATIONS

PART 1. LICENSING FOR REVENUE AND REGULATION

CHAPTER 1. LICENSING BY CITIES

License for regulation

16000. The legislative bodies of incorporated cities may, in the exercise of their police power, and for the purpose of regulation, as herein provided, and not otherwise, license any kind of business not prohibited by law transacted and carried on within the limits of their jurisdictions, including all shows, exhibitions and lawful games, and may fix the rates of such license fee and provide for its collection by suit or otherwise.

Exemptions
See also Stats 1941, p 2100

16001. Every honorably discharged or honorably released soldier, sailor, or marine of the United States or Confederate States who served in the Civil War, any Indian war, the Spanish-American War, any Philippine insurrection, the Chinese Relief Expedition, or the World War of 1914 and years following, who is physically unable to obtain a livelihood by manual labor, and who is a voter of this State, may distribute circulars, and hawk, peddle, and vend any goods, wares or merchandise, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license tax or fee whatsoever, whether municipal, county or State, and the legislative body shall issue to such soldier, sailor or marine, without cost, a license therefor.

Wholesalers

16002. No license fee may be collected from, nor any penalty for the nonpayment thereof enforced against, any commercial traveler whose business is limited to goods, wares, and merchandise sold or dealt in at wholesale in this State.

16003. This article does not repeal any act vesting municipal corporations with power to license for revenue purposes.

CHAPTER 2. LICENSING BY COUNTIES

License for regulation

16100. The boards of supervisors, in their respective counties, may in the exercise of their police powers, and for the purpose of regulation, as herein provided, and not otherwise, license any kind of business not prohibited by law, transacted and carried on within the limits of their respective jurisdictions, including all shows, exhibitions, and lawful games, and may fix the rate of license fee and provide for its collection by suit or otherwise.

16101. The boards of supervisors in their respective counties may for the purpose of revenue license individuals acting as hawkers, itinerant peddlers or itinerant vendors, other than merchants having a fixed place of business in the county, their employees, and farmers selling farm products produced by them. License for revenue

16102. Every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may hawk, peddle and vend any goods, wares or merchandise, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license, tax or fee whatsoever, whether municipal, county or State, and the board of supervisors shall issue to such soldier, sailor or marine, without cost, a license therefor. Exemption See also Stats. 1941, p. 2101

16103. No license fee may be collected from, nor any penalty for the nonpayment thereof enforced against, any commercial traveler whose business is limited to goods, wares and merchandise sold or dealt in at wholesale in this State. Wholesalers

CHAPTER 3. STATE LICENSING

Article 1. Definitions

16200. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of the terms they define in the subsequent sections of this chapter. Definitions

16201. "Fee" includes every tax, fee, penalty and other monetary exaction, and interest and costs in connection therewith, imposed or collected in connection with or as a prerequisite to or condition for the issuance, renewal or continued validity of any license, certificate or registration required by law. "Fee"

16202. "Tax" includes every tax, fee, penalty and other monetary exaction, and interest and costs in connection therewith, imposed or collected for revenue for public purposes generally. "Tax"

16203. "Charge" includes every tax, fee, penalty and other monetary exaction, and interest and costs in connection therewith, imposed or collected for regulatory purposes or for some particular public purpose or purposes. "Charge"

16204. "Officer" includes director, chief, commissioner, chairman, department, division, bureau, commission, board and any other person, officer or employee, and any agency, of or in the Government of this State. "Officer"

"Taxpayer" 16205. "Taxpayer" includes every individual, person, firm, partnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate and artificial legal entity subject to or liable for any fee, tax or charge.

Article 2. Actions

Cumulative remedy 16220. The remedy provided by this chapter for the collection of any fee, tax and charge is cumulative. No action taken under this chapter constitutes an election to pursue the remedy provided by it to the exclusion of any other remedy provided by law.

Suits authorized 16221. Every officer by or for whom any fee, tax or charge imposed by the statutes of this State is collected may bring a suit in the name of the people of this State against any taxpayer who fails, neglects or refuses to pay any sums due, owing and unpaid by the taxpayer upon the fee, tax or charge.

This section does not of itself authorize a suit for recovery of a judgment for a tax on real estate which is a lien thereon.

Procedure 16222. Except as otherwise provided in this chapter, the provisions of the Code of Civil Procedure relating to the service of summons, pleadings, proofs, trials and appeals are applicable to actions under this chapter.

Remedies 16223. Upon application and without bond or affidavit, every officer suing under this chapter is entitled to all or any of provisional remedies provided in the Code of Civil Procedure.

Deposit 16224. All sums collected in suits under this chapter shall be reported to the Controller and deposited in the State Treasury to the credit of the fund in which would be deposited the fee, tax or charge for which the suit was brought.

Article 3. Penalties

License required 16240. Every person who commences or carries on any business, trade, profession, or calling, for the transaction or carrying on of which a license is required by any law of this State, without taking out or procuring the license prescribed by such law, is guilty of a misdemeanor.

New section SEC. 2. Section 30026 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

Repeals 30026. The following acts and sections, together with all acts amendatory thereof and supplementary thereto, are hereby repealed:

Penal Code

Section

435

Political Code Repeals

Section	Section
3366	3389.5
3388	3390
3388.5	3391
3389	4041.14

CHAPTER 62

An act to add Chapter 4, comprising Sections 16300 to 16451, inclusive, to Part 1 of Division 7, and to add Section 30027 to Division 30 of the Business and Professions Code, thereby consolidating and revising the laws regulating itinerant merchants and repealing acts and parts of acts specified herein. Stats 1937, p 1229, amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect September 13, 1941

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

SECTION 1. Chapter 4, comprising Sections 16300 to 16451, inclusive, is hereby added to Part 1 of Division 7 of the Business and Professions Code, to read as follows: New chapter

CHAPTER 4. ITINERANT MERCHANTS

Article 1. General Provisions

16300. A "vehicle" is a device in, upon or by which any person or property is or may be propelled, moved or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks. "Vehicle"

16301. A "motor vehicle" is a vehicle which is self-propelled. "Motor vehicle"

16302. A truck tractor and a semitrailer, as defined in the Vehicle Code, shall be considered to be one vehicle.

16303. "Person" means any person, firm, association, partnership, or corporation. "Person"

16304. "Goods" means any goods, wares, merchandise, products, or chattels of any description. "Goods"

16305. "Farm products" includes all agricultural, horticultural, viticultural and vegetable products of the soil, poultry and poultry products, timber and timber products, live stock, hay, dried beans, honey and cut flowers, but shall not include milk and milk products subject to the licensing and "Farm products"

bonding provisions of Chapter 10 of Division 4 of the Agricultural Code.

"Established place of business"

16306. (a) "Established place of business" means any permanent warehouse, building, or structure owned in fee or leased, at which the owner or lessee carries on a legitimate permanent business in good faith and at which stocks of the goods transported are produced, stored, or kept, in quantities usually carried and reasonably adequate to meet the requirements of the business.

(b) "Established place of business" does not mean tents, temporary stands, or other temporary structures, or permanent structures occupied pursuant to a temporary arrangement.

"Commission"

16307. "Commission" means the Railroad Commission of the State of California.

"Secretary"

16308. "Secretary" means the secretary of the Railroad Commission of the State of California.

"Licensee"

16309. "Licensee" means a person to whom an itinerant merchant's license has been granted by the commission in accordance with this chapter.

Cumulative provisions

16310. Nothing in this chapter repeals or amends the provisions of any ordinance enacted by a county or city.

The provisions of this chapter are cumulative and supplemental with respect to regulations imposed by any county or city upon persons who are subject to the provisions of this chapter.

16311. The provisions of this chapter are cumulative and supplemental with respect to any other laws relating to motor vehicles now or hereafter enacted in this State.

Article 2. Application of the Chapter

"Itinerant merchant"

16320. "Itinerant merchant" means every person who buys for the purpose of sale, or offers to buy for the purpose of sale, at wholesale or retail, any farm products, and who transports such products upon a public highway by the use of a motor vehicle to any county in this State, other than the county in which the products were purchased, for the purpose of selling such products.

Exemptions Transporting goods for hire

16321. The provisions of this chapter do not apply to persons who are engaged in the business of transporting goods in motor vehicles for hire or who operate motor vehicles in such business as agents, employees, lessees, or contractors and who do not own or have any interest in the goods transported and who do not act for any party in the acquisition, purchase, sale, or disposition of the goods transported.

16322. The provisions of this chapter do not apply to persons who use motor vehicles to transport farm products produced by them or on land owned by them. Farm products

16323. The provisions of this chapter do not apply to persons transporting property owned or handled on consignment by them in motor vehicles operated by them, or by their agents or employees, when such transportation is an incident to a business conducted by them, and when such property is being transported to or from an established place of business operated by them, their agents or employees, or when such transportation is incidental to the conduct of an established place of business. Goods on consignment

16324. The provisions of this chapter do not apply to persons who use motor vehicles exclusively for the transportation, sale, and delivery, at wholesale or retail, of any particular group of goods having a common trade-mark, trade name, or brand, if such persons are agents or employees of the manufacturers or are wholesale distributors or retail dealers through whom such goods are marketed. Trade marked goods

16325. The provisions of this chapter do not apply to persons who use motor vehicles to transport goods for the personal use of the owners of the vehicles, or for the use of others if no charge is made for the transportation. Goods for personal use

16326. The provisions of this chapter do not apply to persons who use motor vehicles in exchange of work. Exchange of work

16327. The provisions of this chapter do not apply to independent contractors engaged in the delivery or distribution of newspapers of general circulation. Independent contractors

16328. The provisions of this chapter do not apply to farmers who occasionally transport from the place of production to a warehouse, regular market, place of storage, or place of shipment the farm products of neighboring farmers in exchange for like services or for a cash consideration. Farmers

16329. The provisions of this chapter do not apply to persons the principal part of whose business is the manufacturing, canning or processing of farm products or timber products. Processing

Article 3. Licensing

16340. No person may engage in business as an itinerant merchant unless he has first obtained a license as provided in this chapter. License

Applications 16341. Every person who wishes to engage in business as an itinerant merchant shall file with the commission an application for a license to transact the business of an itinerant merchant.

Contents 16342. The application for a license shall contain the applicant's full name, his post-office and residence addresses, and an exact description of the motor vehicle or vehicles to be used in the conduct of his business. If the applicant is a firm, association, partnership, or corporation the application shall contain the name and address of each member of the firm, association, or partnership, or of each officer of the corporation.

The application shall contain such further information as the commission may require.

Good faith 16343. The applicant shall satisfy the commission of his character, responsibility, and good faith in seeking to carry on the business of an itinerant merchant.

Certificate 16344. The license issued to an itinerant merchant shall be in the form of a card certificate signed by the secretary and shall contain the name and address of the licensee, a description of the motor vehicle or vehicles to be used by the licensee as an itinerant merchant, and an identification number.

Signature 16345. Every person licensed under the provisions of this chapter shall write his usual signature with pen and ink in the space provided for that purpose on the license issued to him immediately on receipt thereof, and such license shall not be valid until so signed.

Possession 16346. The licensee shall have his license in his immediate possession at all times when acting as an itinerant merchant, and shall display it upon demand of a member of the California Highway Patrol, a justice of the peace, a peace officer, or an investigator employed by the commission.

Term 16347. A license issued to an itinerant merchant is valid for the remainder of the calendar year in which it is issued.

Transfer 16348. No itinerant merchant's license may be sold or transferred.

Renewal 16349. A licensee may renew his license by filing an application and paying the license fee in the manner prescribed in this chapter in connection with the issuance of an original license.

Judgments 16350. The commission shall not renew the license of any licensee against whom there is an unsatisfied judgment rendered in any action arising out of the licensee's business in this State as an itinerant merchant.

Article 4. Consent to Service

Consent to suit

16370. With the application for a license the applicant shall also file a consent and agreement that any civil action for damages commenced against the licensee in this State, and arising out of transactions in this State, may be commenced by serving summons upon the secretary and by leaving with the secretary two copies of such summons.

Place of suit

16371. The consent and agreement required by this chapter shall provide that an action may be commenced in any county in this State in which the cause of action arose.

Service

16372. In any action against a licensee arising out of business done in this State by the licensee as an itinerant merchant and instituted in any court in this State, service of summons or other legal process upon the secretary shall constitute valid service of the licensee against whom the summons is directed.

Record

16373. The commission shall keep a record of all processes served upon the secretary as an agent for each licensee; identifying in such record each process so served, the court from which issued, the title and the nature of the action, and the time and date of service.

Mail summons

16374. The secretary shall note on both copies of the summons the time of the service thereof upon him, and shall file one of the copies in his office and shall forthwith mail the other, by registered mail, to the itinerant merchant named as defendant, to his post-office address on file with the commission.

Continuances

16375. The court in which is pending an action against a licensee arising out of business done in this State by the licensee as an itinerant merchant may grant such continuances as are necessary to afford the licensee a reasonable opportunity to defend the action.

Article 5. Motor Vehicles

Assignment of numbers

16390. The commission shall assign to each licensee a number for each vehicle to be used by the licensee in his business as an itinerant merchant, and the commission shall issue to the licensee for each such vehicle a license plate of such color and form as to be readily distinguishable from motor vehicle license plates issued by the Department of Motor Vehicles.

Plate

16391. When the motor vehicle for which a license plate is issued is used by the licensee in his business as itinerant merchant, the licensee shall display such license plate on a conspicuous place on the vehicle.

Transfer 16392. No motor vehicle shall be operated by an itinerant merchant unless the vehicle is equipped with a license plate as provided in this chapter. A license plate shall not be transferred from one vehicle to another.

Article 6. Manifests

Description of goods 16410. All itinerant merchants and their agents and employees shall carry on each motor vehicle used by them a manifest on a form prescribed by the commission showing a description of the goods in the vehicle, the place where and the person from whom the goods were purchased. If the goods are purchased by weight, the weight and the name and address of the person weighing the goods shall be shown on the manifest.

Duplicates 16411. Each manifest shall be kept in duplicate. The itinerant merchant shall preserve a copy of each manifest. On or before the fifteenth day of every month, each itinerant merchant shall file with the commission the original copies of the manifests covering all goods purchased by the merchant in the course of his business as an itinerant merchant in this State during the preceding calendar month.

Article 7. Revenue

Fee 16430. Each itinerant merchant shall pay a license fee in the amount of ten dollars ($10) for each motor vehicle to be used by him in the conduct of his business. The fee shall be paid to the commission at the time application is made for a license.

Deposit 16431. The commission shall pay into the State Treasury all moneys received under this chapter. The State Treasurer shall credit such moneys to the Itinerant Merchants Fund.

Appropriation 16432. All moneys in the Itinerant Merchants Fund are hereby appropriated without regard to fiscal years to be expended in accordance with law by the commission in the enforcement and administration of this chapter.

Article 8. Penalties

Penalty 16450. Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than three hundred dollars ($300) or less than twenty-five dollars ($25), or by imprisonment in the county jail for a period of not more than 60 days or less than 10 days, or by both such fine and imprisonment.

Investigation 16451. Any member of the California Highway Patrol may, for the purpose of making an investigation, stop any

motor vehicle in which goods are being transported on any public highway by or on behalf of an itinerant merchant.

If the driver of the motor vehicle fails to produce a manifest covering goods in the motor vehicle as required by this chapter, or if the member of the patrol has reason to believe that the driver is not lawfully in possession of the goods, the patrolman may take possession of the goods and hold them for 30 days pending an investigation.

SEC. 2. Section 30027 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30027. Chapter 876 of the Statutes of 1939 at page 2462, together with all acts amendatory thereof and supplementary thereto, is hereby repealed. Repeal Stats. 1939, p. 2462

CHAPTER 63

An act to add Part 3, comprising Chapter 1, Sections 17500 to 17535, to Division 7, and to add Section 30041 to Division 30 of the Business and Professions Code, thereby revising and consolidating the law relating to false advertising, and repealing acts and parts of acts specified herein. Stats. 1937, p. 1229 amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect September 13, 1941

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

SECTION 1. Part 3, comprising Chapters 1 and 2, inclusive, Sections 17500 to 17535, inclusive, is hereby added to Division 7 of the Business and Professions Code, to read as follows: New part

PART 3. REPRESENTATIONS TO THE PUBLIC

CHAPTER 1. ADVERTISING

Article 1. False Advertising in General

17500. It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this State, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement, concerning such real or Fraudulent statements

personal property or services, professional or otherwise or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

Price statements

17501. For the purpose of this article the worth or value of any thing advertised is the prevailing market price, wholesale if the offer is at wholesale, retail if the offer is at retail, at the time of publication of such advertisement in the locality wherein the advertisement is published.

No price shall be advertised as a former price of any advertised thing, unless the alleged former price was the prevailing market price as above defined within three months next immediately preceding the publication of the advertisement or unless the date when the alleged former price did prevail is clearly, exactly and conspicuously stated in the advertisement.

Publishers

17502. This article does not apply to any publisher of a newspaper, magazine, or other publication, who publishes an advertisement in good faith, without knowledge of its false, deceptive, or misleading character.

Article 2. Particular Offenses

Real estate

17530. It is unlawful for any person, firm, corporation or association, or any employee or agent therefor, to make or disseminate any statement or assertion of fact in a newspaper, circular, circular or form letter or other publication published or circulated in any language in this State, concerning the extent, location, ownership, title or other characteristic, quality or attribute of any real estate located in this State or elsewhere, which is known to him to be untrue and which is made or disseminated with the intention of misleading.

Nothing in this section shall be construed to hold the publisher of any newspaper, or any job printer, liable for any publication herein referred to unless the publisher or printer has an interest either as owner or agent, in the real estate so advertised.

"Seconds," etc

17531. It is unlawful for any person, firm, or corporation, in any newspaper, magazine, circular, form letter or any open publication, published, distributed or circulated in the State of California or on any billboard, card, label or other advertising medium, or by means of any other advertising device, to advertise, call attention to or give publicity to the sale of any merchandise, which merchandise is secondhand or used merchandise, or which merchandise is defective in any manner, or which merchandise consists of articles or units or parts known as "seconds," or blemished merchandise, or which merchandise has been rejected by the manufacturer thereof as

not first class, unless there be conspicuously displayed directly in connection with the name and description of such merchandise and each specified article, unit or part thereof, a direct and unequivocal statement, phrase, or word which will clearly indicate that such merchandise or each article, unit or part thereof so advertised is secondhand, used, defective, or consists of "seconds" or is blemished merchandise, or has been rejected by the manufacturer thereof, as the fact shall be. Statement required

17532. It is unlawful wilfully or knowingly, with intent to defraud, to sell or exchange, or offer or expose for sale or exchange, coal of a specific name or kind under any other name or description, or as the output of any mine other than the mine of which it is the product. Coal

17533. It is unlawful for any proprietor or publisher of any newspaper or periodical wilfully and knowingly to misrepresent the circulation of the newspaper or periodical, for the purpose of securing advertising or other patronage. Circulation

17534. Any person, firm, corporation, partnership or association or any employee or agent thereof who violates this chapter is guilty of a misdemeanor. Penalty

17535. Any person, corporation, firm, partnership, joint stock company, or any other association or organization which violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. Injunction

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney in this State in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public. Prosecution

SEC. 2 Section 30041 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30041. The following acts and parts of acts, together with all acts amendatory thereof and supplementary thereto, are hereby repealed: Repeals

GENERAL LAWS

Year	Chapter	Page
1909	703	1078

Penal Code

Section
538a
556
654a
654b
654c

CHAPTER 64

Stats 1937 p. 1129, amended

An act to add Chapter 2, comprising Sections 17700 to 17702, inclusive, to Part 3 of Division 7, and to add Section 30029 to Division 30 of the Business and Professions Code, thereby consolidating and revising the law relating to redeemable coupons, and repealing acts and parts of acts specified herein.

In effect September 13, 1941

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

New chapter

SECTION 1. Chapter 2, comprising Sections 17700 to 17702, inclusive, is hereby added to Part 3 of Division 7 of the Business and Professions Code, to read as follows:

CHAPTER 2. PREMIUM COUPONS

Definitions

17700. As used in this chapter:

(a) "Coupon" includes certificates, cards, package labels, wrappers, can covers, bottle caps or other and similar devices, which entitle the person holding or delivering or surrendering them to have them exchanged for or redeemed in goods, wares or merchandise free of charge or for less than the retail price of such goods, wares or merchandise.

(b) "Person" includes persons, firm, firms, corporation and corporations.

(c) "Issue" includes use, distribute, give away, sell and furnish.

Redemption

17701. It is unlawful for any person to issue coupons unless there shall be specified in or upon such coupon, specifically or by class, the person by whom or with whom such coupon is exchangeable or redeemable, and unless such person specified is either:

(a) The person issuing such coupon

(b) Member or members of an association issuing such coupon which association shall be a bona fide organization in existence for a period of at least six months prior to issuing such coupon. The name and address by street and number of the principal place of business of the association shall also be specified in or upon such coupon

(c) A person engaged in the business of issuing coupons for use or distribution by itself or by other persons.

Penalty

17702. Any person violating this chapter is for each offense guilty of a misdemeanor.

SEC. 2. Section 30029 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30029. Chapter 950 of the Statutes of 1933, at page 2479, together with all acts amendatory thereof and supplementary thereto, is hereby repealed. Repeal Stats. 1933, p. 2479

CHAPTER 65

An act making an appropriation to meet a deficiency in the appropriation for compensation benefits to State officers and employees during the Ninety-first and Ninety-second Fiscal Years, and providing that this act shall take effect immediately.

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect immediately

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

SECTION 1. The sum of ninety thousand dollars ($90,000) is hereby appropriated out of any money in the State Treasury not otherwise appropriated to meet a deficiency in the appropriation contained in the "Budget Act of 1939" for compensation benefits to State officers and employees during the Ninety-first and Ninety-second Fiscal Years. Appropriation Compensation benefits

SEC. 2. This act, inasmuch as it provides an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

CHAPTER 66

An act to amend Section 616 of the Fish and Game Code, relating to trout and whitefish in Tuolumne and Mariposa counties, declaring the urgency of this act, to take effect immediately. Stats. 1933, p. 394, amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect immediately

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

SECTION 1. Section 616 of the Fish and Game Code is hereby amended to read as follows: Stats. 1939, p. 2298

616. In districts $1\frac{3}{8}$ (except in Tuolumne and Mariposa counties), 23 and 25, all varieties of trout and whitefish, except golden trout, may be taken from May 30th to October 31st. In Tuolumne and Mariposa counties trout and whitefish, except golden trout, may be taken from May 1st to October 31st. Districts $1\frac{3}{8}$, 23 and 25

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of this State and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

By advancing the date of the opening of the trout fishing season in Tuolumne and Mariposa counties, fishermen will be encouraged to commence fishing earlier in the year, in consequence of which fewer fishermen will be engaged in that sport during the season of greatest danger from fire in those counties, with a resultant reduction of fire hazards endangering fishermen and campers. In order to permit the advantages contemplated by this act to be secured during the approaching fishing season, it is necessary that it go into effect immediately.

CHAPTER 67

Stats 1933, p 1915, amended

An act to amend Section 15 of an act entitled "An act to provide for the refunding of the indebtedness represented by bonds of special improvement districts payable from taxes or from special assessments levied wholly or partly in accordance with the assessed value of lands, to provide for the issue and sale or exchange of refunding bonds and the retirement of unpaid bonds of such districts, to provide for the levy of assessments or reassessments for the payment of such refunding bonds, to enforce the liens of such assessments or reassessments, to provide for proceedings to test the validity of such refunding and reassessment, to provide for contributions of public funds to assist in such refunding, and to provide for the use of Federal bankruptcy courts therein," approved June 5, 1933, as amended, relating to credits in making the reassessment.

In effect September 13, 1941

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

Stats Ex Sess 1938, p 89

SECTION 1. Section 15 of the act cited in the title hereof is hereby amended to read as follows:

Settlement with bondholders of all outstanding bonds

Sec. 15. If the holders of all of the outstanding bonds agree to refund their bonds as proposed in the refunding proceeding, then all moneys in the interest and sinking fund of the district, all refunding bonds, all moneys collected on the reassessments levied in the refunding proceeding, and all public contributions (if any) shall be paid and delivered to the holders of the outstanding bonds, in such amounts and proportions as may be fixed by contract with such bondholders. Any contract with the holder of any bond may provide such terms and conditions of exchange as may be agreed upon by the holder and the legislative body, and

may contain such terms and conditions relating to time of performance, conditions precedent thereto, and the method and mode of performance, as may be agreed upon by said parties. Whenever the refunding bonds and moneys, if any, are delivered to said bondholders, said bondholders must concurrently deliver to the legislative body or its representative the outstanding unpaid bonds which are refunded and all outstanding unpaid interest coupons, constituting the entire indebtedness of said district, and the same shall forthwith be canceled.

Settlement with nonconsenting holders

In the event that the holders of one or more of the outstanding bonds do not enter any contract with the legislative body to refund the same, nevertheless if the holders of 75 per cent or more of the outstanding bonds do contract with the legislative body which conducts the refunding proceedings for the refunding of the bonds owned or held by them, said legislative body shall have authority to refund all of the bonds of said district under the provisions of this act, but in such event, prior to recording the reassessment levied under this act, sufficient moneys to adequately provide for the retirement or payment of the bonds of the nonconsenting holders must be provided and set aside in the proper fund for that purpose Any city or county or city and county which is authorized under this act to appropriate moneys to aid in refunding the bonds of the district, may make an advancement or contribution or an additional contribution in order to provide moneys to pay or retire bonds of such nonconsenting holders. Whenever any city or county or city and county or any person or corporation advances moneys to provide for the payment or retirement of the bonds of nonconsenting holders, the legislative body may deliver at par all or any portion of the refunding bonds which are not to be delivered to consenting bondholders to the person, corporation, city, county or city and county making such advance or advances, or sell at par all or any part of such refunding bonds not to be delivered to consenting bondholders, and from the proceeds thereof reimburse such person, corporation, city, county or city and county entirely or partially, and may contract to make such sale or delivery. If the legislative body makes all or any part of such advancement it may reimburse the city, county or city and county of which it is the legislative body, entirely or partially by taking all or any part of such refunding bonds at par. Any cash collected on reassessments and not required to pay consenting bondholders may also be used to reimburse in whole or in part any person, corporation, city, county or city and county making such advance or advances, and the legislative body may contract to so apply such cash. Any other method of raising funds for the payment or retirement of the bonds of nonconsenting bondholders which will prior to the time the reassessment is recorded under this

act adequately provide the moneys necessary for such payment or retirement is hereby authorized. Whenever any moneys are placed in any fund for the retirement or payment of the bonds of nonconsenting holders the said moneys shall be used only for that purpose and after all of the bonds of said nonconsenting holders have been paid or retired any sum remaining in said fund shall be returned to the city or county or city and county which advanced the same.

Contracts to pay in cash. Sale of refunding bonds

If the contract with the bondholders or any of them provides that the bondholders, or any of them, are to be paid in cash, said legislative body may sell any or all of the refunding bonds for cash and pay said bondholders in cash at a price to be fixed in said contract. Said refunding bonds may be sold in such manner and at such prices as the legislative body may determine and any city or county is authorized and empowered to purchase any of said refunding bonds and to hold, collect or dispose of the same. It is the intent of this act to authorize the refunding of the indebtedness of a district through the exchange of refunding bonds for all or any part thereof, or through payment of all or any portion of the outstanding indebtedness in cash, and to enable the legislative body to obtain the cash necessary therefor from contributions as herein provided, or from assessments or reassessments, or from the sale of any or all of the refunding bonds, or from the assignment of any reassessment levied upon public property, or from any or all of such sources, and all public officers are authorized and empowered to take all proceedings and perform all acts and enter and perform all contracts necessary or convenient to accomplish the said purposes. The legislative body conducting the refunding proceedings is authorized to advance from any fund or funds the amount of any reassessment levied upon public property and to enforce the payment of said reassessment, and said reassessment shall be and remain an enforceable obligation until it and all interest thereon are fully paid to the city or county which makes the advance.

Bankruptcy readjustment

In the event that the discharge of the bonds of any nonconsenting holders at less than the par value thereof has been authorized by any final decree or order confirming a plan of readjustment under any bankruptcy law of the United States of America in any proceedings initiated under the authority of this act, said legislative body is authorized to do and perform all acts and things necessary for the discharge of such bonds in accordance with said decree or order.

Definitions

Wherever the word "bond" or "bonds" is used hereinbefore in this section in referring to the outstanding bonds the word shall be deemed to include and shall be construed to mean also any outstanding unpaid interest coupon or coupons of any bond or bonds of the district, and the word "bondholder" or "bondholders" as used hereinbefore in this section shall be deemed to include and shall be construed as meaning also any holder or holders of outstanding unpaid interest coupons of bonds of the district.

Credit upon refunding reassessments

After the date of the adoption of the resolution of intention in the refunding proceeding all sums paid for any parcel of land into the interest and sinking fund for the payment of principal and interest of the bonds to be refunded shall be credited upon the reassessment levied in the refunding proceeding upon such parcel and shall be applied as moneys paid upon such reassessment.

Cancellation of taxes

Upon the recordation of the reassessment in the refunding proceeding all unpaid taxes or special assessment taxes levied to pay principal and interest of the bonds refunded and all penalties and interest thereon shall be deemed canceled and annulled, and the clerk of the legislative body which conducted such refunding proceedings shall notify the proper city officials or the proper county officials, or both, as the case may be, that the bonds of said district have been refunded and that said taxes or said special assessment taxes, penalties and interest are canceled and annulled and such officials shall thereupon proceed to make the necessary entries showing the cancellation thereof.

Credit for payments under installment plan, etc

In any case in which a property owner has elected to pay delinquent taxes and assessments under any provision of the law for making such payments on an installment plan, but has not thereby redeemed the property prior to the filing of the reassessment in the refunding proceeding, the amount paid under any installment plan, which has been placed in the interest and sinking fund of the district, may be credited as assessment paid in making the reassessment and only the unpaid balance of the ad valorem assessment canceled upon recordation of the reassessment, or, as an alternative, the amount paid into the interest and sinking fund under any installment plan may be considered as not paid upon the assessment and shall not be deducted in making the reassessment, but in that event, upon recordation of the reassessment in the refunding proceeding, the unpaid assessments shall be canceled in the usual manner and the moneys paid into the interest and sinking fund from such payments made under any installment plan shall be applied to and credited upon the redemption of the property from general taxes and other assessments, if any.

Validation of proceedings and bonds

All proceedings heretofore taken for the refunding of the indebtedness of any district or districts under the provisions of the act designated in the title hereof, all reassessments, if any, levied in such proceedings, and all refunding bonds, if any, heretofore issued in such proceedings, are hereby legalized, validated and confirmed.

CHAPTER 68

Stats 1935, p 2123, amended

An act to amend Section 17 of an act entitled "An act to provide for the refunding of the bonded indebtedness of special improvement districts, the bonds of which are payable from taxes or from special assessments levied wholly or partly in accordance with the assessed value of lands and for the issue and sale or exchange of refunding bonds and the retirement of unpaid bonds of such districts and the cancellation of unpaid taxes and assessments of such districts, and for the levy of assessments and reassessments to pay such refunding bonds and to enforce the liens of such assessments and reassessments, and to provide for contributions of public funds to assist in such refunding or the payment of refunding bonds, and for proceedings to test the validity of such refunding and assessment or reassessment proceedings and the use of the bankrupt laws of the United States of America in any refunding," approved July 20, 1935, as amended, relating to credits in making the assessment.

In effect September 13, 1941

[Approved by Governor April 4, 1941 Filed with Secretary of State April 4, 1941]

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

Stats Ex Sess 1938 p 78

SECTION 1. Section 17 of the act cited in the title hereof is hereby amended to read as follows:

Bonds and interest coupons

Sec. 17. Said bonds shall be signed by the mayor or other chief executive of the city or by the chairman of the board of supervisors of the county, as the case may be, and by the treasurer of the city or county, as the case may be, and attested by the clerk of the legislative body which conducted the refunding proceedings, and the seal of the city or of the board of supervisors of the county shall be affixed thereto. The interest coupons affixed to said bonds shall be signed by the treasurer of the city or county, as the case may be, and such coupons may be signed by the printed, lithographed or engraved facsimile signature of such treasurer. The bonds shall have interest coupons attached thereto, payable semiannually on January 2d and July 2d. The first coupon shall be payable on the second day of January next succeeding the first four months after the date of the bonds and shall be for the interest accrued to that time. The bonds so issued shall be payable to bearer and shall bear interest at the rate or rates specified in the resolution ordering refunding. The bonds maturing in any year shall constitute the annual series of that year and the aggregate principal of the bonds in such series shall equal the even annual proportion of the aggregate principal sum of the entire bond issue hereinbefore referred to Said bonds by their issuance shall be conclusive evidence of the regularity of all proceedings had prior thereto and of the validity of such bonds. Said bonds shall be negotiable. Any of said bonds

may be surrendered by the holder to the treasurer for registration in accordance with the provisions of any law applicable to the registration of bonds issued by the city or county, as the case may be, and thereafter the principal and interest thereon shall be paid to the proper registered owner thereof.

Settlement with holders of all outstanding bonds

If the holders of all of the outstanding bonds agree to refund their bonds as proposed in the refunding proceeding, then all moneys in the interest and sinking fund of the district, all refunding bonds, all moneys collected on the assessments levied in the refunding proceeding, and all public contributions (if any) shall be paid and delivered to the holders of the outstanding bonds, in such amounts and proportions as may be fixed by contract with such bondholders. Any contract with the holder of any bond may provide such terms and conditions of exchange as may be agreed upon by the holder and the legislative body, and may contain such terms and conditions relating to time of performance, conditions precedent thereto, and the method and mode of performance, as may be agreed upon by said parties. Whenever the refunding bonds and moneys, if any, are delivered to said bondholders, said bondholders must concurrently deliver to the legislative body or its representative the outstanding unpaid bonds which are refunded and all outstanding unpaid interest coupons, constituting the entire indebtedness of said district, and the same shall forthwith be canceled.

Settlement with nonconsenting holders

In the event that the holders of one or more of the outstanding bonds do not enter any contract with the legislative body to refund the same, nevertheless if the holders of 75 per cent or more of the outstanding bonds do contract with the legislative body which conducts the refunding proceedings for the refunding of the bonds owned or held by them, said legislative body shall have authority to refund all of the bonds of said district under the provisions of this act, but in such event, prior to recording the assessment levied under this act, sufficient moneys to adequately provide for the retirement or payment of the bonds of the nonconsenting holders must be provided and set aside in the proper fund for that purpose Any city or county or city and county which is authorized under this act to appropriate moneys to aid in refunding the bonds of the district, may make an advancement or contribution or an additional contribution in order to provide moneys to pay or retire bonds of such nonconsenting holders. Whenever any city or county or city and county or any person or corporation advances moneys to provide for the payment or retirement of the bonds of nonconsenting holders, the legislative body may deliver at par all or any portion of the refunding bonds which are not to be delivered to consenting bondholders to the person, corporation, city, county or city and county making such advance or advances, or sell at par all or any part of such refunding bonds not to be delivered to consenting bondholders, and from the proceeds thereof reimburse such person, corporation, city, county or

city and county entirely or partially and may contract to make such sale or delivery. If the legislative body makes all or any part of such advancement it may reimburse the city, county or city and county of which it is the legislative body, entirely or partially by taking all or any part of such refunding bonds at par. Any cash collected on assessments and not required to pay consenting bondholders may also be used to reimburse in whole or in part any person, corporation, city, county or city and county making such advance or advances, and the legislative body may contract to so apply such cash. Any other method of raising funds for the payment or retirement of the bonds of nonconsenting bondholders which will prior to the time the assessment is recorded under this act adequately provide the moneys necessary for such payment or retirement is hereby authorized. Whenever any moneys are placed in any fund for the retirement or payment of the bonds of nonconsenting holders the said moneys shall be used only for that purpose and after all of the bonds of said nonconsenting holders have been paid or retired any sum remaining in said fund shall be returned to the city or county or city and county which advanced the same.

Contracts to pay in cash
Sale of refunding bonds

If the contract with the bondholders or any of them provides that the bondholders, or any of them, are to be paid in cash, said legislative body may sell any or all of the refunding bonds for cash and pay said bondholders in cash at a price to be fixed in said contract. Said refunding bonds may be sold in such manner and at such prices as the legislative body may determine and any city or county is authorized and empowered to purchase any of said refunding bonds and to hold, collect or dispose of the same. It is the intent of this act to authorize the refunding of the indebtedness of a district through the exchange of refunding bonds for all or any part thereof, or through payment of all or any portion of the outstanding indebtedness in cash, and to enable the legislative body to obtain the cash necessary therefor from contributions as herein provided, or from ad valorem assessments or refunding assessments, or from the sale of any or all of the refunding bonds, or from the assignment of any refunding assessment levied upon public property, or from any or all of such sources, and all public officers are authorized and empowered to take all proceedings and perform all acts and enter and perform all contracts necessary or convenient to accomplish the said purposes. The legislative body conducting the refunding proceedings is authorized to advance from any fund or funds the amount of any refunding assessment levied upon public property and to enforce the payment of said refunding assessment, and said refunding assessment shall be and remain an enforceable obligation until it and all interest thereon are fully paid to the city or county which makes the advance.

Bankruptcy readjustment

In the event that the discharge of the bonds of any nonconsenting holders at less than the par value thereof has been authorized by any final decree or order confirming a plan of

readjustment under any bankruptcy law of the United States of America in any proceedings initiated under the authority of this act, said legislative body is authorized to do and perform all acts and things necessary for the discharge of such bonds in accordance with said decree or order.

Definitions

Wherever the words "bond" or "bonds" are used hereinbefore in this section in referring to the outstanding bonds the words shall be deemed to include and shall be construed to mean also any outstanding unpaid interest coupon or coupons of any bond or bonds of the district and the words "bondholder" or "bondholders" as used hereinbefore in this section shall be deemed to include and shall be construed as meaning also any holder or holders of outstanding unpaid interest coupons of bonds of the district.

Credits upon refunding assessments

After the date of the adoption of the resolution of intention in the refunding proceeding all sums paid for any parcel of land into the interest and sinking fund for the payment of principal and interest of the bonds to be refunded shall be credited upon the assessment levied in the refunding proceeding upon such parcel and shall be applied as moneys paid upon such assessment.

Cancellation of taxes

Upon the recordation of the assessment in the refunding proceeding all unpaid taxes or special assessment taxes levied to pay principal and interest of the bonds refunded and all penalties and interest thereon shall be deemed canceled and annulled, and the clerk of the legislative body which conducted such refunding proceedings shall notify the proper city officials or the proper county officials, or both, as the case may be, that the bonds of said district have been refunded and that said taxes or said special assessment taxes, penalties and interest are canceled and annulled and such officials shall thereupon proceed to make the necessary entries showing the cancellation thereof.

Credits for payment under installment plan, etc.

In any case in which a property owner has elected to pay delinquent taxes and assessments under any provision of the law for making such payments on an installment plan, but has not thereby redeemed the property prior to the filing of the refunding assessment, the amount paid under any installment plan, which has been placed in the interest and sinking fund of the district, may be credited as assessment paid in making the refunding assessment, and only the unpaid balance of the ad valorem assessment canceled upon recordation of the refunding assessment, or, as an alternative, the amount paid into the interest and sinking fund under any installment plan may be considered as not paid upon the ad valorem assessment and shall not be deducted in making the refunding assessment, but in that event, upon recordation of the refunding assessment, the unpaid ad valorem assessments shall be canceled in the usual manner and the moneys paid into the interest and sinking fund from such payments made under any installment plan shall be applied to and credited upon the redemption of the property from general taxes and other assessments, if any.

CHAPTER 69

Stats 1939, p. 482, amended

An act to amend Section 14899 of the Health and Safety Code and to add two new sections, to be numbered Sections 14920 and 14921, to the Health and Safety Code, providing for the cancellation or refund of erroneous, mistaken, or illegal special assessments for abating weeds, and providing for cancellation of any such assessments when the property is acquired by the State or by any county, city, school district, or other political subdivision and which because of said public ownership is not subject to sale for delinquent taxes.

In effect immediately

[Approved by Governor April 4, 1941 Filed with Secretary of State April 4, 1941.]

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

Stats 1939, p. 870

SECTION 1. Section 14899 of the Health and Safety Code is hereby amended to read as follows:

Decision

14899. Upon the conclusion of the hearing the board shall allow or overrule any or all objections, whereupon the board shall acquire jurisdiction to proceed and perform the work of removal, and the decision of the board on the matter is final, except as provided in Sections 14920 and 14921 of this code.

New section

SEC. 2. A new section is hereby added to the Health and Safety Code, to be numbered Section 14920, which said section shall read as follows:

Cancellation of erroneous assessment

14920. All or any portion of any such special assessment, penalty or costs heretofore or hereafter entered, shall on order of the board of supervisors be canceled by the auditor if uncollected, or, except in the case provided for in subdivision (e) hereof, refunded by the county treasurer if collected, if it or they were entered, charged or paid:

(a) More than once;

(b) Through clerical error;

(c) Through the error or mistake of the board of supervisors or of the officer, board or commission designated by them to give notice or to destroy the weeds, in respect to any material fact, including the case where the cost report rendered and confirmed as hereinbefore provided shows the county abated the weeds but such is not the actual fact;

(d) Illegally;

(e) On property acquired after the lien date by the State or by any county, city, school district or other political subdivision and because of this public ownership not subject to sale for delinquent taxes.

SEC. 3. A new section is hereby added to the Health and Safety Code, to be numbered Section 14921, which said section shall read as follows: New section

14921. No order for a refund under the foregoing section shall be made except on a claim: Refunds

(a) Verified by the person who paid the special assessment, his guardian, executor, or administrator;

(b) Filed within three years after making of the payment sought to be refunded.

The provisions of this section do not apply to cancellations.

CHAPTER 70

An act to amend Section 170 of the Code of Civil Procedure, relating to the disqualification of judges.

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect September 13, 1941

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

SECTION 1. Section 170 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1939, p 2898

170. No justice, judge or justice of the peace shall sit or act as such in any action or proceeding: Disqualification of judge or justice

1. To which he is a party; or in which he is interested other than as a holder or owner of any capital stock of a corporation, or of any bond, note or other security issued by a corporation;

2. In which he is interested as a holder or owner of any capital stock of a corporation, or of any bond, note or other security issued by a corporation;

3. When he is related to either party, or to an officer of a corporation, which is a party, or to an attorney, counsel, or agent of either party, by consanguinity or affinity within the third degree computed according to the rules of law, or when he is indebted, through money borrowed as a loan, to either party, or to an attorney, counsel or partner of either party, or when he is so indebted to an officer of a corporation or unincorporated association which is a party; provided, however, that if the parties appearing in the action and not then in default, or the petitioner in any probate proceeding, or the executor, or administrator of the estate, or the guardian of the minor or incompetent person, or the commissioner, or the referee, or the attorney for any of the above named, or the party or his attorney in all other or special proceedings, shall sign and file in the action or matter, a stipulation in writing waiving the disqualification mentioned in this subdivision or in Subdivisions 2 or 4 hereof, the judge or court

may proceed with the trial or hearing and the performance of all other duties connected therewith with the same legal effect as if no such disqualification existed;

4. When, in the action or proceeding, or in any previous action or proceeding involving any of the same issues, he has been attorney or counsel for any party; or when he has given advice to any party upon any matter involved in the action or proceeding; or when he has been retained or employed as attorney or counsel for any party within two years prior to the commencement of the action or proceeding;

5. When it is made to appear probable that, by reason of bias or prejudice of such justice, judge, or justice of the peace a fair and impartial trial can not be had before him.

Declaration

Whenever a judge or justice shall have knowledge of any fact or facts, which, under the provisions of this section, disqualify him to sit or act as such in any action or proceeding pending before him, it shall be his duty to declare the same in open court and cause a memorandum thereof to be entered in the minutes or docket. It shall thereupon be the duty of the clerk, or the justice if there be no clerk, to transmit forthwith a copy of such memorandum to each party, or his attorney, who shall have appeared in such action or proceeding, except such party or parties as shall be present in person or by attorney when the declaration shall be made.

Affidavit in justices' court

In justices' courts when, before the trial, either party makes and files an affidavit that he believes that he can not have a fair and impartial trial before the justice before which the action is pending, by reason of the interest, prejudice or bias of the justice, the court may order the transfer of the action, and the provisions of Section 398 of this code shall apply to such transfer.

Statement in court of record

Whenever a judge of a court of record who shall be disqualified under the provisions of this section, to sit or act as such in any action or proceeding pending before him, neglects or fails to declare his disqualification in the manner hereinbefore provided, any party to such action or proceeding who has appeared therein may present to the court and file with the clerk a written statement objecting to the hearing of such matter or the trial of any issue of fact or law in such action or proceeding before such judge, and setting forth the fact or facts constituting the ground of the disqualification of such judge.

Consent or answer

Within five days after the presentation and filing of any such statement, the judge alleged therein to be disqualified may file with the clerk his consent in writing that the action or proceeding be tried before another judge, or may file with the clerk his written answer admitting or denying any or all of the allegations contained in such statement and setting forth any additional fact or facts material or relevant to the question of his disqualifications. The clerk shall forthwith transmit a copy of the judge's consent or answer to each party or his attorney who shall have appeared in such action or

proceeding. Every such statement and every such answer shall be verified by oath in the manner prescribed by Section 446 of this code for the verification of pleadings. The statement of a party objecting to the judge on the ground of his disqualification, shall be presented at the earliest practicable opportunity, after his appearance and discovery of the facts constituting the ground of the judge's disqualification, and in any event before the commencement of the hearing of any issue of fact in the action or proceeding before such judge.

Determination

No judge of a court of record, who shall deny his disqualification, shall hear or pass upon the question of his own disqualification; but in every such case, the question of the judge's disqualification shall be heard and determined by some other judge agreed upon by the parties who shall have appeared in the action or proceeding, or, in the event of their failing to agree, by a judge requested to act by the chairman of the Judicial Council, and, if the parties fail to agree upon a judge to determine the question of the disqualification, within five days after the expiration of the time allowed herein for the judge to answer, it shall be the duty of the clerk then to notify the chairman of the Judicial Council of that fact; and it shall be the duty of the chairman of the Judicial Council forthwith, upon receipt of notice from the clerk, to request some other judge, not disqualified, to hear and determine the question.

Substitute judge or justice

If such judge admits his disqualification, or files his written consent that the action or proceeding be tried before another judge, or fails to file his answer within the five days herein allowed, or if it shall be determined after hearing that he is disqualified, the action or proceeding shall be heard and determined by another judge or justice not disqualified, who shall be agreed upon by the parties, or, in the event of their failing to agree, appointed by the chairman of the Judicial Council; provided, however, that when there are two or more judges of the same court, one of whom is disqualified, the action or proceeding may be transferred to a judge who is not disqualified.

A judge who is disqualified may, notwithstanding his disqualification, request another judge, who has been agreed upon by the parties, to sit and act in his place.

Proceedings involving Reclamation Board

6. In an action or proceeding brought in any court by or against the Reclamation Board of the State of California, or any irrigation, reclamation, levee, swamp land or drainage district, or any public agency, or trustee, officer or employee thereof, affecting or relating to any real property, or an easement or right of way, levee, embankment, canal, or any work provided for or approved by the Reclamation Board of the State of California, a judge of the superior court of the county, or a judge of the municipal court of the city, or a justice of the peace of the township, in which such real property, or any part thereof, or such easement or right of way, levee, embankment, canal or work, or any part thereof is

Disqualification

situated shall be disqualified to sit or act, and such action shall be heard and tried by some other judge, or justice, requested to sit therein by the chairman of the Judicial Council, unless the parties to the action shall sign and file in the action or proceeding a stipulation in writing, waiving the disqualification in this subdivision of this section provided, in which case such judge or justice may proceed with the trial or hearing with the same legal effect as if no such legal disqualification existed. If, however, the parties to the action shall sign and file a stipulation, agreeing upon some other judge or justice to sit or act in place of the judge or justice disqualified under the provisions of this subdivision, the judge or justice agreed upon shall be called by the judge or justice so disqualified to hear and try such action or proceeding; provided, that nothing herein contained shall be construed as preventing the judge of the superior court of such county, or of the municipal court of such city, from issuing a temporary injunction or restraining order, which shall, if granted, remain in force until vacated or modified by the judge designated as herein provided.

Waiver

Substitute judge or justice

Preventive relief

Default hearings

7. Notwithstanding anything contained in Subdivision 6 of this section, a judge of the superior court or a judge of the municipal court of the city, or a justice of the peace of the township, in which any real property is located, shall not be disqualified to hear or determine any matter in which the opposing party shall have failed to appear within the time allowed by law, or as to such of the opposing parties who shall have failed to appear within the time allowed by law, and as to which matter or parties the same shall constitute purely a default hearing; provided, that nothing in this section contained shall be construed as preventing the judge of the superior court of such county, or of the municipal court of such city, from issuing an order for immediate possession in proceedings in eminent domain.

Eminent domain

Change of venue

Nothing in this section contained shall affect a party's right to a change of the place of trial in the cases provided for in Title 4, Part 2 of this code.

CHAPTER 71

An act to amend Section 1.70 of the School Code, relating to transportation of pupils.

In effect September 13, 1941

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

Stats 1939, p 2997

SECTION 1. Section 1.70 of the School Code is hereby amended to read as follows:

Transportation of pupils

1.70. The governing board of any school district, including a junior college district, shall have power to provide, with the

written approval of the county superintendent of schools, for the transportation of pupils to and from school whenever in the judgment of such board such transportation is advisable, and good reasons exist therefor; to purchase or rent and provide for the upkeep, care, and operation of vehicles, or to contract and pay for the transportation of pupils to and from school by common carrier, or to contract with and pay responsible private parties for such transportation; provided, however, that in order to procure such service at the lowest possible figure consistent with proper and satisfactory service, such governing board shall, whenever an expenditure of more than five hundred dollars ($500) is involved, secure bids pursuant to Sections 6.30 and 6.31 of this code whenever it be contemplated that a contract may be made with a person or corporation other than a common carrier or a parent or guardian of the pupils to be transported, but may, in its discretion, let the contract for such service to other than the lowest bidder. No board shall make any purchase or enter into any contract for such service without securing the written approval of the county superintendent of schools.

Expenditure in excess of $500

CHAPTER 72

An act to amend Section 6.210 of the School Code, relating to the sale of personal property belonging to one school district to another.

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 6.210 of the School Code is hereby amended to read as follows:

Stats 1935, p 1326

6.210. The governing board of any school district of any type or class is authorized to sell any personal property or school supplies belonging to the district to another district and the governing board of such other district is authorized to purchase the same, for an amount equal to the cost thereof plus the estimated cost of purchasing, storing and handling such property, without advertisement for or receipt of bids or compliance with any other provisions of this code, and the governing board of any school district may purchase for the purpose of selling the same under the provisions of this section any personal property or school supplies.

Sale of personal property and school supplies

This section does not authorize the purchase, for the purpose of resale, of standard school supplies and equipment by any school district mentioned in Section 6.470 of this code.

CHAPTER 73

An act to amend School Code Section 5.654, relating to the dismissal of permanent employees of a school district.

In effect September 13, 1941

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

Stats 1937, p 1629

SECTION 1. School Code Section 5.654 is hereby amended to read as follows:

Hearing

5.654. When any employee who has been served with notice of the governing board's intention to dismiss him, shall demand such hearing, the governing board shall have the option either (1) to rescind its action, or (2) to file a complaint in the superior court of the county in which the school district or the major part thereof is located, setting forth the charges against such employee and asking that the court inquire into such charges and determine whether or not such charges are true, and if true, whether or not they constitute sufficient grounds for the dismissal of such employee, under the provisions of this code, and for judgment pursuant to its findings.

Filing complaint

If the board elects to file a complaint such complaint must be filed within 30 days from the date of the employee's demand for hearing. If the complaint be not filed within such period the board's action shall be deemed to be rescinded and all charges dismissed.

Procedure after service of summons

The employee within 10 days after service upon him of the summons, and a copy of the complaint may demur to such complaint or may file an answer, to which the governing board may demur. If the employee shall fail to answer or demur within such 10-day period, or any extension thereof, made by stipulation or order of court, his default shall be entered and judgment shall be entered by the court declaring the right of the governing board to dismiss such employee. Both the complaint and the answer shall be verified. Demurrers to the complaint or answer may be upon any of the grounds specified in the Code of Civil Procedure for demurrer to a complaint or answer, and procedure on such demurrer shall be the same as in any civil proceeding. When the employee has filed his answer to such complaint, either party may, upon five days' notice to the other, move the court to set the matter for trial. Such proceeding shall be set for trial at the earliest possible date and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence may be given by law. Upon motion of either party, the court in its discretion, or on its own motion, may appoint three disinterested persons over 21 years of age as referees, to ascertain the facts and report their findings to the court. The persons appointed as such referees must be persons of suitable experience and educational qualifications, and in sympathy with the merit system for employing teachers.

Referees

The compensation of the referees shall be fixed by the court but shall not exceed ten dollars ($10) for each day served. Compensation of referees

Each of such referees within five days after his appointment must take and file with the court an oath to discharge his duties faithfully and impartially. If any of such referees fails to qualify, or resigns, or is removed by order of court, or is, or becomes unable to act, the vacancy so created shall be filled by the court. The referees shall at once organize by electing one of their number chairman, and shall fix a date and place for a hearing which date shall be not less than 10 days and not more than 20 days after the date of their appointment, but either the board or the employee shall have the right to one continuance for a period of not more than 10 days. The hearing shall be open to the public except upon stipulation of the parties. Written notice of the time and place of the trial or hearing shall be served upon the employee or his attorney at least five days before the date of the hearing. Upon the date set for the trial or hearing, both the board and the employee shall have the right to be represented by counsel, and to introduce such testimony and other evidence as may be relevant to the issue. The referees shall have power to examine witnesses under oath, to be administered by any of them, or affirmation. The referees and either party may have subpenas issued by the clerk of the court requiring the attendance of witnesses or the production of evidence before them. All records regularly kept by the governing board concerning employees which relate to the employee charged shall be admissible in evidence, but no dismissal, or judgment that a governing board may dismiss may be made on said records alone. Technical rules of evidence shall not apply to hearings before such referees. Rules of evidence They shall make and file with the court a written report of their findings, and of their necessary expenses, within 30 days after their appointment, but such time may be extended by the court, for good cause shown for an additional period not exceeding 60 days; provided, that if any vacancy in the referees is created and filled, or if new referees are appointed, or a new report from the same referees ordered, the time for the filing of such report shall run from the date of filling such vacancy or appointing of new referees or ordering a new report from the same referees. Any majority of such referees, who have been present during the entire hearing or trial and who agree thereto may make such report. Attached to such report shall be a complete transcript of all the testimony and evidence, which shall be taken by a competent reporter who shall be paid by such governing board. A copy of such report and such transcript shall be delivered to each of the parties. Referees' report

Upon the filing of such report the court, upon motion of either party, must set a day for hearing the same, not over 15 days thereafter. Notice of the time and place of such

hearing must be served upon the other party at least five days before the time so set.

Exceptions to report

Either party may file exceptions, in writing, to such report, specifying the grounds upon which such exceptions are based, at any time within not less than two days prior to the hearings; and any party so filing such exceptions may appear at the hearing of said report and contest the same.

After hearing the report and any exceptions thereto, the court may confirm the report or may set aside the report and order a new report from the same referees or from other referees appointed by it, in which case the same procedure shall be had as upon the first reference.

The court in its discretion may take additional evidence of or concerning any fact with respect to which the report of the referees is not sufficient to justify a judgment.

Evidence on matters which occurred over three years prior to complaint

No witness shall be permitted to testify at such trial or hearing before such referees, except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than three years prior to the date of the filing of such complaint. This shall not be construed to prevent the introduction in evidence of records regularly kept by the governing board concerning the employee, but no judgment permitting the dismissal or suspension of any employee shall be made or entered based on charges or evidence of any nature relating to matters occurring more than three years prior to the filing of such complaint.

Judgment

After the trial or after hearing the report of the referees, as hereinbefore provided, the court shall make and enter its judgment which judgment may be at variance with any report of any referees appointed by it, and which judgment shall determine whether or not the governing board may dismiss such employee.

If the judgment shall determine that such employee may be dismissed, the governing board may dismiss him upon entry of the judgment; otherwise the employee may not be dismissed as the result of such charges or of any charges which could have been made or heard at such hearing.

Leave of absence due to incompetence

Should the cause be incompetency due to physical or mental disability, in lieu of dismissal the judgment may require the employee to take a leave of absence for only such period as may be necessary for rehabilitation from such incompetency, such leave of absence not to exceed two years; in which event such employee shall be entitled to the benefits provided or authorized by this code to employees of school districts absent from their duties on account of sickness.

Costs

If the judgment shall determine that the employee may be dismissed, it shall provide that each party shall pay its own costs; if the judgment shall determine that the employee may not be dismissed, it shall provide that the district shall pay the costs and necessary disbursements of the employee, a memorandum of which costs and disbursements may be filed and taxed by the court within the time and in the manner

specified by Section 1033 of the Code of Civil Procedure relating to costs in actions in the superior and municipal courts of this State.

If the employee shall have been suspended pending the hearing, he shall be reinstated within five days after the entry of such judgment in his favor, and shall be paid full salary by the governing board for the period of his suspension. Either the employee or, the governing board may appeal from any such judgment to the district court of appeal, or Supreme Court of this State.

Salary during suspension

Appeal

CHAPTER 74

An act to add Section 395.2 to the Military and Veterans Code, relating to employees of school districts performing military services.

Stats 1935, p 1338, amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 395 2 is hereby added to the Military and Veterans Code, to read as follows:

New section

395.2. Any employee of a board of school trustees or board of education in a position not requiring certification qualifications who is ordered pursuant to the laws of the United States to serve with the armed forces of the United States shall regain all rights to his position and shall be reinstated thereto upon his application at any time within 90 days of the termination of that service.

Absence of noncertificated school employee for duty with armed forces

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CHAPTER 75

An act to amend School Code Section 5.460, relating to librarians in elementary and secondary schools.

[Approved by Governor April 4, 1941 Filed with Secretary of State April 4, 1941.]

In effect September 13, 1941

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

SECTION 1. School Code Section 5.460 is hereby amended to read as follows:

Sch C, 1929, p 345

5.460. No person shall be employed as a librarian for more than two hours a day in any elementary or secondary school, unless such librarian holds a valid certificate of proper grade authorizing service as a librarian, or a valid elementary school teacher's certificate if such person is employed to serve in an elementary school, or a secondary school certificate if such person is employed to serve in a secondary school.

Librarian

CHAPTER 76

Stats 1939, p 482, amended

An act adding Section 14593 to the Health and Safety Code, relating to dissolution of fire protection districts.

In effect September 13, 1941

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

New section

SECTION 1. Section 14593 is hereby added to the Health and Safety Code, to read as follows:

Territory not benefited

14593. Whenever it shall appear that because of withdrawals of territory there remains in any district only territory which will not be benefited by the continued existence of the district either because such remaining territory is uninhabited or because it contains no improvements which need fire protection the board may without notice, hearing or election order the district dissolved forthwith.

CHAPTER 77

Stats 1933, p 394, amended

An act to amend the Fish and Game Code by amending Section 612 thereof, relating to steelhead trout fishing.

In effect September 13, 1941

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

Stats 1935, p 2247

SECTION 1. Section 612 of the Fish and Game Code is hereby amended to read as follows:

Steelhead trout

See also Stats 1941, p 2645

612. In the Russian, Napa and Navarro rivers and in those portions of Eel River in Districts 2 and 2¾, and in tidewater in Districts 2, 3, 4 in Santa Ynez River as far as the Buellton Bridge, and 15 and 16, steelhead trout may be taken from May 1st to February 28th. The bag limit is three fish per day irrespective of size, between November 1st and February 28th.

CHAPTER 78

An act to amend Section 89 of the Agricultural Code, relating to moneys of district agricultural associations. Stats 1933, p 60, amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.]

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

SECTION 1. Section 89 of the Agricultural Code is hereby amended to read as follows: Stats Ex Sess 1938, p 94

89. All moneys received by any district agricultural association other than from the sale of real property shall be retained and used by such association for its general use and purposes and for its maintenance, membership in live stock registry associations and fair associations, support and operation. Income

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CHAPTER 79

An act to add Division 4, comprising Sections 2800 to 3012, Division 5, comprising Sections 3200 to 3554, Division 6, comprising Sections 4000 to 4677, Division 7, comprising Sections 5000 to 6794, Division 8, comprising Sections 7000 to 7176, Division 9, comprising Sections 8000 to 8062, Division 10, comprising Sections 8500 to 8851, Division 14, comprising Sections 18000 to 19291, Division 15, comprising Sections 22000 to 22202, and Division 50, comprising Section 50000, to repeal the division heading of Division 20, and to amend by renumbering Sections 10000, 10001, 10002 and 10003 to be Sections 50001, 50002, 50003 and 50004 respectively of, the Streets and Highways Code, thereby consolidating and revising the law relating to public ways, works and improvements, and including but not limited to procedures for making, maintaining and financing the same, and to repeal certain acts or parts of acts specified herein Stats. 1935, p 248, amended

[Approved by Governor April 4, 1941. Filed with Secretary of State April 4, 1941.] In effect September 13, 1941

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

SECTION 1. Each of the following divisions: Division 4, comprising Sections 2800 to 3012, Division 5, comprising Sections 3200 to 3554, Division 6, comprising Sections 4000 to 4677, Division 7, comprising Sections 5000 to 6794, Division 8, comprising Sections 7000 to 7476, Division 9, comprising Sections 8000 to 8062, Division 10, comprising Sections 8500 to 8851, Division 14, comprising Sections 18000 to 19291, Division New Divisions 4 to 10, 14, 15, and 20

15, comprising Sections 22000 to 22202, and Division 50, comprising Section 50000, is hereby added to the Streets and Highways Code, to read as follows:

DIVISION 4. THE SPECIAL ASSESSMENT INVESTIGATION, LIMITATION AND MAJORITY PROTEST ACT OF 1931

PART 1. GENERAL PROVISIONS

Short title

2800. This division may be cited as the Special Assessment Investigation, Limitation and Majority Protest Act of 1931.

Construction

2801. This division shall be liberally construed in order to effectuate its purposes.

"Assessment roll"
See also Stats 1941, p 2758

2802. As used in this division, "assessment roll" or "taxation assessment roll" when used with reference to a county means the taxation assessment roll of the county, and when used with reference to a city means the assessment roll of the county in which the city is located unless a correction factor is established for the purpose of determining true value as provided for in Part 8, in which event those terms mean the taxation assessment rolls of the city.

Single proceeding for acquisition and improvement

2803. This division shall not prevent the acquisition of property for public use and the making of public improvements in a single proceeding if the law under which the acquisition and the improvement are to be made authorizes such acquisition and the making of such improvements in a single proceeding.

Where a single proceeding covering both the acquisition and the improvement is contemplated, only a single proceeding covering both the acquisition and improvement need be taken under this division, and its provisions shall apply to such proceedings in the same manner as they apply to proceedings in which only the acquisition of property or the making of improvements is involved.

Exemptions
See also Stats 1941, p 2758

2804. This division shall not apply to any flood control, irrigation, reclamation, sanitary, sanitation or other district organized or incorporated under the laws of this State where such district constitutes a public or municipal corporation.

Same

2805. This division shall not apply to bonds issued or to be issued to provide money with which to acquire, construct or complete any public improvement, work, or public utility, or

Voted bonds

where such bonds have been voted by a majority or two-thirds vote, as may be required by the law under which the bonds are issued or to be issued, of the qualified electors of any district or other persons entitled to vote at the election upon the proposition of issuing such bonds.

Same
Maintenance districts

2806. This division shall not apply to any maintenance district proceedings or to any assessment levied for the maintenance of any improvements, but it shall apply to all other special assessment districts and proceedings within the scope of Section 2820, regardless of the particular law under which any such proceeding may be undertaken and regardless of whether the special assessment made will be specific or a special assessment tax upon lands wholly or partially according to the assessed value of such lands.

"Parcel"

2807. As used in this division with reference to land "parcel" includes lot.

PART 2. INVESTIGATION AND REPORT ON THE PROJECT

Proceedings required
See also Stats 1941, p 2759

2820. Before any ordinance or resolution of intention may be adopted, or other initial action prescribed by any law of this State taken by the legislative body of any county, or city for the construction of any public improvement or the acquisition of any property for public use where the cost of such construction or acquisition is to be paid in whole or in part by special assessments or through special assessment taxes upon lands, the proceedings required by this division shall be taken.

Defining project

2821. The legislative body shall by resolution or ordinance determine in general the nature, location and extent of such proposed improvement or acquisition. Reference may be made to one or more plans, specifications or plats for such descriptions and for all particulars relative thereto, which plans, specifications or plats shall be on file with the clerk of the legislative body and open to inspection.

Project boundaries

2822. The legislative body shall also generally define the boundaries or extent of the district or lands to be specially assessed to pay all or any part of the cost of the proposed improvement or acquisition.

The district may be described by:

(a) Stating the exterior boundaries thereof, or

(b) Giving a description thereof according to any official or recorded map or maps, or

(c) Referring to a plat or map on file in the office of the clerk of the legislative body which shall indicate by a boundary line the territory to be included in the assessment district, and which shall govern for all details as to the extent of the district.

Payment

2823. The legislative body shall also determine the amount or percentage, if any, proposed to be paid toward the cost of such improvement or acquisition from any source other than special assessments upon benefited property, and shall determine the law under which the proceedings are to be conducted.

Report

2824. The legislative body shall cause a written report upon the proposed improvement or acquisition to be prepared for it.

Preparation

The legislative body of a county may require the county surveyor to procure the required information and prepare the report, and the legislative body of a city may require the city engineer or the superintendent of streets to procure the required information and prepare the report. In lieu of the county surveyor, city engineer or superintendent of streets, the legislative body of the city or county may employ any competent person to procure such information and prepare the report.

Contents
See also Stats 1941, p 1356

2825. The report upon the proposed improvement or acquisition shall contain the following information:

Map

(a) A map, plat or diagram showing the general nature, location and extent of the proposed improvement or acquisition and the lands to be assessed to pay any part of the cost thereof.

Estimated cost

(b) The total estimated cost of the proposed improvement, stating separately the estimated cost of each class of construction proposed such as grading, paving, curbing, and the like and including the incidental expenses of the proceedings, the total amount of which shall also be separately stated.

(c) The total estimated cost, including the incidental expenses of the proceeding, the total amount of which shall also be separately stated, of the proposed acquisition.

If the acquisition of property for more than one purpose is involved, and any such purpose will require the acquisition of property or rights in property for which compensation must be made, which property or rights would not be required if such purpose were omitted, the estimated cost of the property or rights acquired for such purpose shall be separately stated.

Assessed value of land

(d) The assessed value of each parcel of land to be specially assessed as shown on the last equalized assessment roll and the total assessed value of the lands.

If the assessed value of any such parcel of land is not separately shown upon the assessment roll, an estimated assessed value of such parcel shall be made by the county or city assessor, as the case may be, and such estimate shall for the purposes of this division be considered the assessed value of such parcel.

Assessed value of improvements

(e) The total assessed value of the improvements on all parcels, but not upon each parcel, of the lands to be assessed, as shown by the assessment roll.

(f) The total true value of the lands to be assessed calculated in accordance with Part 8.

True value

(g) The true value of each parcel of the lands to be assessed calculated in accordance with Part 8.

Assessments on district

(h) The amount, as near as may be determined, of the total principal sum of all special assessments levied or required or proposed to be levied under any completed or pending assessment proceedings, other than that contemplated in the instant

proceedings, whether direct or ad valorem, upon each parcel of the lands proposed to be assessed, which, if the proceedings therefor were begun after this division became effective, would require an investigation and report under this division.

Assessments on parcels

(i) The estimated amount of the assessment to be levied upon each parcel of land for the proposed acquisition or improvement.

If the assessment is to be made in proportion to the assessed value of lands as fixed for the purpose of general taxation, then the total estimated cost of the acquisition or improvement less the amount, if any, proposed to be paid toward the cost of such improvement or acquisition from any source other than special assessment upon benefited property and the assessed value of the lands to be assessed as shown on the last equalized assessment roll shall be the basis for computing the assessment on each parcel. If the district is to be divided into zones, such proposed zones and the percentage to be assessed against each such zone shall be shown on the district map and such estimated assessment shall also be proportioned, as nearly as may be, according to such zones and percentages.

Bonds

(j) The number of years within which the bonds, if any, to be issued shall mature, and the number of installments of the principal of such bonds, and the interest rate or maximum interest rate at which such bonds shall be issued if no definite interest rate is to be fixed until such bonds are sold.

Resolution

2826. A copy of the resolution or ordinance adopted pursuant to Section 2821 shall be attached to the report.

Estimates

2827. The assessments required to be set forth in the report shall be deemed to be estimates only and the final assessments levied under any street improvement law may differ therefrom in amount. The final assessments shall be subject to the limitations imposed by this division and shall be levied in accordance with the street improvement law designated and shall be subject to objection only in the manner provided in that street improvement law.

Information on report

2828. The person preparing the report shall appear at the hearing on the report and give all information concerning it to all interested property owners and to the legislative body.

Abandonment

2829. The legislative body may by order or resolution abandon the proposed acquisition or improvement during the preparation of the report or at any time thereafter until, but not after, the award of contract for the acquisition or improvement.

Approval

2830 When the report has been approved by the legislative body, the fact and date of such approval shall be indorsed thereon, and the report shall be filed with the clerk of the legislative body.

PART 3. HEARING UPON THE REPORT

Hearing

2850. The legislative body shall fix a time and place of hearing on the approved report and may order such hearing to be held by such legislative body or by such other public officers or public board of the city or county governed by such legislative body as may be designated by it. Such public officers or public board shall serve without additional compensation.

Notice

2851. The clerk of the legislative body shall give notice of the hearing by mailing a copy of the notice, postage prepaid, to each person to whom land in the proposed assessment district is assessed on the last equalized city or county assessment roll, as the case may be, at his address as shown upon such roll and to each person, whether owner in fee or having a lien upon or legal or equitable interest in any land within the proposed district, whose name and address and a designation of the lands in which he is interested is on file in the office of the clerk, or to each owner of land within the assessment district at his address as shown on the last equalized assessment roll or on file in the office of the clerk.

Form of notice

2852. The notice of the hearing on the report shall be substantially in the following form (filling in blanks):

Notice is hereby given that land owned by you or in which you are interested is proposed to be assessed for the proposed (here briefly state in general terms what is proposed to be done, such as paving X Street between A Street and B Street). The estimated cost of the_____(acquisition or improvement) above mentioned is $_____; the assessed value of the lands within the district is $_____; the estimated true value of lands within the district is $_____; the estimated total amount of assessments upon lands to be assessed for acquisitions or improvements done or heretofore ordered is $_____; the estimated amount of the proposed assessment upon your lands for the proposed_____(improvement or acquisition) mentioned above is $_____. The estimated amount of the proposed assessment is approximate only, is based upon the estimated cost above stated, and is not to be deemed the actual amount which will be assessed. The amount of money to be contributed towards the project by the (City or County of_____) is the sum of $_____.

A hearing will be held in the (place of hearing) by (designation of body or officer) on the_____day of _____, 19_____, at the hour of_____ o'clock_____m. at which time and place all protests and objections will be heard. The proceeding for said acquisition or improvement is proposed to be conducted under the (here by short title or otherwise designate act under which project will be undertaken).

A report on the proposed project is on file in the office of the clerk of the_____(designate the legislative body) and is open to public inspection.

_____
Clerk of (name of legislative body)

Mailing time

2853. The notice of the hearing must be mailed at least 30 days prior to the date of the hearing.

Unknown owners

2854. If any parcel of land is assessed as owner unknown on the assessment roll, no notice need be sent for such parcel unless the name and address of a person claiming an interest in such property has been filed with the clerk, in which case notice shall be mailed to such person and address.

Errors

2855. In the absence of fraud no error or mistake in the mailing of the notices, or any of them, and no failure of any property owners to receive the same shall in any way affect the validity of the proceedings, but the clerk shall file his affidavit of mailing such notice, and such affidavit shall be conclusive evidence that the notices have been mailed as required by this division.

Protests

2856. At the hearing protests may be made orally or in writing by any person who would be entitled to protest or object to the ordering of the things proposed to be done at a hearing on the resolution of intention. However, all written protests shall be filed with the clerk of the legislative body at or before the time fixed for the hearing, and any protest relating to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which objection is made.

Hearing

2857. At the hearing on the report, the report, except as to the map, plat or diagram and the assessed valuations and true valuations of and assessments and estimated assessments upon each parcel of land, shall be read before protests are considered. The hearing may be continued from time to time not exceeding 30 days.

Report on hearing

2858. If the hearing on the report is not held before the legislative body, then within 10 days after the conclusion of the hearing, the persons conducting the hearing shall file a report on the hearing with the legislative body. The report on the hearing shall include a statement of the time when and place where the hearing was held, the approximate number of persons present, the number and nature of the protests made, and the recommendation of the persons holding the hearing. The report on the hearing shall be filed with the clerk of the legislative body.

Inspection of reports

2859. Unless the acquisition or improvement is abandoned, the report and the report on the hearing, if the hearing is not held before the legislative body, shall be kept on file, open to public inspection, and any resolution of intention or ordinance of intention adopted in the proceeding under the improvement law shall state that such reports are on file with the clerk and may be examined at his office.

PART 4. ACTING UPON THE REPORT

Consideration of report

2880. If the hearing on the report is held before the legislative body, it may consider the report immediately after the hearing or at such time within 30 days as it may designate.

2881. If the hearing on the report is not held before the legislative body, then within 30 days after the report on the hearing has been filed, the report and the report on the hearing shall be considered and (except as to the map, plat or diagram and the assessed valuations and true valuations of and assessments and estimated assessments upon individual parcels of land) shall be read to the legislative body.

Determination to proceed

2882. If the legislative body determines that the public interest, convenience and necessity require the acquisition or improvement substantially as set forth in the report and that the project is feasible, it may proceed under the law stated in the report as the statute under which the proceeding is to be conducted, except as otherwise provided in this division.

Deviations from report

2883. The acquisition or improvement shall be deemed substantially the same as set forth in the report if the things proposed to be done in the report are not changed or modified by additions thereto or omissions therefrom amounting in estimated cost to more than one-tenth of the total estimated cost as stated in the report and no changes exceeding said one-tenth shall be made.

Same

2884. The legislative body may, without further notice or hearing, make such alterations or changes as will not exceed one-tenth of the total estimated cost. The person who prepares the plans and specifications shall estimate separately the cost of each addition to or omission from the things proposed to be done as set forth in the report, and file such estimate with the clerk of the legislative body. Such filed estimate shall be conclusive evidence of the cost of such changes.

Reading report

2885. At the hearing on the ordinance or resolution of intention, the reports (except as to the map, plat or diagram and the assessed valuations and true valuations of and the assessments and estimated assessments upon each parcel of land) shall be read to the legislative body prior to the consideration of protests and objections, if any.

PART 5. DEBT LIMITATIONS

Limitations on assessment

2900. If the report on the proposed acquisition or improvement shows that the estimated amount proposed to be assessed upon any parcel of land for the proposed acquisition or improvement will exceed one-half of the true value of such parcel as set forth in the report, or shows that the total estimated cost of the proposed improvement or acquisition, less any amount to be paid towards such cost from any source other than special assessments upon the lands benefited by the acquisition or improvement, when added to the aggregate totals of all unpaid assessments and estimated assessments, as such totals are stated in such report, will exceed in total amount one-half of the total true value of all the lands proposed to be assessed, the proposed proceeding shall be abandoned or so modified that the amount to be specially assessed for the cost thereof will be less than the limits hereby established, unless the excess of said cost and indebtedness over one-half of said true value shall be paid from some source other than by special assessment on said lands, or unless the limitation herein provided is overruled.

Limitations on total cost

2901. If the total cost of any improvement, including incidental expenses but excluding the actual cost of the acquisition of any property, exceeds the total estimated cost including incidental expenses, as stated in the report and the separate estimate for changes, if any, in the things to be done as filed with the clerk, by more than one-tenth of such estimated cost, no part of the excess over said one-tenth shall be assessed upon the lands to be assessed in the proceeding.

Same

2902. If the total cost including incidental expenses of any acquisition or improvement, less any amount to be paid toward such cost from any source other than special assessment upon the lands benefited thereby, when added to the aggregate totals of all assessments and estimated assessments as stated in such report, exceeds in total amount one-half of the total true value stated in the report of all the lands to be assessed to pay any part of the cost of such acquisition or improvement, no part of such excess shall be assessed upon such lands.

Payment of excess cost

2903. If the estimated or actual cost including incidental expenses of any acquisition or improvement exceeds the amounts that may be specially assessed upon benefited property, the legislative body may provide for the payment of such excess cost from any available funds under its control and the balance shall then be specially assessed in accordance with the statute under which the proceeding is conducted.

Same

See also Stats 1941, p. 2759

2904. Whenever an improvement contract has been awarded, the county or city, the legislative body of which is

conducting the proceeding, shall, if the actual cost of the improvement, including incidental expenses, exceeds the amount that may be specially assessed upon benefited property, pay such excess cost from the general or any fund available and the balance shall be specially assessed under the statute under which the proceeding is conducted.

If the property to be specially assessed is within the jurisdiction of more than one legislative body and consents to such proceeding have been given by all the legislative bodies having jurisdiction any such legislative body whose consent has been so given may appropriate all or any part of such excess cost from any available funds under its control and may pay the amount so appropriated into the treasury of the county or city whose legislative body has jurisdiction over the proceeding to be applied in payment of such excess cost.

Dispensing with limitations

2905. Notwithstanding anything in this division, if the legislative body conducting the proceedings, after the report or reports provided for in this division have been filed and considered and prior to the adoption of the ordinance or resolution of intention, finds by a four-fifths vote of all members thereof entered upon its minutes that the proposed project is feasible and that the lands to be assessed will be able to carry the burden of such proposed assessment, the limitations on the amounts of assessments provided for in this part may be disregarded, both with respect to the limitation on the district as a whole and as to the limitation on individual specific assessments. If the legislative body makes such a finding none of the limitations upon the amounts of assessments contained in this division shall thereafter apply to any assessment or assessment proceedings thereafter had or taken. However, if at the hearing on the report protests in writing are filed as provided in Section 2856 by the owners (as defined in the law under which the acquisition or improvement proceedings are to be taken) of a majority in area of the lands to be assessed, such limitations shall not be exceeded. A finding and determination by the legislative body that the limitation on assessments herein provided may be disregarded shall be final and conclusive upon all persons in the absence of actual fraud.

PART 6. MAJORITY PROTEST

Majority protest

2930. Notwithstanding anything in this division or in any law to which proceedings under this division are applicable, if at any time before the adoption of an ordinance or resolution of intention or within the time when protests may be filed under the provisions of any such law there is a written protest filed with the clerk of the legislative body by the owners (as defined in the act under which it is proposed to proceed) of a majority of the frontage of the property fronting on the acquisition or improvement in those cases where

the cost in whole or part of the acquisition or improvement is to be assessed upon the property fronting on the acquisition or improvement, or by the owners of more than one-half of the area of the property to be assessed for the acquisition or improvement in those cases where the cost in whole or part of the acquisition or improvement is to be assessed upon the property within a district, then the proposed proceedings shall be forthwith abandoned, and the legislative body shall not for one year from the filing of that written protest commence or carry on any proceedings for the same improvement or acquisition.

Same
Against part of project

2931. If any majority protest is against only a portion of the improvement or acquisition then all further proceedings to construct that portion of the improvement or to acquire that portion of the acquisition so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against.

PART 7. SUMMARY PROCEEDINGS

Notice of action

2950. If the legislative body finds, after taking the steps provided by Sections 2821, 2822 and 2823, that the probable assessments will not exceed the limitations set up by this division, it may cause the clerk to mail prepaid postcards giving notice of its findings and proposed action. Each such notice shall have attached thereto an addressed reply postcard with the return postage thereon guaranteed.

Mailing

The cards shall be mailed to each person to whom land in the proposed assessment district is assessed on the last equalized county assessment roll at his address as shown upon such roll and to any person whether owner in fee or having a lien upon or legal or equitable interest in any land within the proposed district who has filed with the clerk his name and address and the designation of the land in which he is interested.

Form of notice
See also Stats. 1941, p. 2759

2951. The notice of the proposed assessment shall be substantially in the following form (filling in the blanks):

NOTICE OF PROPOSED ASSESSMENT

Notice is hereby given that the (name of the legislative body) proposes to adopt a resolution of intention under the (here mention statute under which it proposes to proceed) covering (here state in general terms what acquisitions or improvements are to be made). Your land will be assessed to pay a part of the cost thereof. This questionnaire is sent to the property owners interested to ascertain whether or not the owners of as much as 15 per cent of the area of the proposed district demand proceeding under the "Special

Assessment Investigation, Limitation and Majority Protest Act of 1931." Under said investigation act information will be obtained and a report thereon made, open to public inspection, and stating among other things (1) the estimated cost of the proposed project; (2) the estimated amount of existing assessments upon each parcel of land in the district; (3) the estimated assessment upon your lands for the proposed project. In the event that you desire the proceeding under said investigation act, so indicate on the attached card and return the same to the clerk within 30 days from (here set forth the date, not earlier than one day subsequent to the mailing of the cards). Sign your name legibly and describe or designate the property owned by you.

Clerk of (here designate legislative body)

Return postcard

The return postcard as sent out shall be addressed to the clerk sending out the notice and shall have thereon a guarantee of the payment of the postage for the return thereof and on the reverse side shall contain the following:

The undersigned { does / does not } demand the making of the investigation provided for by the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931" in connection with the (here set forth the same description of the project as is contained upon the notice postcard).

(Signature) _____
(Description or designation of property) _____

Unknown owners

2952. If any parcel of land in the assessment district is assessed as owner unknown on the county assessment roll, no notice need be sent for such parcel unless the name and address of the person claiming an interest in that property is filed with the clerk, in which case notice shall be mailed to such person and address.

Errors

2953. In the absence of fraud no error in the mailing of the notices, and no failure of any person to receive the notices shall in any way affect the validity of the proceedings, but the clerk shall file an affidavit of mailing such notices and shall include therein a list of the names and addresses of the persons to whom such notices were sent.

Percentage of demand for investigation

2954. The return postcards shall be filed in the clerk's office and after the expiration of the 30-day period specified in the Notice of Proposed Assessment all demands for the investigation made to the legislative body shall be computed and it shall by order entered on its minutes determine whether or not the owners of 15 per cent of the area of the proposed assessment district have demanded such investigation. Such

determination shall be final and conclusive in the absence of actual fraud.

Proceeding without investigation

2955. If the owners (as defined in the law under which it is proposed to proceed) of 15 per cent of the area of the proposed assessment district do not so demand the making of the investigation provided by this division, the legislative body shall be at full liberty to proceed under the statute under which it has declared its intention to carry through the contemplated proceedings without any further restrictions whatsoever by reason of the terms or provisions of this division except that the majority protest provisions of this division shall apply.

Proceeding after demand

2956. If the owners of 15 per cent or more of the area of the proposed district so demand the making of such investigation, all provisions of this division shall apply to the proposed proceeding, if any further steps are taken therein by the legislative body.

PART 8. DETERMINATION OF TRUE VALUE

"True value of lands"

2980. As used in this division, the "true value of lands" means the value of such lands as determined in accordance with the provisions of this part.

Ratio of assessed to true value

See also Stats. 1941, p. 1683

2981. The State Board of Equalization shall biennially determine the average assessed value of property as assessed for taxation for general county purposes in each county for each one hundred dollars ($100) of true value of such property as determined by the State Board of Equalization in accordance with a uniform basis or standard. The determination of the Board of Equalization as to the ratio of assessed value to true value shall be final and conclusive.

Notice

See also Stats. 1941, p. 1683

2982. On or before the first Monday in December of each even-numbered year the State Board of Equalization shall notify the county clerk of each county and the clerk of each city by mail of the ratio of assessed value to true value in such county or in the county in which such city is situated, as the case may be, and such ratio shall be used for the purposes of this division for the two years beginning on the first day of January following such notification.

Failure to notify

Failure of the Board of Equalization to mail such notice or of any such clerk to receive such notice shall not affect the validity of any proceeding, but the proper ratio as herein prescribed shall be ascertained from the State Board of Equalization by the legislative body conducting any such proceeding and used therein.

Determination of true value

See also Stats. 1941, p. 1683

2983. To determine the true value of property for the purpose of this division, the assessed value of such property as

shown on the last equalized assessment roll of the county in which such property is situated shall be divided by the amount of assessed value for each one hundred dollars ($100) of true value in that county as fixed or hereafter determined by the Board of Equalization, and the quotient so obtained carried to two decimal places, shall be multiplied by 100, and the result expressed in dollars shall be the true value of such property.

Cities

2984. Notwithstanding the other provisions of this part, if the legislative body of any city desires to use the taxation assessment rolls of such city as a basis for computing the true value of the lands in such city, the legislative body shall establish a correction factor for such use in the following manner:

Correction factor

The legislative body shall determine the total assessed valuation for city purposes of all taxable lands in the city as the same is shown upon the last equalized taxation assessment roll of the city and the corresponding total assessed valuation of the lands in the city for county purposes as the same is shown upon the last equalized taxation assessment roll of the county in which the city is situated. The total amount of the valuation for city purposes shall be divided by the total amount of the valuation for county purposes and the quotient, expressed in decimals to two places, shall represent the correction factor. The determination of the correction factor by the legislative body shall be final and conclusive upon all persons, except in the case of actual fraud.

Determination of true value

See also Stats 1941, p 1683

2985. If a correction factor is established as provided in Section 2984, the standard or ratio of true value as established by the Board of Equalization for each hundred dollars ($100) of assessed value in the county within which the city is situated shall be multiplied by the correction factor and the product of such multiplication shall be used in calculating true value, in lieu of the standard or ratio established by the State Board of Equalization.

PART 9. COSTS OF PROCEEDINGS

Costs of proceedings

2995. If the improvement or acquisition is made, all or any part of the cost of the proceedings taken under this division may be included in the incidental expenses of such acquisition or improvement as a part of the amount for which special assessments may be levied or bonds payable by special assessments issued under the law under which the acquisition or improvement is made.

PART 10. OBJECTIONS AND LIMITATIONS

Limitations on objections

3010. All objections to the form, contents, validity or sufficiency of the report on the project and all objections to

the form, contents, validity or sufficiency of the notice of hearing on the report shall be made in writing and filed with the clerk of the legislative body at or before the time fixed for the hearing on the report, and if not so made at such time shall be waived and no objection thereto may be made thereafter except in case of actual fraud. Any such objections shall be heard and considered and at such hearing the report may be amended in accordance with the facts, and the hearing had upon such report as so amended.

Same

3011. All objections or protests relating to the validity of the proceedings had under this division, and not otherwise provided for in this division, shall be made in writing and filed in the manner and not later than the time at which protests or objections may be filed for the hearing designated in the resolution or ordinance of intention, and any protest or objection relating to the validity of the proceedings had under this division not made at such time and in such manner shall be waived and may not thereafter be urged, pleaded or raised in any action or proceeding, and the adoption of a resolution or ordinance finally ordering the acquisition or improvement shall be conclusive evidence that the proceedings prior thereto under this division are valid and sufficient.

Limitations on actions
See also Stats. 1941, p. 2761

3012. Any action or proceeding of any kind or nature in which the validity of any of the proceedings taken under this division is questioned or attacked shall be commenced within 60 days after the date of the adoption of the resolution or ordinance finally ordering the acquisition or improvement, and if such action is not brought within said 60 days, then thereafter all persons whatsoever shall be barred in any action or proceeding from pleading, asserting or claiming that any of the proceedings under this division were defective or invalid in any respect.

DIVISION 5. STREET OPENING

PART 1. STREET OPENING ACT OF 1889

CHAPTER 1. GENERAL PROVISIONS

Short title

3200. This part may be cited as the Street Opening Act of 1889.

Construction

3201. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

Same

3202. This part shall be liberally construed in order to effectuate its purposes.

"City"

3203. "City" includes all corporations organized and existing for municipal purposes.

"City council" 3204. "City council" includes any body which by law is the legislative department of the government of the city.

"Clerk" 3205. "Clerk" and "city clerk" include any person or officer who is or acts as clerk of the city council.

"Treasurer" 3206. "Treasurer" and "city treasurer" include any person or officer who has charge and makes payment of the city funds.

"Street superintendent" 3207. "Street superintendent" and "superintendent of streets" include any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof, in any city. In all those cities where there is no street superintendent, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties imposed by this part on the street superintendent; and all the provisions of this part applicable to the street superintendent shall apply to the person so appointed.

"Work" 3208. "Work" and "improvement" include all work authorized to be done under this part.

"Street" 3209. "Street" includes square, lane, alley, court and place.

"Assessment district" 3210. "Assessment district" means the district of lands to be affected or benefited by the work, and to be assessed to pay the damages, cost, and expenses thereof.

Posting of notice 3211. If there is no daily, weekly or semiweekly newspaper printed and circulated in the city, then such notices as are required in this part to be published in a newspaper shall be posted and kept posted in three public places in the city for the length of time required for the publication of the notice in a weekly newspaper.

Proof of the publication or posting of any notice provided for in this part shall be made by affidavit of the owner, publisher or clerk of the newspaper or by affidavit of the poster of the notice.

Notice required 3212. No publications or notice other than that provided for in this part shall be necessary to give validity to any proceedings had under this part.

Chapter 2. The Resolution of Intention

Ordering the work 3220. Whenever the public interest or convenience may require, the city council of any city shall have full power and authority to order the opening, extending, widening, straightening, or closing up in whole or in part of any street

within the bounds of such city, and to condemn and acquire any and all land and property necessary or convenient for that purpose. One or more streets may be included in one proceeding.

Resolution of intention

3221. Before ordering any work to be done the city council shall pass a resolution declaring its intention to do so, describing the work and the land deemed necessary to be taken therefor, and specifying the exterior boundaries of the assessment district.

Posting notice

3222. The street superintendent shall then cause to be conspicuously posted along the line of the contemplated work, at not more than 300 feet in distance apart, but not less than three in all, notices of the passage of the resolution of intention. The notice shall be headed "Notice of Public Work," in letters not less than one inch in length, shall be in legible characters, state the fact and date of passage of the resolution, and briefly describe the work proposed, and refer to the resolution of intention for further particulars.

Publishing notice

3223. The street superintendent shall also cause a notice, similar in substance, to be published for a period of 10 days in one or more daily newspapers published and circulated in the city, and designated by the city council; or if there is no daily newspaper so published and circulated, then by four successive insertions in a weekly or semiweekly newspaper, so published, circulated, and designated.

Objections

3224. Within 10 days after the expiration of the time of publication of the notice any person interested may file with the clerk written objections to the work, or to the extent of the assessment district. The clerk shall indorse on each objection the date of its filing with him, and at the next meeting of the city council after the expiration of said 10 days shall place the objections before the city council. The city council shall fix a time which shall be not less than one week thereafter, for hearing the objections The city clerk shall thereupon notify the persons making such objections, by depositing a notice thereof in the post office of the city, postage prepaid, addressed to each objector.

Hearing

3225. At the time specified or to which the hearing may be adjourned, the city council shall hear and pass upon the objections filed, and its decision shall be final and conclusive. If the objections are sustained, all proceedings shall be stopped, but proceedings may be again commenced at any time by giving notice of intention to do the same work. If the objections are overruled by the city council the proceedings shall continue as if such objections had not been made.

Authority to proceed

3226. At the expiration of the time prescribed during which objections to the work may be made, if no objection is made, or if an objection is made and the city council after hearing has overruled it, the city council shall acquire jurisdiction to order the work to be done.

CHAPTER 3. COMMISSIONERS

Ordering work done

3240. Having acquired jurisdiction, the city council shall order the work to be done and, unless the proposed work is for closing up and it appears that no assessment is necessary, shall appoint three commissioners to assess benefits and damages, and have general supervision of the work until the completion thereof in compliance with this part.

Commissioner compensation

3241. The commissioners shall receive for their services such compensation as the city council may determine from time to time, but such compensation shall not exceed two hundred dollars ($200) per month each, nor continue more than six months unless extended by order of the city council. Such compensation shall be added to and be chargeable as a part of the expenses of the work.

Bonds

3242. Each of the commissioners shall file with the clerk an affidavit, and a bond to the State of California in the sum of five thousand dollars ($5,000), faithfully to perform

Removal

the duties of his office. The city council may at any time remove any or all of the commissioners for cause, upon reasonable notice and hearing, and may fill any vacancies occurring among them for any cause.

Expenses

3243. The commissioners may:

(a) Employ such assistance, legal or otherwise, as they deem necessary and proper.

(b) Rent an office.

(c) Provide such maps, diagrams, plans, books, stationery, fuel, lights, postage, expressage and incur such incidental expenses as they deem necessary.

Charges

3244. All such expenses shall be deemed to be expenses of the work, and be a charge only upon the lands in the assessment district.

Payments

3245. All payments, both for the land and improvements taken or damaged and for the expenses, shall be paid by the city treasurer, upon warrants drawn upon the fund devoted to the work signed by at least a majority of the commissioners. All such warrants shall state whether they are issued for land or improvements taken or damaged, or for expenses, and that the demand is payable only out of the money in said fund. In no event shall the city be liable for the failure to

collect any assessment made by virtue of this part, nor shall any such warrant be payable out of any other fund, nor be a claim against the city.

Chapter 4. Making the Assessment

Determination of damages

3260. The commissioners shall view the lands described in the resolution of intention, and may examine witnesses on oath which may be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land, and the damage to improvements and land affected, and also the amount of the expenses incident to the work.

Assessments

3261. The commissioners shall assess the amount thus determined upon the assessment district. The commissioners shall make the assessment upon the lands within the district in proportion to the benefit to be derived from the work, so far as the commissioners can reasonably estimate the benefit, including in such estimate the real property of any railroad company within the district. They may also include in such estimate any or all public property within the district.

Report to council

3262. The commissioners, having made their assessment of benefits and damage, shall with all diligence make a written report thereof to the city council, and shall accompany their report with a plat of the assessment district showing the land taken or to be taken for the work, and the lands assessed, showing the relative location of each lot or parcel of land and its dimensions, so far as the commissioners can reasonably ascertain them. Each lot or parcel of land taken or assessed shall be designated and described in the plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in any suit entered to condemn, and in all respects. When the report and plat are approved by the city council, a copy of the plat, appropriately designated, shall be filed by the clerk in the office of the county recorder.

Contents

3263. The report shall specify each lot or parcel of land taken or injured by the work, or assessed therefor, together with the name of the owners or claimants thereof, or of persons interested therein as lessees, encumbrances, or otherwise, so far as known to the commissioners, and the particulars of their interest, so far as can be ascertained, and the amount of value or damage, or the amount assessed, as the case may be.

Unknown owners

3264. If in any case the commissioners find that conflicting claims of title exist, or if they are in ignorance or doubt as to the ownership of any lot or parcel of land, or of any improvements thereon, or of any interest therein, it shall be

set down as belonging to unknown owners. Error in the designation of any owner of any land or improvements, or of the particulars of his interest, shall not affect the validity of the assessment or of the condemnation of the property to be taken.

Notice of filing report

3265. The report and plat shall be filed in the clerk's office, and thereupon the clerk shall give notice of such filing by publication for at least 10 days in one or more daily newspapers published and circulated in the city, or if there is no daily newspaper, then by three successive insertions in a weekly or semiweekly newspaper so published and circulated. The notice shall also require all persons interested to show cause, if any they have, why such report should not be confirmed, before the city council on or before a day fixed by the clerk and stated in the notice, which day shall not be less than 30 days from the first publication thereof.

Objections

3266. All objections shall be filed in writing with the clerk who shall, at the next meeting after the day fixed in the notice to show cause, place the objections before the city council. The council shall fix a time for hearing the objections and the clerk shall notify the objectors of such time in the same manner as he is required to notify objectors to the original resolution of intention.

Hearing

3267. At the time set, or at any other time to which the hearing may be adjourned, the city council shall hear and pass upon the objections. At such time, or, if there are no objections, at the first meeting after the day set in such order to show cause, or at such other time as may be fixed, the council shall proceed to pass upon the report, and may confirm, correct, or modify it, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given, and hearing had, as in the case of an original report.

CHAPTER 5. COLLECTING THE ASSESSMENT

Assessment roll

3280. The clerk shall forward to the street superintendent a certified copy of the report, assessment, and plat, as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment roll. Immediately upon receipt thereof by the street superintendent, the assessment therein contained shall become due and payable, and shall be a lien upon all the property contained or described therein.

Assessment notice

3281. The street superintendent shall thereupon give notice by publication for 10 days in one or more daily newspapers published and circulated in such city or by two successive insertions in a weekly or semiweekly newspaper so published and circulated. Such notice shall state that:

(a) He has received the assessment roll.

(b) All sums levied and assessed in the assessment roll are due and payable immediately.

(c) The payment of said sums is to be made to him within 30 days from the date of the first publication of the notice.

(d) All assessments not paid before the expiration of said 30 days will be declared to be delinquent, and that thereafter the sum of 5 per cent upon the amount of each delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto.

Payment

3282. When payment of any assessment is made to the street superintendent, he shall write the word "Paid," and the date of the payment, opposite the respective assessment so paid, and the names of the persons by or for whom the assessment is paid, and shall, if so required, give a receipt therefor.

Delinquencies

3283. On the expiration of the 30 days, all assessments then unpaid shall be and become delinquent, and the street superintendent shall certify that fact at the foot of the assessment roll, and shall add 5 per cent to the amount of each assessment so delinquent.

Sales for delinquencies.

3284. The street superintendent shall, within five days from the date of delinquency, proceed to advertise and collect the various sums delinquent, and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents ($0.50) for each lot or parcel of land separately assessed, by the sale of the assessed property in the same manner as is now or hereafter provided for the collection of county taxes. After the date of delinquency, and before the time of such sale, no assessment shall be received unless at the same time the 5 per cent added thereto, together with the costs of advertising then already incurred, shall be paid therewith.

Publication of delinquent list

3285. The list of delinquent assessments shall be published daily for five days in one or more daily newspapers published and circulated in the city, or by at least one insertion in a weekly newspaper so published and circulated, before the day of sale for such delinquent assessment. The time of sale shall not be less than seven days from the date of the first publication of the delinquent assessment list, and the place shall be in or in front of the office of the street superintendent.

Redemption

3286. All property sold shall be subject to redemption in the same time and manner as in sales for delinquent county taxes. The street superintendent may collect for each certificate fifty cents ($0.50), and for each deed one dollar ($1). All provisions of the law, in reference to the sale and redemption of property for delinquent county taxes in force at any given time, shall also then, so far as not in conflict with the

provisions of this part, be applicable to the sale and redemption of property for delinquent assessments under this part, including the issuance of certificates and execution of deeds.

Deed

3287. The deed of the street superintendent made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings under this part and of title in the grantee. It shall be conclusive evidence of the necessity of taking or damaging the lands taken or damaged, and of the correctness of the compensation awarded therefor.

Payments

3288. The street superintendent shall, from time to time, pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place them in a separate fund, designating such fund by the name of the street for the work on which the assessment was made. Payments shall be made from that fund to the parties entitled thereto, upon warrants signed by at least a majority of the commissioners.

Supplementary assessment

3289. If after the sale of property for delinquent assessments there is a deficiency and there is unreasonable delay in collecting such deficiency, or if for the purpose of equalizing the assessments supplying a deficiency, or for any cause, it appears desirable, the commissioners may so report to the city council, which may order them to make a supplementary assessment and report the same in manner and form as the original, and subject to the same procedure.

Surplus

3290. If by reason of a supplementary assessment, or for any cause, a surplus remains after all claims against the fund devoted to the work have been paid the city council may either:

(a) Appropriate the surplus and declare a pro rata refund to the persons paying it. Upon demand such persons shall have the right to have the amount of such pro rata refunds refunded to them, or credited upon any subsequent assessment for taxes made against those persons in favor of the city.

(b) Appropriate and transfer the surplus to the General Fund for the fiscal year in which the surplus exists, if the surplus does not exceed 5 per cent of the total amount expended out of the fund devoted to the work. The surplus so transferred shall in no case exceed one thousand dollars ($1,000).

Chapter 6. Payment of Awards

Notice to claim award

3310. When there is in the fund devoted to the proposed work sufficient money to pay for the land and improvements taken or damaged, and when in the discretion of at least a majority of the commissioners the time has come to make

payments, the commissioners shall notify the owner, possessor, or occupant of any land or improvement thereon to whom damages have been awarded, that a warrant has been drawn for the payment thereof, and that he can receive such warrant at the office of the commissioners upon tendering a conveyance of any property to be taken. Such notification, except in the case of unknown owners, shall be made by depositing a notice, postage prepaid, in the post office addressed to his last known place of abode or residence.

Failure to claim award

3311. If, at the expiration of 30 days after the deposit of such notice, the person notified has not applied for his warrant, and tendered a conveyance of the property to be taken, the warrant so drawn shall be deposited with the county treasurer, and shall be delivered to such owner, possessor or occupant, upon tendering such a conveyance. If a judgment of condemnation is obtained, then the warrant shall be canceled.

Payment of warrants

3312. The treasurer shall pay such warrants out of the appropriate fund, and not otherwise, in the order of their presentation except that warrants for land or improvements taken or damaged shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money is and remains in the fund to pay all warrants of the first class before paying any of the second.

Chapter 7. The Condemnation Action

Condemnation

3330. If any owner, possessor or occupant of land to be taken neglects or refuses to accept the warrant drawn in his favor, or objects to the report as to the necessity of taking his land, the commissioners, with the approval of the city council, may cause proceedings to be taken for the condemnation thereof, as provided by law under the right of eminent domain. The complaint may aver that it is necessary for the city to take or damage and condemn the said lands, or an easement therein, as the case may be, without setting forth the proceedings provided for in this part, and the resolution ordering the work to be done shall be conclusive evidence of such necessity.

Action

3331. Such condemnation proceedings shall be brought in the name of the city and shall have precedence so far as the business of the court will permit. Any judgment for damages therein rendered shall be payable out of such portion of the fund devoted to the work as may remain in the treasury, so far as the same can be applied.

Immediate possession

3332. At any time after trial and entry of judgment or preceding an appeal, the court may order the city treasurer

to set apart in the city treasury a sufficient sum from the fund devoted to the particular work to satisfy the judgment and all damages, and thereupon may authorize and order the city to enter upon the land and proceed with the proposed work.

Deficiency

3333. In case of a deficiency in said fund to pay the whole of the judgment and damages, the city council may order the balance thereof to be paid out of the general fund of the treasury or to be distributed by the commissioners over the property assessed by a supplementary assessment. In order to avoid delay, in the event of a supplementary assessment, the city council may advance such balance out of any appropriate fund in the treasury, and reimburse such fund from the collections of the assessment.

Stay of proceedings

3334. Pending the collection and payment of the amount of the judgment and damages, the court may order such stay of proceedings as may be necessary.

Title defects

3335. If any title attempted to be acquired by virtue of this part is found to be defective from any cause, the city council may again institute proceedings to acquire the cause as in this part provided, or otherwise, or may authorize the commissioners to purchase the cause and include the cost thereof in a supplementary assessment as provided in this chapter.

Chapter 8. Assessment on Entire City

Proceedings of general benefit

3350. If the city council deems it proper that the boundaries of the assessment district include the whole city, then the commissioners appointed shall proceed in a summary manner to purchase the lands to be taken or condemned from the owners and claimants thereof. If the commissioners and the owners and claimants can not agree upon the price to be paid for the lands, the commissioners shall proceed to view and value them and shall thereupon make a summary report to the city council.

City-wide assessment

3351. Upon final confirmation of the report, if there is not sufficient money available in the city treasury the city council shall cause all or part of the cost and expenses of the contemplated work to be assessed upon the whole of the taxable property of the city, and to be included in and form part of the next general assessment roll of the city, with like effect in all respects as if the assessment formed a part of the city or county taxes. When the assessment has been collected the city council shall cause the required land to be paid for or the value thereof tendered, and the contemplated work to be forthwith made and completed. All of the provisions of this part not in conflict with this chapter shall be applicable thereto.

PART 2. STREET OPENING BOND ACT OF 1921

CHAPTER 1. GENERAL PROVISIONS

Short title

3400. This part may be cited as the Street Opening Bond Act of 1921.

Construction

3401. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

Same

3402. This part shall be liberally construed in order to effectuate its purposes.

"Street Opening Act of 1889"
Stats 1889, p 70

3403. "Street Opening Act of 1889" or "Street Opening Act" refers to Part 1 of this division and to the act entitled "An act to provide for laying out, opening, extending, widening, straightening, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities, and to condemn and acquire any and all land and property necessary or convenient for that purpose," approved March 6, 1889, as amended.

"City council"

3404. "City council" means the legislative body of the city.

"Improvement bond"

3405. "Improvement bond" means a bond issued under the provisions of this part.

"Assessment"

3406. "Assessment" or "assessment roll" means a special assessment made under the provisions of the "Street Opening Act."

"Delinquency"

3407. "Delinquency" means delinquency in the payment of an assessment made under the "Street Opening Act," and "time of delinquency" means the time fixed in the "Street Opening Act" when assessments become delinquent.

CHAPTER 2. ISSUE OF BONDS

City payments

3419. The city council may, in the resolution of intention prescribed by the Street Opening Act of 1889, provide for the payment, out of a city fund to be therein designated, of some certain amount of the estimated costs and expenses of the work proposed, in which case the "notice of public work" prescribed by the Street Opening Act shall state the fact that such provision is made in the resolution of intention and that such sum shall be deducted from the total cost and expense of the proposed work, and the remainder of such cost and expense shall be assessed as prescribed by the Street Opening Act. At or before the time of ordering the work to be done the city council shall appropriate out of the proper

fund and pay into the special fund provided by the Street Opening Act, the sum specified in the resolution of intention.

Bonds

Bonds may then issue as provided in this part, to cover the assessment so made.

Determination to issue bonds

3420. The city council of any city may, at or before the time of the confirmation of any assessment or assessment roll in proceedings taken under the Street Opening Act, determine by ordinance or resolution that improvement bonds may issue to represent such assessment.

Election to have bonds issue

3421. Whenever such a determination to issue bonds has been made, the owner of any lot or parcel of land against which an assessment of fifty dollars ($50) or over has been made may, at any time prior to delinquency, elect to pay such assessment in installments and to have an improvement bond issued against such lot or parcel of land, in the form and manner and with the effect in this part provided.

Procedure

3422. The owner or his agent duly authorized in writing filed with the street superintendent, may make such election by filing with the street superintendent an affidavit that affiant or his principal, as the case may be, is the owner of the lot or parcel of land in question. A certificate of a searcher of records that affiant or his principal is such owner shall accompany the affidavit.

Payment agreement

3423. The owner or his agent shall also file with the street superintendent a written agreement upon the form fixed in this chapter, waiving all objections of whatsoever kind or nature against the assessment and all proceedings prior thereto, and undertaking to pay the amount of the assessment in either 5 or 10 annual installments, each of which shall be due on the first day of July of each year, and the first of which shall be due on the first day of July next following the date of such bond, with interest on all deferred payments at the rate of 8 per cent per annum, payable at the same time as the installments of principal.

Contents

3424. The agreement shall provide that in case of default in the payment of any installment of the principal provided for therein, or interest accrued on deferred payments, at the time called for by the agreement, then the entire remaining unpaid installments shall become immediately due and payable, and that the unpaid installments, and all liens and agreements which are security therefor, may be collected and enforced as provided in this part.

Form

3425. The agreement shall be in substantially the following form (filling blanks):

The undersigned, being the owner of the lot assessed in the assessment for _____ said lot being assessed therein for

the sum of _____ dollars ($___), does hereby expressly waive and release all objections of whatsoever kind or nature against the said assessment and all proceedings prior thereto, and in consideration of the benefit of said improvement and of the extension of time for paying therefor herein requested, do undertake and agree to pay the amount of said assessment, to wit: The sum of _____ dollars ($___) in _____ yearly installments, at the time, in the manner, and with the interest, specified and provided in the Street Opening Bond Act of 1921 (Part 2 of Division 5 of the Streets and Highways Code) and do request and elect to have a bond issued against said lot in the manner and form and with the effect there provided and do expressly agree that in case of default in the payment of any installment of the principal provided for in said bond, or interest accrued on deferred payments, then, and in that event, that the entire remaining unpaid installments shall become immediately due and payable, and that the unpaid installments, and all liens and agreements which are security therefor, may be collected and enforced as in that act provided.

Recording

3426. When an election is effected the street superintendent shall make a note thereof in his records opposite the assessment as to which the election is made. All agreements and affidavits made and filed under this part shall be bound in a substantial book and kept among the records of the superintendent of streets. At the time of delinquency, the street superintendent shall advise the city treasurer in writing respecting the assessments as to which the owners have elected to pay in installments. The city treasurer shall thereupon prepare a separate bond representing each assessment as to which such right of election has been exercised, running for either 5 or 10 years, as specified in the agreement.

Bond issuance

CHAPTER 3. FORM AND CONTENT OF BONDS

Bond form

3450. The bond shall be in substantially the following form (filling blanks):

Improvement Bond

Series_____

$_____ No._____

Under and by virtue of and pursuant to the provisions of the Street Opening Bond Act of 1921 (Part 2 of Division 5 of the Streets and Highways Code) I, out of the fund for the above designated improvement bonds, series _____, will pay to bearer the sum of _____ dollars ($___) with interest at the rate of 8 per cent per annum, as is hereinafter specified, at the office of the city treasurer of the City of _____, State of California. This bond is issued to represent an assessment for _____ in the City of _____ as the same is more fully described in the assessment therefor. Its amount

is the amount assessed in said assessment against the lot numbered _____ therein and in the diagram attached thereto, and which now remains unpaid; but until paid, with accrued interest, is a first lien upon the property affected thereby, as the same is described herein and in said recorded assessment with its diagram, to wit: The lot or parcel of land in the City of _____, County of _____, State of California, described as follows: _____
_____
_____
and it is issued in accordance with the written request therefor on file in the office of _____ the _____ of said city.

This bond is payable exclusively from said fund, and neither the City of _____ nor any officer thereof is to be holden otherwise for its principal or interest. The term of this bond is _____ years from July 1, 19__, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the first day of July of each year, after the date hereof, an even annual proportion of its principal is due and payable upon presentation of the coupon therefor, until the whole is paid, with accrued interest at the rate of 8 per cent per annum.

The interest is payable annually on the first day of July in each year hereafter upon presentation of the coupons therefor, the first of which is for the interest from date to the first day of July, 19__, and thereafter the interest coupons are for the annual interest.

Should default be made in the first, or any succeeding payment of the principal, or in any payment of interest, by the owner of said lot, or anyone in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and shall thereupon have a right to collect the same and to enforce all liens and agreements which are security therefor as in said act provided.

At the said City of _____, this _____ day of _____, in the year one thousand nine hundred and _____.

_____
City treasurer of the City of _____

Bond payable to bearer
Correction of errors

3451. Each bond shall be payable to the bearer. No mistake or error in the description in the bond of the lot or parcel of land assessed shall affect the validity or lien of the bond, unless the mistake or error is such that the lot or parcel of land can not be identified, and in such event the holder of such bond may have the description therein corrected upon application to the city treasurer and the officers or board who made the assessment to represent which such bond is issued.

Regularity

3452. Bonds issued under this part shall by their issuance be conclusive evidence of the regularity and validity of all proceedings prior thereto.

3453. The amount due upon any bond shall be a lien upon the lot or parcel of land described in the bond superior to all other liens, charges, and encumbrances except the liens of prior assessments and of city, State and county taxes. Bond lien

3454. If any officer whose signature or countersignature appears on any bond or coupon ceases to be such officer before delivery of the bonds to the purchaser thereof, such signature or countersignature appearing either on the bond or on the coupons, or both, shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds. Bond signatures

Chapter 4. Sale of Bonds

3470. All or any number of bonds, except as otherwise provided in this chapter, shall be sold to the highest cash bidder, after advertisement for bids. Such advertisement shall be published for at least three times in a daily newspaper published and circulated in the city, or if there is no such daily newspaper, then it shall be published once in a weekly or semiweekly newspaper so published and circulated. Sale

3471. Bonds shall not be sold for less than par. If any bond is sold for an amount in excess of par such excess shall be paid into the general fund of the city. Same

3472. The proceeds of the sale of such bonds shall be paid into the fund of the proceeding to represent assessments for which the bonds were issued. Proceeds

3473. The city may advance to the appropriate fund the par value of all or any part of the bonds, in which case the city shall have the same rights in respect to the enforcement and collection thereof as other purchasers. If the city advances money it may at any time sell the bonds to reimburse itself therefor. Purchase by city

Chapter 5. Payments on Bonds

3490. The city treasurer shall enter in a book kept for that purpose in his office, a record of each bond specifying the date of its issue, the amount for which issued, to whom delivered, its duration and a description of the lot or parcel of land against which it is issued. Bond record

3491. Payments of principal and interest on account of any bond shall be made to the city treasurer who shall keep a separate account of all such payments, entering each payment in the record required by this part to be kept. He shall place the payments in appropriate funds for the payment of principal and interest of the bonds on account of which paid, Payments

and shall, upon the surrender of the coupons attached to any bond, pay to the holder thereof, or his order, the amount called for by the coupons out of the funds in his possession applicable thereto.

CHAPTER 6. SALE FOR DELINQUENCY

Default

3501. Whenever, through the default of the owner of any lot or parcel of land upon which a bond is issued payment either of principal or of interest is not made when due, and the holder of the bond thereupon demands, in writing, that the city treasurer proceed to advertise and sell said lot or parcel of land as provided in this part, the whole bond or its unpaid remainder, with its accrued interest as expressed in the bond, shall become due and payable immediately, and on the day following shall become delinquent.

Notice of sale

Publication

3502. Upon the application of the holder of any delinquent bond, the city treasurer shall publish a notice twice in a newspaper of general circulation, to be designated by him, published in the city where his office is situated.

The notice shall contain:

(a) The date, number, and series of the delinquent bond.

(b) A description of the property mentioned in the bond.

(c) The name of the owner of such property if known, and if unknown, that fact shall be so stated.

(d) The amount due on the bond, and a statement that unless the amount of the bond and the interest due thereon, together with the cost of publication of such notice, are paid, the real property described in the bond will be sold at public auction on a day to be therein fixed, which shall not be less than 15 nor more than 30 days from the day of the first publication of the notice, and at a place which shall be in or in front of the office of the city treasurer.

Service

3503. Not less than 15 days before the day of sale a like notice shall be served upon any such owner, if known, either personally or by depositing the notice in the post office at such city addressed to such owner at his address, if known, with the postage thereon prepaid.

Redemption

3504. At any time prior to the sale, the owner or person in possession of any real estate offered for sale may pay the whole amount of the bond then due, with costs, and such bond shall thereupon be canceled.

Sale

3505. If payment is not made by or in behalf of such owner or person in possession, the property shall be sold at public auction to the bidder offering to pay the amount due on the bond with costs for the least portion of such lot or parcel of land offered for sale.

Affidavit of publication

3506. Before the day of sale the city treasurer shall file with the city clerk a copy of the published notice with an affidavit of the publisher of the newspaper, or someone in his behalf, attached thereto, that it is a true copy of the notice as published; that the publication was made in a newspaper, stating its name and place of publication and the date of each issue in which such publication was made. The affidavit shall be prima facie evidence of all the facts stated therein.

Fees

3507. The city treasurer shall collect, in addition to the amount due on the delinquent bond, the cost of the publication of such notice, and fifty cents ($0.50) for the certificate of sale delivered to the purchaser.

Record of sale

3508. Before delivering any certificate of sale the city treasurer shall enter in a book kept in his office for that purpose:

(a) The date, number and series of the bond.

(b) A description of the land sold corresponding with the description in the certificate, the date of sale, purchaser's name, and the amount paid.

(c) A number opposite each description on the margin of the book, and shall put a corresponding number on each certificate.

Such book shall be open to public inspection during office hours when not in actual use. The city treasurer then shall enter on the record of the bond the words "canceled by sale of the property," giving the date of such sale.

Purchaser's lien

3509. Immediately on the sale, the purchaser is vested with a lien on the property so sold to him, to the extent of his bid. He can be divested of such lien only by redemption.

CHAPTER 7. REDEMPTION

Redemption amount

3530. Redemption can be made only by the payment to the city treasurer of the purchase money, and costs as provided for in this part, with interest thereon at the rate of 1 per cent per month from the date of sale.

Time

3531. Redemption of the property sold may be made by the owner thereof, or any party in interest, within 12 months from the date of purchase, or at any time prior to the application for a deed. Redemption shall be made in lawful money of the United States.

Redemption funds

3532. When redemption is made to the city treasurer he shall credit the amount paid to the person named in his certificate, and pay it on demand to him or his assignees.

Recordation

3533. On receiving the certificate of sale, the county recorder shall file it, and make an entry in a book similar to

that required of the city treasurer. The recorder's filing fee shall be fifty cents ($0.50). On presentation of the receipt of the city treasurer for the total amount of the redemption money, the recorder shall, without charge, mark the word "redeemed," the date, and by whom redeemed, on the margin of the book where the entry of the certificate is made.

CHAPTER 8. CONVEYANCE ON FAILURE TO REDEEM

Notice to redeem

3550. The purchaser or his assignee or agent shall, 30 days prior to the expiration of the time for redemption, or 30 days before his application for a deed, serve upon the owner or agent of the property purchased, if named in such certificate of sale, and upon the party occupying the property, if it is occupied, a written notice stating that all or part of the property has been sold to satisfy the bond lien, date of sale, the date, number and series of the bond, the amount then due, and the time when the right of redemption will expire, or when the purchaser will apply for a deed. The owner shall have the right of redemption indefinitely, until such notice is given and the deed applied for, upon the payment of the fees, penalties, and costs required in this part. In case of unoccupied property a similar notice shall be posted in a conspicuous place upon the property at least 30 days before the purchaser applies for a deed.

Deed

3551. If the property is not redeemed within the time allowed, the city treasurer, or his successor in office, upon application of the purchaser or his assignee, shall make to the purchaser or his assignee a deed to the property, reciting in the deed substantially the matter contained in the certificate and that no person has redeemed the property during the time allowed for its redemption. The treasurer shall be entitled to receive from the purchaser for making the deed two dollars ($2) which, after payment is made therefrom for the acknowledgment of the deed, shall be deposited in the city treasury for the use of the city.

Affidavit of notice

3552. No deed to the property sold shall be issued by the city treasurer to the purchaser of such property until the purchaser files with the treasurer an affidavit showing that the notice required to be given has been given. The treasurer shall file and preserve the affidavit in his office.

Notice fee

3553. The purchaser shall be entitled to receive the sum of fifty cents ($0.50) for his service of such notice and the making of such affidavit, which sum shall be paid by the redemptioner at the time and in the same manner as the other sums, costs and fees are paid.

Effect of deed

3554. The deed when duly acknowledged or proved, shall be conclusive evidence of all things of which the bond upon

which it is based is conclusive evidence, and prima facie evidence of the regularity of all proceedings subsequent to the issue of the bond. The deed conveys to the grantee the absolute title to the lands described therein free of all incumbrances, except the lien for State, county, and city taxes.

DIVISION 6. STREET OPENING

PART 1. STREET OPENING ACT OF 1903

CHAPTER 1. GENERAL PROVISIONS

Short title

4000. This part may be cited as the Street Opening Act of 1903.

Construction

4000.2. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

Same

4000.5. This part shall be liberally construed in order to effectuate its purposes.

Alternative system

4000.7. This part provides an alternative system for making the improvements authorized by this part and the provisions of this part shall not apply to or affect any other provisions of this code.

When any proceedings are commenced under this part, the provisions of this part, and no others, shall apply to such proceedings.

The election of the legislative body to proceed under this part shall be expressed in its ordinance of intention to order the improvement made.

"City"

4001. "City" includes counties, cities, cities and counties, and all corporations organized and existing for municipal purposes.

"Legislative body"

4002. "Legislative body" means:

(a) When used with reference to a county, the board of supervisors.

(b) When used with reference to a city, the body which by law constitutes the legislative department of the government of the city.

"Clerk"

4003. "Clerk" means:

(a) When used with reference to a county, the person or officer who is or acts as the clerk of the legislative body of the county.

(b) When used with reference to a city, the person or officer who is or acts as clerk of the legislative body of the city.

"Treasurer" 4004. "Treasurer" means:

(a) When used with reference to a county, the county treasurer.

(b) When used with reference to a city, the city treasurer. "Treasurer" also includes any person or officer who has charge and makes payment of the funds of such county or city, respectively.

"Street superintendent" 4005. "Street superintendent" or "superintendent of streets" means:

(a) When used with reference to a county, the county surveyor. The board of supervisors may appoint, as the person or officer to perform all or any portion of the duties conferred upon the county surveyor, any other county officer or any competent person, and in the event of such appointment shall, in the ordinance of intention, fix such person's compensation and all the provisions of this part applicable to the street superintendent shall apply to the person so appointed. If anything is to be "done" and "delivered" by the engineer to the street superintendent, it is sufficient if done by the county surveyor or such other person or officer so appointed, without being "delivered" to any other officer.

(b) When used with reference to a city, any person or officer whose duty it is, under the law, to have the care or charge of streets, or the improvement thereof, in any city. In all those cities in which there is no street superintendent or superintendent of streets, the legislative body thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties imposed by this part on the street superintendent; and all the provisions of this part applicable to the street superintendent shall apply to the person so appointed.

"Engineer" 4006. "Engineer" means:

(a) When applied to a county, the county surveyor.

(b) When applied to a city, the city engineer. If there is no city engineer, then the legislative body of the city may employ any civil engineer to perform the duties imposed by this part on the city engineer and all the provisions of this part applicable to the city engineer shall apply to the person so employed.

"Attorney" 4007. "Attorney" means:

(a) When used with reference to a city, the city attorney.

(b) When used with reference to a county, the "district attorney," except that in counties having a freeholders' charter creating the office of county counsel, "attorney" means "county counsel."

"Street" 4008. "Street" includes public streets, avenues, roads, highways, squares, lanes, alleys, courts or places.

"Work" 4009. "Work" or "improvement" whether used singly or in combination includes any work which is authorized to be done or any improvement which is authorized to be made under this part.

"Assessment district" 4010. "Assessment district" means the district to be benefited by the improvement and to be assessed to pay the expense of the improvement.

"Owner" 4011. "Owner" and "any person interested" include:

(a) The person owning the fee.

(b) The person in whom, on the day any protest or petition is filed, the legal title to real property appears, by deeds duly recorded in the county recorder's office of the county in which the property is situated.

(c) Any person in possession of real property, as the executor, administrator, trustee under an express trust, guardian or other legal representative of the owner.

(d) Any person in possession of real property under a written contract of purchase thereof duly recorded.

(e) Any person in possession of real property as lessee thereof under a duly recorded lease which requires such lessee to pay or discharge all assessments for street or other public improvements that may be levied or assessed against such real property.

Railroad property 4012. "Property of any railroad or street railroad" includes property owned or controlled by any person as a railroad right of way or street railroad or interurban railroad right of way whether such right of way is owned or controlled in fee or as an easement or by virtue of a franchise or otherwise, and also includes the roadbed, ties and rails located on such right of way. Such property shall be assessed and the assessment thereof enforced as other lands and property in the assessment district.

Resolution 4013. As to all acts or proceedings required under this part to be had and taken by an ordinance passed by the legislative body conducting the proceeding, it shall be sufficient for the purposes of this part if all such acts and proceedings are had and taken by a resolution adopted by the board of supervisors of the county.

CHAPTER 2. NOTICE

Article 1. General Provisions

Notice How given 4030. Unless the particular provision or the context otherwise requires, whenever notice is required to be given by any provision in this part it shall be given in accordance with the provisions of this chapter.

No other requirements

4031. No publication or notice other than that provided in this part shall be necessary to give validity to any proceedings had under the provisions of this part.

Description of district by reference

4032. In all resolutions, notices, orders and determinations subsequent to the ordinance of intention, a description of the assessment district by reference to the ordinance of intention shall be sufficient, and in all resolutions, notices, orders, and determinations subsequent to the "notice of street work" a description of the work by reference to the ordinance of intention shall be sufficient.

Article 2. Notice by Publication

Generally

4040. Whenever in this part any notice is required to be given by publication and the time or method for such publication is not specified, it shall be published as provided in this article.

Time

4041. If the time of publication is not specified, the notice shall be published by two insertions, each one of which shall be made on separate days, and if the notice is a notice of a hearing the first publication shall be not less than 10 days before the time fixed for such hearing.

Method

4042. If the method of publication is not specified, publication shall be made as provided in this and the following sections. The notice shall be published in a daily or weekly newspaper published and circulated in the city conducting the proceeding, which has been designated by the legislative body of the city for that purpose or for the purpose of the publication of legal notices generally.

Cities

4043. If the city conducting the proceeding is not a county and there is no daily or weekly newspaper published and circulated in the city, then the notice shall be published in a daily or weekly newspaper published in the county in which the city is located, which is circulated in the city and which has been designated by the legislative body for that purpose or for the publication of notices generally.

Same

4044. If there is no daily or weekly newspaper published and circulated in the county, then the notice shall be posted in accordance with the provisions of Section 4050. If the notice is otherwise required to be posted, one posting in either manner shall constitute adequate notice within the meaning of this section.

Article 3. Notice by Posting

Time and method

4050. Whenever in this part notice is required to be given by posting and the time or method for such posting is not

specified, the clerk shall conspicuously post the notice in three public places in the county or city conducting the proceeding for the length of time required for publication in a weekly newspaper.

Article 4. Notice by Mail

Time and method

4060. Whenever in this part notice is required to be given by mail and the time or method for mailing is not specified, the notice shall be given by mail as follows:

(a) The clerk shall mail the notice, postage prepaid, to each person owning property in the assessment district, at his last known address as it appears on the tax rolls of the city or on file in the office of the clerk or to both addresses if they are not the same; or, when no address so appears, to the general delivery.

(b) If the notice is a notice of a hearing, it shall be mailed at least 15 days prior to the date fixed for that hearing.

Failure to mail

4061. The failure of the clerk to mail any notice or the failure of any person to receive it shall not affect in any way whatsoever the validity of any proceedings taken under this part, nor prevent the legislative body from proceeding with any hearing so noticed, nor prevent the legislative body from acquiring jurisdiction to order the improvement.

Article 5. Proof

Affidavit required

4070. Proof of publication of any notice required by this part shall be made by affidavit, as provided in the Code of Civil Procedure, and proof of the posting or mailing of any such notice shall be made by the affidavit of the person posting or mailing the notice, setting forth the facts regarding such posting or mailing. It shall be the duty of any officer who is required by this part to have any notice published or posted or mailed, to obtain and file in his office the affidavit or affidavits in proof thereof, but his failure so to do shall not affect the validity of any proceedings under this part. Any such affidavit so filed shall be prima facie evidence of the facts therein stated regarding such publication or posting or mailing.

Chapter 3. Power to Make Improvements

Authority to do work

4090. Whenever the public interest or convenience may require, the legislative body of any city shall have full power and authority:

Opening, etc.

(a) To order the laying out, opening, extending, widening, straightening, establishment or change of grade, in whole or in part, of any one or more of any public streets or parking places within the city.

Acquisition, etc.

(b) To acquire by condemnation any and all property necessary or convenient for any purpose specified in subdivision (a) of this section or any interest therein including an easement or easements for the construction and maintenance of any one or more of any public streets or walks, parking places, passages or ways upon the surface of the earth or in any designated levels or slopes, above or below such surface together with a sufficient clearance height thereabove. The legislative body shall conclusively determine and designate such clearance height and shall leave to the owner the right to maintain or construct and maintain any buildings or other structures above or below or above and below such streets, walks, parking places, passages, or ways, and the clearance height therefor so acquired by the city.

Joint proceedings

(c) To acquire by condemnation any and all property, rights of way or easements, or any interest therein, necessary or convenient for the purpose of constructing thereon any of the work or improvements of the character mentioned in the "Improvement Act of 1911," as contained in Division 7.

4092. In addition to any power and authority conferred upon any legislative body by this part, and when the public interest or convenience so requires, and whenever, in the opinion of the legislative body initiating the proceedings, the proposed improvement is of such a character that it directly and peculiarly affects property in two or more cities, or in one or more cities and unincorporated territory (or, if a county is initiating the proceedings, in the unincorporated territory of the county or in unincorporated territory of the county and the territory of one or more cities, or forming the exterior boundary of any city where it joins the unincorporated territory of the county), and that the purposes sought to be accomplished by such improvement can best be accomplished by a single, comprehensive scheme of acquisition, there is hereby conferred upon such legislative body full power and authority to extend such improvement or the boundaries of the assessment district therefor beyond the territorial limits of such city.

Authority to extend work

4093. The legislative body conducting the proceeding shall have full power and authority to order the laying out, opening, extending, widening, straightening, establishment or change of grade, in whole or in part, of any one or more of any public streets within the limits of the city or county conducting the proceeding and also into the limits of other cities or extending from the city through or over one or more other cities, or extending through or over one or more cities and into unincorporated territory of a county or extending along the exterior boundary between a city and unincorporated territory, or along the boundary between two cities, whether wholly or partly within or without that boundary, and to acquire by condemnation property necessary or convenient for that purpose.

Authority to extend assessment district

4094. The legislative body conducting the proceeding shall have full power and authority to include within the boundaries of an assessment district, lands lying within the boundaries of any one or more cities or in the unincorporated territory of the county in which the city conducting the proceeding is situated, when such lands in the opinion of the legislative body conducting the proceeding will be benefited by the proposed improvement.

Consent to extension

4095. The consent of the legislative body of any territory in which land is proposed to be assessed shall first be obtained to the formation of the assessment district and, if any of the lands to be acquired in such proceeding are situated within such territory, to the improvement described in the ordinance of intention and the assumption of jurisdiction thereover for the purposes aforesaid prior to the adoption of the ordinance of intention.

Submission of plans, etc

4096. The proposed ordinance of intention together with a copy of the maps, plats, plans, profiles or specifications required by this part shall be submitted to any such legislative body which has jurisdiction over the territory into which the proposed improvement or the assessment district therefor may extend.

Approval

4097. The ordinance of intention may be adopted only after the proposed ordinance of intention is approved and the consent of every legislative body whose consent is necessary is obtained to the improvement and the formation of the assessment district described in the ordinance of intention.

Payments toward cost

4098. If the assessment district includes property without the territorial jurisdiction of the legislative body conducting the proceeding, the legislative body of the city or county having jurisdiction thereover may order by resolutions entered upon its minutes, a copy of which shall be transmitted to the legislative body conducting the proceeding, that any part of the cost or expense of the improvement shall be paid out of the treasury of the city or county as the case may be, and a liability for the portion of the cost or expense set forth in that resolution shall thereby be created against that city or county.

Deduction of payments

4099. The street superintendent in making up the assessment shall deduct from the costs and expenses, in addition to any sum or percentage payable by the legislative body conducting the proceeding, such part thereof as has been so ordered to be paid out of the treasury of such other city or county.

CHAPTER 4. THE ORDINANCE OF INTENTION

Map

4120. Before ordering any improvement to be made, there shall be filed with and approved by the legislative body a map or plat indicating the land necessary or convenient to be taken for the proposed improvement and, by a boundary line, the territory proposed to be included in the assessment district together with a statement of the total sum of the estimated expense of the improvement.

Ordinance of intention

4121. Thereupon the legislative body shall pass an ordinance declaring its intention to order such improvement.

Contents

4122. The ordinance of intention shall be sufficient if it describes the land necessary or convenient to be taken for the proposed improvement, and describes briefly and in general terms the proposed improvement and the assessment district, and refers to maps, plats, plans, profiles and specifications, or such of them as may be suitable and proper, approved by the legislative body.

Filing maps, etc.

4123. Such maps, plats, plans, profiles and specifications as may be suitable and proper, shall be on file in the office of the clerk or engineer at the time of passing the ordinance of intention. The maps shall indicate the land necessary or convenient to be taken for the proposed improvement and shall indicate by a boundary line the extent of the territory to be included in the assessment district. The maps shall govern for all details as to the extent and description of the land to be taken for the proposed improvement and as to the extent of the assessment district.

Establishment of grade

4124. In the case of an establishment or change of grade for the whole or any part of any one or more of the streets dedicated to public use prior to the adoption of an ordinance of intention or which are to be acquired for public use in the condemnation proceedings authorized by this part, the ordinance of intention shall be sufficient if it contains a notice that such establishment or change of grade is proposed and refers to plans, profiles and specifications therefor, or such of them as may be suitable or proper for a full and detailed description of the proposed grades to which improvements may be made.

The adoption of the ordinance of intention shall be a determination and establishment of the grades therein referred to.

Notice of hearing

4125. The ordinance of intention shall contain also a notice of the day, hour and place when and where any and all persons having any objections to the proposed improvement may appear before the legislative body and show cause why the proposed improvement should not be carried out in accordance with the ordinance of intention. The time shall not be

less than 15 nor more than 60 days from the date of the passage of the ordinance of intention.

Publication of ordinance

4125.5. The clerk shall cause the ordinance of intention to be published twice in one or more newspapers published and circulated in the city. If no newspaper is published in the city, then the publication shall be made twice in some newspaper published in the county in which the city is located.

Consolidation of improvements

4126. The legislative body may in its discretion include in one proceeding under one ordinance of intention all or any of the improvements mentioned in this part, on any number of any public streets within such city or county or beyond the territorial limits of such city or county, or any portion or portions thereof whether contiguous or otherwise.

Payments by city

4127. The legislative body may in its discretion declare that the whole or any percentage of, or any sum toward the cost and expenses of the improvement shall be paid by the city in which case the sum or percentage to be so paid shall be stated in the ordinance of intention.

Payments by county

4128. If a board of supervisors is conducting the proceeding, it may order and declare that the whole or any part of the cost and expenses of the improvements shall be paid from the general fund of the county or general road fund of the county, or from the road district fund of the road district in which the improvement is to be made, in which case it shall be so stated in its resolution or ordinance of intention.

Chapter 5. Notice of Improvement

Posting notice

4140. The street superintendent shall thereupon cause to be conspicuously posted along all open streets within the assessment district and along all streets and parts of streets or other public places or rights of way where any property is to be taken for the widening or straightening thereof, and along or upon any private property which is to be taken for the opening or extending of any street or other public place, at not more than 300 feet apart, notices (not less than three in all) of the passage of the ordinance of intention.

Contents

4141. The notices shall be headed, "Notice of public improvement," in letters not less than one inch in length, shall be in legible characters, and shall:

(a) State the fact and date of the passage of the ordinance of intention.

(b) Describe briefly and in general terms the proposed improvement.

(c) Contain a map showing the boundaries of the proposed assessment district, the names of all open streets therein, the right of way to be acquired, a statement of the estimated cost of the improvement.

(d) Refer to the ordinance of intention and to the map on file in the office of the clerk or engineer for all details.

(e) State the day, hour and place when and where any and all persons having any objections to the proposed improvement may appear before the legislative body and show cause why the proposed improvement should not be carried out in accordance with the ordinance of intention.

Time for posting

4142. In every case all posting shall be fully completed at least 10 days before the day set for the hearing of protests or objections.

Mailing notice

4143. The clerk shall mail a notice as provided in Section 4060, notifying each property owner in the assessment district of the date of passage and number of the ordinance of intention, and the time and place set for the hearing of protests against the improvement.

Unknown owners

4144. If any lots or parcels of land in the assessment district are assessed to "unknown owners" on the tax rolls of the city, or if the address of any property owner is not on file in the office of the clerk, no notice shall be mailed to the owners thereof, and the publication of the ordinance of intention as provided in Chapter 4 of this part shall be deemed legal notice to such owners of the contemplated improvement.

Affidavits required

4145. The legislative body shall require affidavits to be filed showing the posting and the mailing of notices before it adopts the resolution ordering the improvement.

CHAPTER 6. HEARING OF OBJECTIONS

Protests

4160. Any persons interested, who object to the improvement, its proposed establishment or change of grade, or to the extent of the assessment district may, at any time not later than the hour set for hearing objections to the proposed improvement, file a written protest with the clerk.

Form

4161. Such protest shall be in writing and shall contain a description of the property in which each signer thereof is interested, sufficient to identify the property, and the legislative body shall consider no other protest or objection.

Indorsements

4162. The clerk shall indorse on every such protest the date of its reception by him.

Hearing

4163. At the time set for hearing protests, the legislative body shall proceed to hear and pass upon all protests and its decision shall be final and conclusive. If the protest is against the proposed improvement and the legislative body finds that such protest is made by the owners of more than one-half of the area of the property within the assessment district, no

Majority protest

further proceedings shall be taken for a period of six months from the date of the decision of the legislative body on the hearing, unless the protest is overruled by an affirmative vote of four-fifths of the members of the legislative body.

Authority to proceed

4164. If no protests in writing are filed within the time provided, or if any protest is found by the legislative body to be insufficient, or is overruled, or if a protest against the proposed assessment district is heard and denied, immediately thereupon the legislative body shall be deemed to acquire jurisdiction to order the proposed improvement.

Adjournment hearings

4165. The legislative body may adjourn the hearings from time to time.

Project changes

4166. Unless the power to proceed has ceased, the legislative body may, at the conclusion of the hearing, by resolution make such changes in the boundaries of the proposed assessment district, or in the property proposed to be acquired or change or modify the grades as set forth in the plans and specifications and referred to in the ordinance of intention as it shall find to be proper and advisable, and shall define and establish such boundaries and describe the property proposed to be acquired. The legislative body shall not have the power to modify such boundaries so as to include any territory which will not in its judgment be benefited by the improvement.

Resolution of modification

4167. If any changes are made in the grades as set forth in the plans and specifications and referred to in the ordinance of intention, such changes shall be set forth in the resolution adopted at the conclusion of the hearing, known as the resolution of modification.

Notice of intention

4168. The legislative body shall not modify such boundaries, make changes in the property proposed to be acquired, or make changes in the grades as set forth in the plans and specifications, and referred to in the ordinance of intention, except after notice of intention so to do given by one insertion in the newspaper in which the ordinance of intention was published describing the proposed modification or change and specifying the time for hearing objections to such modification or changes, which time shall be at least 10 days after the publication of the notice.

Objections

4169. Written objections to the proposed modification and changes may be filed with the clerk by an interested person at or before the time set for the hearing.

Hearing

4170. The legislative body shall hear and pass upon such objections at the time appointed, or at any time to which the hearing may be adjourned, and its decision thereon shall be final and conclusive.

CHAPTER 7. THE CONDEMNATION ACTION

Ordering improvement made

4185. Having acquired jurisdiction, the legislative body shall, by ordinance:

(a) Order the improvement to be made.

(b) Except as provided in Section 4186, direct the attorney to bring an action in the proper superior court, in the name of the city, for the condemnation of the property necessary or convenient to be acquired therefor. The ordinance need not describe the property to be acquired, nor the grades to which improvements may be made, nor the assessment district, but may refer to the ordinance of intention, and to the resolution of modification, if any was adopted, for all particulars.

Condemnation action

Same

4186. If such a condemnation action has already been brought by the attorney under authority of law prior to the adoption of the ordinance ordering the improvement to be made, then the ordinance ordering the improvement may refer to said action and direct the attorney to continue prosecution of it. That action shall then have like effect and be in lieu of and serve all the purposes of the action referred to in this chapter, and shall thereafter be carried on in the same manner and subject to the provisions stated in this part, except that the complaint in the action shall set forth or state the effect of the ordinance of intention in such proceedings but need not set forth or state the effect of the ordinance ordering the improvement.

Complaint

4187. If the complaint in such action omits to set forth or to state the effect of the ordinance of intention in such proceedings, the complaint may be amended as of course at any time before trial to set forth or state the effect of such matters and shall thereupon satisfy the requirement as to reference to the ordinance of intention.

Time and form of action

4188. Unless a condemnation action has already been brought, upon the passage of the ordinance ordering the improvement, the attorney shall bring such action, which action shall be commenced within a period not exceeding 180 days from the effective date of the ordinance ordering the improvement. The action shall in all respects be subject to and governed by those provisions of the Code of Civil Procedure which are applicable thereto, except in the particulars otherwise provided for in this part.

Form of complaint

4189. The complaint shall set forth, or state the effect of, the ordinance of intention, and the ordinance ordering the improvement, but need not set up any other proceedings had before the bringing of the action. In the action these ordinances shall be conclusive evidence of the public necessity of the proposed improvement, and also that the improvement is located in the manner which will be most compatible with the greatest public good and the least private injury.

CHAPTER 8. DETERMINATION OF COMPENSATION AND DAMAGES

Setting for trial

4199. When all parties defendant to the action have answered, or have been served with summons and their default entered, the plaintiff or any party defendant to the action whose default has not been so entered, may, upon five days' notice to the parties, except defendants in default, move the court to set the action for trial.

Referees

4200. If, upon the hearing of such motion, neither a trial by jury nor by the court without a jury is demanded by the defendants or any of them or by the plaintiff, such trial shall be waived, and the court shall appoint three disinterested persons as referees, to ascertain the compensation and damages to be paid to such defendants who thus waive trial. Such referees shall be residents of the city where such improvement is to be made, and over the age of 21 years. Each referee shall qualify by filing with the court an oath to discharge his duties faithfully and impartially. If any referee fails to qualify, or resigns, or is removed by order of court, or is or becomes unable to act, the court shall fill the vacancy.

Determination of damages

4201. The referees shall at once proceed to view the lands sought to be condemned, and ascertain the compensation and damages proper to be paid to such of the parties interested in each parcel of land as have waived trial. The referees may examine witnesses under oath, to be administered by any of them, and may have subpenas issued by the clerk of the court, requiring the attendance of witnesses or the production of evidence before them.

Report of findings

4202. The referees, or any two of them who are in agreement, shall, within 90 days after the date of their appointment, make and file with the court a written report of their findings and of their necessary expenses. The time so allowed may be extended, upon good cause shown, by the court or a judge thereof. If any vacancy occurs among the referees and is filled as provided in this chapter, or if new referees are appointed, or if a new report from the same referees is ordered, the time specified in this section for the filing of such report shall be deemed to be 90 days from the date of the order filling such vacancy, or appointing new referees, or ordering a new report from the same referees, and such time may be extended accordingly, as provided in this section.

Date of accrual of damages

4203. For the purpose of assessing the compensation and damages, the right thereto shall be deemed to have accrued at the date of the issuance of summons, and the actual value at that date shall be the measure of compensation for all property to be actually taken, and also the basis of damages to property not actually taken but injuriously affected, in all cases where such damages are allowed by the provisions of this

part. If, however, a motion to set the action for trial is not made within one year after the date of the issuance of the summons in the action, the right to compensation and damages shall be deemed to have accrued at the date of the hearing of the motion to set the action for trial, and the actual value at that date shall be the measure of compensation and the basis of damages.

Subsequent improvements

4204. No improvements placed upon the property proposed to be taken, subsequent to the date at which the right to compensation and damages has accrued, shall be included in the assessment of compensation or damages.

Immediate possession

4205. If the plaintiff takes immediate possession under a court order made pursuant to the provisions of Section 14 of Article I of the Constitution, then the compensation and damages awarded shall draw interest at the rate of 7 per cent per annum from the date of such order.

Findings

4206. The referees, or court, or jury, as the case may be, shall find separately:

Value of property

(a) The value of each parcel of property sought to be condemned, and of all improvements thereon pertaining to the realty, and of each separate estate or interest therein.

Severance damages

(b) If any parcel of property sought to be condemned is only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned, and to each separate estate or interest therein, by reason of its severance from the portion sought to be condemned, and the construction of the improvement in the manner proposed by the plaintiff. Such damages shall be fixed irrespective of any benefit from the improvement.

Change of grade damages

(c) In the case of an establishment of change of grade, the damages which will accrue to each parcel of property and to each separate interest therein abutting upon the exterior boundaries of any streets theretofore officially fixed and established or to be fixed and established in the proceedings, by reason of the construction of improvements to the grades so changed or established or both.

Hearing the report

4207. Upon the filing of the referees' report the court shall, upon motion of the plaintiff or of any defendant who has answered, by order appoint a day for hearing the report, which day shall be not less than 20 days after such order. At least 10 days before the time so appointed, notice of the time and place of the hearing shall be served on all the other parties, except defendants whose default has been entered.

Exceptions by parties

4208. At any time not less than one day prior to the hearing, the plaintiff, or any defendant who has answered, may file exceptions in writing to the report, specifying the grounds upon which such exceptions are based. Any party thus filing exceptions may appear at the hearing and contest the report.

Notice of hearing

4209. In addition to the notice already provided, the clerk of the court shall give notice of the filing of the report, and of the time and place appointed for the hearing of the report, to all persons owning or having an interest in any property included within the assessment district, by causing the notice last mentioned to be published for five days in a daily newspaper published and circulated in the city; and, if there is no such daily newspaper, then by two insertions in a weekly newspaper so published and circulated. Any publication of such notice shall commence at least 10 days before the time appointed for the hearing of the report.

Contents

4210. Such notice shall require every person owning or having an interest in any property included within the assessment district to intervene in the action, and to file, in the office of the clerk of the court, his exceptions in writing to the report, if any he has, specifying the grounds upon which such exceptions are based. The notice shall also contain a description of the assessment district as set forth in the ordinance of intention.

Intervention

4211. At any time within not less than one day prior to the hearing, any person not a party to the action, owning or having an interest in any property included within the assessment district, or any defendant whose default has been entered, may intervene in the action and file, in the office of the clerk of the court, his exceptions in writing to the report, specifying the grounds upon which such exceptions are based. Any such person so intervening may appear and contest the report, and introduce evidence in support of such exceptions.

Interlocutory judgment

4211.5. At the date set for the hearing of the referees' report, the court may enter an interlocutory judgment or judgments for all parcels of land with respect to which no exceptions have been filed.

Acting on report

4212. After hearing the report, and any exceptions thereto, the court may confirm the report, or may modify it and confirm it as modified, or may set it aside and order a new report from the same referees, or from new referees to be appointed. If new referees are appointed, the same proceedings shall be had as upon the first reference.

Notice of trial

4213. If there is a trial of the condemnation action by a jury, or by the court without a jury, the clerk of the court shall give notice of the time and place of such trial to all persons owning or having an interest in any property within the assessment district. The clerk of the court shall cause the notice to be published in the same manner and for the same time as the notice provided in Section 4209. Such notice shall require all persons owning or having an interest in any property included within the assessment district to intervene in

the action, and to appear at the trial thereof and introduce evidence relative to the compensation and damages to be awarded to the defendants in the action.

Intervention

4214. At any time within not less than one day prior to the trial, any person not a party to the action, having an interest in any property included within the assessment district, may intervene in the action, and, at the trial thereof, may appear and introduce evidence relative to the compensation and damages to be awarded to the defendants in the action.

Notice costs

4215. The cost of the publication of the notices required by this chapter, in connection with the hearing on the referees' report or the trial of the action, shall be paid by the plaintiff, and allowed as costs in the action.

Continuance

4216. When a time has been appointed for hearing the report of the referees, or for the trial of the action, and the clerk of the court has given notice thereof by publication as in this chapter provided, if the hearing or trial is postponed or continued by the court to any subsequent date, no such notice need be given by the clerk of the court of the hearing or trial upon any such postponement or continuance.

Interlocutory judgment

4217. Upon the confirmation of the report of the referees, or receipt of the verdict of the jury, or the filing of the findings of the court, the court shall make and enter an interlocutory judgment in accordance with such report, verdict or findings, adjudging that upon payment to the respective parties, or into court for their benefit, of the several amounts found due them as compensation and damages, and of the costs allowed to them, the property involved in the action shall be condemned to the use of the plaintiff, and dedicated to the use specified in the complaint.

Referees' compensation

4218. Upon the hearing of the report, the court shall allow to the referees, as costs to be paid by the plaintiff, a reasonable compensation for their services, the amount of which compensation shall be fixed by the court not to exceed the sum of fifty dollars ($50) per day and their necessary expenses.

Right to trial

4219. Nothing contained in this chapter shall prevent the trial of the action by the various methods specified elsewhere in this chapter. Any defendant may demand and shall be entitled to a jury trial irrespective of the fact that any other defendant may waive a trial by a court or jury and permit the matter of compensation and damages to be determined by referees.

Jury trials

4220. If any defendant demands a jury trial as to the interest alleged to be owned or claimed by him in any parcel sought to be condemned, the matter of the compensation and

damages payable for such parcel and of each and every interest or estate therein shall be determined at such trial irrespective of the demand of any other defendant claiming an interest in such parcel for a trial by the court without a jury or for the ascertainment of compensation and damages by the referees.

Nonjury trials

4221. Similarly, if any defendant demands a trial by the court without a jury as to his interest in any parcel sought to be condemned and no defendant claiming an interest in such parcel has demanded a trial by jury as to the interest of such defendant in such parcel, the matter of compensation and damages as to such parcel and of each and every interest or estate therein, shall proceed to trial by the court without a jury irrespective of the fact that any other defendant has waived trial by jury and trial by the court without a jury.

Separate and consolidated judgments

4222. Nothing contained in this part shall be deemed to prevent and authority is hereby expressly granted for, the entry of separate interlocutory judgments as to the separate parcels sought to be condemned, and such authority is hereby expressly granted for the entry of an interlocutory judgment or judgments relating to all parcels as to which the matter of compensation and damages has been referred to referees, excepting therefrom any parcels as to which exceptions are filed to the referees' report.

Same

4223. Included within the intent of this chapter is authorization for the entry of an interlocutory judgment as to all parcels mentioned in the referees' report as to which no exceptions have been filed, in order that the proceedings for acquisition may proceed prior to the final determination of compensation and damages with respect to those parcels as to which exceptions have been filed to the referees' report and prior to the entry of interlocutory judgments as to parcels as to which any defendants may demand a trial by jury or a trial by the court without a jury.

Appeals

4224. An appeal may be taken from any interlocutory judgment within 30 days from the entry thereof, and from any order granting or denying a new trial within 10 days after the entry thereof.

Chapter 9. Settlement of Compensation and Damages

Stipulated damages

4230. In addition to the procedure provided in Chapter 8 of this part as the method of determining the compensation for all property to be actually taken and the basis of damages to property not actually taken but injuriously affected in all cases where such damages are allowed by the provisions of this

part, and anything elsewhere in this part to the contrary notwithstanding, if the plaintiff and all parties owning or claiming an interest in any parcel of land sought to be acquired enter into a stipulation for the entry of an interlocutory judgment relating to such parcel of land, agreeing upon the actual value of any property to be actually taken and the amount of damages to property not actually taken but injuriously affected, such stipulation may be filed in court and upon motion of any party thereto the court may appoint a date for a hearing upon such stipulation and for the entry of an interlocutory judgment in accordance therewith not less than 20 days thereafter.

Notice of hearing

4231. Notice of the time and place of the hearing shall at least 10 days before the date so appointed be served on all parties to such stipulation, unless all parties in such stipulation waive the giving of such notice.

Same

4232. In addition to the notice hereinbefore provided the clerk of the court shall give notice of the filing of the stipulation and of the time and place appointed for the hearing thereon to all persons owning or having an interest in any lands included within the assessment district for the time and in the manner prescribed by Chapter 8 of this part for the notice of the filing of the referees' report.

Form and content

4233. The notice to be given by the clerk of the court shall be in the form mentioned in Chapter 8 of this part with such changes as may be applicable to the matter of a hearing upon such stipulation. It shall recite the names of the parties to whom payments are proposed to be made for interests in the land sought to be condemned, together with the amount of money so proposed to be paid to each of such parties, and shall contain a reference to the parcel of land for which such payment is proposed to be made, as that parcel is designated in the complaint.

Objections

4234. At any time not later than one day prior to the hearing any person owning or having any interest in any lands included within the assessment district, including any persons who are parties to the action, may intervene in the action and file their objections in writing to the entry of the proposed interlocutory judgment specifying the ground upon which such objections are based. Any person so intervening may appear and contest the motion for the entry of such interlocutory judgment and introduce evidence in support of such objections. The parties to the stipulation may likewise introduce evidence in support of the stipulation and the motion for the entry of the proposed interlocutory judgment.

Judgment

4235. At or after the time of the hearing, if no objections are filed to the entry of the interlocutory judgment, the court

may, without taking any evidence, enter an interlocutory judgment in accordance with such stipulation, adjudging that upon payment in accordance therewith, the property therein mentioned shall be condemned to the use of the plaintiff and dedicated to the use specified in the complaint.

Hearing

4236. If objections are filed against the entry of the interlocutory judgment, the court may similarly, after hearing such objections and any evidence introduced, enter an interlocutory judgment if the court finds that the amounts stipulated as the value of the property taken and the damages to property not actually taken but injuriously affected constitute just compensation.

Findings of fact

4237. Whether or not objections are filed to the entry of the interlocutory judgment, no findings of fact or conclusions of law need be prepared or filed.

Just compensation

4238. If the court finds that the amounts set forth in the stipulation constitute more or less than just compensation, no interlocutory judgments shall be entered and the action shall proceed as to the parcel of land as to which the stipulation is made, in accordance with the provisions of Chapter 8 of this part.

Reduction to just compensation

4239. However, if the amounts set forth in the stipulation are, in the opinion of the court, in excess of just compensation, the court may find what amounts constitute just compensation and enter an interlocutory judgment therefor, if the parties to such stipulation all consent thereto in open court or in writing within 10 days after such finding.

Purpose of chapter

4240. The purpose of this chapter is hereby declared to be the expeditious settlement of the matter of compensation and damages in any action in which the plaintiff and the owners or parties interested in any parcel of land sought to be condemned come to an agreement with respect to such compensation and damages, and this chapter shall not be construed to prevent the entry of the interlocutory judgment based upon such stipulation for the reason that any or all parties defendant have not been served in the action, if all parties specifically alleged in the complaint to own or claim an interest in the parcel of land mentioned in the stipulation are parties to such stipulation, or have defaulted in the action. The allegations in the complaint that defendants sued by fictitious names claim an interest in the parcel of land mentioned in the stipulation is not a specific allegation of an interest in the particular parcel of land mentioned in the stipulation.

Saving of expense

4241. An additional purpose of this chapter is hereby declared to be the saving of expense in the matter of ascertaining the compensation for property taken and damages

payable for property not taken but injuriously affected, and if no objections are filed to the stipulation it shall be unnecessary to introduce evidence before the court in the matter of the compensation and damages.

CHAPTER 10. ABANDONMENT OF PROCEEDINGS

Abandonment

4255. The legislative body may, at any time prior to the payment of the compensation awarded the defendants, abandon the proceedings, by ordinance, and cause the action to be dismissed, without prejudice. If any of the assessments levied to pay the expense of the improvements have been actually paid in money at the time of such abandonment, they shall be refunded to the person by whom they were paid. If the proceedings are abandoned or the action dismissed no attorney's fees shall be awarded to any defendant. Any expenses for the improvement for which the city is liable or which have been paid by the city may be charged as incidental expenses against the district benefited in any new proceeding had or taken for an improvement which includes substantially the same things to be done as those included in the abandoned proceedings.

CHAPTER 11. THE ASSESSMENT

Diagram

4270. Upon the entry of the interlocutory judgment, the legislative body shall order the engineer to make and deliver to the street superintendent a diagram of the improvement and of the property within the assessment district described in the ordinance of intention. The diagram shall show the land to be taken for the proposed improvement, and also each separate lot or parcel of land within the assessment district, and the dimensions of each such lot or parcel of land, and its relative location to the proposed improvement.

Assessment

4271. If the proceeding is not conducted by a county, the engineer shall deliver the diagram to the street superintendent and shall indorse thereon the date of such delivery. The street superintendent upon receiving the diagram (or, if the proceeding is conducted by a county, the county surveyor or other engineer upon the completion of the diagram) shall proceed to assess the total expense of the proposed improvement against the lands, including the property of any railroad or street railroad, within the assessment district, except the land to be taken for the improvement, in proportion to the benefits to be derived from the improvement. Before the total expense is assessed he shall deduct such percentage or sum as the legislative body has declared by the ordinance of intention that the city shall pay.

Time for completion

4272. The street superintendent shall complete the assessment within 60 days after the receipt or completion by him of

the diagram, but the legislative body may by order extend the time for completing the assessment for a period not exceeding an additional 90 days.

Total expense

4273. The total expense of the improvement so to be assessed shall include:

(a) The amounts awarded to the defendants by the interlocutory judgment in the condemnation action, together with their costs.

(b) The compensation and expenses of the referees as allowed by the court.

(c) All other costs of the plaintiff in the condemnation action.

(d) The expenses of making the assessment.

Same

4274. Such total expense may also include:

(a) All cost and expense incurred in carrying out the investigations and reports required by the provisions of the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931."

(b) All expenses necessarily incurred by the city, in connection with the proposed improvement, for the publication of ordinances, posting and publication of notices, for maps, diagrams, plans, surveys, searches and certificates of title to the property to be taken, and all other matters incident thereto.

Public property omitted

4275. If any lot or parcel of land belonging to the United States, or to the State, or to any county, city, public agent, mandatory of the government, school board, educational, penal or reform institution, or institution for the feeble-minded, or the insane, is in use in the performance of any public function, and is included within the assessment district by the legislative body in the ordinance of intention, the legislative body may, in its discretion, in the ordinance of intention, declare that those lots or parcels of land, so owned and in use, or any of them, shall be omitted from the assessment to be made to cover the expense of the improvement.

Effect

4276. If any of such lots or parcels of land are by the ordinance omitted from the assessment, then the total expenses of the improvement shall be assessed on the remaining lots or parcels of land lying within the boundaries of the assessment district, without regard to such omitted lots or parcels of land.

Failure to omit

4277. If the legislative body in its ordinance of intention declares that any of such lots or parcels of land shall be included within the assessment, or if no declaration is made respecting such lots or parcels of land, then such sums as thereafter may be assessed against such lots or parcels of land shall be payable by the city out of the general fund, unless the legislative body shall in its ordinance of intention designate

another fund. Any such sums which may be assessed against such lots or parcels of land, shall not be payable by the city when such sums are paid by the owner of or the governing body controlling such lots or parcels of land.

Form of assessment

4278. The street superintendent shall make the assessment in writing. The assessment shall describe each lot or parcel of land assessed for the improvement, and shall designate each such lot or parcel of land with an appropriate number. The street superintendent shall also designate each such lot or parcel of land on the diagram, with the number corresponding with the number thereof in the assessment, and the diagram shall thereupon be attached to and become and be deemed to be a part of the assessment.

Contents

4279. The assessment shall show:

(a) The total sum to be raised thereby.

(b) The items of such total sum.

(c) Opposite each lot or parcel of land assessed, the amount assessed thereon, and the name of the owner thereof, if known to the street superintendent; or if the owner's name is unknown, the word "Unknown" shall be written instead of such name. Any error or mistake in the designation of the owner of any lot or parcel of land, or in the particulars of his interest therein, shall not affect the validity of the assessment.

Filing and notice

4280. As soon as the assessment is completed the street superintendent shall file it, with the diagram attached thereto and made a part thereof, with the clerk, who shall give notice of such filing by publication for at least 10 days in a daily newspaper published and circulated in the city, or if there is no such daily newspaper, by three successive insertions in a weekly newspaper so published and circulated.

Mailing

4281. The clerk shall mail a notice of such filing. The notice shall contain a designation by street number, or some other description, of the property assessed sufficient to enable the owner to identify it and the amount proposed to be assessed thereon.

Affidavits

4282. Upon the completion of the mailing of the notices, the clerk shall file with the legislative body an affidavit setting forth the time and manner of the compliance with the above requirement for mailing such notices. The mailing of such notices shall not be essential to obtaining jurisdiction by the legislative body, and the failure so to do shall not affect in any manner the validity of any proceedings taken under the provisions of this part.

Contents of notice

4283. The notices shall require all persons interested to file with the clerk any objections they may have to the confirmation of the assessment. Such objections shall be filed prior to

the date set for the confirmation of the assessment which date shall be stated in the notices and be at least 30 days from and after the date of mailing such notices.

Objection

4284. All objections shall be in writing and shall be filed with the clerk within the time prescribed in the notice. The clerk shall, on the date fixed for the confirmation of the assessment, lay the assessment and all objections so filed before the legislative body which shall hear all such objections at that hearing, or at any other time to which the hearing thereof may be adjourned.

Hearing

4285. At such hearing the legislative body may:

(a) Remedy and correct any error or informality in the proceedings.

(b) Confirm, amend, alter, modify or correct the assessment in such manner as it considers just.

(c) Instruct and direct the street superintendent to correct the assessment or diagram in any particular.

Decisions final

4286. All the decisions and determinations of the legislative body, made upon notice and hearing as provided in this part, shall be final and conclusive upon all persons entitled to file objections, as to all errors, informalities and irregularities which the legislative body might have avoided or remedied during the progress of the proceedings, or which it can at that time remedy.

Validity

4287. No assessment or diagram and no proceedings prior to the assessment shall be held invalid by any court for any error, informality, or other defect if the ordinance of intention has been actually published as provided in this part.

Confirmation of assessment

4288. When no objection is filed or when the orders and determinations of the legislative body at the hearing have been complied with, and the legislative body is satisfied with the corrections of the assessment or diagram, or both, thereupon the legislative body shall confirm the assessment.

Recording

4289. The clerk shall thereupon deliver to the street superintendent the assessment and diagram as confirmed by the legislative body, with his certificate of such confirmation and of the date thereof. The street superintendent shall thereupon record such assessment and diagram in his office, in a suitable book to be kept for that purpose, and append thereto his certificate of the date of such recording, and such record shall be the assessment roll.

Effect

4290. From the date of such recording all persons shall be deemed to have notice of the contents of such assessment roll. Immediately upon such recording, the several assessments contained in such assessment roll shall become due and payable,

and each of such assessments shall be a lien upon the property against which it is made.

Limitation on actions

4291. No action or proceeding to set aside, cancel, avoid, annul or correct any assessment or reassessment, or to review any of the proceedings, acts, or determinations therein, or to question the validity of, or to enjoin the collection of any assessment or reassessment, or to enjoin the issuance of bonds to represent any assessment or reassessment, shall be maintained by any person unless such action or proceeding is commenced within 30 days after the recording of the diagram and assessment or reassessment, and thereafter all persons shall be barred from any such action or proceeding or any defense of invalidity of the assessment or of bonds issued thereon or of any reassessment and of bonds issued thereon.

CHAPTER 12. PAYMENT OF ASSESSMENT BY OFFSET

Offset

4300. The owner of any property assessed, who is entitled to compensation under the award made by the interlocutory judgment, may, at any time after the assessment becomes payable, and before the sale of the property for nonpayment thereof, and before the issuance of bonds to represent the assessment, demand of the street superintendent that such assessment, or any number of assessments, be offset against the amount to which he is entitled under the interlocutory judgment.

Procedure

4301. If that amount is equal to or greater than such assessments, including any penalties and costs due thereon, the assessments shall be marked "Paid by Offset"; and if the amount is less than the assessments, and any penalties and costs due thereon, and no bonds are to be issued for such assessments, the person demanding such offset shall at the same time pay the difference to the street superintendent in money and on such payment the assessments shall be marked "Paid," the entry showing what part thereof is paid by offset and what part in money. When bonds are to be issued for such assessment the person demanding such offset shall not be required to pay the difference in money.

Conditions of offset

4302. As a condition of the offset, such person must execute to the city and deliver to the street superintendent duplicate receipts for such part of the amount due him under the interlocutory judgment as is offset against such assessments, penalties, and costs. One of the duplicate receipts shall be filed by the street superintendent in his office, the other shall be filed with the clerk of the superior court, and on such filing, the city shall be entitled to a satisfaction pro tanto of the interlocutory judgment.

Chapter 13. Delinquent Assessments

Mailed notice to pay assessments

4320. Upon the recording of the assessment the street superintendent shall mail, as provided in subdivision (a) of Section 4060, a statement containing:

Contents

(a) A designation by street number, or some other description, of the property assessed sufficient to enable the owner to identify it.

(b) The amount of the assessment.

(c) The date of the recordation of the assessment.

(d) The time and place of payment of the assessment and the effect of failure to pay within such time.

(e) If bonds are to be issued, a statement of that fact designating the act pursuant to which such bonds are to be issued.

Published notice

4321. The street superintendent also shall give notice by publication for 10 days in a daily newspaper, published and circulated in the city, or by three successive insertions in a weekly newspaper, so published and circulated. Such notice shall state:

Contents

(a) That the assessment has been recorded in the office of the street superintendent, and that all sums assessed therein are due and payable immediately.

(b) That the payment of said sums is to be made to the street superintendent within 30 days after the date of recording the assessment, which date shall be stated in the notice.

(c) If bonds are not to be issued, that all assessments will become delinquent if not paid before the expiration of that 30 days and that upon such delinquency 5 per cent of the amount of each such assessment will be added thereto.

(d) If bonds are to be issued, the effect of the failure to pay the assessments within the 30-day period.

Payment

4323. When any assessment is paid the street superintendent shall mark opposite such assessment the word "Paid," the date of payment, and the name of the person by or for whom the assessment is paid, and shall if so requested, give receipt therefor.

Delinquency

4324. On the expiration of the 30-day period all assessments then unpaid, for which bonds are not to be issued, shall become delinquent and the street superintendent shall certify such fact at the foot of the assessment roll, and mark each such assessment "Delinquent," and add 5 per cent to the amount of each delinquent assessment.

Publication of delinquent list

4325. The street superintendent shall, within 10 days from the date of such delinquency, begin the publication of a list of the delinquent assessments, which list shall contain a description of each parcel of property delinquent, and opposite each description, the name of the owner as stated in the assessment roll, and the amount of the assessment, penalty,

and costs due, including the cost of advertising which last shall not exceed the sum of fifty cents ($0.50) for each lot or parcel of land separately assessed.

The street superintendent shall append to and publish with the delinquent list a notice that unless each delinquent assessment, together with the penalty and costs thereon, is paid, the property upon which the assessment is a lien will be sold at public auction at a time and place to be specified in the notice.

Time and place of publication and sale

4326. The publication shall be made for a period of 10 days in some daily newspaper published and circulated in the city, or for three weeks in a weekly newspaper so published and circulated. The time of sale shall not be less than five days nor more than 10 days after the expiration of the period of publication of the delinquent list, and the place of sale shall be in, or in front of, the office of the street superintendent.

Redemption prior to sale

4327. At any time after such delinquency, and prior to the sale of any parcel of property assessed and delinquent, any person may pay the assessment on such parcel of property, together with the penalty, and costs then due, including the cost of advertising, if such payment is made after the first publication of the list of delinquent assessments. The street superintendent shall thereupon mark such assessment "Paid."

CHAPTER 14. SALE AND REDEMPTION OF DELINQUENT PROPERTY

Sale

4340. On the day fixed for the sale, the street superintendent shall, at the hour of 10 o'clock a.m., commence the sale of the property advertised, commencing at the head of the list, and continuing in numerical order of lots or parcels of land until all are sold. He may postpone or continue the sale from day to day until all the property is sold. Each lot or parcel of land separately assessed must be offered for sale separately, and the person who will take the least quantity of land, and then and there pay the amount of the assessment, penalty, and costs due, including fifty cents ($0.50) to the street superintendent for a certificate of sale, shall become the purchaser.

City purchase

4341. If there is no purchaser for any lot or parcel of land so offered for sale, it shall be struck off to the city as purchaser. The legislative body shall appropriate out of the general fund of the treasury the amount required for such purchase, and shall order the treasurer to place it in the special fund for the improvement. No charge shall be made for the certificate of sale when the city is the purchaser.

Certificate of sale

4342. After making the sale, the street superintendent shall execute, in duplicate, a certificate of sale setting forth a description of the property sold, the name of the owner thereof as given on the assessment roll, that the property was sold for a delinquent assessment (specifying the improvement for which the assessment was made), the amount for which such property was sold, the date of sale, the name of the purchaser, and the time when the purchaser will be entitled to a deed. The street superintendent shall file one copy of such certificate in his office, and deliver the other to the purchaser, or if the city is the purchaser, to the clerk, who shall file it in his office.

Purchaser's lien

4343. On the filing of the copy of such certificate in the office of the street superintendent, the lien of the assessment shall vest in the purchaser, and is only divested by a redemption of the property, as provided in this part. The street superintendent shall also enter on the assessment roll, opposite the description of each parcel of property offered for sale, a description of the part thereof sold, the amount for which it was sold, the date of the sale, and the name of the purchaser.

Redemption

4344. A redemption of any parcel of property sold for a delinquent assessment may be made by any party in interest, at any time prior to the execution and delivery of a deed for such parcel of property, by paying to the street superintendent the amount for which the property was sold, and in addition thereto 5 per cent of the amount of the delinquent assessment with interest thereon at the rate of 1 per cent per month until paid, interest to be computed from the date the assessment becomes delinquent and if such amount is not paid within six months thereafter, there shall be added thereto an additional penalty of 5 per cent of the principal amount due.

Record of redemption

4345. When redemption is made, the street superintendent shall note that fact on the duplicate certificate of sale on file in his office, and deposit the amount paid with the city treasurer, who shall credit the purchaser named in the certificate of sale with that amount, and pay it to such purchaser or his assignee, upon the surrender of the certificate of sale, and upon satisfactory proof of assignment thereof, if any. If the city is the purchaser, the treasurer shall notify the clerk of the redemption, and the clerk shall thereupon cancel the certificate of sale on file in his office.

Purchaser's deed

4346. At any time after the expiration of 12 months from the date of sale, the street superintendent shall execute to the purchaser, or his assignee on his application, if such purchaser or assignee has complied with the provisions of this chapter, a deed of the property sold, which shall recite substantially the matters contained in the certificate, also any assignment

thereof and the fact that no person has redeemed the property. The street superintendent shall receive from the applicant one dollar ($1) for making such deed, unless the city is the purchaser, in which case no charge shall be made.

Notice of application for deed

4347. The purchaser or his assignee shall, at least 30 days before he applies for a deed, serve upon the owner of the property, and upon the occupant of such property, if it is occupied, a written notice setting forth a description of the property, that the property has been sold for a delinquent assessment (specifying the improvement for which the assessment was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice, and the time when such purchaser or assignee will apply to the street superintendent for a deed. If the owner can not be found after due diligence, the notice shall be posted in a conspicuous place upon the property, at least 30 days before the time stated therein as the time at which the application for a deed will be made.

Affidavits

4348. The person applying for a deed shall file with the street superintendent an affidavit showing that notice of such application has been given, as required in this chapter, and that, if the notice was not served on the owner of the property personally, due diligence was used to find the owner. Such affidavit shall be filed by the street superintendent in his office. If redemption of the property is made after such affidavits are filed, and more than 11 months from the date of sale, the person making such redemption shall pay, in addition to the other amounts required, three dollars ($3) for the service of notice and the making of such affidavits, which amount shall be paid over to the purchaser or his assignee in the same manner as other sums paid for redemption.

Redemption amount

Conditions to deed issuance

4349. No deed for any property sold for delinquent assessment shall be made until the purchaser or his assignee has complied with all the provisions of this chapter, and filed the proper affidavits with the street superintendent.

Effect of deed

4350. The deed of the street superintendent shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the execution thereof, and of title in the grantee.

CHAPTER 15. SPECIAL FUND AND PAYMENT OF AWARDS

Improvement fund

4370. The street superintendent shall, from time to time, pay over to the treasurer all moneys collected by him on account of any assessment made under the provisions of this part. The treasurer shall, on receipt thereof, place such moneys in a special fund, designating such fund by the name

of the improvement for which the assessment was made. The legislative body shall, on or before the time when the assessments become delinquent, cause to be placed in the special fund the percentage of, or the sum toward, the total expense of the improvement to be paid by the city as declared in the ordinance of intention.

Payment of awards

4371. As soon as there is sufficient money in the special fund devoted to the proposed improvement, to pay the amounts awarded to the defendants by the interlocutory judgment in the condemnation action, or such parts thereof as have not been paid by offset against assessments, said amounts shall be paid to the parties entitled thereto or into court for their benefit.

Final judgment

4372. When satisfactory proof is made to the court of payment of the amounts awarded by the interlocutory judgment to the respective parties entitled thereto, or into court for their benefit, the court shall direct the interlocutory judgment to be satisfied, and shall make and enter a final judgment, condemning the lands described in the complaint to the use of the plaintiff for the purposes specified in the complaint.

Deficiency

4373. In case of a deficiency in the special fund for such improvement, the legislative body in its discretion may provide for such deficiency by an appropriation out of the general fund of the treasury, or by ordering a supplementary assessment to be made by the street superintendent upon the property in the assessment district in the same manner and form, and subject to the same procedure as the original assessment. In order to avoid delay in event of a supplementary assessment, the legislative body may advance such deficiency out of the treasury and reimburse the treasury from the collections under the supplementary assessment. In case of a surplus in the fund for the improvement, the legislative body may order such surplus refunded pro rata to the parties who paid the assessments.

Surplus

CHAPTER 16. REASSESSMENTS

"Bond Act of 1911"

4390. As used in this chapter, "Bond Act of 1911" refers to Part 2 of this division and to the act entitled "An act providing for the issuance of improvement bonds to represent certain special assessments for public improvements, and providing for the effect and enforcement of such bonds," approved April 27, 1911, as amended.

Reassessment

4391. A reassessment shall be issued in any of the following events:

Whenever any assessment heretofore or hereafter made, issued or filed in the office of the clerk, or whenever any bonds issued to represent the amounts of any such assessments in

accordance with the Bond Act of 1911 have been set aside by any court of competent jurisdiction or such court has refused to enforce any assessment or has decreed any such bonds issued under the Bond Act of 1911 not to constitute valid and subsisting liens against the lots or parcels of land upon which the assessments represented by them have been levied; or if for any reason such assessments or bonds, or both, are not effective through the curative and waiver provisions of this part or of the Bond Act of 1911 or any curative act now or hereafter passed by the Legislature in relation thereto to make them valid and enforceable.

Purpose

4392. The true intent and meaning of this chapter is to make the cost and expense of the improvements made or attempted to be made through an attempted compliance with this part payable by the real property benefited by such improvement by making a reassessment therefor. Such power of reassessment embraces both a full and partial reassessment and is not exhausted by a single attempted exercise thereof.

Reassessments

4393. A reassessment shall be ordered under any one of the following circumstances:

Basis for

(a) Whenever the owner or holder of any assessments or bonds issued to represent or be secured by assessments requests the legislative body to order a reassessment and the legislative body is of the opinion that the assessments or bonds in question are not enforceable, it shall order the making and issuing of a reassessment covering only the assessments owned or held by the petitioner or the assessments represented or secured by the bonds owned or held by the petitioner.

(b) Whenever any court of competent jurisdiction in any suit involving the validity of the obligation of any bond or assessment has for any reason held the lien of the assessment or bond to be unenforceable, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such suit.

(c) Whenever any court of competent jurisdiction in any suit to set aside the lien of any assessment or of any bond representing any assessment or in any suit to quiet title against the lien of any such assessment or bond or in any suit to enjoin the making, filing, confirmation or issuance of any assessment or bond to pay for the cost and expenses of any work done under this part, shall in its judgment decree such assessments or bonds to be void or unenforceable or shall enjoin the making, filing or issuance or confirmation of any such assessment or bond, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such suit.

(d) Whenever the lien of any assessment or bond is foreclosed or attempted to be foreclosed by sale by the treasurer as provided in this part or in the Bond Act of 1911, and

thereafter any court of competent jurisdiction in any suit contesting the validity and legal force and effect of such sale decrees such sale to be void or unenforceable for any reason, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such suit.

Manner of reassessment

4394. Upon the entering of a decree of court directing a reassessment or upon the making of an order by the legislative body directing a reassessment, the street superintendent shall proceed to make a reassessment in the following manner:

If the reassessment is a partial one only, then it shall not be necessary for the diagram to show any other lots than the ones covered by such partial reassessment. If it is a full reassessment, then the street superintendent shall prepare and file with the reassessment a diagram showing the lots or parcels of land deemed by him to have been benefited by the improvement.

Amount of reassessment

4395. The reassessment shall assess upon and against each of the lots or parcels of land contained therein an amount arrived at as follows: The benefits derived, or to be derived by each of the lots or parcels of land from the improvement estimated as of the date of the filing in the clerk's office of the original assessment shall first be listed. Then there shall be added thereto interest thereon from 30 days after the date of such filing of the original assessment at the rate of 7 per cent per annum, and the total sum shall constitute and be the amount of the proposed several assessments in such reassessment. The total of such reassessment, however, exclusive of interest, shall not exceed the cost and expenses of the improvement.

Form of reassessment

4396. Such reassessment need not be in any prescribed form, but shall refer to the original assessment filed, give the date of filing of the original assessment and state that it is made pursuant to the order of the legislative body or decree of the court, as the case may be, and shall be accompanied by a diagram showing the lots or parcels of land to be reassessed and their relation to the improvement.

Notice of hearing

4397. The reassessment shall then be presented to the legislative body, which shall fix a time for hearing before it, which shall be at least 20 days after the reassessment is so presented. The clerk shall then advertise the time of such hearing by publishing a notice in the newspaper in which the ordinance of intention for the improvement was published unless the legislative body directs publication in some other newspaper. If the reassessment is to be against the property in a district, then this fact shall be set forth and the assessment diagram referred to for particulars. Such notice shall be published for five insertions, if the newspaper is a daily, or by two insertions if the newspaper is published less frequently.

Hearing

4398. At the time fixed for the hearing, or at any time to which the hearing is adjourned, the legislative body shall consider the objections to the reassessment and in its discretion informally direct the revision, correction or modification of such reassessment in such manner as is most equitable to apportion to each lot or parcel of land thereby benefited the amount of the actual benefits derived from the improvement. When the reassessment is revised or corrected or modified to comply with the judgment of the legislative body, it shall pass a resolution confirming the reassessment.

Recordation

4399. The street superintendent shall thereupon record the reassessment with a certificate at the end thereof by the clerk that it is the reassessment approved by the legislative body. He shall also note opposite the several assessments in the original assessment that have been displaced by the reassessment the fact that the reassessment has been made, giving its date, and shall credit upon such reassessment all payments theretofore made upon the original assessment, or upon the bonds issued to represent the original assessment together with interest on such payments at the rate of 7 per cent per annum from and after the date of such payments.

Enforcement

4400. The reassessment shall be collectible and payable in the same manner as an original assessment and shall be enforceable in the same manner provided for enforcing an original assessment, and shall have the same weight in evidence. If bonds were issued under or upon the security of the original assessment they shall also issue upon the reassessment for such sum as may be reassessed against the lots or parcels of land covered thereby.

Cancellation of original assessment

4401. When the reassessment is recorded the original assessment shall be canceled by the street superintendent so far as it affects the particular assessments involved. New bonds shall not be issued until the original bonds are delivered up to the treasurer, who shall cancel them. The lien of the reassessment shall hold its relative rank as to other special assessment liens as of the date of filing of the original assessment.

CHAPTER 17. REASSESSMENTS TO RELIEVE OWNERS

Additional city payments

4430. Notwithstanding any other provisions of this part, the legislative body may:

(a) Provide by resolution adopted at any time that any sum toward the expense of the improvement shall be paid by the city, in which case such sum shall be in addition to, but not less than, the sum or percentage, if any, stated in the ordinance of intention.

(b) At any time prior to the confirmation of the assessment, reduce or direct the street superintendent to reduce the

amount of the proposed assessment in a sum equivalent to the sum to be so paid by the city.

(c) At any time after the confirmation of the assessment, either before or after the issuance of bonds thereon, determine that the public interest and necessity require further and additional sums to be paid by the city towards the expense of the improvement if the improvement is for a work of more than ordinary public benefit and involves a major thoroughfare of the city upon which the traffic is heavy and continuous and of benefit to the entire city.

Reassessment

4431. Whenever the legislative body so determines and makes an appropriation therefor it shall order the street superintendent to proceed to make a reassessment. The street superintendent shall then prepare and file with the reassessment a diagram showing the lots or parcels of land deemed by him to have been benefited by the improvement. The reassessment shall assess upon and against each of the lots or parcels of land within the assessment district the amount of the original assessment less a pro rata of the sum so appropriated, prorated in the same proportion that the original assessment against such lot or parcel of land bears to the total of such original assessment for the improvement.

Form

4432. Such reassessment need not be in any prescribed form but shall refer to the original assessment filed, giving the date of filing of the original assessment, and shall state that it is made pursuant to the order of the legislative body and shall be accompanied by a diagram showing the lots or parcels of land to be reassessed and their relation to the improvement. Such diagram may be the original assessment diagram if it otherwise conforms to the provisions of this chapter.

Notice of hearing

4433. The reassessment shall then be presented to the legislative body, which shall fix a time and place of hearing before it. Such time shall be at least 20 days after the reassessment is so presented. The clerk shall then advertise the time and place of such hearing by publishing a notice in the newspaper in which the ordinance of intention for the improvement was published unless the legislative body directs publication in some other paper. The notice shall contain a reference to the original assessment and diagram and reference shall also be made to the reassessment and diagram of the street superintendent for full particulars as to the extent of the district affected by these proceedings and for all other particulars.

Hearing

4434. At the time fixed for the hearing or at any time to which the hearing may be continued the legislative body shall consider any objections to the reassessment and may correct inequalities or mistakes therein. When the legislative body is satisfied with the correctness of the reassessment it shall confirm it.

Recording 4435. The street superintendent shall thereupon record the reassessment and diagram in his office, with a certificate at the end thereof executed by the clerk that it is the reassessment approved by the legislative body. He shall also note opposite the several assessments in the original assessment that have been displaced by the reassessment the fact that the reassessment has been made, giving its date, and shall credit upon such reassessment all payments theretofore made upon the original assessment or upon the bonds issued to represent the original assessment.

Enforcement 4436. The reassessment shall be collectible by and payable to the treasurer, or such other officer as the legislative body may designate, so far as practicable in the same manner as an original assessment and shall be enforceable by suit in the same manner provided for enforcing an original assessment and shall have the same weight in evidence. If bonds issued under or upon the security of the original assessment, no reassessment made pursuant to this chapter shall change the security or lien of any such bond in any manner whatsoever or the method of the enforcement thereof.

Lien The lien of the reassessment shall hold its relative rank as to other special assessment liens as of the date of filing of the original assessment.

City payments 4437. Upon confirming the reassessment the city shall transfer into the bond and assessment redemption fund the amount so apportioned among the several assessments.

Refunds 4438. Whenever prior to the confirmation of the reassessment any principal payments are made on any assessment, or on any bond issued to represent any such assessment, the owner of record of the property against which such assessment was levied at the time such payment was made, or if a purchaser under a contract of purchase or a lessee under a lease pursuant to the terms of which contract of purchase or lease is required to and has made such payments upon the original assessment or bonds, then such purchaser or lessee shall be entitled to receive a refund of an amount of the difference between the original assessment and the reassessment in the proportion that such payment made by him bears to the original assessment, with respect to the lot or parcel of land for which such payment or payments were made.

Payments 4439. The balance of any such appropriation, as determined by the reassessment, shall be credited pro rata to the bonds in payment thereof, applying such payment first to the interest due and then to the principal. Thereafter the treasurer shall pay to the holder of each bond the payment so credited from the bond and assessment redemption fund. The treasurer is hereby authorized and directed to make all payments of refunds as authorized by this chapter.

Notice to claim refund

4440. Whenever it shall appear to the legislative body that payments were made on any such assessments or bonds prior to the reassessment, it shall cause to be published in the newspaper in which the ordinance of intention for the improvement was published, unless the legislative body directs publication in some other newspaper, a notice stating the fact of such reassessment and calling upon all property owners affected by the improvement to make claim for refund within two years from the date of the first publication of the notice. Reference shall be made to the reassessment and diagram for all particulars. Such notice shall be published once a week for two weeks.

Limitation on refund claims

4441. In case claim for such refund is not made within the two-year period, then all claims therefor shall be barred and the amount remaining unclaimed shall revert to the fund from which the supplemental appropriation was made by the legislative body.

Limitation of actions

4442. No action shall be brought to contest, modify, annul, review or in any way attack the validity of such reassessment and the proceedings had under this chapter unless the action is commenced within 30 days after the recording of the diagram and reassessment, and thereafter persons shall be barred from any such action or any defense of invalidity of the reassessment and all bonds issued thereon.

Reassessment costs

4443. In making any such reassessment the street superintendent shall first deduct from the amount appropriated by the legislative body the estimated cost of the reassessment proceedings. If such estimate for any reason exceeds the actual cost thereof, then the excess of such fund reserved for the payment of the costs shall revert to the fund from which the appropriation was made. In the event that the estimate is insufficient to meet the costs of the reassessment, then the legislative body shall appropriate such additional sums as may be necessary to meet the excess costs and expenses thereof.

Additional reassessments

The making of any reassessment pursuant to the provisions of this chapter in any proceeding shall not constitute a bar or limit the right to make further reassessments as the legislative body may determine.

PART 2. STREET OPENING BOND ACT OF 1911

CHAPTER 1. GENERAL PROVISIONS

Short title

4500. This part may be cited as the Street Opening Bond Act of 1911.

Construction

4501. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

Same 4502. The provisions of this part shall be liberally construed to effectuate its purposes.

"City" 4503. "City" includes counties, cities, cities and counties, and all corporations organized and existing for municipal purposes.

"City council" 4504. "City council" when used with reference to a county means the board of supervisors of the county and when used with reference to a city means the legislative body of the city.

"Street superintendent" 4505. As used with reference to a county, "superintendent of streets" or "street superintendent" means the county surveyor.

"City clerk" 4506. As used with reference to a county, "city clerk" means the county clerk.

"City treasurer" 4507. As used with reference to a county, "city treasurer" means the county treasurer.

"Bond" 4508. "Improvement bond" or "bond" means a bond issued under the provisions of this part.

"Assessment" 4509. "Assessment" or "assessment roll" means a special assessment made under the provisions of any of the statutes specified in this part.

"Delinquency" 4510. "Delinquency" means delinquency in the payment of an assessment made under the statutes specified in this part and "time of delinquency" means the time fixed in those statutes when assessments become delinquent.

"Street Opening Act of 1903" Stats 1903, p 376 4511. "Street Opening Act of 1903" refers to Part 1 of this division and to the act entitled "An act to provide for the laying out, opening, extending, widening, straightening, establishment, or change of grade, in whole or in part, of public highways, roads, streets, parking places, squares, lanes, alleys, courts and places within municipalities, or within unincorporated territory and one or more municipalities, or lying within two or more municipalities; for the condemnation of property, or any interest therein, necessary or convenient for such purposes, or for the purpose of constructing thereon any work or improvements of the character provided to be done under that act of the Legislature known as the 'Improvement Act of 1911'; and for the establishment of assessment districts and the assessment of property therein to pay the expense of such improvement, and providing for aid from the county or municipalities toward the expense of such improvement," approved March 24, 1903, as amended.

Park Act Stats 1909, p 1066

4512. "Park Act" means the act entitled "An act to provide for the acquisition by municipalities of land for public park or playground purposes by condemnation, and for the establishment of assessment districts and the assessment of property therein to pay the expenses of acquiring and improving such land," approved April 22, 1909, as amended.

CHAPTER 2. DETERMINATION TO ISSUE BONDS

When bonds may issue

4530. The city council of any city may determine that serial bonds shall be issued as provided in this part to represent assessments of twenty-five dollars ($25) or over for the cost of any work or improvement authorized under the Street Opening Act of 1903, the Park Act, or under any act which may hereafter become a law providing for the acquiring of property, easements and rights of way necessary or convenient for the construction of sewers and drains by cities for sanitary or drainage purposes.

Resolution of intention

4531. Whenever the city council determines that serial bonds shall be issued to represent assessments it shall so declare in a resolution which may be adopted at the time of the confirmation of the assessment roll in any proceedings had or taken under any act to which this part is made applicable.

Contents

4532. The notice prescribed to be given for the hearing on the confirmation of the assessment roll shall contain a statement that the question of the issuance of bonds under this part will be determined at that hearing.

The resolution:

(a) Shall contain a notice that a bond will issue to represent the unpaid balance of each assessment which balance is twenty-five dollars ($25) or over, remaining unpaid 30 days after the date of the recordation of the assessment.

(b) Shall recite the term of the bonds and also the rate of interest the bonds shall bear which rate shall not exceed 6 per cent per annum.

(c) May recite a maximum rate of interest, not to exceed 6 per cent per annum, to be paid on such indebtedness, which rate when so recited shall not be exceeded in the issuance of such bonds.

The maximum interest which bonds issued in place of bonds previously issued under this part shall bear, is 7 per cent per annum.

Life of bonds

4533. The bonds shall extend over a period not to exceed 19 years from the second day of July next succeeding the next April 15th following the date of the bonds; and an even annual proportion of the principal sum thereof shall be payable by coupon on the second day of July of every year after the date of the bonds until the whole is paid, except

that the first payment shall become due on the second day of July next succeeding the April 15th following the date of the bonds.

Annual principal payments

4534. The resolution determining that bonds shall be issued may provide that the first payment of principal shall become due in not to exceed three years from the second day of July next following the date of the bonds in which event an even annual proportion of the principal sum thereof shall be payable on the date so provided and on the second day of July each year thereafter until the whole is paid.

Semiannual interest payments

4535. The interest on the bonds shall be payable semiannually by coupon on the second days of January and July, respectively, of each year after their date, computed on all sums unpaid until the whole of the principal and interest is paid, but the first interest coupon on the bonds shall become due and payable on the second day of January next succeeding the October 15th or the second day of July next succeeding the April 15th, as the case may be, following the date of such bonds.

Proceedings commenced prior to Aug 14, 1931

4536. Notwithstanding the provisions of this chapter and notwithstanding the provisions of any ordinance or resolution relating to the issuance of improvement bonds passed prior to August 14, 1931, the city council of any city may, at any time prior to the date of the recordation of the assessment roll for any work or improvement for which bonds may be issued under the provisions of this part, provide by resolution that bonds may be issued under and in accordance with this part for any work or improvement the proceedings for which were commenced prior to August 14, 1931. The resolution shall contain the identical provisions relative to bonds required to be set forth in the resolution required by this chapter.

Bonds issued under this section shall be issued as provided in this part, and such bonds shall be subject to all of the provisions of this part.

CHAPTER 3. ISSUE OF BONDS

Unpaid assessment list

4550. After the full expiration of 30 days from the date of the recordation of the assessment, the street superintendent shall make and certify to the city treasurer a complete list of all assessments of which the amount remaining unpaid is twenty-five dollars ($25) or more.

Installment payments of principal and interest

4551. The principal of such unpaid assessments shall thereafter become due and payable to the treasurer in equal annual payments on the fifteenth day of each May succeeding the April 15th following the date of the bonds issued to represent such unpaid assessments. The number of annual payments shall correspond to the number of serial payments provided

to be made on the principal of the bonds. The interest on the unpaid assessments shall become due and payable on the fifteenth day of each May and November succeeding the filing of such list of unpaid assessments, but the first payment of interest shall become due and payable on the fifteenth day of May next succeeding the April 15th or the fifteenth day of November next succeeding the October 15th, as the case may be, following the date of the bonds.

Delinquency

4552. If any payment of principal or of interest on the unpaid assessments is not paid on the date on which the coupons representing it are payable as provided in this part, the city treasurer shall after the close of business on the due date add to the amount of principal or interest so delinquent a penalty of 5 per cent of the total amount of such delinquency. At the beginning of business on the first day of each succeeding month until such delinquent payment and all penalties thereon are fully paid, he shall add an additional penalty of 1 per cent of the amount of such delinquency. The treasurer shall collect such penalties with and as a part of such delinquent payments.

Penalty

Notice of date of payment

4553. The city treasurer shall, at least 15 days before each respective fifteenth day of May and November, until the assessment is paid in full, mail, postage prepaid, to each owner of property described in the assessment, at his last known address as it appears upon the tax rolls of the city, a notice of the amount due and the date when payment is due from him on the assessment and stating that the payment is subject to penalty if not paid on or prior to the due date of the coupons. The failure of the city treasurer to mail this notice or the failure of the property owner to receive it shall in nowise affect the validity of any penalty or invalidate any act or proceeding.

Bond issuance

4554. The city treasurer, upon the filing of the list of unpaid assessments, shall prepare a separate bond representing the total of the unpaid amount of each assessment as shown thereon if the unpaid assessment or the unpaid remainder thereof amounts to twenty-five dollars ($25) or over.

Chapter 4. Form and Effect of Bonds

Form of bond

4570. The bond shall be substantially in the following form:

Improvement Bond

Series_____

$_____ No._____

Under and by virtue of and pursuant to the provisions of Part 2 of Division 6 of the Streets and Highways Code, I,

out of the fund for the above designated improvement bonds, series _____, will pay to bearer the sum of _____ dollars ($_____) with interest at the rate of _____ per cent per annum as hereinafter specified, at the office of the city (or county) treasurer, of the City (or County) of _____, State of California. This bond is issued to represent an assessment for _____ in the City (or County) of _____, as the same is more fully described in the assessment therefor. Its amount is the amount assessed in said assessment against the lot or parcel of land numbered _____ thereon and in the diagram attached thereto, and which now remains unpaid; but until paid, with accrued interest, is a first lien upon the property affected thereby, as the same is described herein and in said recorded assessment with its diagram, to wit: The lot or parcel of land in the City of _____, County of _____, State of California, described as follows: _____.

This bond is payable exclusively from said fund, and neither the City (or County) of _____ nor any officer thereof, is to be holden otherwise for its principal or interest. The term of this bond is _____ years from July 2, 19_____, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the second day of July of each year, after the May 15th succeeding the April 15th following the date hereof, an even annual proportion of its principal is due and payable upon presentation of the coupon therefor, until the whole is paid, with accrued interest at the rate of _____ per cent per annum.

The interest is payable semiannually on the second day of January and July of each year hereafter upon presentation of the coupons therefor, the first of which is for the interest from date to the second day of _____, 19_____, and thereafter the interest coupons are for the semiannual interest.

This bond may be redeemed by the owner or any person interested in any lot or parcel of land described herein, in the manner provided in said code, at any time before maturity, and before commencement of proceedings for sale, upon payment to the city (or county) treasurer, for the holder of this bond of the amount then unpaid on the principal sum thereof, together with the amount of interest as shown on the two interest coupons maturing first after the date of such payment and all penalties accrued and unpaid.

Should default be made in the annual payment upon the principal, or in any payment of interest, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have said lot or parcel of land advertised and sold forthwith in the manner provided by law. In case of such default, there shall be immediately added to such defaulted amount, 5 per cent of the amount thereof, and on the first day of each month following such default there shall be added a further penalty of 1 per cent to such defaulted amount. The city (or county) shall be entitled to one-half of the penalty first imposed, namely, 2½ per cent

and the other 2½ per cent and all subsequent penalties shall be paid to the holder of the bond along with and as part of such defaulted payment.

At said City (or County) of _____ this _____ day of _____ in the year 19_____.

_____

Treasurer of the City (or County) of _____

Bond payable to bearer

4571. The bonds shall be payable to the bearer and no mistake or error in the description in the bond of the lot or parcel of land assessed shall affect the validity or lien of the bond, unless the mistake or error is such that the lot or parcel of land can not be identified, and in such event the holder of such bond may have the mistake or error corrected upon application to the city treasurer and the officers or board which made the assessment to represent which the bond is issued.

Correction of error

Regularity of proceedings

4572. The bonds issued under this part shall by their issuance be conclusive evidence of the regularity and validity of all proceedings leading up thereto under the act under which the assessment was made, and under this part, and of the validity of the bonds.

Lien

4573. The amount due upon any such bond shall be a lien upon the lot or parcel of land described in such bond superior to all other liens, charges, and encumbrances except the liens of prior assessments and of municipal, State and county taxes.

Bond signatures

4574. If any officer whose signature or countersignature appears on any bond or coupon ceases to be such officer before delivery of the bonds to the purchaser thereof, such signature or countersignature appearing either on the bonds or on the coupons, or both, shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds.

Chapter 5. Bond Records and Payments

Bond record

4590. The city treasurer shall enter in a book kept for that purpose in his office, a record of each bond issued under this part, specifying the date of its issue, the amount for which issued, to whom delivered, its duration and a description of the lot or parcel of land against which issued.

Payment to treasurer

Record

4591. Payments of principal and interest on account of any bond issued under this part shall be made to the city treasurer. He shall keep a separate account of all such payments (entering them in the record herein required to be kept), and place them in appropriate funds for the payment of principal and interest of the bonds on account of which

Bond payments

paid. He shall, upon the surrender of the coupons attached to the bond, pay to the holder thereof, or his order, the amount called for by the coupons out of the funds in his possession applicable thereto.

Discharge of bonds

4592. The owner of or any person interested in any lot or parcel of land upon which a bond has been issued under this part may at any time before commencement of proceedings for sale pay off such bond and discharge the land described in the bond from the lien of the assessment, by paying to the city treasurer for the holder of such bond, the amount then unpaid on the principal sum thereof, together with the amount of interest as shown on the two interest coupons maturing first after the date of such payment, and all penalties accrued and unpaid.

Record of discharge

4593. Upon such payment being made to the city treasurer he shall forthwith mark paid in his record of the bond assessment to represent which the bond was issued, and thereupon the lien of the assessment shall cease and the city treasurer shall forthwith notify the holder of the bond and call in the bond. The city treasurer shall enter in his record of such bond the amount paid and the date of payment, and upon the lien of the assessment being extinguished, shall cancel the bond and file it in his office.

Interest payments

4594. The city treasurer may accept payments of interest unaccompanied by payments of principal installments due, and may mark his record accordingly, but the acceptance of such interest payments shall not affect the delinquent status of any installments of principal.

Chapter 6. New Bonds When Land Subdivided

Division of lot

4610. In the event of the division of any lot or parcel of land, for which a bond has been issued, into two or more separate lots or parcels of land, such bond may be surrendered and new bonds issued to the holder of the original bond as provided in this chapter.

Application for new bonds

4611. If it is desired that such new bonds be issued, an application in writing signed by the owner of any interest in any of the lots or parcels into which the original lot or parcel has been divided shall be filed with the street superintendent.

Request for apportionment

4612. Such application shall indicate how the original lot or parcel has been divided, and request the street superintendent to apportion the amount remaining unpaid on the assessment in accordance with such division, and be accompanied by a fee of five dollars ($5) for each separate part or parcel of the original lot or parcel, which sum the street superintendent shall deposit in the city treasury.

Apportionment

4613. The street superintendent thereupon shall apportion to each separate part of the original lot or parcel of land the proportionate part of the amount remaining unpaid on the assessment that would have been levied had such lot or parcel of land been so divided at the time the original assessment was made.

Issuance of new bonds

4614. When such determination has been made, an application signed by all persons owning an interest in the original lot or parcel of land and the holder of the original bond on such lot or parcel of land, shall be filed with the city treasurer requesting that new bonds be issued for the amounts shown by the apportioned assessment in accordance with this chapter. Such application shall be accompanied by evidence satisfactory to the city treasurer that it is signed by every person owning any interest in the original lot or parcel of land.

Change of diagram

4615. When the city treasurer has ascertained that the application is signed by all of the necessary persons, he shall so advise the street superintendent who shall thereupon amend the recorded diagram and assessment to conform to such division and apportionment and assign new assessment numbers to each separate part of the original lot or parcel of land.

Apportionment fee

4616. The city treasurer shall add to each such apportioned amount a sum equal to 5 per cent thereof but in no event more than the sum of ten dollars ($10), and shall make and sign a new bond of the same form as the original bond, to represent each such apportioned amount. The amount of such bond shall be equal to the sum of such apportioned amount and the amount added thereto by the city treasurer as prescribed in this chapter, and shall be payable in installments at the respective dates of the payment of principal and interest of the original bond, the number of such installments to be equal to the number of unpaid installments on the original bond.

Payment of bonds

Apportioned amount less than $25

4617. No new bond shall be issued when such apportioned amount is less than twenty-five dollars ($25), in which event such amount shall be paid to the city treasurer in cash for the benefit of the holder of the original bond.

Delivery of new bonds

4618. Upon the surrender of the original bond the city treasurer shall deliver to such bondholder or his agent or assigns the bonds issued for such apportioned assessments together with all payments of cash which may have been made pursuant to this chapter.

Chapter 7. Sale of Bonds

Notice of sale

4630. Upon the issuance of the bonds by the treasurer, the city council shall publish notice of the sale of the bonds, calling for bids therefor and fixing a time for the receipt of bids.

Sale to highest bidder

4631. Any number of improvement bonds, except as otherwise provided in Section 4637, shall be sold to the highest cash bidder after publication of a notice calling for bids, which notice shall be published for at least three times in a daily newspaper published and circulated in the city, or if there is no such newspaper, then such notice shall be published once in a weekly or semiweekly newspaper so published and circulated. The bonds shall not be sold for less than the amounts of the assessments for which they are issued.

Interest rate

4632. If the resolution of intention provides that the bonds shall be issued at a maximum rate of interest leaving the exact rate of interest at which the bonds are to be issued and sold to be determined at the sale of the bonds, then the notice calling for bids shall state that the bonds will bear interest at a rate not to exceed the maximum rate therefor named in the resolution of intention, stating that rate.

Determination of highest bidder

4633. At the time fixed for the receipt of such bids, or as soon thereafter as the city council can conveniently do so, it shall publicly open, examine and declare the bids. The bonds shall be sold to the best responsible bidder for cash therefor, and consideration shall be given to the rate of interest at which the bonds are offered to be purchased and the premium offered, if any.

Fixing interest rate

4634. The rate of interest at which the bonds are sold shall not exceed the maximum rate named in the resolution of intention. The rate of interest at which the legislative body sells the bonds shall thereupon be fixed as the rate of interest for the bonds, and such fixing and determination of such rate of interest shall be final and conclusive.

Disposition of proceeds

4635. If any bond is sold for an amount in excess of the amount for which it was issued, such excess shall be paid into the general fund of the city.

Same

4636. The proceeds of the sale of such improvement bonds shall be paid into the fund of the proceeding to represent assessments in which the bonds were issued.

Purchase by city

4637. The city may advance to the appropriate fund the minimum sum for which all or any part of the bonds may be sold, as provided in this chapter, in which case the city shall have the same right in respect to the enforcement and collection thereof as other purchasers. If the city advances money, as in this section provided, it shall have the same power and authority as other owners of bonds to sell or otherwise dispose of them.

CHAPTER 8. SALE FOR DELINQUENCY

Default

4650. Whenever, through the default of the owner of any lot or parcel of land upon which such bond is issued to represent the assessment, payment either of the principal or of the interest is not made when it is due, and the holder of the bond thereupon demands in writing that the city treasurer proceed to advertise and sell the lot or parcel of land as provided in this part, then the whole bond or its unpaid remainder, with its accrued interest, as expressed in the bond, shall become due and payable immediately and on the day following shall become delinquent.

Accelerated maturity

Notice of sale

4651. Upon such demand of the holder of any bond, the city treasurer shall publish twice in a newspaper of general circulation, to be designated by him, published in the city in which his office is situated, a notice which shall contain:

(a) The date, number, and series of the delinquent bond.

(b) A description of the property mentioned in the bond, and the name of the owner of such property if known. If the owner is unknown, the fact shall be so stated.

(c) The amount due thereon.

(d) A statement that unless the amount of the bond and the interest due thereon, together with the cost of publication of such notice are paid, the real property described in the bond will be sold at public auction on a day to be therein fixed, which day shall not be less than 15 nor more than 30 days from the day of the first publication of the notice.

(e) The place of the sale, which shall be the office of the city treasurer.

Notice by mail

4652. A like notice shall not less than 15 days before the day of sale so fixed be served upon any such owner if known either personally or by depositing the notice in the post office at such city addressed to such owner at his address if known with the postage thereon prepaid.

Redemption

4653. At any time prior to the sale, the owner or person in possession of any real estate offered for sale under this part may pay the whole amount of the bond then due, with costs, and the bond shall thereupon be canceled. If such payment is not made by the owner or person in possession, or by someone in behalf of the owner or person in possession, the property subject thereto shall be sold at public auction to the bidder offering to pay the amount due on the bond with costs for the least portion of the lot or parcel of land offered for sale.

Affidavit of publication

4654. Before the day of sale the city treasurer shall file with the city clerk a copy of the publication of the notice of sale, with an affidavit of publication, attached thereto, certifying that it is a true copy of the publication; that the publication was made in a newspaper, stating its name and place

of publication and the date of each appearance in which such publication was made. Such affidavit is prima facie evidence of all the facts stated therein.

Costs

4655. The city treasurer shall collect, in addition to the amount due on such bond, the cost of the publication of such notice, and fifty cents ($0.50) for the certificate of sale delivered to the purchaser.

Record of sale

4656. Before delivering any certificate of sale the city treasurer shall, in a book kept in his office for that purpose, enter the date, number and series of the bond, a description of the land sold corresponding with the description in the certificate, the date of sale, purchaser's name, the amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. He shall enter on the record of the bond the words "canceled by sale of the property," giving the date of such sale.

Such book shall be open to public inspection during office hours when not in actual use.

Purchaser's lien

4657. Immediately on the sale, the purchaser shall become vested with a lien on the property so sold to him, to the extent of his bid, and is only divested of such lien by the payment to the city treasurer of the purchase money, including the costs provided for in this part, with interest thereon at the rate of 1 per cent per month from the date of sale.

Certificate of sale

4658. The city treasurer shall issue for each sale an original and a duplicate certificate of sale reciting therein the date, number and series of the bond under which the sale was made, describing the land sold and giving the date of sale, purchaser's name, amount paid, and the number of the certificate. He shall deliver the original certificate to the purchaser and shall record the duplicate in the office of the recorder of the county in which the land sold is situated.

Recording sale and redemption

4659. The recorder shall collect a fee of fifty cents ($0.50) for such recording, and on presentation of the receipt of the city treasurer for the total amount of the redemption money he shall without charge mark the word "redeemed," the date, and by whom redeemed, on the margin of the book where the entry of such certificate is made.

CHAPTER 9. REDEMPTION AND DEED TO PURCHASER

Time and manner of redemption

4670. A redemption of the property sold may be made by the owner of the property, or any party in interest, within 12 months from the date of purchase, or at any time prior to the application for a deed. Redemption shall be made in lawful money of the United States, and when made to the city

treasurer he shall credit the amount paid to the person named in his certificate, and pay it on demand to him or his assignees.

Deed to purchaser

4671. If the property is not redeemed within the time allowed, the city treasurer, or his successor in office, upon application of the purchaser or his assignee shall make to the purchaser or his assignee a deed to the property.

Form and fees for deed

4672. The deed shall recite substantially the matter contained in the certificate and that no person has redeemed the property during the time allowed for its redemption. The treasurer shall be entitled to receive from the purchaser two dollars ($2) for making the deed, the balance of which amount shall be deposited in the city treasury for the use of the city after payment has been made therefrom for the acknowledgment of the deed.

Notice of intention to apply for deed

4673. The purchaser of the property or his assignee or agent shall, 30 days prior to the expiration of the time of the redemption, or 30 days before his application for a deed, serve upon the owner or agent of the property purchased, if named in the certificate of sale, and upon the party occupying the property, if the property is occupied, a written notice, stating that the property or a portion thereof has been sold to satisfy the bond lien, the date of sale, the date, number, and series of the bond, the amount then due, and the time when the right of redemption will expire, or when the purchaser will apply for a deed. The owner of the property shall have the right of redemption indefinitely, until such notice is given and the deed applied for, upon the payment of the fees, penalties, and costs in this part required.

Posting notice

4674. In case of unoccupied property, a similar notice shall be posted in a conspicuous place upon the property at least 30 days before the purchaser applies for a deed.

Affidavit re notice

4675. No deed to the property sold shall be issued by the city treasurer to the purchaser of such property, until such purchaser has filed with the treasurer an affidavit showing that the notice required to be given has been given as required in this chapter. This affidavit shall be filed and preserved by the treasurer in the same manner as other records kept by him in his office.

Notice costs

4676. The purchaser shall be entitled to receive the sum of fifty cents ($0.50) for his service of such notice and the making of such affidavit, which sum of fifty cents ($0.50) shall be paid by the redemptioner at the time and in the same manner as the other sums, costs and fees are paid.

Effect of deed

4677. The deed, when duly acknowledged or proved, shall be conclusive evidence of all things of which the bond upon

which it is based is conclusive evidence, and prima facie evidence of the regularity of all proceedings subsequent to the issue of the bond, and conveys to the grantee the absolute title to the lands described therein, free of all encumbrances, except the lien for State, county, and municipal taxes.

DIVISION 7. THE IMPROVEMENT ACT OF 1911

PART 1. GENERAL PROVISIONS

Short title

5000. This division may be cited as the Improvement Act of 1911.

Construction

5001. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this part shall govern the construction of this division.

Alternative system

5002. This division provides an alternative system for doing the work authorized by this division and the provisions of this division shall not apply to or affect any other provisions of this code.

When any proceedings are commenced under this division, the provisions of this division and no other shall apply to such proceedings.

Construction Effect of irregularities

5003. This division shall be liberally construed in order to effectuate its purposes. No error, irregularity, informality, and no neglect or omission of any officer, in any procedure taken under this division, which does not directly affect the jurisdiction of the legislative body to order the work or improvement, shall avoid or invalidate such proceeding or any assessment for the cost of work done thereunder. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the legislative body in accordance with the provisions of this division.

Failure to hold hearing

5004. Whenever in any proceedings under this division, a time and place for any hearing by the legislative body is fixed and, from any cause, the hearing is not then and there held or regularly adjourned to a time and place fixed, the power of the legislative body in the premises shall not thereby be divested or lost, but the legislative body may proceed anew to fix a time and place for the hearing, and cause notice thereof to be given by publication by at least one insertion in a daily, semiweekly or weekly newspaper, such publication to be at least five days before the date of the hearing, and thereupon the legislative body shall have power to act as in the first instance.

"City"

5005. "City" includes counties, cities, cities and counties and all corporations organized and existing for municipal purposes.

5006. "Legislative body" when used with reference to a county means the board of supervisors, and when used with reference to a city means the body which by law constitutes the legislative department of the government of the city. "Legislative body"

5007. "Clerk" when used with reference to a county means the person or officer who is the clerk of the legislative body of the county, and when used with reference to a city means the person or officer who is or acts as clerk of the legislative body of the city. "Clerk"

5008. "Treasurer" when used with reference to a county means the county treasurer, and when used with reference to a city means the city treasurer. "Treasurer" also includes any person or officer who has charge and makes payment of the funds of such county or city, respectively. "Treasurer"

5009. "Mayor" when used with reference to a county means the chairman of the board of supervisors, and when used with reference to a city means the mayor, or if the city has no mayor, the chairman or the president of the legislative body, the city manager or such other person as may be the chief executive officer of the city. "Mayor"

5010. "Council chambers" refers to the place where the regular meetings of the legislative body of the county or city are held. "Council chamber"

5011. "Street superintendent" or "superintendent of streets" when used with reference to a county means the county surveyor, and when used with reference to a city means the person or officer whose duty it is under the law to have the care or charge of the streets or the improvement thereof in such city. "Street superintendent"

5012. If there is no street superintendent or superintendent of streets in any city, the legislative body thereof may appoint a person to perform the duties imposed upon the street superintendent by this division, and all of the provisions of this division applicable to the street superintendent shall apply to the person so appointed. Substitute

5013. "Engineer" when applied to a county means the county surveyor, and when applied to a city means the city engineer. "Engineer"

5014. "Street" includes avenues, highways, lanes, alleys, crossings or intersections and courts which have been dedicated and accepted according to law or which have been in common and undisputed use by the public for a period of not less than five years next preceding. "Street"

"Main street" 5015. "Main street" means an actually opened street which bounds a block.

"Block" 5016. "Block" whether it be a regular or irregular block means a block which is bounded by a main street or by a main street and a boundary line of a city.

"Quarter block" 5017. "Quarter block" when used with reference to an irregular block includes all lots or portions of lots having any frontage on either intersecting street half way from such intersection to the next main street, or if no main street intervenes, all of the way to a boundary line of the city.

"Place" 5018. "Place" includes any public park or pleasure ground and common which has been dedicated and accepted according to law.

"Paved or repaved" 5019. "Paved" or "repaved" includes pavement of stone, paving blocks or macadamizing, or of bituminous rock or asphalt, or of iron, wood or other material, whether patented or not, which is adopted by ordinance or resolution by the legislative body.

"Contractor" 5020. "Contractor" means the person, firm, partnership, association, corporation, organization or business trust, and includes contracting owners or their agents, to whom a contract for the performance of any work authorized by this division is awarded.

"Owner" 5021. "Owner" means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the county recorder's office of the county in which the property is situated, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over the same for himself, or as the executor, administrator, or guardian of the owner. If the property is leased, the possession of the tenant or lessee holding and occupying such property shall be deemed to be the possession of the owner.

"Lot" 5022. "Lot," "land," "piece," or "parcel of land" whether used singly or in combination include property owned or controlled by any person as a railroad right of way or as a street or interurban railroad right of way.

"Work" 5023. "Work" or "improvement" whether used singly or in combination mean and include any work which is authorized to be done or any improvement which is authorized to be made under this division, as well as the construction, reconstruction and repair of all or part of any such work or improvement.

"Incidental expenses"

5024. "Incidental expenses" includes:

(a) The compensation of the engineer for work done by him;

(b) The cost of printing and advertising provided for in this division, including the estimated cost of printing any bonds to be issued to represent or be secured by unpaid assessments;

(c) The compensation of the person appointed by the superintendent of streets to take charge of and superintend any of the work;

(d) The expenses of making the assessment and of preparing and typing the resolutions, notices and other papers and proceedings for any work authorized by this division;

(e) The expenses of making any analysis and tests to determine that the work and any materials or appliances incorporated therein comply with the specifications;

(f) All costs and expenses incurred in carrying out the investigations and making the reports required by the provisions of the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931"; and

(g) Any other expenses incidental to the construction, completion, and inspection of the work in the manner provided for in this division.

All demands for incidental expenses shall be presented to the street superintendent, by an itemized bill, duly verified by the demandant.

Description of work by reference

5025. In all resolutions, notices, orders and determinations, subsequent to the resolution of intention it shall not be necessary to describe the work, and in all of the same, subsequent to the resolution of intention and the notice of improvement, it shall be sufficient to refer to the resolution of intention for a description of the work or improvement.

Street names

5026. The legislative body of a county may by resolution adopt a name for any street, boulevard, park or place which is to be improved under this division, for which a name has not been provided under the provisions of Sections 970 and 971, and may by resolution change the name of any such street, boulevard, park or place heretofore established.

PART 2. NOTICE

CHAPTER 1. GENERAL PROVISIONS

Governing provisions

5050. Unless the particular provision or the context otherwise requires, whenever a notice, resolution, order or other matter is required to be published or posted by this division it shall be published or posted in accordance with the provisions of this part.

Persons to give notice designated

5051. Whenever any notice, resolution, order, or other matter is required to be published or posted, and the duty of

posting or publishing, or procuring the same is not specifically enjoined upon any officer or person, the clerk shall post or procure the publication or posting thereof, as the case may be.

No step in any proceeding shall be invalidated or affected by any error or mistake or departure from the provisions of this section as to the officer or person posting or publishing, or procuring the publication or posting, of any notice, resolution, order or other matter when the same is actually published or posted for the time required.

Notice required

5052. No notice, nor any publication of any notice, order, resolution or other matter, other than that expressly provided for in this part or elsewhere in this division shall be necessary to give validity to any of the proceedings provided for in this division.

CHAPTER 2. NOTICE BY PUBLICATION

No other law applicable

5060. No other law of this State shall govern or be applicable to any publication provided for in this division, nor shall the provisions of Part 4, Title 5, of the Political Code have any application to any publication provided for in this division.

Manner of publication

5061. Whenever in this division a notice, resolution, order or other matter is required to be published and the manner of such publication is not specified, it shall be published in a daily, semiweekly or weekly newspaper published and circulated in the city conducting the proceedings and which is selected by the legislative body for that purpose, or by the clerk or other officer issuing the notice or responsible for the publication where the legislative body has not selected any newspaper for that purpose.

No city newspaper

If there is no daily, semiweekly or weekly newspaper published and circulated in the city, and if the city conducting the proceedings is not a county, the notice, resolution, order or other matter required to be published shall be published in some newspaper published in the county in which such city is located.

Posting in lieu of publication

If the city conducting the proceedings is not a county and there is no newspaper published in the city or in the county in which such city is located, the notice, resolution, order or other matter required to be published shall be posted and kept posted for the same length of time required for the publication of the same in a newspaper, in three public places in the city.

Time of publication

5062. Whenever in this division a notice, resolution, order or other matter is required to be published, and the time for such publication is not specified, it shall be published in two entire issues of the newspaper, one being on one day and the other issue being on a subsequent day of the same or a subsequent week.

5063. Proof of the publication or posting of any notice, resolution, order or other matter in accordance with any of the provisions of this division may be made by affidavit of: Proof of publication

(a) The owner, publisher, printer, foreman or clerk of the newspaper in which the publication was made.

(b) The poster of the notice.

(c) A person having knowledge of the facts.

CHAPTER 3. NOTICE BY POSTING

5065. Whenever in this division notice is required to be given by posting and the time or method for such posting is not specified, the clerk shall conspicuously post the notice on the door of the council chamber for not less than five days. Posting

CHAPTER 4. NOTICE BY MAIL

5070. Whenever in this division notice is required to be given by mail and the time or method for mailing is not specified, the notice shall be given by mail as follows: Mailing

(a) The legislative body shall direct the clerk to mail the notice, postage prepaid, to all persons owning real property which is proposed to be assessed to pay any part of the cost of the work, whose names and addresses appear on the last equalized assessment roll or as known to the clerk. To whom

(b) If the notice is a notice of a hearing, it shall be mailed at least 15 days prior to the date fixed for that hearing. Time for

5071. The clerk shall upon the completion of the mailing of the notice file with the legislative body an affidavit setting forth the time and manner of the compliance with the requirements of this chapter. Proof of mailing

5072. The failure of the clerk to mail any notice or the failure of any person to receive the same shall not affect in any way whatsoever the validity of any proceedings taken under this division, nor prevent the legislative body from proceeding with any hearing so noticed. Effect of error

PART 3. PERFORMING THE WORK

CHAPTER 1. WORK WHICH MAY BE DONE

5100. All streets, places, public ways, or property, or rights of way, or tidelands, or submerged lands owned by any city, open or dedicated to public use, and any property for the immediate possession and use of which, as rights of way required for public use, an order has been obtained in compliance with the provisions of Section 14 of Article I of the State Constitution, and all tidelands or submerged lands to which all the right, title and interest of the State have been granted to any city, are open public streets, places, public Where work may be done

What may be done

ways, or property or rights of way owned by the city, for the purposes of this division, and the legislative body of the city may establish and change the grades of the respective ways, properties, and rights of way hereinbefore enumerated and fix the width thereof and is hereby invested with jurisdiction to order to be done therein, over or thereon, either singly or in any combination thereof, any of the work mentioned in this division under the proceedings described in this part.

Same

5101. Whenever in the opinion of the legislative body the public interest or convenience may require, it may order the whole or any portion, either in length or in width, of any one or more of the streets, places, public ways, or property, or rights of way, or tidelands, or submerged lands owned by any city, open or dedicated to public use, and any property for the immediate possession and use of which as rights of way required for public use, an order has been obtained in compliance with the provisions of Section 14 of Article I of the State Constitution, to be improved by or have constructed therein, over or thereon, either singly or in any combination thereof, any of the following:

Grading

(a) The grading or regrading, the paving or repaving, the planking or replanking, the macadamizing or remacadamizing, the graveling or regraveling, the oiling or reoiling thereof.

Sidewalks

(b) The construction or reconstruction of sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, parks and parkways, culverts, bridges, curbs, gutters, tunnels, subways or viaducts.

Sewers

(c) Sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels or other appurtenances.

Drains

(d) Drains, tunnels, sewers, conduits, culverts and channels for drainage purposes; with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, channels and appurtenances.

Street lighting

(e) Poles, posts, wires, pipes, conduits, tunnels, lamps and other suitable or necessary appliances for the purpose of lighting said streets, places or public ways of any such city or property or rights of way owned by any such city.

Fire protection

(f) Pipes, hydrants and appliances for fire protection.

Flood protection

(g) Breakwaters, levees, bulkheads and walls of rock or other material to protect the streets, places, public ways and other property in any such city, from overflow by water.

Water supply

(h) Wells, pumps, dams, reservoirs, storage tanks, channels, tunnels, conduits, pipes, hydrants, meters or other appurtenances for supplying or distributing a domestic water supply.

(i) Mains, services, pipes, fittings, valves, regulators, governors, meters, drips, drains, tanks, ditches, tunnels, conduits, channels, or other appurtenances for supplying or distributing a domestic or industrial gas supply. Gas supply

(j) Retaining walls, embankments and other structures necessary or suitable in connection with any of the work mentioned in this section. Retaining walls

(k) The planting of trees, shrubs or other ornamental vegetation. Ornamental vegetation

(l) The construction, repairing, or improving of public mooring places for water craft, the building, repairing and improving of wharves, piers, docks, slips, quays, moles, or other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce, navigation and the protection of lands within said city, and for aiding and securing access to the waters of said lands to the people of the State of California, in the exercise of their rights to fish, or for the extension of public streets or places. Navigation facilities

(m) All other work which may be deemed necessary to improve the whole or any portion of such streets, places, public ways or property, or rights of way owned by such city. Other necessary or incidental work

(n) All other work auxiliary to any of the above, which may be required to carry out the same.

Chapter 2. Extending Work Beyond City Limits

5115. When the public interest or convenience so requires, and whenever, in the opinion of the legislative body initiating the proceedings, the proposed work is of such a character that it directly and peculiarly affects property in two or more cities, or in one or more cities and counties, and that the purposes sought to be accomplished by the work can best be accomplished by a single, comprehensive scheme of work, there is hereby conferred upon the legislative body full power and authority to extend the work or the boundaries of the district to be assessed therefor beyond the territorial limits of the city. Extending district boundaries

5116. The legislative body may establish, change or modify the grade of and order to be done in, over or under the whole, or any portion, either in length or width, of any one or more of the public streets, places, sidewalks, highways, roads, or property or rights of way (including tidelands and submerged lands owned by any city) within the limits of the city which is carrying through the proceeding in question, and also into the limits of other cities or extending from the city through or over one or more other cities, or extending through or over one or more cities and into a county or extending along the exterior boundary between a city and a county, or along the boundary between two cities, whether wholly or partly within or without the boundary, either singly or in any combination thereof, any of the work mentioned in this division under the proceedings described in this division. Extending the work

Consent to extension

5117. The city may include within the boundaries of an assessment district created pursuant to this division lands lying within the boundaries of any one or more cities, or counties, when such lands, in the opinion of the legislative body conducting the proceeding, will be benefited by the proposed work if the consent of the legislative body of any territory proposed to be assessed shall first be obtained to the formation of the assessment district and, if any of the proposed work is to be done within such territory, to the work described in the resolution of intention and the assumption of jurisdiction thereover for the purposes aforesaid prior to the adoption thereof.

Manner of obtaining consent

5118. The proposed resolution of intention shall be submitted to the legislative bodies which have jurisdiction over the territory into which the proposed work or the assessment district therefor may extend. When the resolution of intention is approved and the consent of the legislative bodies whose consent is necessary is obtained to the work and the formation of the assessment district described therein, the resolution of intention may be adopted. The consent if any shall, of itself, constitute assent to the assumption of jurisdiction thereover for all purposes of the proceeding and authorize the legislative body initiating the proceeding to take each and every step required for or suitable for the consummation of the work extending outside the limits of the city, and the levying, collecting and enforcement of the assessments to cover the expenses thereof and the issuance and enforcement of bonds to represent unpaid assessments.

Effect of

Payment of costs

5119. If the assessment district includes property out of the territorial jurisdiction of the city conducting the proceeding, the legislative body of the city having jurisdiction thereover may in its discretion order by resolution entered upon its minutes, a copy of which shall be transmitted to the legislative body conducting the proceeding, that any part of the cost or expenses of the work shall be paid out of the treasury of the city. A liability for the portion of the costs set forth in the resolution shall thereby be created against the city. The street superintendent in making up the assessment as provided in Chapter 16 of this part, shall deduct from the costs and expenses, in addition to any sum or percentage payable by the city conducting the proceeding, such part thereof as has been so ordered to be paid out of the treasury of that city. All notices provided for, to be published by the clerk, shall be published in a newspaper published and circulated in the county.

CHAPTER 2.5. CONTRIBUTION TOWARD COST OF WORK

Contribution from governmental agencies

5125. Notwithstanding any other provision in this division, the legislative body may accept and provide for contribution toward the cost and expenses of any work done

under this division, from any funds made available for the purpose by any local, State or National agency or authority, and it shall not be necessary to set forth or give notice of such contribution in the resolution of intention or in any other proceedings under this division. It shall be sufficient for the legislative body, upon determining the amount of such contribution, to direct the street superintendent to deduct that amount from the total cost and expenses of the work before spreading the assessment. The amount of any such contribution shall be paid to the contractor or his assigns upon the issuance of the warrant to him.

Chapter 3. Resolution of Intention

Plans and specifications

5130. Before ordering any sewers constructed under this division, the legislative body shall require, and before ordering any other work to be done under this division the legislative body may require, the engineer to furnish it with plans and specifications therefor together with careful estimates of the costs and expenses of such work.

Resolution of intention

5131. Before ordering any work done which is authorized by this division, the legislative body shall pass a resolution of intention to do so, referring to the street by its lawful or official name, or the name by which it is commonly known. If the work is not to be done upon a public street or public way, then by briefly describing the property or right of way on which it is to be constructed, and briefly describing the work.

Contents

5132. The resolution of intention shall be sufficient if it states in general terms the class or kinds of work contemplated such as grading, paving, sewering or other work, and gives in general the location of the proposed work and refers to plans, profiles, detailed drawings and specifications or such of them as may be suitable or proper for the full and detailed description of the proposed work. The resolution of intention shall contain also a notice of the day, hour and place when and where any and all persons having any objections to the proposed work may appear before the legislative body and show cause why the proposed work should not be carried out in accordance with the resolution of intention. The time shall not be less than 15 nor more than 60 days from the date of the passage of the resolution.

Publication

5133. The clerk shall cause the resolution of intention to be published.

Combination of work

5134. The legislative body may include in one proceeding, under one resolution of intention and in one contract, any of the different kinds of work mentioned in this division on any number of streets, properties and rights of way or portions thereof, contiguous or otherwise, and it may except therefrom any such work which has already been done.

Work projects

5135. As an alternative procedure for the doing of work authorized by this division, the legislative body may pass a resolution of intention to do such work containing a provision that the work shall be done if any local, State or National agency or authority accepts the proposed work as a project for which a contribution of labor, or labor and any portion of materials, supplies or equipment will be made by such agency or authority. Under such alternative procedure the work to be done by the contractor shall consist of furnishing any or all of the materials, supplies or equipment necessary for the construction of the improvement. When this alternative procedure is adopted, the resolution of intention shall so state and shall recite what contribution is to be made and by whom. The resolution of intention shall also state what work shall be done by the contractor. In all other particulars, the resolution of intention shall be the same as any resolution of intention adopted pursuant to this chapter.

CHAPTER 4. ESTABLISHMENT OF GRADE FOR WORK

Alternative provisions

5150. The provisions of this chapter relating to grades are alternative provisions and shall not repeal any other provisions of this division or of this code relating to change of grade.

Official grade established by counties

5150.5. If a county is conducting the proceedings under this division, the legislative body may, by resolution, establish the official grade of any street, boulevard, park or place which is to be improved and for which no official grade has previously been established by ordinance or resolution, and the words "official grade" when used in this division in relation to a county and except where the official grade is established, changed or modified under the proceedings provided in Part 4 of this division shall mean the grade so established by resolution of the legislative body of the county.

Grade for work

5151. The grade to which any work shall be done shall be that which is shown on the plans or profiles therefor or it may be done on the grade formally established by the legislative body. If any official grade has already been adopted or established for any of the streets, avenues, or other places or property proposed to be improved, it shall be lawful for the resolution of intention to provide that said work shall be done to new grades or grades different from those so established or adopted, and shall refer to plans, profiles or specifications for the description of the grade at which the work is to be done.

Objection to change of grade

5152. Any property owner whose property is to be assessed to pay the costs and expenses of the proposed work may at the time fixed in the resolution of intention for hearing of objections to the proposed work, appear before the legislative body

and make objection to the proposed grade or proposed modification of grade. A failure to make objection at that time shall be deemed to be a waiver of all objections to the proposed grade or proposed change or modification of grade and shall operate as a bar to any claim for damages or any subsequent action looking to the prevention of the work or the recovery of damages on account of the performance of the work to such grade or changed grade.

CHAPTER 5. WORK AFFECTING DISTRIBUTION OF DOMESTIC WATER SUPPLY BY PUBLIC AGENCIES

Special proceedings

5170. If the work proposed to be done includes the laying of conduits, pipes, hydrants, or any appliance for the supplying or distributing of a domestic water supply, and the distribution of such domestic water supply in the territory in which the work is contemplated is under the management and control of a municipal water district, a municipal utility district, a public utility district, a metropolitan water district, or any public agency other than the city ordering the work done, the conduits, pipes, hydrants, or other appurtenances for supplying or distributing such domestic water supply shall be installed under the proceedings specified in this chapter, which must be taken prior to the adoption of the resolution of intention.

Plans and specifications

5171. Before requiring the plans, specifications and estimates provided for in Section 5130 the legislative body shall pass a resolution requesting the public agency having charge of the supplying and distribution of the domestic water supply in the district about to be improved to furnish to the legislative body plans and specifications for adequate and appropriate conduits, pipes, hydrants and other appurtenances necessary for that purpose. It shall be the duty of such public agency to furnish the plans and specifications so required, and the plans and specifications shall be submitted to the legislative body for its approval.

Adoption of plans and specifications

5172 The legislative body may adopt the plans and specifications furnished to it, but may not modify or change the same except with the consent of the public agency furnishing the plans and specifications. If no agreement can be reached the conduits, pipes and other appurtenances for supplying the water shall be omitted from the contemplated improvement. If the plans and specifications are adopted by the legislative body the engineer shall incorporate the plans and specifications in the plans and specifications furnished by him to the legislative body pursuant to Section 5130, and the plans and specifications shall thereupon be deemed incorporated in the plans and specifications for doing the work.

Inspection

5173. The public agency which supplies the plans and specifications may at all times maintain an inspector over the work to see that the plans and specifications which it has furnished have been complied with, and the cost of such inspection shall form a part of the incidental expenses of the work and be incorporated in the assessment as a part thereof.

Disposition of completed work

5174. After the work has been completed and accepted, the pipes, conduits, and other appliances for supplying or distributing water so installed shall constitute a part of the system of the public agency supplying the water, and shall at all times thereafter be used, operated, maintained, and managed by it as a part of such system.

CHAPTER 6. CREATING ASSESSMENT DISTRICTS

When district may be created

5180. If in the opinion of the legislative body the contemplated work is of more than local or ordinary public benefit, or if, according to the estimate furnished by the engineer, the total estimated costs and expenses thereof will exceed one-half the total assessed value of the lots or lands fronting upon the proposed work, if such lots or lands are assessed according to the valuation fixed by the last assessment roll whereon it was assessed for taxes for city purposes, and after allowing a reasonable depth from such frontage for lots or lands assessed in bulk, the legislative body may make the expense of such work chargeable upon a district, which the legislative body shall, in its resolution of intention, declare to be the district benefited by the work, and to be assessed to pay the cost and expense thereof.

Description

5181. The district may be described by:

(a) Stating its exterior boundaries.

(b) Giving a description thereof according to any official or recorded map.

(c) Referring to a plat or map on file in the office of the clerk or engineer at the time of passing the resolution of intention, which shall indicate by a boundary line the extent of the territory included in the proposed district, and shall govern for all details as to the extent of the assessment district.

Description by reference

5182. The assessment district need not be described in any of the notices, resolutions, orders or determinations provided for in this division, other than the resolution of intention. It shall be sufficient to refer to the resolution of intention for a description of the district.

CHAPTER 7. NOTICE OF IMPROVEMENT

Notice

Where posted

5190. After the adoption of the resolution of intention, the street superintendent shall cause to be conspicuously posted along the line of the contemplated work, at not more than 300

feet in distance apart, but not less than three in all, or when the work to be done is only upon an entire crossing or intersection or any part thereof, in front of each quarter block or irregular block liable to be assessed, notices of the passage of the resolution.

Same

5191. If the work is chargeable upon a district, copies of the notice shall also be posted on all the open streets within the district at not more than 300 feet in distance apart on each street so posted, but no proceeding shall ever be held invalid for failure to post any street if this section has been substantially complied with.

Time for

5192. In every case all posting must be fully completed at least 10 days before the day set for hearing protests or objections.

Form of

5193. The notices shall be headed "Notice of Improvement" in letters of not less than one inch in height; and shall in legible characters state the fact of the passage of the resolution of intention, its date, and briefly, the work proposed, an estimate of the total cost of the proposed work, the amount of any contribution of work or labor and any portion of materials, supplies or equipment which is to be made by any local, State or National agency or authority, and refer to the resolution of intention for further particulars. The notices shall contain also a statement of the day, hour and place when and where any and all persons having any objections to the proposed work may appear before the legislative body and show cause why the proposed work should not be carried out in accordance with the resolution.

Notice by mail

5194. The legislative body shall direct the clerk to and he shall give notice by mail of the adoption of the resolution of intention.

Contents

5195. The notice shall contain a statement of the time, place and purpose of the hearing on the resolution of intention and a statement of the total estimated cost of the proposed improvement, the amount of any contribution of work or labor and any portion of materials, supplies or equipment which is to be made by any local, State or National agency or authority, together with a statement that any person interested may file a protest as provided in this division.

Notice to owners of railway tracks

5196. If the doing of the work requires a change of grade of any railroad track or tracks, the legislative body shall direct the clerk to mail to the owner or reputed owner or operator or reputed operator thereof, at its last known address as the same appears on the tax rolls of the city, the legislative body of which is conducting the proceeding, or when no address so appears then to such owner or operator in care of general

delivery in such city and to the California Railroad Commission, printed copies of the resolution of intention within five days after the first publication thereof. Failure to mail said copies or failure of any such owner or operator to receive the same or any erroneous address thereon shall not affect the jurisdiction of the legislative body, but in such event the failure of the owner or operator of such tracks to make objection to the proposed grades shall not be deemed to be a waiver of all objections to the proposed grades or proposed change or modification of grade, nor operate as a bar to any claim for damages, if recoverable damages there be.

CHAPTER 8. PROTEST AND HEARING

Protests

5220. At any time not later than the hour set for hearing objections to the proposed work, any owner of property liable to be assessed for the work may make written protest against the proposed work or against the extent of the district to be assessed, or both. Such protest must be in writing and must contain a description of the property in which each signer thereof is interested, sufficient to identify the same, and be delivered to the clerk, and no other protests or objections shall be considered.

Hearing

5221. At the time set for hearing protests the legislative body shall proceed to hear and pass upon all protests so made as required by Section 5220 and its decision shall be final and conclusive. The legislative body may adjourn the hearings from time to time.

Majority protest

5222. If the protest is against the proposed work, and the cost thereof is to be assessed upon the property fronting thereon, and the legislative body finds that the protest is made by the owners of a majority of the property fronting on the proposed work, or if the protest is against the proposed work, and the cost thereof is to be assessed upon the property within a district, and the legislative body finds that the protest is made by the owners of more than one-half of the area of the property to be assessed for the improvements, no further proceedings shall be taken for a period of six months from the date of the decision of the legislative body on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the legislative body.

Changes in work or district

5223. Unless because of a majority protest the power to proceed shall have ceased, the legislative body may, at the conclusion of the hearing, by resolution entered upon its minutes, make such changes in the boundaries of the proposed assessment district or changes in the work proposed to be done as it shall find to be proper and advisable, and shall define and establish such boundaries and the work proposed to be done.

However, the legislative body shall not modify the boundaries to include any territory which will not, in its judgment, be benefited by the work.

Notice

5224. The legislative body shall not modify the boundaries or change the work proposed to be done except after notice of its intention so to do. The notice shall be given by one insertion in the newspaper in which the resolution of intention was published and shall describe the proposed modification and specify the time for hearing objections to such modification, which time shall be at least 10 days after the publication of the notice. Written objections to the proposed modification may be filed with the clerk by any interested person at or before the time set for the hearing. The legislative body shall hear and pass upon such objections at the time appointed, or at any time to which the hearing thereof may be adjourned, and its decision thereon shall be final and conclusive.

Objections

Hearing

Jurisdiction to proceed

5225. If no protests or objections in writing have been delivered to the clerk up to the hour set for the hearing thereon or if protests have been found by the legislative body to be insufficient, or have been overruled, or if protests against the extent of the proposed district have been heard and denied, or if modification of the proposed district or proposed work has been made and all objections or protests thereto have been heard and denied, immediately thereupon the legislative body shall acquire jurisdiction to order the proposed work to be done.

CHAPTER 9. AWARD OF CONTRACT

Resolution ordering work

5240. Before the legislative body awards any contract for doing any work or for furnishing materials, supplies and equipment or any portion thereof, authorized by this division, the legislative body shall pass a resolution ordering the work.

Notice inviting bids

5241. Notice shall be posted inviting sealed proposals or bids for doing the work ordered, or for furnishing materials, supplies and equipment or any portion thereof. Notice inviting such proposals, and referring to the specifications on file, shall be published, but if there is no newspaper published in the city, then it shall only be posted. The time fixed for the opening of the bids shall be not less than 10 days from the time of the first publication or posting of the notice.

Security for bid

5242. All proposals or bids offered shall be accompanied by a certified check payable to the city, for an amount which shall not be less than 10 per cent of the aggregate of the proposal, or by a bond for that amount and so payable, signed by the bidder and two sureties, who shall justify, before any officer competent to administer an oath, in double that amount, and over and above all statutory exemptions.

Opening bids

5243. The proposals or bids shall be delivered to the clerk and the legislative body shall, in open session publicly open, examine and declare the same. No proposal or bid shall be considered unless accompanied by the check or bond satisfactory to the legislative body.

Rejections

5244. The legislative body may reject any and all proposals or bids should it deem this for the public good, and also the bid of any party who has been delinquent or unfaithful in any former contract with the city, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work or improvement to the lowest responsible bidder at the prices named in his bid. If the bids are rejected the legislative body shall thereupon return to each bidder the check or bond which accompanied his bid.

Readvertising for bids

5245. If the bids are rejected or no bids are received the legislative body may within six months thereafter readvertise for proposals or bids for the performance of the work as in the first instance, without further proceedings, and thereafter proceed in the manner provided in this chapter.

Disposal of successful bidder's security

5246. The check or bond accompanying any proposal or bid which is accepted shall be held by the clerk until the contract for doing the work has been entered into, either by the lowest bidder or by the owners of three-fourths part of the frontage, whereupon the certified check or bond shall be returned to the bidder. If the bidder fails, neglects or refuses to enter into the contract to perform the work, the certified check accompanying his bid and the amount therein mentioned, shall be declared to be forfeited to the city and shall be collected by it and paid into the general fund, and any bond forfeited may be prosecuted, and the amount due thereon collected and paid into the general fund.

Bids for materials, etc., only

5247. If any local, State or National agency or authority contributes the labor, or labor and any portion of the materials, supplies or equipment necessary for the construction of any improvement authorized under this division, the contract shall be for only those items which are not contributed by any such agency or authority. If proposals or bids are invited only for the furnishing of materials, supplies and equipment or any portion thereof not furnished by such agency or authority, the notice shall contain a statement to the effect that the legislative body may cancel the order for any undelivered materials, supplies or equipment by giving the successful bidder 24 hours notice of the cancellation, in which event the successful bidder will be entitled to compensation for only so much of the material, supplies and equipment as has been used prior to the giving of such notice of cancellation at the

Cancellation of orders

prescribed unit rates stated in the contract, and that the contractor shall agree to accept the return of any and all materials and supplies not used prior to the giving of such notice.

Notice of award

5248. Notice of the award of the contract shall be published by the clerk.

Performance of work by owners

5249. The owners of three-fourths of the frontage of lots and lands liable to be assessed, or their agents (who shall make oath that they are such owners or agents) shall not be required to present sealed proposals or bids, but may within 10 days after the first publication, or first posting if there is no publication, of the notice of the award of the contract, elect to take the work and enter into a written contract to do the whole work at the price at which the same has been awarded, and all work done under such contract shall be subject to such regulations as may be prescribed by ordinance of the legislative body.

Execution of contract

5250. If the owners fail to elect to take the work, and to enter into a written contract therefor within 10 days, or to commence the work within 15 days after the date of the written contract, and to prosecute the same with diligence to completion, the superintendent of streets shall enter into a contract with the original bidder to whom the contract was awarded, and at the prices specified in his bid.

Failure to enter into contract

Readvertisement

5251. If the original bidder neglects, fails or refuses, for 25 days after the first publication of the notice of the award of the contract, to enter into the contract, the legislative body, without further proceedings, shall again advertise for and receive proposals or bids, as in the first instance, and award the contract for the work to the then lowest regular bidder.

Same

5252. If no bids are received in response to this second call for bids, the legislative body may again advertise for and receive bids under the same proceedings at any time within six months from the time set for the first reception of bids, and let the contract to the then lowest bidder, and such delay shall in no way affect the validity of any of the proceedings or assessments levied thereunder.

Rejection of bids

5253. The bids of all persons and the election of all owners who have previously failed to enter into the contract shall be rejected in any bidding or election subsequent to the first for the same work.

Contractor's bond

5254. All contractors, contracting owners included, shall, at the time of executing any contract for street work, execute a bond to the satisfaction and approval of the superintendent of streets, with two or more sureties and payable to the city,

in a sum not less than 25 per cent of the amount of the contract, conditioned upon the faithful performance of the contract; and the sureties shall justify before any person competent to administer an oath, in double the amount mentioned in the bond, over and above all statutory exemptions.

Uncompleted contracts

5255. If the owner or contractor who may have taken any contract does not complete the work within the time limited in the contract, or within such further time as the legislative body may give him, the superintendent of streets shall report such delinquency to the legislative body which may relet the unfinished portion of the work, after following the procedure prescribed for letting the contract for the whole work in the first instance.

Advance of expenses

5256. Before being entitled to a contract, the bidder to whom the award was made, or the owners who have elected to take the contract, must advance to the superintendent of streets, for payment by him, the cost of publication of the notices, resolutions, orders and matters required under the proceedings prescribed in this division, and of such other notices as may be deemed requisite by the legislative body, together with all other incidental expenses incurred up to the time of entering into the contract.

Payment of expenses on abandonment

5257. If the work is abandoned by the city before work is actually started or before any materials, supplies or equipment have been furnished or used, the incidental expenses incurred previous to such abandonment shall be paid out of the city treasury, but such expense for which the city is liable and which shall have been paid by it may be charged as incidental expenses against the district benefited in any new proceeding had or taken for any work which includes substantially the same work as that which was included in the abandoned proceedings.

Notice of irregularities

5258. At any time within 10 days from the date of the first publication of the notice of award of the contract, any owner of, or other persons having any interest in, any lot or land liable to assessment, who claims that any of the previous acts or proceedings relating to the work are irregular, defective, erroneous or faulty, may file with the clerk a written notice specifying in what respect the said acts and proceedings are irregular, defective, erroneous or faulty. The notice shall state that it is made pursuant to this section.

Waiver of objections

5259. All objections to any act or proceeding occurring prior to the time within which such objections are permitted to be filed in relation to the work, not made in writing and in the manner and at the time specified, shall be waived, if the resolution of intention to do the work has been actually published, as provided in this division.

CHAPTER 10. DETERMINING VALIDITY OF PROCEEDINGS BEFORE WORK IS COMMENCED

Court action by legislative body

5265. At any time after bids have been received and prior to the date fixed for the beginning of work, the legislative body conducting the proceedings may bring an action in the superior court of the county in which it is situated to determine the validity of such proceedings and the validity of any contract entered or to be entered into pursuant thereto.

Court action by contractor

5266. Any contractor to whom a contract has been awarded may, if he believes that the proceedings are in any respect defective, erroneous or faulty and that a contract entered into pursuant thereto might be invalid, bring such an action to determine the validity of such proceedings, and of such contract.

Proceedings in rem

5267. Such an action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some newspaper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the action. The summons shall contain a general description of the boundaries of the assessment district. Jurisdiction shall be complete within 10 days after the full publication of such summons in the manner herein provided.

Appearance

5268. Anyone interested may, at any time before the expiration of said 10 days, appear and by proper proceedings contest the validity of such proceedings and contract or uphold the same.

Service on legislative body

5269. If the contractor brings the action the summons shall be served upon the legislative body and upon the superintendent of streets personally, and they shall have the right to appear and contest the validity of the proceedings and contract, or uphold the same.

Trial

Appeal

5270. The action shall be speedily tried and judgment rendered declaring the matter so contested either valid or invalid. Either party shall have the right to appeal to the Supreme Court at any time within 30 days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. The motion for a new trial of any such action must be heard and determined within 10 days from the filing of the notice of intention to move for a new trial.

Immaterial defects

5271. The court hearing the action, in inquiring into the regularity, legality or correctness of the proceedings and of the contract made or proposed to be made, must disregard any

error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding.

Pleading and practice

5272. All rules of pleadings and practice provided by the Code of Civil Procedure which are not inconsistent with the provisions of this division are applicable to the actions authorized by this chapter. All costs of such actions may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court.

Determination of validity of proceedings

5273. If the validity of the proceedings and of the contract or proposed contract is sustained, the validity of such proceedings or contract shall not thereafter be contested in any action, suit or proceeding, and the judgment entered in the action herein provided for shall be conclusive evidence of the validity of such contract and of all proceedings prior thereto. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

Effect of action on the contract

5274. If an action is commenced under the provisions of this chapter to determine the validity of any contract or proposed contract, and the contract has not been signed, the contractor shall not be obligated to sign the same until a judgment sustaining the validity of the proceedings and the proposed contract has become final. If the contractor has signed and executed the contract, he shall not be obligated to begin work until a judgment sustaining the validity of the proceedings and contract has become final. If a judgment is entered holding the contract invalid, the contractor shall be discharged and relieved of all obligation under the contract, and he and his sureties shall be discharged and relieved of all obligation upon any bond required by law in connection with such contract.

CHAPTER 11. PERFORMANCE OF THE CONTRACT

Authority of superintendent of streets

5280. The superintendent of streets is hereby authorized in his official capacity to make all written contracts, and to receive all bonds authorized by this division and to do any other act, either expressly or impliedly required by this division, that pertains to the street department.

Same

5281. He shall fix the time for the commencement, which shall not be more than 15 days from the date of the contract, and for the completion of the work under each contract entered into by him. The work shall be prosecuted with diligence from day to day thereafter to completion.

Extensions of time

5282. He may extend the time fixed for completion of the work from time to time, under the direction of the legislative body. All applications for extensions of time, if in writing,

must be filed in the office of the clerk before the expiration of the original time fixed in the contract, or of the time granted by extension, as the case may be. An extension of time may be granted by the legislative body after the expiration of the time originally fixed in the contract or as previously extended, and the extension so granted shall be deemed to commence and be effective from the date of such expiration. Any extension of time shall not release the sureties upon any bond required under this division.

Superintendence of work

5283. The work shall, in all cases, be done under the direction and to the satisfaction of the superintendent of streets and the materials used shall comply with the specifications and be to the satisfaction of the superintendent of streets and all contracts made therefor shall contain a provision to that effect unless the legislative body by resolution adopted within 10 days after the passage of the resolution ordering the work directs that the work shall be done under the direction of the engineer and the materials used shall comply with the specifications and be to the satisfaction of the engineer, instead of the superintendent of streets, and in such case the contract shall contain a provision to that effect.

Engineer may sign assessment

5284. The legislative body also may by resolution adopted within 10 days after the passage of the resolution ordering the work provide and direct that the assessment thereafter to be made in the proceeding shall be made and signed by the engineer instead of by the superintendent of streets.

Liability of city and its officers

5285. The contract shall contain express notice that, in no case, except where it is otherwise provided by law or by charter will the city, or any officer thereof, be liable for any portion of the expense, nor for any delinquency of persons or property assessed.

General rules for performance of work

5286. The legislative body may, by ordinance, prescribe general rules directing the superintendent of streets or the engineer, as the case may be, and the contractor as to the materials to be used, and the mode of executing the work, under all contracts thereafter made. The assessment and apportionment of the expenses of all such work shall be made by the superintendent of streets or the engineer, as the case may be, in the mode provided by this division.

Federal requirements

5287. If any fiscal agent of the United States Government contributes any money or materials to be used in the construction of any work provided for in this division, the requirements of the agency contributing such money or materials may be incorporated in the contract.

Cancellation

5288. If a contribution of labor or of labor and any portion of materials, supplies or equipment is to be made by any

local, State or National agency or authority, the contract shall contain a provision that the legislative body may cancel the order for any undelivered materials, supplies or equipment by giving the contractor 24 hours notice of said cancellation, and require the contractor to accept the return of the unused materials and supplies, in which event the contractor will be entitled to compensation for only so much of the materials, supplies and equipment as has been used prior to the giving of such notice. The contract shall also contain a provision that no materials, supplies or equipment shall be delivered until a delivery permit signed by the superintendent of streets has been received by the contractor.

CHAPTER 12. BOND FOR LABOR AND MATERIAL

Bond 5290. Every contractor, to whom is awarded any contract for street work under this division, shall at the time of signing and executing the contract, file with the superintendent of streets a good and sufficient bond, approved by the street superintendent in a sum not less than one-half of the total amount payable by the terms of the contract.

Amount 5291. The bond shall be executed either by two or more good and sufficient sureties who have each qualified before an officer competent to administer an oath, in an amount not less than the sum specified in the bond and over and above all statutory exemptions, or by one or more duly authorized corporate sureties, and must provide that if the contractor, or his subcontractor fails to pay for any materials, provisions, provender, or other supplies or use of implements or machinery used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, that the sureties will pay the same, to an amount not exceeding the sum specified in the bond.

Conditions

Claims 5292. Any person furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed, or any person renting or hiring teams or implements, or machinery for, or contributing to, the work to be done, or any person who performs work or labor upon the same, or any person who supplies both work and materials and whose claim has not been paid by the contractor or by the subcontractors of the contractor may, at any time within 30 days from the date of the recordation of the assessment file with the superintendent of streets a verified statement of his claim, together with a statement that the same, or some part thereof, has not been paid.

Claimants' lien 5293. Each person whose claim has not been paid by the contractor or his subcontractors, shall have a first lien upon

and against the assessment, any partial assessment, any reassessment and any bonds which may be issued to represent any assessment or reassessment, which lien may be enforced by action brought within three months after the date of the filing of the verified statement in the superior court of the county in which such work is done.

Priority of claims

5294. No assignment by the contractor of the whole or any part of the money, assessment, partial assessment, any reassessment and any bonds which may be issued to represent any assessment or reassessment, due him or to be due him under the contract, or for "extras" in connection therewith, whether made before or after a verified claim is filed pursuant to this chapter, shall take priority over such claims, and such assignment shall have no binding force in so far as the rights of the claimants, or their assigns, are concerned.

Bond for disputed claims

5295. If any contractor disputes the correctness or validity of any claim filed pursuant to this chapter, the city or superintendent of streets in its or his discretion may permit the contractor to deliver to the city or superintendent of streets a bond executed by some corporation authorized to issue surety bonds in a penal sum equal to one and one-fourth times the amount of the claim.

Conditions of bond

5296. The bond shall guarantee the payment of any sum which the claimant may recover on the claim together with his costs of suit in the action, if he shall recover therein. If a bond is filed with the consent of the city or superintendent of streets, the city or superintendent of streets shall not withhold any funds, assessment, partial assessment, any reassessment and any bonds which may be issued to represent any assessment or reassessment from the contractor on account of the claim. The sureties upon the bond shall be jointly and severally liable to the claimant with the sureties upon the contractor's original faithful performance bond posted by the contractor.

Action on bond

5297. Suit against the sureties on the bond of the contractor filed pursuant to this chapter may be brought by any claimant, or his assigns, at any time after the claimant has ceased to perform labor or furnish materials or both and until the expiration of six months after the period in which verified claims may be filed. The filing of a verified claim shall not be a condition precedent to the maintenance of such action against the sureties on the bond and an action on the bond may be maintained separately from and without the filing of an action against the city or officer by whom the contract was awarded. Upon the trial of the action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment therein rendered.

CHAPTER 13. GENERAL PROVISIONS RELATING TO ASSESSMENTS

Assessment of railroad rights of way

5300. Whenever a railroad, street or interurban railroad right of way shall front on or abut or parallel or be included with or divide longitudinally any street improved under this division or shall be included within any district to be assessed for the cost of any work provided in this division, such railroad right of way (whether it is owned in fee or as an easement) shall be included in the warrant, assessment and diagram and shall be assessed in the same manner and with the same effect as other lots, lands or parcels of land are assessed, and such railroad, street or interurban railroad right of way shall be subject to sale for nonpayment of assessments as provided in this division.

Omission of public property

5301. If any lot or parcel of land belonging to the United States, or to the State, or to any county, city, public agent, mandatory of the government, school board, educational, penal or reform institution or institution for the feeble-minded or the insane, is in use in the performance of any public function, and fronts upon the proposed work, or is included within the district to be assessed to pay the costs and expenses thereof, the legislative body may, in the resolution of intention, declare that such lots or parcels of land, or any of them, shall be omitted from the assessment thereafter to be made to cover the costs and expenses of the work.

Effect of

5302. If any such lots or parcels of land are omitted from the assessment, the total expense of all work done shall be assessed on the remaining lots or parcels of land fronting on the work, or lying within the limits of the assessment district, without regard to such omitted lots or parcels of land.

City liable for certain assessments

5303. If the legislative body, in the resolution of intention, declares that any such lots or parcels of land owned and used as provided in Section 5301 shall be included in the assessment, or if no declaration is made respecting any such lots or parcels of land, then the city shall be liable for such sums as may thereafter be assessed against such lots or parcels of land. The assessment shall be payable by the city out of the general fund unless the legislative body shall in its resolution of intention designate another fund. Any sums which may be assessed against any such lots or parcels of land shall not be payable by the city when such sums are paid by the owner of or the governing body controlling such lots or parcels of land.

CHAPTER 14. FRONTAGE ASSESSMENTS

When made

5315. The expenses incurred for any work authorized by this division, excluding the cost of any work done in such portion of any street as is required by law to be kept in order or repair by any person having railroad tracks thereon, and

excluding the cost of any work which has been declared in the resolution of intention to be assessed on a district benefited, shall be assessed upon the lots and lands fronting thereon, except as otherwise in this division specifically provided.

Front foot rate

5316. Each lot or portion of a lot shall be separately assessed, in proportion to the frontage, at a rate per front foot sufficient to cover the total expense of the work.

Main street crossings

5317. The expense of work done on main street crossings shall be assessed at a uniform rate per front foot of the quarter blocks and irregular blocks adjoining and cornering upon the crossings, and separately upon the whole of each lot or portion of a lot having any frontage in the blocks fronting on such main streets, half way to the next main street crossing, or to the end of such street if it does not meet another, and all the way on such blocks to a boundary line of the city where no such crossing intervenes, but only according to its frontage in such quarter blocks and irregular blocks.

Same

5318. Where a main street terminates in another main street, the expenses of the work done to one-half of the width of the street opposite the termination shall be assessed upon the lots in each of the two quarter blocks adjoining and cornering on that side, according to the frontage of such lots on the main streets, and the expenses of the work on the other half of the width of the street when the work is sewering of the terminating street only, shall be assessed upon the lots fronting on the termination and the lots adjacent to said lots on each side half way from the termination to the next terminating or intersecting street, according to the frontage of such lots on that side, and in all other work done on the termination, the property fronting on the termination shall be considered frontage and be assessed accordingly.

Alley and subdivision streets

5319. Where any alley or subdivision street crosses a main street, the expenses of all work done on the crossing shall be assessed on all lots or portions of lots half way on said alley or subdivision street to the next crossing or intersection, or to the end of such alley or subdivision street, if it does not meet another.

Same

5320. The expense of work done on alley or subdivision street crossings shall be assessed upon the lots fronting upon such alley or subdivision streets on each side thereof, in all directions, half way to the next street or place on either side, respectively, or to the end of such alley or subdivision street if it does not meet another.

Same

5321. Where a subdivision street or place terminates in another street or place, the expense of work done on one-half of the width of the subdivision street or place opposite the

termination shall be assessed upon the lot or lots fronting on such subdivision street or place so terminating, according to its frontage thereon, half way, on each side respectively, to the next street or place, or to the end of such street or place, if it does not meet another. The expense of the work on the other half of the width if the work is sewering of the terminating subdivision street or place shall be assessed upon the lots fronting on the termination and the lots adjacent to said lots on each side half way from the termination to the next terminating or intersecting street, according to the frontage of such lots on that side. In all other work done on the termination the property fronting on the termination shall be considered frontage and be assessed accordingly.

Work on one-half of the street

5322. Where any work except manholes, sewers, cesspools, culverts, crosswalks, piling and capping is done on one side of the center line of any street, or sewering or resewering is ordered to be done under the sidewalk on only one side of any street for any length thereof, the assessment for the expenses thereof shall be made only upon the lots and lands fronting nearest upon that side of the street and for intervening intersections only upon the two quarter blocks adjoining and cornering upon that side.

Grading by owners

5323. The owners of lots or lands fronting upon any street, the width and grade of which have been established by the legislative body, may perform, at their own expense (after obtaining permission from the legislative body so to do, but before the legislative body has passed its resolution of intention to order grading inclusive of this), any grading upon the street, to its full width, or to the center line thereof, and to its grade as then established.

Grading certificate

5324. Such owners may then procure, at their own expense, a certificate from the engineer, setting forth the number of cubic yards of cutting and filling made by them in the grading, and the proportions performed by each owner, and that the same is done to the established width and grade of the street, or to the center line thereof. The certificate may be filed with the superintendent of streets, who shall record the same in a properly indexed book kept for that purpose in his office.

Assessment credits

5325. Whenever the legislative body orders the grading of any portion of the street on which any grading certified as provided in Section 5324 has been done, the bids and contracts must express the price by the cubic yard for cutting and filling in grading. The owners or their successors in interest shall be entitled to credit on the assessment upon their lots and lands fronting on the street for the grading thereof, to the amount of the cubic yards of cutting and filling set forth in their certificate, at the prices named in the contract for said cutting and filling; or, if the grade meanwhile has been duly

altered, only for so much of said certified work as would be required for grading to the altered grade. However, the owners shall not be entitled to any credit in excess of the assessments for grading upon the lots and lands owned by them and proportionately assessed for the whole of the grading.

Same

5326. The superintendent of streets shall include in the assessment for the whole of the grading upon the same grade the number of cubic yards of cutting and filling set forth in all of the certificates recorded in his office, or for the whole of the grading to the duly altered grade so much of the certified work as would be required for grading thereto, and shall enter corresponding credits, deducting the same as payments upon the amounts assessed against the lots and lands owned, respectively, by the certified owners or their successors in interest. However, he shall not include any grading quantities or credit any sums in excess of the proportionate assessments for the whole of the grading which are made upon any lots and lands fronting upon the street and belonging to such certified owners or their successors in interest.

Work other than grading by owner

5327. Whenever any owners of any lots and lands fronting on any street do any work except grading on the street, in front of any block, at their own expense and the legislative body subsequently orders any work to be done of the same class in front of the same block, the work so done at the expense of such owners shall be excepted from the order ordering the work to be done if the work so done at the expense of such owners is upon the official grade, and in condition satisfactory to the street superintentendent at the time the order is passed.

Chapter 15. District Assessments

Previous chapter inapplicable

5340. The provisions of Chapter 14 of this division shall not apply to assessments upon an assessment district.

Diagram

5341. Whenever the resolution of intention declares that the cost and expenses of the work are to be assessed upon a district, the engineer shall prior to completion of the contract make a diagram of the property affected or benefited by the proposed work, as described in the resolution of intention, which is to be assessed to pay the costs and expenses thereof.

Contents

5342. The diagram shall show each separate lot or parcel of land, and the dimensions of each such lot or parcel of land, and the relative location of the same to the work proposed to be done, all within the limits of the assessment district. When the diagram has been approved by the legislative body, the clerk shall certify the fact and date thereof.

Assessment according to benefits

5343. Immediately after approval the diagram shall be delivered to the superintendent of streets, who shall immediately, after the contractor has fulfilled his contract to the

satisfaction of the superintendent of streets or the legislative body, on appeal, proceed to estimate upon the lots or parcels of land within the assessment district, as shown by the diagram, the benefits arising from such work, and to be received by each such lot or parcel of land. He shall thereupon assess upon and against the lands in the assessment district the total amount of the costs and expenses of such work, and in so doing shall assess the total sum upon the several lots or parcels of land in the assessment district, benefited thereby, in proportion to the estimated benefits to be received by each of the said several lots or parcels of land.

Next chapter applicable

5344. In other respects the assessment shall be made in accordance with the provisions of Chapter 16.

CHAPTER 16. MAKING AND CONFIRMING THE ASSESSMENT

Assessment

5360. After the contractor has fulfilled his contract to the satisfaction of the street superintendent, or the engineer if such power has been delegated to him, the superintendent or engineer, as the case may be, shall forthwith make an assessment to cover the sum due for the work performed and specified in the contract, including all incidental expenses, in conformity with the provisions of this part according to the character of the work done.

Contents

5361. The assessment shall briefly refer to the contract, the work contracted for and performed, and shall show the amount to be paid therefor, together with all incidental expenses, the amount of each assessment against each lot or portion of a lot, the number of each lot or portion or portions of a lot so assessed, and shall have attached thereto a diagram exhibiting each street or street crossing, place, property or rights of way on which any work has been done, showing the relative location of each lot or portion of lot to the work done, numbered to correspond with the numbers of the assessments.

Notice of filing

5362. The assessment shall be filed with the clerk. The clerk shall give notice of the filing of the assessment and of a time to be therein fixed by the clerk when all persons interested in the work done or in the assessment will be heard by the legislative body. The notice shall be posted and in addition be published.

Mailing

5363. Such notice shall also be given by mail.

Contents of notice

5364. Such notice shall designate the property within the assessment district belonging to the owner by street number, or some other description sufficient to enable the property owner to identify the property and a statement of the amount proposed to be assessed against such property.

Same

5365. Reference shall be made in the notices required by this chapter to the resolution of intention and the date of its passage or a description of the work therein mentioned and no other description thereof shall be necessary.

Appeal

5366. The owners, the contractor, or his assigns, and all other persons interested in any work done under this division, or in the assessment, feeling aggrieved by any act or determination of the superintendent of streets or engineer in relation thereto, or who claim that the work has not been performed according to the contract in a good and substantial manner or who claim that any portion of the work for any reason was omitted or illegally included in the contract or having or making any objection to the correctness of the assessment or diagram or other act, determination or proceedings of the superintendent of streets or engineer, shall prior to the day fixed for the hearing upon the assessment appeal to the legislative body by briefly stating in writing the grounds of appeal.

Correction of error

5367. Upon such appeal, the legislative body may remedy and correct any error or informality in the proceedings, and revise and correct any of the acts or determinations of the street superintendent or engineer relative to said work; may confirm, amend, alter, modify or correct the assessment or diagram in such manner as to it shall seem just, and require the work to be completed according to the directions of the legislative body; and may instruct and direct the street superintendent to correct the warrant, assessment, or diagram in any particular.

Decisions final

5368. All the decisions and determinations of the legislative body, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal to the legislative body, as to all errors, informalities, and irregularities which the legislative body might have avoided, or have remedied during the progress of the proceedings or which it can at that time remedy.

Errors

5369. No assessment, warrant, or diagram, and no proceedings prior to the assessment, shall be held invalid by any court for any error, informality, or other defect in the same, where the resolution of intention of the legislative body to do the work, has been actually published as provided in this division.

Confirmation of proceedings

When no appeal is taken or when the orders and determinations of the legislative body upon appeal have been complied with, and the legislative body is satisfied with the correctness of the assessment, the legislative body shall forthwith confirm the proceedings and the assessment and the street superintendent shall attach thereto a warrant bearing the date of such confirmation.

Contribution

5370. Whenever the resolution of intention declares that a contribution of labor or of labor and any portion of materials, supplies or equipment for the proposed work will be made by any local, State or National agency or authority, an assessment shall be made to cover the sum due for furnishing the materials, supplies or equipment as specified in the contract including all incidental expenses. In all other particulars the assessment shall be made in conformity with this part relating to district assessments. However, if all of the work described in the resolution of intention is not completed because the agency or authority ceases to furnish the labor provided for in the resolution of intention, for a period of 90 days, the street superintendent shall notify the legislative body of such cessation in writing. The legislative body may by resolution declare the contract terminated and order the superintendent of streets to make the assessment to cover the portions of work completed and incidental expenses incurred, in accordance with the benefits to be received by each of the several lots or parcels of land in the district, pursuant to the provisions of this part relating to district assessments.

Failure to complete

Warrant

5371. To the assessment shall be attached a warrant, which shall be signed by the superintendent of streets, and countersigned by the mayor. The warrant shall be substantially in the following form:

Form

By virtue hereof, I (name of the superintendent of streets), of the City of _____, County of _____ (or County or City and County of _____), State of California, by virtue of the authority vested in me as said superintendent of streets, do authorize and empower (name of contractor) (his or their) agents or assigns, to demand and receive, the several assessments upon the assessment and diagram hereto attached and this shall be (his or their) warrant for the same.

Date: _____

_____

(Name of superintendent of streets.)

Countersigned by (name of mayor).

Recordation

5372. The warrant, diagram and assessment shall be recorded in the office of the superintendent of streets. When so recorded the several amounts assessed shall be a lien upon the lands, lots, or portion of lots assessed, respectively, and such lien shall so continue until it and any bonds issued to represent the assessment are discharged of record.

Lien priorities

5373. The lien, whether bonds issue to represent the assessment or otherwise, shall be subordinate to all special assessment liens previously imposed upon the same property, but it shall have priority over all special assessment liens which may thereafter be created against the property; and from and after the date of the recording of any warrant, assessment

and diagram, all persons shall be deemed to have notice of the contents thereof.

Delivery to contractor

5374. After the warrant, assessment and diagram are recorded, the same shall be delivered to the contractor, or his agent, or assigns, on demand, but not until after the payment to the superintendent of streets of the incidental expenses not previously paid by the contractor, his agent or his assigns.

CHAPTER 17. DEMANDING PAYMENT OF THE ASSESSMENT

Collection

5390. The warrant, after its delivery to the contractor or his assigns, shall be and constitute full authority to the contractor, his agents or assigns, to collect the assessments and they shall be free to make demands upon the owners by virtue of the warrant and to demand and receive payment of the same, and give receipt therefor. They shall not receive any payments on the assessment without delivering receipts therefor and the contractor, his agents or assigns, immediately shall report all payments to the street superintendent. The street superintendent shall file all reports of payments by attaching the same in the assessment book immediately following the record of the assessment, and shall mark upon the assessment the date and fact of payment. The street superintendent also shall, upon presentation of the receipt, mark upon the assessment the date and fact of payment.

Return of warrant

5391. The warrant shall be returned to the superintendent of streets on or after 30 days after the date of the recording of the same, with the written statement of all payments received upon the assessment, signed by the contractor or his assigns. Thereupon, the superintendent of streets shall file the statement so made with the record of the warrant and assessment by attaching it in the assessment book immediately following the record of the assessment. Upon such filing, the warrant shall be redelivered to the contractor or his assigns.

Time of payment

5392. The superintendent of streets is authorized at any time to receive the amount due upon any assessment and warrant issued by him and to give a good and sufficient discharge therefor if a bond was not issued to represent the assessment.

Notice of suit on assessment

5393. When suit has been brought to collect the amount due upon any assessment, the plaintiff shall file with the superintendent of streets a written notice of the pendency of the action showing the particular assessments affected by the action. After the filing of the notice, the superintendent of streets shall not receive any money on account of the assessment, and he shall have no authority to cancel the assessment or give any discharge thereof without the written consent of the owner of the assessment until judgment has been rendered in the action or the same has been dismissed and the street

superintendent shall omit from the list of properties provided to be sent to the tax collector, any property upon which the assessment described in the notice is a lien.

Duplicate warrant

5394. If any warrant is lost, upon proof of such loss a duplicate can be issued upon which collections may be made with the same effect as on the original.

Interest

5395. After the filing of the contractor's written statement of payments, all amounts remaining due on any assessment shall draw interest at the rate of 1 per cent per month until paid, the interest to be computed from the date of the filing of the contractor's statement.

Collection by street superintendent

5396. Notwithstanding any other provisions of this division, the legislative body may, by ordinance, provide that all payments made upon any assessment and warrant within 30 days from the recordation thereof, shall be made to the superintendent of streets, who shall mail a statement to each owner of real property within the assessment district whose name appears on the last equalized assessment roll, at the address appearing on said roll or on file in the office of the clerk, or to both such addresses, if they are not the same. The statement shall contain a designation of the property assessed by street number, or some other description sufficient to enable the property owner to identify the property, statement of the amount of the assessment, and the time and place of payment, the effect of failure to pay within such time and that, if bonds are to be issued, a statement of that fact, designating the provisions of law pursuant to which such bonds are to be issued.

Bond

5397. If the superintendent of streets is authorized by ordinance to collect the assessments, the ordinance shall also provide that the superintendent of streets shall furnish to the contractor or his assigns a good and sufficient surety bond conditioned upon the full and prompt payment by the superintendent of streets to the contractor or his assigns of all assessments so collected by him. The bond shall be in an amount not less than 10 per cent of the total amount of the assessment shown on the assessment roll if such total amount does not exceed two hundred fifty thousand dollars ($250,000) and shall be in the amount of twenty-five thousand dollars ($25,000) if the total amount of the assessments shown on the assessment roll exceeds the sum of two hundred fifty thousand dollars ($250,000). The premium on the bond shall be payable as a part of the incidental expenses of the proceeding.

List of delinquencies

See also Stats 1941, p 1963

5398. On or before the fourth Monday of September of each year the superintendent of streets shall certify to the tax collector who collects the taxes for the city a list of the

properties within the city upon which there is a lien for delinquent assessments, as shown by the records of the street superintendent.

Tax bill notice

5399. The tax collector shall cause to be pasted or attached to or printed or stamped upon the tax bill or tax receipt, a notice which shall in substance be as follows:

"Notice of Assessment."

"There is an assessment lien on this property which must be paid to city street superintendent (or bureau of assessments in cities where such bureau exists) to avoid foreclosure."

Preparation

5400. If the tax collector is a county officer, he may require the notice to be pasted to or printed or stamped upon the tax bill to be prepared by the superintendent of streets and forwarded to the county tax collector on or before the fourth Monday in September.

CHAPTER 18. COLLECTING THE ASSESSMENT BY ACTION

Applicable to cash assessments only

5410. The provisions of this chapter shall not be applicable to assessments represented by the issuance of bonds nor to assessments collected on the tax rolls but shall be applicable only to other cash assessments levied pursuant to this division.

Action on assessment

5411. At any time after the first day of July next succeeding nine months following the date of recording the assessment, the contractor or his assignee may sue in his own name the owner of the land, lots or portions of lots assessed on the day of the date of the recording of the warrant, assessment and diagram, and recover the amount of any assessment remaining unpaid together with interest and any penalties allowed under this chapter. If any State, county or municipal taxes or any other special assessment is delinquent on the property the action may be brought at any time after 90 days after the recording of the assessment.

Attorney's fees

5412. When an action has been brought for the recovery of any assessments, the plaintiff shall be entitled to have and recover attorney fees on each assessment sued on. If the action is settled or a tender made prior to the trial of the action, or if judgment is taken on default, the attorney's fees shall be five dollars ($5) plus one dollar ($1) additional for each lot or parcel of land included in one action. If the action proceeds to trial the court having jurisdiction of the cause shall fix and allow a reasonable attorney fee, which shall not exceed fifteen dollars ($15) plus one dollar ($1) additional for each lot or parcel of land included in one

action. The attorney's fee in either case shall be in addition to all taxable costs and the plaintiff may have judgment therefor.

Unnecessary actions

5413. If the court finds an unnecessary number of actions have been brought, where the parties are identical, it may allow the costs of one action only.

Jurisdiction

5414. An action for the recovery of any assessment may be brought in the superior court within whose jurisdiction the city is, in which the work has been done. If any of the assessments are made against lots, portions of lots, or lands, the service of process in the action may be made in the manner prescribed by law. A single action may be brought under any assessment irrespective of the number of lots assessed where the parties defendant are identical. If separate actions are brought, they may be consolidated by order of the court.

Proof

5415. The warrant, assessment and diagram, with proof of nonpayment shall be prima facie evidence of the regularity and correctness of the assessment and of the prior proceedings and acts of the superintendent of streets, and the legislative body upon which the warrant, assessment and diagram are based, and prima facie evidence of the right of the plaintiff to recover in the action.

Costs for title search

5416. The plaintiff in such action may recover the cost of any abstract or report of search of title procured in good faith in order to determine ownership. The search shall be made by a reputable abstractor or title company and the cost shall not exceed five dollars ($5) per lot. The abstract or report of search together with the affidavit of payment shall be filed in the action.

Complaint contents

5417. In a complaint in any action for the recovery of an assessment it shall be sufficient to allege briefly that the legislative body ordered the work, the performance of the work under the contract, the making of the assessment, the issuing of the warrant and the making of the diagram; that an assessment (naming the amount) was levied against that certain lot or parcel of land (describing it) which, according to the information and belief of the plaintiff, is owned by the defendant; and that payment of the assessment has not been made.

Description of land by reference

5418. In describing a lot or parcel of land in a complaint for the recovery of any assessment it shall be sufficient to refer to the same by its number upon the diagram; provided, a certified copy of the warrant, assessment and diagram shall have been previously filed in the office of the recorder of the county in which the lot or parcel of land is situated. It shall be the duty of the recorder to so file any such certified copy presented to him upon payment of the filing fee therefor, which fee is hereby fixed at fifty cents ($0.50).

Notice of judgment

5419. Upon the entry of judgment or dismissal of the action the county clerk shall forthwith mail to the street superintendent of the city having jurisdiction over the proceeding in which the assessment was levied, a certified copy of the judgment or other evidence sufficient to advise the street superintendent of the judgment of the court in the action.

Fraudulent demands

Penalty

5420. If the contractor or his agent or any person acting in behalf of the contractor shall, prior to the filing of a complaint for the recovery of any assessment, or subsequent to the filing of the action and prior to the allowance of attorney fees and costs, make any written demand upon or present any bill or notice in writing to the owner, demanding, requesting or notifying such owner to pay or that there is due, attorney's fees or court costs in connection with the collection of the assessment, then the superintendent of streets is authorized, upon written demand of the owner, accompanied by the affidavit of the owner, that such written demand, bill or notice for the payment of attorney's fees and costs, or either thereof, was made upon or presented to such owner prior to the commencement of the action, or subsequent to the filing of the action and prior to the allowance of attorney's fees and costs, together with such written demand, bill or notice to mark said assessment "paid" and such assessment shall thereby be deemed to be paid and the lien thereof released. This section shall not apply to the service of summons and complaint in a civil action.

Premature actions

5421. If an action is brought for the recovery of any assessment prior to the time permitted for bringing such action, the plaintiff shall not recover and the defendant shall be entitled to have and recover such attorney's fees as the court may deem reasonable in addition to all taxable costs and he may have judgment therefor.

Judicial sales

5422. The court in which an action for the recovery of an assessment is commenced shall have power to adjudge and decree a lien against the premises assessed, and to order such premises to be sold on execution, as in other cases of the sale of real estate by the process of the courts. On appeal, the appellate courts shall be vested with the same power to adjudge and decree a lien and to order such premises to be sold on execution or decree as is conferred on the court from which an appeal is taken. Such premises, if sold, may be redeemed as in other cases.

Laws applicable

5423. In all actions now pending or hereafter brought under this division to recover street assessments, the proceedings therein shall be governed and regulated by the provisions of this division, and also, when not in conflict herewith, by the laws of this State.

CHAPTER 19. REASSESSMENTS

When assessment made

5500. If any assessment heretofore or hereafter made, issued or filed in the office of the clerk is void or unenforceable for any cause or if bonds have been or are issued to represent or be secured by any assessments and such issuance was or is not effective through the curative provisions in relation thereto, or any curative act that may be passed by the Legislature in relation thereto to make them valid and enforceable, then, in any of such events a reassessment therefor may be issued.

Purpose

5501. The true intent and meaning of this chapter is to make the cost and expense of any work made through an attempted compliance with this division payable by the real estate benefited by such work by making a reassessment therefor.

Such power of reassessing embraces both a full and partial reassessment, and is not exhausted by a single attempted exercise thereof.

Basis for reassessment

5502. A reassessment shall be ordered under any one of the following circumstances:

Bondholder's petition

(a) Whenever the owner or holder of any assessments, or bonds issued under this division to represent or be secured by assessments, or the person who would own or hold any such assessment or bonds if they were issued, requests the legislative body to order a reassessment. In such event if the legislative body is of the opinion that the assessments or bonds in question are not enforceable, it shall order the making and issuing of a reassessment covering only the assessments owned or held by the petitioner, or the assessments represented or secured by the bonds owned or held by such petitioner, or which would be owned or held by petitioner if issued.

Court order

(b) Whenever any court of competent jurisdiction in any action to foreclose the lien of any assessment or to enforce the obligation of any bond issued to represent or be secured by any assessments issued under this division for any reason holds such lien unenforceable, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such action.

Same

(c) Whenever any court of competent jurisdiction in any action to set aside the lien of any assessment or of any bond representing any assessment or in any action to quiet title against the lien of any such assessment, or bond, or in any action to enjoin the making, filing, confirmation or issuance of any assessment or bond to pay for the cost and expenses of any work done under this division, in its judgment decrees such assessments or bonds to be void or unenforceable, or enjoins the making, filing or issuance or confirmation of any such assessment or bond, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such action.

(d) Whenever any contractor or assignee of a contractor has done or performed any work pursuant to proceedings had and taken in attempted compliance with this division, and whenever prior to the issuance of any assessment, any court of competent jurisdiction in any action to invalidate the contract or any of such proceedings for any reason declares the contract or other proceedings to be invalid, then such court shall in and by its decree direct the making of a reassessment for the reasonable value of the work actually done and performed in good faith by the contractor, or such portion thereof as was of a kind that could lawfully have been ordered under the provisions of this division. Contractor's reassessment

5503. The superintendent of streets shall, upon the entering of a decree of court directing a reassessment or upon the making of an order by the legislative body directing a reassessment, proceed to make a reassessment in the following manner: Manner of reassessment

(a) If the reassessment is a partial one only, then it shall not be necessary for the diagram to show any other lots than the ones covered by such partial reassessment. Partial

(b) If it is a full reassessment: Full

(1) If the original assessment was made on the front-foot plan the reassessment shall be on the lots fronting on the work.

(2) If the original assessment was made against a district, the superintendent of streets shall prepare and file with the reassessment a diagram showing the lots or parcels of land deemed by him to have been benefited by the work. The reassessment shall assess upon and against each of the lots or parcels of land contained therein an amount arrived at as follows:

The benefits derived, or to be derived by each of the lots or parcels of land from the work estimated as of the date of the filing in the clerk's office of the original assessment shall first be listed. Then there shall be added thereto interest thereon from 30 days after the date of such filing of the original assessment at the rate of 7 per cent per annum, and the total sum shall constitute and be the amount of the proposed several assessments in such reassessment. The total of such reassessment, however, exclusive of interest, shall not exceed the cost and expenses of the work. Interest

5504. The reassessment need not be in any prescribed form, but shall refer to the original assessment filed, give the date of filing of the original assessment and state that it is made pursuant to the order of the legislative body or decree of the court, as the case may be, and shall be accompanied by a diagram showing the lots or parcels of land to be reassessed and their relation to the work. Form

5505. The reassessment shall then be presented to the legislative body, which shall fix a time for hearing before it. Such Time for hearing

Notice

time must be at least 20 days after the reassessment is so presented. The clerk shall then advertise the time of such hearing before the legislative body by publishing a notice in the newspaper in which the notice of award of contract for the work for which the assessment was made was published, unless the legislative body directs publication in some other paper.

Same

5506. If the reassessment is to be against the lots fronting the improvement, this fact shall be stated in the notice. If the reassessment is to be against the property in a district, then this fact shall be stated in the notice and a description of the district shall be set forth and the assessment diagram referred to for particulars. Such notice shall be published for five insertions, if the paper is a daily, or by two insertions if the paper is published less frequently.

Hearing

5507. At the time fixed for the hearing, or at such time or times to which the hearing may be thereafter adjourned, the legislative body shall consider the objections to the reassessment and in its discretion informally direct the revision, correction or modification of such reassessment in such manner as is most equitable to apportion to each lot or parcel of land thereby benefited the amount of the actual benefits

Confirmation

derived from the work. When the reassessment is revised, or corrected or modified so as to comply with the judgment of the legislative body, then it shall pass a resolution confirming the reassessment.

Recording

5508. The street superintendent shall thereupon record the reassessment with a certificate at the end thereof by the clerk, that it is the reassessment approved by the legislative body. He shall also note opposite the several assessments in the original assessment that have been displaced by the reassessment the fact that the reassessment has been made, giving its date, and shall credit upon such reassessment all payments theretofore made upon the original assessment, or upon the bonds issued to represent the original assessment, together with interest on such payments at the rate of 7 per cent per year from and after the date of such payments.

Enforcement

5509. The reassessment shall be collectible and payable in the same manner as an original assessment and shall be enforceable by action in the same manner provided in this division for enforcing an original assessment, and shall have the same weight in evidence. If bonds issued under or upon the security of the original assessment they shall also issue upon the reassessment for such sum as may be reassessed against the lots or parcels of land covered thereby.

Effect on original assessments and bonds

5510. When the reassessment is recorded the original assessment shall be canceled by the street superintendent so far as it affects the particular assessments involved. New

bonds shall not be issued until the original bonds are delivered up to the treasurer, who shall cancel them. The lien of the reassessment shall hold its relative rank as to other special assessment liens as of the date of filing of the original assessment.

Assessment for completed work

5511. If work done in attempted compliance with this division is fully completed to the satisfaction of the street superintendent or engineer, as the case may be, it shall nevertheless be the duty of the proper officer to make and file an assessment for the costs and expenses thereof, which shall form the basis of a reassessment if the assessment is unenforceable.

CHAPTER 20. REASSESSMENTS TO RELIEVE OWNERS

When made

5550. Notwithstanding any other provision of this division, the legislative body shall have power at any time before the assessments levied under this division are fully paid and discharged to order a reassessment under the terms and conditions set forth in this chapter.

City contributions

5551. Whenever the legislative body determines that the work for which an assessment was previously made was for the construction, alteration, repair, improvement or betterment of any major traffic artery, designed for or generally used by the people of the city as a whole, the legislative body may, in its discretion, determine to aid the same by appropriating any funds available for such purpose. It shall not be necessary to set forth or give notice of such contribution in the resolution of intention or other proceedings hereunder.

Apportionment

5552. Upon appropriating any such funds in aid of any work, the legislative body by resolution shall direct the street superintendent to apportion the sum thus appropriated pro rata between all properties assessed upon the original assessment or any reassessment made therefor, whichever is the latest in point of time. Such sum shall be apportioned in the same ratio that the original assessments bore to the total assessment against all properties assessed.

Reassessment

5553. The street superintendent shall thereupon prepare a reassessment after deducting such apportionment rebate and return the same to the legislative body. The reassessment need not be in any prescribed form but shall refer to the original assessment filed, giving the date of filing of the original assessment, and shall state that it was made pursuant to the order of the legislative body and shall be accompanied by a diagram showing the lots to be reassessed and their relation to the work. Such diagram may be the original assessment diagram if it otherwise conforms to the provisions of this chapter.

Time for hearing

5554. Upon receipt of the reassessment the legislative body shall fix a time and place when any and all persons objecting to the proposed reassessment may be heard. Such time must be at least 20 days after the reassessment has been presented.

Notice

The clerk shall then advertise the time of such hearing before the legislative body by publishing a notice in the newspaper in which the notice of award of contract for the work for which the assessment was made was published, unless the legislative body directs publication in some other newspaper.

Contents

5555. The notice shall contain a reference to the original assessment and diagram and reference shall also be made to the reassessment and diagram of the street superintendent for full particulars, as to the extent of the district affected by these proceedings and for all other particulars.

Hearing

5556. At the time fixed for the hearing or at such time or times to which the hearing may be continued the legislative body shall consider all objections to the reassessment and may

Confirmation

correct inequalities or mistakes therein. When the legislative body is satisfied with the correctness of the reassessment it shall confirm the same.

Recording

5557. The street superintendent shall record the confirmed reassessment and diagram, in his office, with a certificate at the end thereof executed by the clerk that it is the reassessment approved by the legislative body. He shall also note opposite the several assessments in the original assessment that have been displaced by the reassessment the fact that the reassessment has been made, giving its date and shall credit upon such reassessments all payments theretofore made upon the original assessment or upon the bonds issued to represent the original assessment.

Enforcement

5558. The reassessment shall be collectible by and payable to the treasurer or such other officer as the legislative body may designate so far as practicable in the same manner as an original assessment and shall be enforceable by action in the manner provided in this division for enforcing an original assessment and shall have the same weight in evidence.

Effect on outstanding bonds

5559. If bonds issued under or upon the security of the original assessment, no reassessment made pursuant to this chapter shall change the security or lien of any such bond in any manner whatsoever or the method of the enforcement thereof. The lien of such reassessment shall hold its relative rank as to other special assessment liens as of the date of filing of the original assessment. Upon confirming the reassessment, the city shall transfer into the bond and assessment redemption fund the amounts so apportioned among the several assessments.

Refunds

5560. Whenever prior to the confirmation of the reassessment any principal payments have been made on any assessment, or on any bond issue to represent any such assessment, the owner of record of the property against which such assessment was levied, at the time such payment was made, or where a purchaser under a contract of purchase or a lessee under a lease, pursuant to the terms of which contract of purchase or lease, is required to and has made such payments upon the original assessment or bonds, then such purchaser or lessee shall be entitled to receive a refund of an amount of the difference between the original assessment and the reassessment in the proportion that such payments made by him bears to the original assessment, with respect to the lot or parcel of land for which such payments were made. The balance of any such appropriation, as determined by the reassessment, shall be credited pro rata to the bonds in payment thereof, applying such payment first to the interest due and then upon the principal. Thereafter the treasurer shall pay to the holder of each bond the payment so credited from the bond and assessment redemption fund. The treasurer is hereby authorized and directed to make all payments of refunds as authorized by this chapter.

Notice of refund

5561. Whenever it shall appear to the legislative body that payments have been made on any such assessments or bonds prior to the reassessment, it shall be its duty to cause to be published in the newspaper in which the ordinance or resolution of intention for the work was published, unless the legislative body directs publication in some other paper, a notice stating the fact of such reassessment and calling upon all property owners affected by the work to make claim for refund within two years from date of the first publication of the notice. Reference shall be made to the reassessment and diagram for all particulars. Such notice shall be published once a week for two weeks.

Limitation on claims

5562. If claim for such refund is not made within the period specified, then all claims therefor shall be barred and the amount remaining unclaimed shall revert to the fund from which the supplemental appropriation was made by the legislative body.

Limitation on actions

5563. No action shall be brought to contest, modify, annul, review or in any way attack the validity of the reassessment and the proceedings had under this chapter unless the same shall have been commenced within 30 days after the recording of the diagram and reassessment, and thereafter all persons shall be barred from any such action or any defense of invalidity of the reassessment and all bonds issued thereon.

Reassessment costs

5564. In making the reassessment the street superintendent shall first deduct from the amount appropriated by the legislative body the estimated cost of the reassessment proceedings. If the estimate for any reason exceeds the actual cost thereof, then the excess of the fund reserved for the payment of costs shall revert to the fund from which the appropriation was made. If the estimate proves to be insufficient to meet the costs of the reassessment, the legislative body shall appropriate such additional sums as may be necessary to meet the excess costs and expenses thereof.

No bar to future reassessments

5565. The making of any reassessment pursuant to this chapter in any proceedings shall not constitute a bar or limit the right to make further reassessments as the legislative body may determine.

CHAPTER 21. MISCELLANEOUS ASSESSMENT PROVISIONS

Proportionate assessments

5580. The legislative body, instead of waiting until the completion of the work may, in its discretion, and not otherwise, upon the completion of two blocks or more of any work, order the street superintendent to make an assessment for the proportionate amount of the contract completed, and thereupon proceedings and rights of collection of that assessment shall be the same as provided in this part for the making and collection of other assessments.

Payments by tenants

5581. Any tenant or lessee of the lands or lots liable may pay the amount assessed against the property of which he is the tenant or lessee under the provisions of this division, or he may pay the price agreed on to be paid under the provisions of Section 5580, either before or after an action is brought, together with costs, to the contractor, or his assigns, or he may redeem the property, if sold on execution or decree for the benefit of the owner, within the time prescribed by law, and deduct the amount so paid from the rents due and to become due from him. For any sums so paid beyond the rents due from him, he shall have a lien upon and may retain possession of the land and lots until the amount so paid and advanced is satisfied, with legal interest, from accruing rents, or by payment by the owner.

Payments by city

5582. The legislative body may, in its discretion, provide by resolution that the whole or any part of the cost and expenses of any of the work mentioned in this division shall be paid out of the treasury of the city from such fund as the legislative body may designate, in which case it shall be so stated in the resolution of intention and the liability and obligation to pay any sum so provided for shall accrue and become fixed upon the date of the confirmation of the assessment by the legislative body, and thereupon the legislative body shall order that amount to be forthwith paid.

Deduction of city contributions

5583. Whenever a part of the cost and expenses of the work is to be paid by the city, the superintendent of streets, in making up the assessment, shall first deduct from the whole cost and expenses such part thereof as has been so ordered to be paid out of the city treasury, and shall assess the remainder of the cost and expenses proportionately upon the lots, parts of lots and lands fronting on the streets where the work was done, or liable to be assessed for such work, and in the manner provided for in this division.

County work Furnishing materials

5584. If a county is conducting the proceedings under this division the legislative body may also purchase all or any part of the materials to be used in doing any of the work mentioned in this division and furnish the same therefor. The purchase may be made from such funds of the county as the legislative body may designate.

If the county has a purchasing agent, the materials shall be purchased by him; otherwise the materials shall be purchased by the legislative body by contract let to the lowest responsible bidder after notice calling for bids has been published at least five days in a newspaper of general circulation in the county. If the county is to furnish materials the resolution of intention shall so provide. When such provision is made, the execution of the contract for the improvements shall create a liability on the part of the county to furnish the materials provided for in the resolution.

Chapter 22. Maintenance of Sidewalks

Article 1. General Provisions

"Sidewalk"

5600. As used in this chapter "sidewalk" includes a park or parking strip maintained in the area between the property line and the street line and also includes curbing, bulkheads, retaining walls or other works for the protection of any sidewalk or of any such park or parking strip.

Maintenance work

5601. This chapter shall only apply to maintenance and repair proceedings, whether upon work originally done under this division or otherwise, and shall not be used for the construction of new improvements. The "Special Assessment Investigation, Limitation and Majority Protest Act of 1931" shall not apply to proceedings taken under this chapter.

Alternate procedure

5602. This chapter constitutes a separate and alternate procedure for performing the works specified herein and no other provisions of this division shall apply to proceedings instituted hereunder.

Article 2. Repairs

Maintenance by lot owner

5610. The owners of lots or portions of lots fronting on any portion of a public street or place when that street or

place is improved or if and when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of those works or areas save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons shall be under a like duty in relation thereto.

Notice to repair

5611. When any portion of the sidewalk is out of repair or pending reconstruction and in condition to endanger persons or property or in condition to interfere with the public convenience in the use of such sidewalk, the superintendent of streets shall notify the owner or person in possession of the property fronting on that portion of such sidewalk so out of repair, to repair the sidewalk.

How given

5612. Notice to repair may be given by delivering a written notice personally to the owner or to the person in possession of the property facing upon the sidewalk so out of repair, or by mailing a postal card, postage prepaid, to the person in possession of such property, or to the owner thereof at his last known address as the same appears on the last equalized assessment rolls of such city or to the name and address of the person owning such property as shown in the records of the office of the clerk.

Posting

5613. The postal card shall contain a notice to repair the sidewalk so out of repair, and the superintendent of streets shall, immediately upon the mailing of the notice, cause a copy thereof printed on a card of not less than 8 inches by 10 inches in size, to be posted in a conspicuous place on the property.

Contents

5614. The notice shall particularly specify what work is required to be done, and how it is to be done, and what materials shall be used in the repair and shall further specify that if the repair is not commenced within three days after notice is given and diligently and without interruption prosecuted to completion, the superintendent of streets shall make such repair, and the cost of the same shall be a lien on the property.

Repair by city

5615. If the repair is not commenced and prosecuted to completion with due diligence, as required by the notice, the superintendent of streets shall forthwith repair the sidewalk.

Notice of cost

5616. Upon the completion of the repair, the superintendent of streets shall cause notice of the cost of the repair to be given in the manner specified in this article for the giving of

notice to repair, which notice shall specify the day, hour and place when the legislative body will hear and pass upon a report by the superintendent of streets of the cost of the repair, together with any objections or protests, if any, which may be raised by any property owner liable to be assessed for the cost of such repair and any other interested persons.

Report

5617. Upon the completion of the repair, the superintendent of streets shall prepare and file with the legislative body a report specifying the repairs which have been made, the cost of the repairs, a description of the real property in front of which the repairs have been made and the assessment against each lot or parcel of land proposed to be levied to pay the cost thereof. Any such report may include repairs to any number of parcels of property, whether contiguous to each other or not.

Hearing on cost

5618. Upon the day and hour fixed for the hearing the legislative body shall hear and pass upon the report of the superintendent of streets, together with any objections or protests which may be raised by any of the property owners liable to be assessed for the work of making such repair and any other interested persons. Thereupon the legislative body may make such revision, correction or modifications in the report as it may deem just, after which, by motion or resolution, the report as submitted, or as revised, corrected or modified, shall be confirmed. The legislative body may adjourn the hearings from time to time. The decisions of the legislative body on all protests and objections which may be made, shall be final and conclusive.

Article 3. Collection of Cost of Repair

Assessment of costs

5625. The cost of the repair may be assessed by the legislative body against the parcel of property fronting upon the sidewalk upon which such repair was made, and such cost so assessed, if not paid within five days after its confirmation by the legislative body, shall constitute a special assessment against that parcel of property, and shall be a lien on the property for the amount thereof which lien shall continue until the assessment and all interest thereon is paid, or until it is discharged of record.

Record of lien

5626. The superintendent of streets may file in the office of the county recorder of the county in which the parcel of property is located, a certificate substantially in the following form, to wit:

Form

NOTICE OF LIEN

Pursuant to the authority vested in me by the Improvement Act of 1911, I did, on the _____ day of _____, 19___, cause

the sidewalk, curb, or park or parking strip, bulkheads, retaining walls or other works (as the case may be) in front of the real property hereinafter described, to be repaired and improved, and the legislative body of said city (county, or city and county) did, on the _____ day of _____, 19___, by Resolution No. _____ assess the cost of such repair upon the real property hereinafter described, and the same has not been paid nor any part thereof, and the said city (county, or city and county), does hereby claim a lien on said real property in the sum of _____ dollars ($_____), and the same shall be a lien upon said real property until the said sum, with interest at the rate of 6 per cent per annum, from the said _____ day of _____, 19___ (insert date of confirmation of assessment), has been paid in full and discharged of record.

The real property hereinbefore mentioned and upon which a lien is claimed, is that certain piece or parcel of land lying and being in the (name of city, or city and county) the county of _____, State of _____, and particularly described as follows, to wit:

(Description of property)

Dated this _____ day of _____, 19___.

_____
Superintendent of streets

Foreclosure

5627. From and after the date of the recording of the notice of lien, all persons shall be deemed to have had notice of the contents thereof. The notice of lien may include claims against one or more separate parcels of property, whether contiguous or not, together with the amount due, respectively, from each such parcel. The statute of limitation shall not run against the right of the city to enforce the payment of the lien. If any such lien is not paid the city may file and maintain an action to foreclose such lien in the same manner and under the same procedure, so far as applicable, as that under which delinquent bonds are foreclosed under this division.

Collection by tax collector

5628. As an alternative method of collection of the amount of the lien, the legislative body, after confirmation of the report of the superintendent of streets, may order the notice of lien to be turned over to the assessor and the tax collector of the city, whereupon it shall be the duty of those officers to add the amount of the assessment to the next regular bill for taxes levied against the lot or parcel of land. If city taxes are collected by the county officials, the notice of lien shall be delivered to the county auditor, who shall enter the amount thereof on the county assessment book opposite the description of the particular property and the amount shall be collected together with all other taxes thereon against the property. The notice of lien shall be delivered to the county

auditor before the date fixed by law for the delivery of the assessment book to the county board of equalization.

Enforcement

5629. Thereafter the amount of the lien shall be collected at the same time and in the same manner as ordinary city taxes are collected, and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary city taxes. All laws applicable to the levy, collection and enforcement of city taxes and county taxes are hereby made applicable to such special assessment taxes.

Penalties

Chapter 23. Liability for Defective Streets

Liability of city

5640. If, because any graded street or sidewalk is out of repair and in condition to endanger persons or property passing thereon, any person, while carefully using the street or sidewalk and exercising ordinary care to avoid the danger, suffers damage to his person or property, through any such defect therein, no recourse for damages thus suffered shall be had against the city.

Liability of officers

5641. If the defect in the street or sidewalk has existed for a period of 24 hours or more after written notice thereof to the superintendent of streets, then the person on whom the law may have imposed the obligations to repair such defect in the street or sidewalk, and also the officer through whose official negligence such defect remains unrepaired, shall be jointly and severally liable to the party injured for the damage sustained; provided, that the superintendent of streets has the authority to make the repairs, under the direction of the legislative body, at the expense of the city.

Chapter 24. Limitation of Actions

Review of proceedings

5660. No action, suit, or proceeding to set aside, cancel, avoid, annul or correct any assessment or reassessment, or to review any of the proceedings, acts, or determinations therein, or to question the validity of, or to enjoin the collection of the assessments or reassessments, or to enjoin the issuance of bonds to represent the same, shall be maintained by any person unless such action is commenced within 30 days after the recording of the warrant, diagram and assessment or reassessment, and thereafter all persons shall be barred from any such action or any defense of invalidity of the assessment or of bonds issued thereon or of the reassessment if such is made and of bonds issued thereon.

Validity of proceedings

5661. No proceedings taken or had under this division shall ever be held to be invalid on the ground that the street, right of way, public property or any portion thereof, upon which

the work or any part thereof is or was done has not been lawfully dedicated or acquired; provided, the same is lawfully dedicated or acquired, or an order of immediate possession and use thereof has been obtained, at any time before judgment is entered in the action involving such proceeding.

CHAPTER 25. DUTIES OF OFFICERS

Article 1. The Superintendent of Streets

Office and records

5680. The superintendent of streets shall keep a public office in some convenient place within the city, and shall keep such records as may be required by this division. The records so kept and signed by him shall have the same force and effect as other public records, and copies therefrom duly certified, may be used in evidence with the same effect as the originals. The records shall, during all office hours, be open to the inspection of any person wishing to examine them, free of charge.

Execution of street laws

5681. The superintendent of streets shall see that the laws, ordinances, orders, and regulations relating to the public streets are fully carried into execution, and that the penalties thereof are rigidly enforced. He shall keep himself informed of the condition of all the public streets and also of all public buildings, parks, lots, and grounds of the city, as may be prescribed by the legislative body.

Bond

5682. The superintendent of streets shall, before entering upon the duties of his office, give bonds to the city, with such sureties and for such sums as may be required by the legislative body. If he fails to see that the laws, ordinances, orders, and regulations relating to the public streets are carried into execution, after notice from any citizen of a violation thereof, he and his sureties shall be liable upon his official bond to any person injured in his person or property in consequence of said official neglect.

Sewer cleaning

5683. The superintendent of streets shall superintend and direct the cleaning of all sewers, and the expense of the same shall be paid out of the street or sewer fund of the city.

Service of notice

5684. If the superintendent of streets is required to give notice in writing to any person under this division, he may personally serve such notice, and certify to the fact of such service, or any person, with the permission of the superintendent of streets, may serve such notice and such person shall file an affidavit of service with the superintendent of streets.

Records

5685. The superintendent of streets shall keep a record of the service of all notices which are served by him or with his permission.

Verifications

5686. For all purposes and in all cases where a verification is required under this division, such verification may be made

before the superintendent of streets who is hereby authorized to administer oaths for that purpose, or before any other person authorized to administer oaths.

Article 2. The Engineer

Surveying and engineering work

5700. The engineer or where there is no engineer, an engineer of work shall be the proper officer to do the surveying and other engineering work necessary to be done under this division, and to survey and measure the work to be done under contracts for grading, macadamizing, or improving streets and other work done under this division, and to estimate the costs and expenses thereof, and perform such other duties under this division as may be directed by the legislative body. Every certificate signed by him in his official capacity shall be prima facie evidence in all courts in this State of the truth of the contents. He shall also keep a record of all surveys made under the provisions of this division, as in other cases.

Engineer of work

5701. In its discretion, the legislative body may appoint an engineer of work, other than the engineer or in place of the engineer, and all provisions of this division applicable to the engineer shall apply to such engineer of work. The legislative body shall initially fix or thereafter confirm the compensation of the engineer or engineer of work.

Article 3. The Superintendent of Construction

Superintendent of construction

5710. The superintendent of streets, or the engineer, if the legislative body has by resolution directed that the work be done under his direction and to his satisfaction, shall, when in his judgment it is necessary, appoint a suitable person to take charge of and superintend the construction and improvement of any work authorized by this division, whose duty it shall be to see that the contract made for the doing of the work is strictly fulfilled in every respect and in case of any departure therefrom to report the same to the officer who appointed him. Such person shall be allowed for his time actually employed in the discharge of his duties such compensation as shall be just, but not to exceed ten dollars ($10) per day. The sum to which the party so employed shall be entitled shall be deemed to be incidental expenses within the meaning of those words as used in this division.

Article 4. Provisions Applicable to Counties Only

Performance of duties by others

5720. If a county is conducting the proceedings the legislative body may appoint any competent county officer, other than the county surveyor, without compensation, as the officer to perform any or all of the duties conferred upon the street superintendent or the engineer in this division.

Engineer of work

5721. If the legislative body of a county appoints an engineer of work in accordance with Article 2 of this chapter, it may provide that the work shall be done under his direction and to his satisfaction and that the materials used shall comply with the specifications and be to the satisfaction of such engineer of work and it may provide that the engineer of work shall make and sign the assessment. The contract shall nevertheless be entered into with the county surveyor, and the assessment and warrant when confirmed shall be recorded in the office of the county surveyor.

CHAPTER 26. COUNTY MAINTENANCE DISTRICTS

"Maintenance district"

5820. As used in this chapter, "maintenance district" means an assessment district which a county board of supervisors has created pursuant to the provisions of this chapter.

Creation of

See also Stats 1941, p 2766

5821. The board of supervisors may, in its resolution of intention to order work done or improvements made or by separate resolution of intention, declare its intention to order that the expenses of maintaining and operating any or all of the said improvements or any or all other existing improvements such as are permitted to be constructed under this division, including the cost of necessary repairs, replacements, fuel, power, electrical current, care, supervision, and any and all other items necessary for the proper maintenance and operation thereof, shall be assessed, either partly or wholly, upon the lands lying within the assessment district which is to be assessed to pay the cost of the construction of the said improvement, or upon such district as the board of supervisors determines will be benefited by the maintenance and operation of the improvement proposed to be maintained. The amounts so assessed shall be levied and collected in the same manner and by the same officers as taxes for county purposes are levied and collected.

Resolution of intention

5822. The resolution of intention shall describe the boundaries of the district which is to be assessed for such maintenance and operation, or if the improvements or any part thereof to be maintained or operated are constructed in the same proceeding, it may describe the maintenance district as having the same boundaries as those of the district to be assessed for the cost of constructing the improvement. In either case the maintenance district may be designated by a name by which it may thereafter be referred to in all subsequent proceedings, including proceedings for the levy and collection of taxes.

City territory

5823. The maintenance district may include property lying within one or more cities if the consent of the legislative body of each such city to the formation of such district expressed

by resolution, is first obtained before the resolution of intention is adopted by the board of supervisors.

Protests

5824. At any time not later than the hour for hearing objections to the proposed work as provided in this division, or at any time not later than the time fixed in the resolution of intention for the hearing of objections, if the resolution of intention provides for maintenance only, any person permitted by the provisions of this division to make written protest against the proposed work or against the extent of the district to be assessed therefor, or both, may make like protest and in like manner against the ordering of the formation of the maintenance district or against the extent of the maintenance district, or both.

Hearing

5825. The board of supervisors, in addition to hearing protests against the proposed work and the extent of the district to be assessed therefor, shall hear and pass upon all protests against the formation of the maintenance district and against the extent thereof, and its decision shall be final and conclusive.

Majority protest

5826. If the board of supervisors finds that the protest against the formation of the maintenance district is made by the owners of more than one-half of the area of the property included within such district, no further proceedings shall be taken, unless the protests are overruled by an affirmative vote of four-fifths of the members of the board of supervisors, for a period of six months from the date of the decision of the board of supervisors on the hearing. The board of supervisors may adjourn the hearing from time to time.

Notice

5827. If the board of supervisors, in its resolution of intention, declares its intention to order a maintenance district formed, the notice of improvement shall likewise give notice of such declaration of intention and that protests against such maintenance district may be filed and will be heard in accordance with the provisions of this chapter.

Ordering maintenance

5828. The board of supervisors shall acquire jurisdiction to order that the maintenance district be formed in the same manner prescribed in this division for the acquiring of jurisdiction to order the construction of improvements, and it may thereupon by resolution order the formation of such a maintenance district, which order may be contained in the resolution ordering the construction of the work in those cases where such work is provided to be done in the resolution of intention.

County assessor to segregate property

5829. A copy of the resolution ordering the formation of the maintenance district shall be filed in the office of the county assessor and the county assessor shall thereafter, in making up the assessment roll, segregate the property included within

such district on the assessment roll under the designation contained in the resolution.

Maintenance tax
See also Stats 1941, p 2767

5830. The board of supervisors shall thereafter, in each year, prior to the time for fixing the county tax rate, estimate the cost of maintaining and operating the improvements to be maintained and operated within the district during the ensuing year. The board shall decide whether or not the cost shall be borne in whole or in part by the maintenance district and shall, in addition to all other taxes, fix a special tax rate for the lands within the maintenance district that will raise an amount of money sufficient to cover the expense of maintaining and operating the improvements during the ensuing year, or that will raise such portion of the expense as the board of supervisors determines shall be borne by the district. The board of supervisors shall levy a special assessment tax each year upon the lands in such district sufficient to pay such expense or the portion thereof which must be paid by the district.

Levy and collection

5831. The special assessment tax shall be levied and collected at the same time and in the same manner as the general tax levy for county purposes and when collected shall be paid into the county treasury to the credit of the fund of the maintenance district and be used for the payment of the expenses of such district. The board may control and order the expenditure thereof for such purposes.

County payments

5832. The board of supervisors may determine that the whole or any part of the expense of such maintenance shall be paid by the county. If the county is to contribute toward the expenses of such maintenance the resolution of intention shall so provide. When such provision is made the execution of the contract for maintenance shall create an obligation in the county to make the contribution provided for in the resolution.

Fund transfers

5832.5. The board of supervisors may temporarily transfer moneys to the maintenance district fund from other funds in which such moneys are not immediately needed. The money so transferred shall be used for the purposes provided in this chapter and be retransferred from the maintenance district fund out of the first available receipts.

Duties of board of supervisors

5833. The board of supervisors of the county in which a maintenance district is formed shall:

(a) Make and enforce all rules and regulations necessary for the administration, operation and government of such district.

(b) Execute all contracts and make all necessary provisions for the maintenance and operation of the district.

(c) Appoint and employ all necessary agents, superintendents, engineers and labor for the proper performance of the work.

(d) Perform all other acts necessary or proper to accomplish the purposes of this chapter.

Contracts

5834. All contracts shall be let to the lowest responsible bidder. The board shall advertise for two or more days in a newspaper of general circulation published in the county, inviting bids for furnishing labor, material or supplies before any contract is made therefor. The board may require such bonds as it may deem adequate from the successful bidder to secure the faithful performance of the contract and the payment of all claims for labor and materials, and may reject any and all bids.

County maintenance

5835. Nothing in this chapter shall be construed as prohibiting the county itself from maintaining and operating any or all of the improvements when ordered by the board of supervisors and from purchasing the materials and supplies and employing the labor necessary for such purpose.

Property ownership

5836. The title to all property acquired by a maintenance district shall be vested in the county. Upon the dissolution of the district by reason of all of its territory being included within a city, such property shall thereupon become the property of such city, and if all of the district is included within more than one city then such property shall be subject to the disposition of the board of supervisors of the county. Such disposition shall be between the several cities in such manner as to the board seems most just and equitable.

Alteration of boundaries

5837. The boundaries of any maintenance district may be altered, and contiguous territory whether it is within incorporated or unincorporated territory may be annexed thereto. If incorporated territory is sought to be annexed, consent thereto shall first be obtained from the legislative body of the city.

The board of supervisors may by resolution fix a time and place for hearing upon the question of annexation of such territory to an existing maintenance district. The resolution shall describe the boundaries of the contiguous territory proposed to be annexed.

The date set for the hearing on the proposed annexation shall be at least three weeks from and after the date of the adoption of the resolution setting the hearing.

Notice

5838. The board of supervisors shall cause notice of the time, place and purpose of the hearing to be given by post card mailed to each owner whose name and address appears on the last equalized assessment roll and who owns real property within the boundaries of the territory sought to be

annexed and within the district to which such territory is proposed to be annexed. The person directed by the board of supervisors to mail the post card notices shall file, upon the completion of the mailing, an affidavit setting forth the time and manner of the compliance with this section.

In addition, the board of supervisors shall cause copies of the resolution to be posted in three conspicuous places within the territory proposed to be annexed and within the maintenance district to which such territory is proposed to be annexed.

Hearing

5839. At the time fixed for the hearing or to which it may be continued the board of supervisors shall hear and pass upon the proposal and any objections which may be filed to the inclusion of any property within the proposed annexation.

The board of supervisors may, by order entered upon its minutes, determine that such territory or any part thereof will be benefited by annexation to the district and may order that the boundaries of the district be altered to include such benefited territory.

Overlapping districts

5840. If any portion of the territory annexed to a maintenance district comprises a portion of another maintenance district the annexation of such territory shall not become complete unless and until any outstanding contract of the other maintenance district of which such territory is a part has expired or such contract, with the consent of the parties thereto, has been modified or canceled so as to relieve the other maintenance district of further obligation to pay for future maintenance within the portion of the territory so withdrawn, and the funds of such other district remaining on hand upon the completion of such annexation shall have been apportioned between the maintenance district to which the territory was annexed and the other maintenance district from which it was withdrawn. The division of such funds shall be prorated in the proportion that the assessed value of the real property of the territory so withdrawn bore to the total assessed value of the real property within the maintenance district prior to such withdrawal.

Dissolution by annexation

5841. If the territory annexed to a maintenance district includes within its boundaries all of another maintenance district upon such annexation becoming complete by the adoption of the order of the board of supervisors the theretofore existing maintenance district so annexed shall thereupon be dissolved. Any funds of the maintenance district remaining on hand at the time of the annexation shall be transferred to the maintenance district to which such territory is annexed and any contracts or obligations of said previously existing maintenance district shall become the obligations of the maintenance district to which it is annexed.

Additional improvements

5842. If, after the formation of a maintenance district, additional improvements of the same type or nature are constructed within the boundaries of such district, the board of supervisors shall adopt a resolution declaring its intention that the cost of maintaining and operating such additional improvements shall be borne by the existing maintenance district. It shall fix a time and place for a hearing on such resolution, at which hearing any and all persons having any objections to the things proposed to be done may appear and be heard. The resolution shall contain a statement of the estimated annual cost of maintaining and operating such additional improvements.

Notice and hearing

5843. Notice of the hearing on the resolution shall be given to the persons within the existing maintenance district in the manner prescribed in Section 5838. At the hearing the board of supervisors shall hear and pass upon any and all protests to the maintaining and operating of such additional improvements by the existing maintenance district and its decision shall be final and conclusive. At the conclusion of the hearing the board of supervisors may by order, entered upon its minutes, make the expenses of maintaining and operating such additional improvements a charge upon the existing maintenance district.

Withdrawal of territory

5844. Any portion of any maintenance district which will not be benefited by remaining within the district, may be withdrawn therefrom. The board of supervisors may by resolution entered upon its minutes fix a time for a hearing on the question of the withdrawal of any portion of a maintenance district which will not be benefited by remaining within the district.

Notice

5845. The time for the hearing shall be not less than 10 nor more than 30 days after the date of the adoption of the resolution. The board of supervisors shall at least five days prior to the time so fixed cause a notice of such hearing to be published by one insertion in such daily, weekly or semiweekly newspaper printed, published and circulated in the county, as the board deems most likely to give notice to the inhabitants of the district of the proposed withdrawal. Copies of the notice also shall be posted at least one week prior to the date fixed for the hearing in three conspicuous places within that portion of the maintenance district sought to be withdrawn and in three conspicuous places within the remaining portion of the district.

Hearing

5846. Any person interested may appear at the hearing and object to the withdrawal of said portion from the maintenance district, or may object to the continuance of the remaining territory as a maintenance district. The board of supervisors shall consider and pass upon all objections and if

it finds that the portion of the district sought to be withdrawn will not be benefited by remaining within the maintenance district and that the remaining territory not sought to be withdrawn will be benefited by continuing as a maintenance district, then it shall order such withdrawal and the continuance of the remaining territory as a maintenance district.

Outstanding contracts

5847. No withdrawal of territory under the provisions of Section 5846 shall become effective unless and until any outstanding contract of the maintenance district from which a portion is sought to be withdrawn has expired, or such contract, with the consent of the parties thereto, has been modified or canceled so as to relieve such maintenance district of further obligation to pay for future maintenance within the territory so withdrawn.

Dissolution

5848. Any maintenance district may be dissolved by the board of supervisors. The board of supervisors upon its own motion may adopt a resolution declaring its intention to dissolve the maintenance district and may fix a time for a hearing upon such dissolution. The time for such hearing shall be not less than 10 days nor more than 30 days after the date of the adoption of such resolution, and the clerk of the board of supervisors shall, at least 15 days prior to the time so fixed, publish notice of such hearing by one insertion in a daily, weekly or semiweekly newspaper printed, published and circulated in the county, and cause printed copies of such notice to be posted in three conspicuous places within the maintenance district.

Hearing

5849. At the time appointed for such hearing, or at any time to which it is adjourned, the board of supervisors shall hear and pass upon the question of dissolution and all objections and protests and may grant or deny the same, and its decision thereon shall be final and conclusive. If the board of supervisors upon such hearing determines that the maintenance district shall be dissolved, the board of supervisors shall, by resolution, order the dissolution of the district and the district shall thereupon be dissolved. The maintenance and operation of the improvements of such district may be continued thereafter until the funds collected for the purpose of maintaining and operating them have been expended for that purpose.

Inclusion within cities

5850. Upon the inclusion of all of the territory of a maintenance district within one or more cities, either by reason of annexation proceedings or by reason of the incorporation of one or more cities, all funds paid into the county treasury to the credit of such district shall be paid over by the board of supervisors of such district as prescribed in this chapter.

Disposition of funds

5851. If the whole district is so included within one city, such funds shall be paid to the treasurer of that city and

administered by the legislative body of the city for the benefit of the district and the district shall thereupon, by reason of such inclusion, be dissolved.

Inclusion in more than one city

5852. If a part only of the district is so included within one city and the remaining part of the district is so included within one or more other cities, so that no portion of the district remains within unincorporated territory of the county, then such proportionate part of such funds shall be paid to the treasurer of each such city as the assessed valuation of the real property of the portion of the district included therein bore, before being so included, to the total assessed valuation of the real property of the district, and such funds shall be administered by the legislative bodies of such cities for the benefit of the district and the district shall thereupon, by reason of such inclusion, be dissolved.

Partial inclusion in cities

5853. If less than the whole of such a district is included within one or more cities either by reason of annexation or by reason of incorporation proceedings, the district shall continue in existence and shall continue to function without being affected thereby unless the district is dissolved as in this chapter provided. The fact that a portion of the district is so included within one or more cities shall not deprive the board of supervisors of the right to levy the special assessment tax, as provided in this chapter, upon the lands and improvements thereon in such district for the purpose of maintaining and operating the improvements thereof.

PART 4. CHANGE OF GRADE

CHAPTER 1. GENERAL PROVISIONS

Other applicable provisions

6000. The provisions of Part 3 of this division in regard to the assessment of the cost of work done pursuant to this part shall not apply to this part; nor shall the provisions of this division in regard to the issuing of bonds to represent the cost of the work, nor the provisions in regard to the right of protest against the work apply to this part. All other provisions of this division except those contained in Part 5 of this division, which are not in conflict with this part, shall apply to all matters contained in this part.

"Commissioners"

6001. As used in this part "commissioners" or "board of commissioners" means the following officers of the city conducting the proceedings acting as a board of commissioners:

(a) The mayor, engineer or surveyor and the street superintendent, or

(b) The board of public works if there is such a board.

CHAPTER 2. RESOLUTION OF INTENTION

Change of grade

6020. The legislative body may change or modify the grade of any public street or place, and regrade or repave the same to conform to such modified grade, in the manner provided in this part.

Resolution of intention

6021. Before any change of grade is ordered the legislative body shall pass a resolution of intention to make such change or modification of grade, and it may at the same time and in the same resolution provide for the actual cost of performing the work of regrading, repaving, sewering, sidewalking, or curbing of the street or portion of street, with the same or other material with which it was formerly graded, paved, sewered, sidewalked, or curbed; and that the cost of the same shall be assessed upon the same district which is declared to be benefited by such changed or modified grade. One or more streets or blocks of streets may be embraced in the same resolution.

Notice

6022. The resolution shall be published and shall describe the proposed change or modification of grade or regrading, and shall designate and establish the district to be benefited by such change or modification of grading or regrading, and to be assessed for the cost of the same. The superintendent of streets shall also cause to be conspicuously posted within the district designated in the resolution, notice of the passage of the resolution. The posted notice shall be the same in all requirements of contents and posting as the "notices of improvement" provided for in Chapter 7 of Part 3 of this division.

Objections

6023. If no objection to the proposed change or modifications of grade is filed with the clerk within 30 days from the first publication of the resolution of intention or, if objections are presented and after due notice and hearing are overruled by the legislative body, the legislative body may order and declare such grades to be changed and established in conformity to the resolution, and the order shall be posted.

CHAPTER 3. DETERMINATION OF DAMAGES AND BENEFITS

Damages

6040. Within 30 days after the first posting of the order for change of grade any person owning property fronting upon the portions of the street where such change of grade is made, may file a petition with the clerk showing the fact of such ownership, the description and situation of the property, its market value, and the estimated amount of damages over and above all benefits which the property would sustain by the proposed change if completed. Such petition shall be verified by the oath of the petitioners or their agents.

Assessment of damages

6041. Whenever any petitions have been filed, the board of commissioners shall assess the benefits, damages, and costs of the proposed change of grade upon each separate lot of land situated within the assessment district showing the same by a plat as the lot appears of record upon the last assessment roll.

Commissioners

6042. The commissioners shall be sworn to make the assessment of benefits and damages to the best of their judgment and ability, without fear or favor and they shall have power to subpena witnesses to appear before them to be examined under oath, which any one of the commissioners is authorized to administer.

Assessments by commissioners

6043. The commissioners having determined the damage which would be sustained by each petitioner, in excess of all benefits, shall proceed to assess the total amount thereof, together with the costs, charges, and expenses of the proceedings, upon the several lots of land benefited within the assessment district, so that each of the lots shall be assessed in accordance with its benefits caused by such work. During the progress of their work the commissioners shall make a report to the legislative body as often as it may be required.

Form of report

6044. The commissioners shall make their report in writing, and shall subscribe to the same and file it with the legislative body. In their report they shall describe separately each piece of property which will sustain damage, stating the amount of damages each will sustain over and above all benefits. They shall also give a brief description of each lot benefited within the assessment district, the name of the owner, if known, and the amount of benefits in excess of damages assessed against each lot. If the three commissioners do not agree, the award agreed upon by a majority of them shall be sufficient.

Descriptions of land

6045. In designating the lots to be assessed, reference may be had to a diagram of the property in the district affected and the diagram shall be attached to and made a part of the report of the commissioners. If the commissioners find that conflicting claims of title exist, or if they are in doubt as to the ownership of any lot or land, or any improvement thereon, or any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner of any land or improvements, or the particulars of his interest, shall not affect the validity of the assessment.

Notice of report

6046. On the filing of the report, the clerk shall give notice of such filing by publication. The notice shall require all persons interested to show cause, if any, why such report should not be confirmed before the legislative body, on a day to be fixed by the legislative body and stated in the notice,

which day shall not be less than 20 days from the first publication thereof.

Objections 6047. All objections to the report shall be in writing and filed with the clerk, who shall, at the next meeting after the date fixed in the notice to show cause, lay the objections, if any, before the legislative body, which shall fix a time for hearing the same. The clerk shall notify the objectors of the time fixed for the hearing by publication.

Hearing 6048. At the time set, or at such other time as the hearing may be adjourned, the legislative body shall hear such objections and pass upon them, and at such time shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given and had, as in the case of an original report.

CHAPTER 4. BIDS AND AWARD OF CONTRACT

Advertising for bids 6070. If the resolution of intention also provides for assessing upon the district the cost of regrading or repaving the streets to the changed or modified grade, after the report of the commissioners as to the damages caused by such change of grade has been passed upon by the legislative body, it shall then advertise for bids to perform the work of regrading, repaving, sewering, sidewalking or curbing such streets with the same or other material with which the same had been formerly graded, paved, sewered, sidewalked, or curbed.

Notice 6071. A notice, containing specifications, and inviting sealed proposals or bids for doing such work shall be posted, and a notice of the work, inviting proposals or bids and referring to the specifications posted or on file, shall be published.

Bids 6072. All proposals or bids offered shall be accompanied by a certified check, payable to the city, which shall be not less than 10 per cent of the aggregate of the proposals or bids; or by a bond for that amount, signed by the bidder and two sureties, who shall justify under oath in double that amount over and above all statutory exemptions. The proposals or bids shall be delivered to the clerk, and the legislative body shall in open session publicly open, examine and declare them. No proposal or bid shall be considered unless accompanied by a check or a bond satisfactory to the legislative body.

Acceptance 6073. The legislative body may reject any and all bids, and may award the contract to the lowest responsible bidder. If no proposal or bid is accepted the legislative body may readvertise for proposals or bids in the same manner that

proposals or bids were advertised for in the first instance, and thereafter proceed in the manner provided in this chapter.

Checks accompanying bids

6074. All checks accompanying bids shall be held by the clerk until the successful bidder has entered into the contract for the work. If he refuses to enter into the contract the amount of his certified check shall be declared forfeited to the city, and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted, and the amount thereof collected and paid into such fund.

Notice of award

6075. Notice of the awards of the contracts shall be published and posted in the same manner as that provided for in this chapter for the publishing and posting of the notices inviting bids or proposals for such work.

CHAPTER 5. MAKING AND COLLECTING THE ASSESSMENT

Cost of work

6090. After the contract has been awarded and entered into, the clerk shall certify that fact to the legislative body, together with the total amount of the cost of the same, and the legislative body shall cause a copy of the certificate to be forwarded to the commissioners.

Assessment of cost

6091. The commissioners shall proceed to assess the cost of doing the work upon all the lots and land lying within the assessment district, distributed so that each lot will be assessed for its proportion of the costs, according to the benefits it receives from the work, and in the same manner in which the damages caused by the change of grade were assessed upon each such lot.

Form of assessment

6092. The commissioners in making the assessment shall show the total amount for which each lot or tract is assessed in excess of all benefits, for the total cost of changing and modifying the grade of the street, as well as for the regrading, repaving, sewering, sidewalking, and curbing, and costs or damages connected therewith.

Assessment roll

6093. The clerk shall forward a certified copy of the report, assessment, and plat, as finally confirmed and adopted by the legislative body to the street superintendent. That certified copy shall thereupon be the assessment roll, the cost of which shall be provided for by the commissioners, as a portion of the cost of the proceedings therein. Immediately upon receipt of the copy by the street superintendent, the assessment therein contained shall become due and payable, and shall be a lien upon all the property contained or described therein.

Notice of assessment

6094. The superintendent of streets shall give notice, by publication, that he has received the assessment roll, and that all sums levied and assessed in the assessment roll are due and

payable immediately, and that the payment of those sums is to be made to him within 30 days from the date of the first publication of the notice. The notice shall also contain a statement that all assessments not paid before the expiration of 30 days will be declared delinquent, and thereafter the sum of 5 per cent of the amount of such delinquent assessment, together with the cost of advertising each delinquent assessment will be added thereto.

Delinquency

6095. The superintendent of streets shall, within five days from the date of such delinquency, publish a list of delinquent assessments, including all penalties and costs, with a notice of the time and place of sale of the property affected thereby. The cost of advertising shall not exceed fifty cents ($0.50) for each lot or parcel of land separately assessed. The list shall be published before the day of sale for such delinquent assessment.

Sale

6096. The time of sale shall not be less than seven days from the date of the first publication of the delinquent assessment list, and the place shall be in or in front of the office of the superintendent of streets. If any assessment together with the penalty and costs is not paid before the time of sale the street superintendent shall proceed to sell and shall sell each lot or parcel of land separately assessed at public auction to the bidder offering to pay the amount due for the least portion of such lot or parcel of land so offered for sale, and shall issue a certificate therefor. If there is no bidder the property shall be struck off to the city.

Redemption

6097. All property sold shall be subject to redemption for one year by the payment of the amount of the assessment, penalty and costs and interest thereon at the rate of 10 per cent per annum from the date of sale. The superintendent of streets shall, if there is no redemption, make and deliver to the purchaser at such sale, or his consignee, a deed conveying the property sold, and shall collect for each deed one dollar ($1). The deed of the street superintendent, made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings under this part, and of title in the grantee.

Payments

6098. The superintendent of streets shall from time to time pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place such moneys in a separate fund, designating each fund by the name of the street or place for the change of grade for which the assessment was made. Payments shall be made from the fund to the parties entitled thereto, upon warrants signed by the commissioners or a majority of them.

Chapter 6. Eminent Domain Proceedings

Notice to claim damages

6120. When sufficient money is in the hands of the treasurer, in the fund voted for the proposed work, to pay the total cost for damages, as well as for the cost of doing the work, and all other expenses connected therewith, the commissioners shall notify the owner, possessor, or occupant of the premises damaged, and to whom damages have been awarded, that a warrant has been drawn for the payment of the same, which can be received at the office of the commissioners. Such notification may be made by depositing a notice, postage prepaid, in the post office, addressed to his last known place of residence. If, after the expiration of three days from the service or deposit of the notice in the post office, he shall not have applied for the warrant, the warrant shall be drawn and deposited with the treasurer, to be delivered to him upon demand.

Condemnation proceedings

6121. If the owner of any premises damaged neglects or refuses to accept the warrant, for 10 days after it has been placed in the hands of the treasurer, subject to his demand, the legislative body may cause proceedings to be commenced, in the name of the city, to condemn the premises, as provided by law under the right of eminent domain. The resolution of intention shall be conclusive evidence of the necessity of the same. Such proceedings shall have precedence, so far as the business of the court will permit.

Payment of judgments

6122. Any judgment for damages in the eminent domain proceedings shall be payable out of a special fund in the treasury established for that purpose. At any time after the entry of judgment or prior to or pending appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from the special fund to satisfy the judgment, and thereupon may authorize or order the city to proceed with the proposed work. In case of a deficiency in the special fund to pay the whole assessed judgment and damages, the legislative body may, in its discretion, order the balance thereof to be paid out of the general fund of the treasury, or to be distributed by the commissioners over the property assessed by a supplementary assessment. In order to avoid delay in the event of a supplementary assessment the legislative body may advance the balance out of any available fund in the treasury, and reimburse the same from the collection of assessments.

Supplemental assessment

Payment of warrants

6123. The treasurer shall pay such warrants in the order of their presentation, except that warrants for damages and for costs of performing the work shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money remains in the fund to pay all warrants

of the first class before paying any of the second. The provisions of Section 1251 of the Code of Civil Procedure, requiring the payment of damages within 30 days after the entry of judgment, shall not apply to damages rendered in proceedings under this division.

PART 5. IMPROVEMENT BONDS

CHAPTER 1. DETERMINATION TO ISSUE BONDS

Serial bonds

6400. The legislative body of any city may determine that serial bonds shall be issued in the manner and form provided in this part to represent assessments of twenty-five dollars ($25) or over for the cost of any work authorized in Part 3 of this division.

Domestic water supply

6401. If the contemplated work consists only of the construction or installation of conduits, pipes, hydrants, meters, or other appurtenances for supplying and distributing a domestic water supply, the legislative body of any city may determine that serial bonds shall be issued in the manner and form provided in this part to represent assessments of ten dollars ($10) or over for the cost of such work.

Collection of small assessments

6402. If the amount of the unpaid assessment upon any lot or parcel of land is less than twenty-five dollars ($25), or less than ten dollars ($10) for work mentioned in Section 6401, the assessment shall be collected as provided in Part 3 of this division.

Declaration to issue bonds

6403. When the legislative body determines that serial bonds shall be issued to represent the expenses of any proposed work under this division, it shall so declare in the resolution of intention to do the work, and shall specify the rate of interest which the bonds shall bear.

Sales to public agencies

6404. Notwithstanding any other provision in this division, the legislative body may sell to any local, State or National public agency or authority authorized to purchase the same, all or any part of any bonds issued pursuant to the provisions of this part, or any bonds issued pursuant to the Improvement Bond Act of 1915, upon the security of assessments levied under this division. Any such bonds may be sold to any such public agency or authority without advertisement or bidding, but shall not be sold for less than par. The interest rate on such bonds shall be the rate fixed therefor by the legislative body, but may be for a lesser rate than that so fixed if the legislative body finds a purchaser at such lesser rate. Upon the sale of any such bonds to any such public agency or authority, the purchase price thereof shall be paid to the contractor or his assigns in lieu of the bonds and in satisfaction of the balance due upon the assessment.

CHAPTER 2. ISSUANCE OF BONDS

Assessment list

6420. After the full expiration of 30 days from the date of the warrant, the street superintendent shall make and certify to the treasurer a complete list of all assessments unpaid, which amount to twenty-five dollars ($25) or over, upon any assessment, or diagram number, or which amount to ten dollars ($10) or over, upon any assessment, or diagram number, for work mentioned in Section 6401.

Payment before bond issued

6421. If any person, or his authorized agent, shall at any time before the issuance of the bond for the assessment upon his lot or parcel of land present to the treasurer the following:

(a) His affidavit stating that he is the owner of a lot or parcel of land in the list.

(b) The certificate of a searcher of records that he is such owner of record, and

(c) A notice to the treasurer stating that he desires no bond to be issued for the assessments upon his lot or parcel of land, then no such bond shall be issued therefor, and the payee of the warrant, or his assigns, shall retain his right to enforce collection as if the lot or parcel of land had not been so listed by the street superintendent.

Issuance of bonds

6422. The treasurer shall upon the filing of the list, make out, sign, and issue to the contractor, or other person entitled to the proceeds of the warrant and assessment, a separate bond, representing upon each lot or parcel of land upon the list the total amount of the assessment against the same, as thereon shown.

Description of land

6423. If a lot or parcel of land is described upon the assessment and diagram by its number or block, or both, and is also designated by its number or block, or both, upon the official map of the city, or upon any map on file in the office of the county recorder of the county in which the lot or parcel of land is situated, it shall be a sufficient description of the lot or parcel of land in the bond to designate it by the number or block, or both, as it appears on the official or recorded map.

Payments

6424. The bonds and interest thereon shall be paid at the office of the treasurer, who shall keep a fund designated by the name of the bonds, into which he shall place all sums paid him for the principal of the bonds and the interest thereon, together with all penalties thereon, and from which he shall disburse such sums, upon the presentation of proper coupons. Under no circumstances shall the bonds or the interest thereon be paid out of any other fund.

Bond record

6425. The treasurer shall keep a register in his office, showing the series, number, date, amount, rate of interest, payee and indorsees of each bond, and the number and amount

of each coupon or principal or interest paid by him and shall cancel and file each coupon so paid.

Bond signatures

6426. If any officer whose signature or countersignature appears on any bond or coupon ceases to be such officer before delivery of the bonds to the purchaser thereof, the signature or countersignature appearing either on the bonds or on the coupons, or both, shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of such bonds.

Effect of bonds

6427. Bonds issued pursuant to this part shall by their issuance be conclusive evidence of the regularity of all proceedings under this division leading up to such issuance.

CHAPTER 3. PAYMENTS ON ASSESSMENTS AT BOND

Principal payments

6440. After the street superintendent files his list of unpaid assessments with the treasurer, the principal of each unpaid assessment shall thereafter become due and payable to the treasurer in equal annual payments on the fifteenth day of each November succeeding the October 15th following the filing of the list until fully paid. The number of annual payments shall correspond to the number of serial payments to be made on the principal of the bonds issued to represent the unpaid assessment.

Interest payments

6441. The first interest payment on the unpaid assessment shall be payable on the fifteenth day of May next succeeding the April 15th or the fifteenth day of November next succeeding the October 15th, as the case may be, next following the filing of the list of unpaid assessments. The following interest payments shall each be for six months interest and shall be payable on each fifteenth day of May and November, the last interest payment coming due 45 days before the last annual payment of the principal of the bonds issued to represent the unpaid assessment.

Delinquent penalties

6442. If any installment of the principal of the unpaid assessment or of interest thereon is not paid on the date upon which the coupons representing it are payable, the treasurer shall after the close of business on the due date add to the principal or interest so delinquent a penalty of 1 per cent of the total amount of such delinquency, and at the beginning of the business on the first day of each succeeding month until such delinquent payment and all penalties thereon are fully paid, he shall add an additional penalty of 1 per cent of the amount of such delinquency. The treasurer shall collect such penalties with and as a part of the delinquent payment.

Notice

6443. At least 15 days before each respective fifteenth day of May and November, until the assessment is paid in full,

the treasurer shall mail, postage prepaid, to each owner of property described in the assessment, at his last known address, as appears upon the tax rolls a postal card notifying him of the amount due and the date when payment is due from him on the assessment and stating that the payment is subject to penalty if not paid on or prior to the due date of the coupons. The failure of the treasurer to mail the card or the failure of the property owner to receive it shall not affect the validity of any penalty or invalidate any act or proceeding.

Interest payments

6444. The treasurer may accept payments of installments of interest unaccompanied by payments of installments of principal which are due. The acceptance of such interest payments shall not affect the delinquent status of any installments of principal.

Bond record

6445. The treasurer shall, in addition to his other duties, keep a record of all bonds issued by him, of all payments on the bonds with the dates thereof and of all penalties accruing thereon.

Reports of payment

6446. The treasurer shall report all payments of coupons or penalties upon the bonds, with the dates thereof, to the street superintendent, who shall forthwith indorse the payments upon the margin of the record of the assessment to the credit of which they are paid, and the assessment shall be a lien upon the property affected thereby, with priority as fixed in Section 5373, until the bond issued to represent the assessment and which it is hereby declared does represent the assessment, and the accrued interest thereon and the penalties, if any, shall be fully paid according to the terms thereof.

Lump sum payments

6447. The owner of or any person interested in any lot or parcel of land upon which a bond has been issued under the terms of this division may at any time before commencement of proceedings for sale pay off the bond and discharge the land described in the bond from the lien of the assessment. The discharge may be had by paying to the treasurer, for the holder of the bond, the amount then unpaid on the principal sum thereof, with interest thereon calculated up to the due date of the next maturing interest coupon at the rate named in the bond, and all penalties accrued and unpaid.

Payment reports

6448. When the payment is made to the treasurer, he shall report the same to the street superintendent, who shall forthwith mark paid on the margin of the record of the assessment to represent which the bond was issued.

Thereupon the lien of the assessment shall cease and the treasurer shall forthwith notify the holder of the bond and call in the bond. The treasurer shall enter in his record of the bond the amount paid and the date of payment, and upon the lien of the assessment being thus extinguished he shall cancel the bond and file it in his office.

CHAPTER 4. FORM AND CONTENT OF BONDS

Bond form

6460. The bond shall be substantially in the following form:

Street Improvement Bond

Series (designating it), in the City (or County) of (naming it).

$ _____/100 No. _____

Under and by virtue of the Improvement Act of 1911 (Part 5 of Division 7 of the Streets and Highways Code), I, out of the fund for the above designated street improvement bonds, series _____, will pay to _____, or order, the sum of _____ dollars ($_____) with interest at the rate of _____ per cent per annum, all as is hereinafter specified, and at the office of the treasurer of the _____ of _____, State of California.

This bond is issued to represent the cost of certain street work upon _____, in the _____ of _____, as the same is more fully described in assessment number _____ issued by the street superintendent of said _____, after the acceptance of said work, and recorded in his office. Its amount is the amount assessed in said assessment against the lot or parcel of land numbered therein, and in the diagram attached thereto, as number _____, and which now remains unpaid, but until paid, with accrued interest, is a lien upon the property affected thereby, as the same is described herein and in said recorded assessment with its diagram, to wit: The lot or parcel of land in said _____ of _____, County of _____, State of California.

This bond is payable exclusively from said fund, and neither the (here insert city or county) nor any officer thereof is to be holden for payment otherwise of its principal or interest. The term of this bond is _____ years from the second day of January next succeeding the next October 15th following its date, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the second day of January of each year, following the next October 15th after its date, an even annual proportion of its whole amount is due and payable, upon presentation of the coupon therefor, until the whole is paid, with all accrued interest at the rate of _____ per centum per annum.

The interest is payable semiannually, to wit: On the second days of January and of July in each year hereafter, upon presentation of the coupons therefor, hereto attached, the first of which is for the interest from date to the next second day of _____, and thereafter the interest coupons are for semiannual interest.

This bond may be redeemed by the owner or any person interested in any lot or parcel of land described herein, in the manner provided in said code, at any time before maturity,

and before commencement of proceedings for sale, upon payment to the treasurer, for the holder of this bond, of the amount then unpaid on the principal sum thereof, with interest thereon calculated up to the due date of the next maturing interest coupon, and all penalties accrued and unpaid.

Should default be made in the annual payment upon the principal, or in any payment of interest from the owner of said lot or parcel of land, or any one in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have said lot or parcel of land advertised and sold forthwith, in the manner provided by law; provided, however, that any bond may be reinstated after such default in the manner provided in said code. In case of such default there shall be immediately added to such defaulted amount, 1 per cent of the amount thereof, and on the first day of each month following such default there shall be added a further penalty of 1 per cent of such defaulted amount. The 1 per cent penalty first imposed and all subsequent penalties shall be paid to the holder of the bond along with and as a part of such defaulted payment.

At said _____ of _____, this _____ day of _____, in the year one thousand _____ hundred and _____.

Treasurer of the _____ of _____.

Terms of bonds

6461. The bonds shall:

(a) Be payable to the party to whom they issue, or to order.

(b) Be serial bonds.

(c) Bear interest at the rate specified in the resolution of intention to do the work.

(d) Have annual coupons attached to them, payable in annual order, on the second day of January of every year after the next October 15th following the date of the bond, until all are paid. Each coupon shall be for an even annual proportion of the principal of the bond.

(e) Have semiannual interest coupons attached to them.

Life of bonds

6462. The bonds shall extend over a period not exceeding 14 years from the second day of January next succeeding the next October 15th following their date.

Interest rates and payments

6463. The interest shall be payable semiannually, by coupon, on the second days of January and July, respectively, of each year after their date. The first interest coupon shall become due and payable on the second day of January next succeeding the October 15th or the second day of July next succeeding the April 15th, as the case may be, next following their date. The rate of interest shall not exceed 6 per cent per annum on all sums unpaid. However, bonds issued in place of bonds issued prior to August 27, 1937, may bear interest at a rate not exceeding 10 per cent per annum on all sums unpaid.

CHAPTER 5. DIVISION OF LAND AND BOND

Division of bond

6480. If any lot or parcel of land for which a bond has been issued is divided into two or more separate lots or parcels of land, the bond may be surrendered and new bonds issued to the holder of the existing bond in the manner prescribed in this chapter.

Application

6481. When it is desired that new bonds be issued, an application therefor in writing signed by the owner of any interest in any of the lots or parcel into which the original lot or parcel has been divided shall be filed with the street superintendent. The application shall indicate how the original lot or parcel has been divided, request the street superintendent to apportion the amount remaining unpaid on the assessment in accordance with the division, and be accompanied by

Fee

a fee of five dollars ($5) for each separate part or parcel of land into which the original lot or parcel has been divided. The street superintendent shall deposit all such fees in the treasury.

Apportionment of assessment

6482. Upon receipt of the application and fee the street superintendent shall apportion to each separate part of the original lot or parcel of land the proportionate part of the amount remaining unpaid on the assessment that would have been levied thereon had the lot or parcel of land been so divided at the time the original assessment was made.

Request for new bonds

6483. When the apportionment has been made an application signed by all persons owning an interest in the original lot or parcel of land and by the holder of the existing bond on such lot or parcel of land may be filed with the treasurer requesting that new bonds be issued for the amounts shown by the apportioned assessment. The application shall be accompanied by evidence satisfactory to the treasurer that it is signed by all of the necessary persons.

Amendments to assessment and diagram

6484. When the treasurer has ascertained that the application is signed by all the necessary persons he shall so advise the street superintendent. The street superintendent shall thereupon amend the recorded diagram and assessment to conform to such division and apportionment and assign new assessment numbers to each separate part of the original lot or parcel of land.

New bonds

6485. The treasurer shall add to each apportioned amount a sum equal to 5 per cent thereof but in no event more than ten dollars ($10) and shall make and sign a new bond in the same form as the existing bond, to represent each such apportioned amount, and the amount so added if the apportioned amount is twenty-five dollars ($25) or more.

Installments

6486. The bond shall be payable in installments at the respective dates of the payment of principal and interest on the existing bond, the number of such installments to be equal to the number of unpaid installments on the existing bond.

Cash payments of amounts under $25

6487. No new bond shall be issued when the apportioned amount is less than twenty-five dollars ($25). If it is less, the apportioned amount shall be paid to the treasurer in cash for the benefit of the holder of the existing bond at or prior to the time of filing the application referred to in Section 6483.

Delivery of new bonds

6488. Upon the surrender of the existing bond the treasurer shall deliver to the bondholder or his agent or assigns the bonds issued for such apportioned assessments together with all payments of cash which may have been made pursuant to Section 6487.

Chapter 6. Default and Sale for Delinquency

Sale for delinquency

6500. Whenever payment upon either the principal or the interest of any bond is not made when the same is due, and the holder of the bond demands in writing that the treasurer proceed to advertise and sell the lot or parcel of land described in the bond as being that upon which the assessment represented by the bond was levied, the treasurer shall proceed to advertise and sell the lot or parcel of land as provided in this chapter.

Notice of sale

6501. The treasurer shall mail a notice of sale to the owner of any property to be sold for nonpayment of either principal or interest upon any delinquent bond. The notice shall be mailed postage prepaid to his last known address as shown upon the tax rolls or as filed in the office of the clerk. The notice shall be substantially in the following form:

Form

"Notice of Sale of Property Delinquent for Nonpayment of Street Improvement Bond

You are hereby notified that Bond _____, Series _____, for an improvement in the City (or County) of _____, is delinquent. Unless the amount of the unpaid principal on said bond, together with interest and penalties, is paid to the city (or county) treasurer on or before six months after the mailing of this notice, the date of which being this _____ day of _____, 19___, the undersigned will institute proceedings to foreclose the lien of said bond in the manner prescribed by law."

Failure to receive notice

6502. The failure of the property owner to receive the notice shall not affect the validity of the sale or invalidate any subsequent act or proceeding.

Publication of notice

6503. After the expiration of six months from the time of mailing the notice, the treasurer shall publish a notice of sale in a newspaper of general circulation, published in the city in which the bond was issued, or if no newspaper is published in the city, then in some newspaper having general circulation therein.

Form

6504 The notice of sale shall be in substantially (filling in all blanks) the following form:

"Notice of Sale of Property Delinquent for Nonpayment of Bond No. _____, Series No. _____, Issued for the Improvement of _____

Default having been made in the payment of the following named coupons (here fill in date and amounts of the coupon or coupons which have not been paid) and the holder of said bond having demanded in writing that the treasurer of the City (or County) of _____ proceed to advertise and sell the lot or parcel of land mentioned in said bond. Now, therefore, I give notice that I will on the _____ day of _____, 19___, at the hour of _____ o'clock __m., of said day, sell at public auction the lot or parcel of land mentioned in said bond, or so much thereof as may be necessary at (here state the place of sale, which shall be at the office of said treasurer or at some public place in said city (or county)) unless the amount due on said bond and the accrued interest thereon together with the cost of the publication of this notice are paid; and that I will so sell the same to the person who will take the least amount of said lot or parcel of land and pay the full amount of unpaid principal and interest on said bond, together with costs of publication. The lot or parcel of land mentioned in said bond and to be sold, is more particularly described, to wit: (here set forth the description of the lot or parcel of land as contained in the bond). The amount due on said bond up to the date of this notice is as follows: Due on the principal thereof, _____ dollars ($_____); due on account of interest _____ dollars ($_____) (here set forth the interest calculated and compounded semiannually up to the date on which the notice is dated at the interest rate named in said bond upon the unpaid principal for the full period for which no interest has been paid) due on account of penalties _____ dollars ($_____). Total amount due on said bond (here set forth the total of the foregoing items).

In order to avoid this sale, payment of the total amount above named will be required together with the cost of publications made before such payment and the additional interest accruing up to the date of payment. Bond may be reinstated upon payment of amounts due, interest, penalties, and fees, in the manner provided by law.

In the event of sale, such sale will include interest in addition to the above total amount due accruing up to date of sale, the cost of publication of notice of sale, and one dollar ($1)

for the issuing of certificate of sale. The_____ (here name newspaper) is designated as the newspaper in which this notice shall be published.
Dated_____

_____
Treasurer of the City (or County)
of _____"

Date of sale

6505. The day named in the notice for the sale shall not be less than 15 days from the date of the first publication of the notice.

Affidavit of publication

6506. An affidavit of publication setting forth a copy of the publication and stating that the publication was made in the newspaper named on specified dates shall be filed with the treasurer and shall be primary evidence of the publication of the notice.

Fee

6507. The treasurer shall collect the sum of one dollar ($1) for the issuance of the certificate of sale, which sum shall belong to and be subject to the disposition of the city.

Redemption

6508. If at any time prior to the sale any person interested in the lot or parcel of land described in the notice of sale pays the whole amount of the unpaid principal of the bond, the interest thereon compounded semiannually up to the date of such payment, at the rate named in the bond upon the amount of the principal remaining unpaid for the whole period for which interest has not been paid, and all penalties which have accrued, together with the cost of the publication of the notice of sale, the bond shall be canceled.

Sale

6509. If such payment is not made, the sale shall be made as advertised, and the lot or parcel described in the bond shall be sold to the purchaser who shall take the least amount of the lot or parcel and pay all of the sums specified in the notice of sale.

Sale for insufficient amount

6510. If through error or otherwise the total amount for which the sale is made is less than that required by the provisions of this chapter, and the holder of the bond either is the purchaser at the sale and elects to accept the certificate of sale hereinafter mentioned, or accepts from the treasurer the sum derived from the sale made to some other purchaser, the fact that the sale was made for less than the amounts specified in this chapter shall not affect or invalidate the sale, and the acceptance of the certificate or of the sum derived from the sale shall be a waiver on the part of the holder of the bond, and in such case the amount received on the sale shall be the amount upon which redemption from the sale shall be calculated the same as if the sale had been made for the full amount authorized by this chapter.

Sales record

6511. The treasurer, before delivering any certificate of sale, shall enter the following data in a book kept in his office for that purpose:

(a) The date, number, and series of the bond.

(b) A description of the land sold corresponding with the description of the certificate of sale.

(c) The date of sale, the purchaser's name, and the amount paid.

He shall regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. He shall enter on the record of the bond the words: "Canceled by sale of the property," giving the date of such sale.

Public inspection

6512. Such book shall be open to public inspection during office hours when not in actual use.

Certificate of sale

6513. The treasurer shall issue for each sale an original and a duplicate certificate of sale containing:

(a) The date, number and series of the bond under which the sale was made,

(b) A description of the land sold, and

(c) The date of the sale, the purchaser's name, the amount paid, and the number of the certificate.

Delivery and recordation

6514. The treasurer shall deliver the original certificate of sale to the purchaser and shall record the duplicate in the office of the recorder of the county in which the land sold is situated.

Payment of taxes

6515. At any time after its delivery to him the legal holder of the certificate of sale may pay any general taxes, street improvement assessments, or any other tax or statutory lien upon the property described in the certificate of sale which may be prior to his lien or he may redeem the property from any sale made in the collection or enforcement of such general taxes, or foreclosing street improvement assessments or other tax or statutory liens.

Record of tax payments

6516. Upon production by the holder of the certificate of sale of the official receipt for the amounts so paid by him, the treasurer shall make an indorsement upon the certificate of sale showing that receipts have been so produced and stating the nature of the tax or lien paid, and the amount thereof. He shall also make a like entry in the book containing the bond record and shall collect the amount so entered as a part of the amount represented by the certificate of sale together with interest thereon at the same rate as provided on the purchase money for redemption.

Purchaser's lien

6517. Immediately on the sale, the purchaser shall become vested with a lien on the property sold to him, to the extent

of his bid. He may only be divested of that lien by redemption.

CHAPTER 7. REDEMPTION OF DELINQUENT PROPERTY

Redemption

6530. A redemption of the property sold may be made by the owner or any party in interest within 12 months from the date of purchase, or at any time prior to the application by the purchaser for a deed. Redemption shall be made in lawful money of the United States.

Redemption amount

6531. Redemption can be made only by the payment to the treasurer of the following, together with interest at the rate of 1 per cent a month from the date of sale:

(a) The purchase money and costs.

(b) The moneys paid for taxes, street improvement assessments, or other taxes or statutory liens or to redeem the property from any sale in the collection or enforcement of any of the liens.

(c) The fee of the recorder for recording the certificate of sale.

Redemption record

6532. When the redemption is made to the treasurer he shall mark the word: "Redeemed," the date and by whom redeemed on the margin of the book where the entry of the certificate of sale is made. He shall credit the amount paid to the purchaser named in the certificate, and pay the money to the purchaser, or his assignee, upon the surrender of the certificate of sale, and upon satisfactory proof of an assignment thereof, if the certificate has been assigned.

CHAPTER 8. CONVEYANCE OF UNREDEEMED PROPERTY

Notice of intention to apply for deed

6550. In order to obtain a deed the purchaser of the property or his assignees shall, 30 days prior to the expiration of the time of redemption, or 30 days before the date of his application for a deed, serve upon the owner of the property purchased, or his agent if he is named in the certificate of sale and upon the party occupying the property, if the property is occupied, a written notice, stating:

(a) That the property or a portion of it has been sold to satisfy the bond lien;

(b) The date of sale;

(c) The date, number and series of the bond;

(d) The amount then due, and

(e) The time when the right of redemption will expire, or when the purchaser will apply for a deed.

If the property is unoccupied, a similar notice must be posted in a conspicuous place upon the property at least 30 days before the expiration of the time for redemption, or 30 days before the purchaser applies for a deed.

Time for redemption

6551. The owner of the property shall have the right of redemption indefinitely, until such notice is given and the

deed applied for, upon the payment of the fees, penalties and costs as required.

Affidavit

6552. No deed to the property sold shall be issued by the treasurer to the purchaser until the purchaser files with the treasurer an affidavit showing that the required notice has been given. The affidavit shall be filed and preserved by the treasurer with other records kept by him in his office.

Notice costs

6553. The purchaser shall be entitled to receive fifty cents ($0.50) for serving or posting the notice and making the affidavit. The fifty cents ($0.50) shall be paid by the redemptioner at the same time and in the same manner as the other sums, costs and fees are paid on redemption.

Deed

Fee

6554. If the property is not redeemed within the time allowed the treasurer shall upon application of the purchaser or his assignee make a deed to the property, reciting in the deed substantially the matter contained in the certificate of sale, and that no person has redeemed the property during the time allowed for its redemption. The treasurer shall be entitled to receive two dollars ($2) from the purchaser for making the deed. All money so received by the treasurer shall be deposited in the treasury for the use of the city after payment has been made therefrom for the acknowledgment of the deed.

Effect of deed

6555. The deed of the treasurer, when duly acknowledged or proved, is primary evidence of the regularity of all proceedings theretofore had, and conveys to the grantee the absolute title to the lands described therein, as of the date of the expiration of the period for redemption, free of all encumbrances, except the lien for State, county and municipal taxes.

CHAPTER 9. CONTESTING VALIDITY OF SALES AND DEEDS FOR DELINQUENCY

Mailing copy of certificate of sale

6570. Within 60 days after the sale of the property for delinquency, the purchaser may send to the person to whom the property is assessed for purposes of taxation as shown upon the last equalized assessment roll of the county in which the property lies, and to the person in whose name, on the date the sale is made, the legal title to the property appears by deed duly recorded in the office of the county recorder of the county in which the property lies, by registered mail, postage prepaid, a copy of the certificate of sale.

Limitation on actions

If a copy of the certificate of sale is sent as provided in this section, no action, suit or proceeding to set aside, cancel or in any manner attack or question the validity of any sale for delinquency, or any proceedings prior thereto, shall be commenced or maintained by any person unless the same shall be commenced within one year after the date of sale, and after

the year has expired all persons shall be barred from commencing or prosecuting any such action, suit or proceeding, and any and all persons shall be barred from asserting or maintaining in any action, suit or proceeding that the sale, or any proceedings prior thereto, was invalid.

Limitation on actions to contest deed

6571. Any action, suit or proceeding attacking or contesting the validity of any deed issued under the provisions of this division, or the validity of the proceedings subsequent to the issuance of the certificate of sale, must be brought within six months after the issuance of the deed, and if the validity of the deed or of the proceedings is not contested within that six months' period, it shall not be thereafter contested or questioned in any action, suit or proceeding.

Invalidity of sale does not release lien

6572. If any sale of lands for delinquency in the payment of principal or interest of any bond is held illegal or invalid, or any deed issued to the purchaser at any such sale is held illegal or invalid for any reason whatsoever, the lands described in the bond shall not be released from the lien of the assessment but shall be and remain subject to further proceedings for the enforcement of the assessment, and the further proceedings may include additional sales or the issuance of new deeds. In any event, the lien of the assessment shall continue until a valid sale is had and a valid deed issued.

Chapter 10. Tax Bill Notice of Delinquency

Certificate of delinquent list

See also Stats 1941, p 1963

6590. One month prior to the date it is provided by ordinance or charter that taxes are due, or if taxes are collected by the county for the city, on or before the fourth Monday in September of each year, the treasurer shall certify to the tax collector, or if the city taxes are collected by the county, to the county tax collector, a list of the properties upon which any payment either of principal or of interest has not been paid when due upon any bond issued under this part.

Description of property

6591. In each list sent to the county tax collector, the description of the properties reported shall be the descriptions used for the same properties on the map books of the county assessor for the then current year.

Notice of delinquency

6592. The tax collector shall cause to be pasted or attached to or stamped or printed upon the tax bill or tax receipt a notice substantially as follows:

"Notice of Delinquency

There is a street improvement bond chargeable against this property, payment upon which is delinquent, which must be paid to the (city or county) treasurer without delay to avoid foreclosure."

Collection of city taxes by county

6593. If the county collects city taxes the notice which is to be attached to or pasted to the tax bill or tax receipt shall, if the county tax collector so requires, be prepared by the city treasurer and shall be forwarded to the county tax collector on or before the dates herein provided for forwarding the list and the city treasurer shall, if the county tax collector so requires, stamp or attach the notices to the tax bill or receipt.

CHAPTER 11. FORECLOSURE OF BOND LIEN

Foreclosure action

6610. As a separate, distinct and cumulative remedy, the holder of any bond upon which any payment either upon the principal or of the interest has become delinquent may, if the city which initiated the proceedings is not a county, at any time after three months after the date it is provided by ordinance or charter of the city that taxes are due, or if a county initiated the proceedings or collects the taxes for the city at any time after four months next succeeding the fourth Monday of September, following the date of delinquency of principal or interest and prior to the expiration of four years after the due date of the last installment upon any bond or of the last principal coupon attached thereto, file and maintain an action to foreclose the lien of the bond and recover the amount due thereon.

Demand for payment

6611. The action may be brought at any time following the expiration of 30 days after the service of personal demand for payment upon the owner of the premises. Such demand shall be served in the manner provided by law for making personal service of summons. If the action is brought costs for the service of the demand shall be allowed in an amount equivalent to the fees prescribed by law for the service of summons.

Form

The demand shall be in substantially the following form:

"Demand for Payment of
Street Improvement Bond

You are hereby notified that Bond No._____ Series No. _____for an improvement in the City (or County) of _____is delinquent. Unless the amount of the unpaid principal on said bond together with interest and penalties is paid to the city (or county) treasurer on or before 30 days after the service on you of this demand, the date of such service being this_____day of_____, 19____, the undersigned will institute suit to foreclose the lien of said bond in the manner prescribed by law."

Superior court action

6612. The action shall be brought in the superior court of the county in which the proceedings were initiated and if the owner of the lot or parcel of land covered by the bond can not with due diligence be found, the service of summons in such action may be had in the manner prescribed by law.

Contents of complaint

6613. The complaint in the action shall be sufficient if it sets forth a true copy of the bond and makes appropriate allegations regarding the payments made upon the principal and interest of the bond. If personal demand for payment is made the complaint shall so allege.

Evidence of nonpayment

6614. The bond, together with proof, either orally by the treasurer or by a certificate signed by him showing the non-payment of any of the principal or interest upon the bond, shall be prima facie evidence of the right of the plaintiff to recover in the action. If personal demand for payment was made, proof of personal service of the demand shall be required.

Judicial sale

6615. The court may adjudge and decree a lien against the lot or parcel of land covered by the bond and cause the premises to be sold as in other cases of the sale of real estate by the process of the court to satisfy and discharge the bond and lien, and the amount of interest and penalties due shall be calculated at the rates and in the manner specified in this part for such calculation of interest and penalties, and shall be calculated and allowed up to the date of judgment. The court having jurisdiction of the action shall also fix and allow a reasonable attorney's fee for the prosecution of the action.

Attorneys' fees

Abstract costs

6616. The plaintiff in the action may also recover the cost of any abstract or report of search of title procured in good faith, in order to determine ownership, if it is made by a reputable abstractor or title company, and the cost of the same does not exceed five dollars ($5) per lot, if the abstract or report of search with an affidavit of payment is filed in the action.

Redemption

6617. The premises, if sold, may be redeemed as in other cases.

Law applicable to action

6618. The action shall be governed and regulated by the provisions of this chapter and by the other provisions of law which are not in conflict herewith.

Notice of pendency of action

6619. A written notice of the pendency of any action for recovery on a bond shall be filed with the treasurer. After the filing of such notice the treasurer shall not receive any money on account of the bond and he shall have no authority to cancel the entries on the bond in his register or give a discharge of the bond without the written consent of the owner thereof until judgment has been rendered in the action or until it has been dismissed.

Penalty for premature actions

6620. If an action is brought for recovery on any bond prior to the time specified in this chapter, the plaintiff shall not recover in such action and the defendant shall be entitled

to have and recover such attorney fees as the court deems reasonable, in addition to all taxable costs.

Delivery of bond to plaintiff
See also Stats 1941, p 1350

6621. Whenever a bond is foreclosed pursuant to this chapter, the decree of foreclosure shall direct the county clerk to deliver the bond sued upon to the plaintiff or his attorney together with a memorandum setting forth the title and number of the action and the fact that the bond has been foreclosed. Thereupon it shall be the duty of the plaintiff or his attorney to deliver the bond and memorandum to the treasurer of the city which issued the bond.

Cancellation of bond
See also Stats 1941, p 1360

6622. The treasurer shall cancel the bond upon his records and deliver to the plaintiff or his attorney a receipt substantially in the following form:

Form

"Certificate of Cancellation of Street Improvement Bond

Series (designating it), in the City (or County) of (naming it)
$_____/100 No._____

I, _____, treasurer of the City (or County) of_____ do hereby certify that I have received the above bond from_____ (plaintiff or attorney for plaintiff) in that certain foreclosure action entitled_____ vs. _____, No._____Superior Court of_____County; and I have this day canceled said bond on my records, pursuant to the order of the court made in said case.

Dated at_____, this _____day of _____. 19____.

_____
Treasurer of the City (or County) of_____

By _____
Deputy"

Entry of judgment
See also Stats 1941, p 1360

6623. The county clerk shall not enter the judgment or decree of foreclosure in the action until the plaintiff or his attorney delivers the certificate of cancellation to him.

CHAPTER 12. REINSTATEMENT OF BONDS

Reinstatement

6630. Notwithstanding any other provisions of this part, any person owning or having any interest in any property may at any time before sale of that property to enforce the lien arising thereon for failure to make any payment of the principal or of the interest upon any bond which has become delinquent apply to the treasurer for reinstatement of the bond.

Payment required for reinstatement

6631. Notwithstanding the provisions of Section 6619, the treasurer shall reinstate any delinquent bond upon which a foreclosure action or proceeding has been commenced, upon

the payment to him of all principal and interest coupons delinquent at the time of such reinstatement together with:

(a) All penalties;

(b) The cost of publication and notice of sale;

(c) The costs of suit;

(d) The cost of abstract or report of search of title;

(e) Authorized attorney fees, and

(f) A reinstatement fee determined as follows:

1. Five dollars ($5) if the action was commenced or proceedings instituted to foreclose less than six months from the time permitted by this part.

2. Ten dollars ($10) after six months or less than one year.

3. If the action was not commenced or proceedings to foreclose instituted until one year or more from the time in which the action could have been commenced or such proceedings could have been instituted under the provisions of this part, a fee of fifteen dollars ($15) on bonds the face value of which does not exceed one hundred dollars ($100) and a fee of twenty-five dollars ($25) on bonds having a face value in excess of one hundred dollars ($100).

Effect of reinstatement

6632. The holder of any bond so reinstated shall be entitled to such reinstatement fees. Upon receiving the reinstatement payments the treasurer shall enter on the record of the bond the word "reinstated," giving the date thereof. Any bond so reinstated shall have the same effect and status as the original bond, with the same rights as to lien, payments, and foreclosure.

PART 6. IMPROVEMENT OF RAILWAY ROADBEDS

CHAPTER 1. GENERAL PROVISIONS

Applicable provisions

6750. None of the provisions of Part 3 of this division relating to protests against the work shall apply to any work undertaken pursuant to the provisions of this part. All of the provisions of Part 3 of this division which are not inconsistent with the provisions of this part shall apply hereto.

"Roadbed"

6751. As used in this part "roadbed" includes that portion of any street used by the track of any railroad between the rails and for two feet on each side thereof and between the tracks if there is more than one, and includes the rails of such track or tracks.

CHAPTER 2. NEW IMPROVEMENTS

Improvement of roadbed

6760. Whenever any railroad track or tracks of any description exist upon any streets upon which the legislative body has ordered an improvement to be made, and has excepted the roadbed therefrom, the order, unless the legislative body shall by resolution theretofore passed have

declared to the contrary, shall constitute a requirement that the person having the railroad track or tracks thereon shall improve the roadbed with improvements similar in all respects to, and with the same materials, under the same specifications and superintendence, and to the like inspection and satisfaction as, those ordered to be performed by the order ordering the work.

Pavement between racks

6761. The legislative body may by ordinance require increased depth of concrete between to the full depth of or under the ties, or both, if the legislative body in its judgment decides that this method of construction is necessary.

Pavement alongside racks

6762. The legislative body may also require by ordinance or otherwise, any person having railroad track or tracks on the street to pave alongside of and contiguous to its rails with special types of brick or paving blocks.

Notice

6763. The resolution of intention and notice of proposed improvement shall be notice to the person of the intention to order the improvement.

Performance of work by owner

6764. When the legislative body acquires jurisdiction to order the improvement to be made, the person having the track or tracks on the streets to be improved shall notify in writing the superintendent of streets if such person elects to enter upon the direct performance of such work at its own charge and expense. The notice shall be delivered to the superintendent of streets within 10 days after the first publication of the notice of award of contract. The omission or neglect to make such election shall constitute the superintendent of streets the agent of the owner of the track or tracks, with authority to enter into a contract in accordance with the provisions of this part for making the improvements. The superintendent of streets shall advertise for bids for the improvement of the roadbed. The legislative body shall award the contract for the making of the improvements to the lowest regular responsible bidder. The bidding and awarding of contracts shall be made in the manner provided in Part 3 of this division for the awarding of contracts for improvements except that no notice of award shall be published.

Performance by superintendent of streets

Competitive bidding

Contract

6765. Immediately upon the award of the contract, the superintendent of streets shall enter into a contract with the person to whom the contract was awarded for making the improvements upon the portions of the streets described in the notice inviting bids, and at the price stated in the bid. The contractor shall execute bonds in the manner required by Section 5254.

Certificate of completion

6766. Upon the completion of the work and its acceptance, the street superintendent shall make a certificate of completion, together with a statement of the amount due under the

terms of the contract for the performance of the work. The certificate shall be countersigned by the mayor and shall be recorded in the office of the superintendent of streets. The contractor thereupon shall be entitled to payment of the full amount of the contract price, and the recording of such certificate shall be sufficient notice to the owner of such track or tracks that the contract price is due and payable. Payment to contractor

6767. If the contract price is not paid within 30 days from the date of the recording of the certificate, the contractor may file a sworn statement to that effect with the superintendent of streets, who shall record the same in his office in the book in which the certificate of acceptance has been recorded. The contractor shall thereupon have a cause of action against the person owning the tracks for the amount of the contract, together with a reasonable attorney's fee, and shall also have as security for the recovery of such amount, a first lien upon that portion of the track and franchises of the railroad, between whose rails or tracks the work has been performed, which is contained within the corporate limits of the city. Certificate of nonpayment. Cause of action

6768. In the action the certificate of completion shall be and constitute prima facie evidence of the regularity of all proceedings and of the right of the contractor to recover judgment against the person owning the tracks. Execution may be taken out upon the entry of judgment, and levied upon any property of that person which is subject to execution. Effect of certificate of completion

6769. If the person files a written election to enter upon the direct performance of the work at its own cost and expense, no further proceedings shall be taken in the matter unless such person neglects or fails for 30 days, or for such further time as the legislative body may grant, to make the improvement. If the improvement of the portions of the street required to be improved by such person is not made with diligence or in all respects similar to the improvement of the rest of the street, or with the same materials or under the same specifications, and to the satisfaction of the superintendent of streets, the legislative body may, by resolution entered in its minutes, prescribe such terms and conditions as to it may seem fit and proper before permitting the said person to continue with the work. Performance of work by owner

6770. If the person shall, after three days' notice of the adoption of the resolution, fail to comply with the terms and conditions so prescribed, the legislative body may declare that person to have forfeited its privilege of performing such work under its own direction. Whereupon the street superintendent shall advertise for bids for the performance of the work, or such portion thereof as may remain uncompleted, and the contract therefor shall be awarded and entered into in the Forfeited privilege. Performance by contract

manner provided for in this part for the awarding and execution of contracts where the person owning the track has not elected to make the improvements under its own direction.

Certificate of completion

6771. Upon the completion of the improvement, the contractor to whom the contract has been awarded, or his assigns, shall be entitled to a certificate of completion from the street superintendent, and shall have the right to collect from said person by suit, the amount specified in the certificate in all respects the same as provided in this part where the contract is let for such work in the first instance.

Additional regulations

6772. The legislative body may, by ordinance, prescribe and enforce such additional regulations and penalties as it may deem necessary to compel the improvement in accordance with the provisions of this part of any portion of any street which is occupied by a railroad track or tracks.

CHAPTER 3. REPAIRS AND IMPROVEMENTS TO STREET STANDARDS

Improvement of roadbeds

6780. Whenever any railroad track or tracks of any description exist upon any street which has been paved, macadamized, graveled, capped, or oiled either for the whole or any portion of the width of the roadway thereof along or near the line of such railroad track or tracks, and the roadbed thereof has not been improved similar in all respects to and with the same materials as such street along the line of such track or tracks; or where any portion of such roadbed, whether so improved or not is out of repair or is not on the official grade of such street or has small hummocks or ridges or loose rock upon or along such roadbed or the materials composing such roadbed next to the rails of such track or tracks are not flush with the top of such rails or the sides thereof, the legislative body may, by resolution, require and order the person having or owning such railroad track or tracks to improve the roadbed thereof by making repairs or by bringing the roadbed to the official grade or removing the hummocks or ridges or loose rock upon or along such roadbed or making the roadbed and the materials thereof flush with the top or sides of the rails of such track or tracks.

Designation of manner of doing work

6781. The legislative body may require and order any or all of the work designated in the resolution to be done in the manner therein designated.

Pavement alongside rails

6782. The legislative body may also require, by resolution, any such person to pave alongside of and contiguous to its rails with special type of brick or paving blocks or other material.

Service of resolution

6783. The resolution to require and order the work shall be personally served upon the person having or owning such railroad track or tracks, or service thereof may be made upon any agent, representative or officer of such person. When served the resolution shall constitute notice to that person of the intention to order the work designated in the resolution.

Election to perform work directly

6784. The person served shall notify, in writing, the superintendent of streets of the city where such work is to be done if such person elects to enter upon the direct performance of such work at his own charge or expense. The notice shall be delivered to the superintendent of streets within 10 days after the service of the resolution requiring the work.

Performance by street superintendent

6785. The omission or neglect to make such election by delivering the notice shall constitute the superintendent of streets the agent of the owner of the track or tracks with authority to enter into a contract made in accordance with this chapter for doing the work.

The superintendent of streets shall thereupon be vested with authority to and he shall advertise for bids for the work and fix in the notice the time for receiving bids which shall be not less than five days from the first publication thereof.

Contract to perform work

6786. The legislative body shall award the contract for doing the work to the lowest regular responsible bidder.

All bids offered shall be accompanied by a check or by a bond and shall be delivered, opened and award of contract made, all as provided by Chapter 9 of Part 3 of this division, except that no notice of award shall be published.

Upon the award being made, the superintendent of streets shall enter into a contract with the person to whom the contract was awarded for doing the work described in the notice inviting bids, and at the price stated in the bid.

The contractor shall execute a bond in the manner required by Section 5254.

Certificate of completion

6787. Upon the completion of the work and its acceptance, the street superintendent shall make a certificate of completion, together with a statement of the amount due under the terms of the contract for the performance of the work. The certificate shall be countersigned by the mayor, and shall be recorded in the office of the superintendent of streets.

Payment

6788. When the certificate of completion has been recorded the contractor shall be entitled to payment for the full amount of the contract price, and the recording of the certificate shall be sufficient notice to the owner of such track or tracks that such amount is due and payable.

Default

6789. If the contract price is not paid within 30 days from the date of the recording of the certificate of completion,

the contractor may file a sworn statement to that effect with the superintendent of streets, who shall record the same in his office in the book in which the certificate of completion has been recorded. The contractor shall thereupon have a cause of action against the person owning the tracks for the amount of the contract, together with a reasonable attorney's fee, to be fixed by the court, and shall also have as security for the recovery of such amount, a first lien upon that portion of the track and franchises of said railroad which is contained within the corporate limits of the city.

Cause of action

Effect of certificate of completion

6790. In the action, the certificate of completion shall be prima facie evidence of the regularity of all proceedings, and of the right of the contractor to recover judgment against the said person. Execution may be taken out upon the entry of judgment, and levied upon any property of that person which is subject to execution.

Direct performance of work

6791. If the person files a written election to enter upon the direct performance of such work at its own cost and expense, no further proceedings shall be taken in the matter unless such person neglects or fails for 30 days, or for such further time as the legislative body may, by resolution, grant, to make and complete the work.

Terms and conditions

6792. If the work is not done with diligence as in this chapter provided, the legislative body may, by resolution entered upon its minutes, prescribe such terms and conditions as to it may see fit and proper before permitting the person to continue with the work. If the person shall, after three days' notice of the adoption of the resolution, fail to comply with the terms and conditions so prescribed, the legislative body may, at any time thereafter, declare the person to have forfeited its privilege of performing such work under its own direction. Whereupon the street superintendent shall advertise for bids for the performance of the work, or such portion thereof as may remain uncompleted, and the contract therefor shall be awarded and entered into in the manner provided for in this chapter for the awarding and execution of contracts where the person has not elected to make the improvements under its own direction.

Forfeiture of privilege

Award of contract

Certificate of completion

6793. Upon the completion of the improvement, the contractor to whom the contract has been awarded, or his assigns, shall be entitled to a certificate of completion from the street superintendent, and shall have the right to collect from the person by suit the amount specified in the certificate in all respects the same as provided in this chapter where the contract is let for such work in the first instance.

Additional regulations

6794. The legislative body may, by ordinance, prescribe and enforce such additional regulations and penalties as it

may deem necessary to compel the doing of the work as provided in this chapter on any portion of any street occupied by any railroad track or tracks.

DIVISION 8. THE STREET IMPROVEMENT ACT OF 1913

PART 1. GENERAL PROVISIONS

Short title

7000. This division may be cited as the Street Improvement Act of 1913.

Construction

7001. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this part shall govern the construction of this division.

Same

7002. This division shall be liberally construed in order to effectuate its purposes.

Alternative system

7003. This division provides an alternative system for making the improvements authorized by this division and the provisions of this division shall not apply to or affect any other provisions of this code. When any proceedings are commenced under this division, the provisions of this division and no other shall apply to all such proceedings.

"Improvement"

7004. "Improvement" includes all work, construction, reconstruction and improvements authorized to be done under this division.

"City"

7005. "City" includes all corporations organized and existing for municipal purposes.

"Legislative body"

7006. "Legislative body" means the legislative body of a city.

"Superintendent of streets"

7007. "Superintendent of streets" includes any person, officer or board whose duty it is by law to have the care or charge of streets or the improvement thereof in any city. If any city has no superintendent of streets, the legislative body may designate some other person, board or officer of the city, to perform the duties imposed by this division on the superintendent of streets, and all of the provisions of this division applicable to the superintendent of streets shall apply to the person, board or officer so designated.

"City treasurer"

7008. "City treasurer" includes any person or officer who has charge and makes payment of city funds.

"Street"

7009. "Street" includes public street, avenue, lane, alley, court and place.

"Avenue of public travel" 7010. "Avenues of public travel" means tunnels, subways, viaducts, bridges, and independent subterranean ways, or any one or more of any of them.

"Assessment district" 7011. "Assessment district" means the district of land to be benefited by the improvement and to be specially assessed to pay the costs and expenses of the improvement and the damages caused by the improvement.

"Owner" 7012. "Owner," "any person interested," "property owner," "owner of property," or "person owning property" include the person owning the fee, or the person in whose name the legal title to real property appears, by deeds duly recorded in the county recorder's office of the county in which the city is situated, or any person in possession of real property, under a written and duly recorded lease or agreement of purchase, or as the executor, administrator, trustee under an express trust, guardian or other legal representative of the owner.

"Lots or parcels of land" 7013. "Lots or parcels of land" include property owned or controlled by any person as a railroad, street, or interurban railroad right of way. Whenever a railroad, street, or interurban railroad right of way is included within any assessment district created under this division such railroad right of way (whether it is owned in fee or as an easement or under a franchise) shall be included in the assessment, and shall be assessed as other lots or parcels of land are assessed under this division, and such right of way shall be subject to sale for nonpayment of assessments as provided in this division.

"Incidental expenses" 7014. "Incidental expenses" include all the necessary expenses and disbursements of the commission, the cost of making the assessment, and all expenses necessarily incurred by the city in connection with the proposed improvement for maps, diagrams, plans, surveys, the mailing of any notices, and other matters incident thereto.

"Delinquency" 7015. "Delinquency" means delinquency in the payment of an assessment made under the provisions of this division, and "time of delinquency" means the time fixed in this division when assessments become delinquent.

"Resolution" 7016. "Resolution" includes ordinance.

Descriptions by reference 7017. In all resolutions, notices, orders and determinations subsequent to the resolution of intention a description of the assessment district by reference to the resolution of intention shall be sufficient, and in all resolutions, notices, orders, and determinations subsequent to the "Notice of Street Work" a description of the work by reference to the resolution of intention shall be sufficient.

PART 2. NOTICE

CHAPTER 1. GENERAL PROVISIONS

Provisions applicable

7050. Unless the particular provision or the context otherwise requires, whenever a notice, resolution, order or other matter is required to be published or posted by this division, it shall be published or posted in accordance with this part.

CHAPTER 2. NOTICE BY PUBLICATION

Time and manner of publication

7060. Whenever in this division a notice, resolution, order or other matter is required to be published and the time and manner of such publication is not specified, it shall be published by two insertions in a daily newspaper published and circulated in the city conducting the proceedings and which is selected by the legislative body for the purpose.

Same

7061 If there is no daily newspaper published and circulated in the city, then the notice, resolution, order or other matter required to be published shall be published by two successive insertions in a weekly or semiweekly newspaper published and circulated in the city.

Posting

7062. If there is no daily, weekly or semiweekly newspaper published and circulated in the city, then the notice, resolution, order or other matter required to be published shall be posted in accordance with Chapter 3 of this part.

CHAPTER 3. NOTICE BY POSTING

Time and place of posting

7070. Whenever in this division a notice, resolution, order or other matter is required to be posted and the manner of such posting is not specified, it shall be posted for two days in three public places in the city conducting the proceeding.

PART 3. MAKING THE IMPROVEMENT

CHAPTER 1. IMPROVEMENTS AUTHORIZED

Authority

7100. Whenever the public interest or convenience may require, the legislative body of any city is hereby empowered to make any of the improvements authorized in this chapter.

Change of grade

7101. The legislative body may establish or change or modify the grade of all or any portion of any street or right of way in the city, and also the grade of the roadway of any avenues of public travel in, on, under, over or through any street or other land of the city, or in, on, under, over or through any land in which and where the city may then have an easement or right of way therefor.

Damage to private property

7102. If in the opinion of the legislative body any damage to private property would result from the improvement thereof, it may also order the whole or any part, either in length or width, of such street or right of way or other land of the city, in which and where the city may then have an easement or right of way therefor, to be improved to conform to such official grade by grading or regrading, paving or repaving, planking or replanking, macadamizing or remacadamizing, piling or repiling, capping or recapping, graveling or regraveling, oiling or reoiling, sewering or resewering, sidewalking or residewalking, curbing or recurbing, guttering or reguttering, or by the construction, reconstruction or repair of manholes, culverts, cesspools, conduits, crosswalks, steps, parking or parkways, or by the construction, reconstruction or repair of poles, posts, wires, conduits, lamps and other appurtenances for the lighting thereof; or by the construction, reconstruction or repair of wells, pumps, dams, reservoirs, storage tanks, channels, tunnels, conduits, hydrants, pipes, meters or other appurtenances for supplying or distributing a domestic water supply.

Reconstruction work authorized

7103. If in the opinion of the legislative body any damage to private property would result from the construction, reconstruction or repair thereof, it may also order the construction, reconstruction or repair of any avenues of public travel together with approaches thereto, and all appurtenances therefor, in, on, under, over or through any street or other land of the city, or in, on, under, over or through any land in which and where the city has an easement or right of way therefor, to the grade established for the roadway of such avenue of public travel, and order the construction, reconstruction or repair of stormwater ditches or tunnels, or breakwaters, levees or walls of rock, or other materials, culverts, manholes, cesspools, conduits, subways, retaining walls, sewers, ditches, drains and channels for sanitary and drainage purposes, or either or both thereof, with necessary outlets, catchbasins, flush-tanks, septic tanks, connecting sewers and other appurtenances, to protect the streets or rights of way, or any avenues of public travel which may be constructed as provided in this chapter, from overflow or injury by water or otherwise.

Other work authorized

7104. The legislative body may also order the doing of any other work which is necessary to improve the whole or any portion of such street or other land of the city, or any avenues of public travel now or hereafter constructed under the proceedings provided in this division.

Work on other streets authorized

7105. If in the opinion of the legislative body damage will result to private property from the making of the improvement contemplated by the proceedings, the provisions of this division shall apply equally in cases where the official grade of any street or right of way, or of the roadway of any avenues

of public travel in, on, under, over or through any street or other land of the city, or in, on, under, over or through any land in which and where the city may then have an easement or right of way therefor has previously been established or changed, and where such grade is established, modified or changed in whole or in part by the same proceedings by which the improvement is ordered.

CHAPTER 2. RESOLUTION OF INTENTION

Resolution of intention

7120. Before ordering any establishment, change or modification of grade, or any improvement made which is authorized by this division, the legislative body shall pass a resolution of intention so to do, referring to the street by its lawful or official name, or the name by which it is commonly known or, if the improvement is not upon a street or public way, then by briefly describing the property or right of way on which the improvement is to be constructed, and briefly describing the improvement.

Contents

7121. The resolution of intention shall declare that in the opinion of the legislative body damage to private property will result from such improvement.

Description of work

7122. The resolution of intention shall be sufficient if it states in general terms the class or kinds of work contemplated such as grading or regrading, paving or repaving, sewering or resewering or other work or improvements, and gives in general the location of the proposed improvement and refers to plans, profiles, detailed drawings and specifications or such of them as may be suitable or proper for the full and detailed description of the proposed improvement.

Notice of hearing

7123. The resolution of intention shall contain also a notice of the day, hour and place when and where any and all persons having any objections to the proposed improvement may appear before the legislative body and show cause why the proposed improvement should not be carried out in accordance with the resolution of intention. The day for the hearing shall not be less than 30 nor more than 60 days from the date of the passage of the resolution of intention.

Description of the district

7124. The resolution of intention shall describe the exterior boundaries of the assessment district or the district may be described by giving a description according to any official or recorded map or by referring to a plat or map (which is on file in the office of the city clerk or city engineer at the time of passing the resolution of intention), which indicates by a boundary line the extent of the territory included in the proposed district. Such map or plat shall govern for all details as to the extent of the assessment district.

Grade

7125. The grade to which any improvement is made shall be the grade shown on the plans, profiles or specifications for the improvement or the grade already formally established by the legislative body. If any official grade has already been adopted or established for any of the streets or other places or property proposed to be improved, the resolution of intention may provide that the improvement shall be made to new grades or grades different from those so established or adopted, and shall refer to plans, profiles or specifications for the description of the grade at which the work is to be done.

Single proceedings

7126. The legislative body may include in one improvement, under one resolution of intention and order and under one contract, the grade of all or any portion of one or more streets, rights of way or other land of the city, or land in which and where the city has an easement or right of way, established, changed, or modified, and the grade of the roadway of any avenue of public travel in, on, under, over or through any portion of any streets, right of way or other land of the city, or land in which and where the city has an easement or right of way, established, changed or modified, and the construction of any one or more or all of the different kinds of work authorized in this division, upon the same or any part or portion thereof, and may exclude therefrom any of such work already done.

Public property

7127. If any lot or parcel of land belonging to the United States or to the State or to any county, city, public agent, mandatory of the government, school board, public educational, penal or reform institution, or institution for the feeble-minded or the insane, and being in use in the performance of any public function, is included within the assessment district, the legislative body may in the resolution of intention declare that such lots or parcels of land so owned and in use, or any of them, shall be omitted from the assessment to be made to cover the costs and expenses of the improvement. If such lots or parcels of land, or any of them, are by the resolution of intention omitted from the assessment, then the total expense of all work done shall be assessed on the remaining lots or parcels lying within the assessment district without regard to such omitted lots or parcels of land.

Payment of assessments by city

7128. If the legislative body in its resolution of intention declares that such lots or parcels of land so owned and in use, or any of them, shall be included in the assessment, or if no declaration is made respecting such lots or parcels of land, then such sums as thereafter may be assessed against such lots or parcels of land so owned and used shall be payable by the city, out of its general fund, unless the resolution of intention shall designate another fund, and the contract for the improvement shall contain a provision to that effect. Any such sums which may be assessed against any such lots or

parcels of land shall not be payable by the city if such sums are paid by the owner of or the governing body controlling such lots or parcels of land.

CHAPTER 3. NOTICE AND HEARING

Posting and publishing notice

7140. The resolution of intention shall be conspicuously posted for two days on or near the chamber door of the legislative body and published by two insertions in a daily or weekly newspaper published and circulated in the city, and designated by the legislative body for the purpose. If no such newspaper is so published and circulated in the city, the posting of the resolution of intention shall be sufficient.

Street posting

7141. The superintendent of streets shall thereupon cause to be conspicuously posted along all streets and parts of streets or other public places or rights of way, or along any land of the city or land in, on, under or over which the city has an easement or right of way where any work is to be done or improvement made, or in, on, under or over which any avenue of public travel is to be constructed, at not more than 300 feet apart, notices (not less than three in all) of the passage of the resolution of intention.

Contents

7142. The notices shall be headed "Notice of Street Work" in letters not less than one inch in height, shall be in legible characters, and shall:

(a) State the fact and date of the passage of the resolution of intention, and the time and place fixed for the hearing of protests.

(b) Notify all persons interested to appear at that time and place with their objections to the improvement, if any they have.

(c) Briefly describe the proposed improvement in general terms.

(d) Refer to the resolution of intention for further particulars.

Publication

7143. The superintendent of streets shall also cause a notice of similar substance to be published. If there is no daily, weekly or semiweekly newspaper published and circulated in the city such notice shall also be posted on or near the chamber door of the legislative body, and in two other public places in the city.

Completion time

7144. Such posting and publication shall be completed at least 10 days before the day set for the hearing of protests.

Notice by mail

7145. The city clerk shall immediately upon the passage of the resolution of intention mail, postage prepaid, to each property owner in the assessment district, at his last known address as it appears on the tax rolls of the city, or if no

address so appears, to the general delivery, a postal card containing a notice, which shall be substantially in the following form (filling blanks):

Form

You are hereby notified that on the_____day of_____, 19____, the legislative body of the City of_____, California, by virtue of the Street Improvement Act of 1913, passed an ordinance (resolution) of intention numbered _____, for the improvement of _____ Street between _____ and _____ Street. The time for filing protests will expire on the_____day of_____, 19____, and protests will be heard on the_____day of_____, 19____, at the hour of_____ in the council chamber of said city.

Property belonging to you is within the assessment district for said improvement, and will be assessed therefor. For further information you are referred to said ordinance, and to the maps, profiles, plans and specifications on file in the office of the city engineer (or city clerk).

_____,
City Clerk

Unknown owners

7146. If any lots or parcels of land in the assessment district are assessed to "unknown owners" on the tax rolls of the city, no postal card notices need be mailed to the owners thereof.

Affidavits

7147. The city clerk shall, upon the completion of the mailing of the postal cards, file in the office of the superintendent of streets an affidavit setting forth the time and manner of his compliance with that requirement. The failure of the city clerk to mail the postal cards, or the failure of the property owners, or any of them, to receive them, or the failure of the superintendent of streets to post the notices of street work, or to post proper notices thereof, shall not affect the validity of the proceedings or prevent the legislative body from acquiring jurisdiction to order the improvement.

When may be required

7148. The legislative body may require affidavits to be filed showing the posting and mailing of the required notices before it adopts the resolution ordering the improvement.

Objections

7149. At or before the time fixed for the hearing any person interested, who objects to the proposed improvement or to the extent of the assessment district described in the resolution of intention, may file a written protest with the clerk of the legislative body. Such protest shall be in writing and no other protest or objection shall be considered. The clerk shall indorse on every such protest the date it is filed with him, and at the time fixed for the hearing, or at any other time to which the hearing may be adjourned, he shall present to the legislative body all protests so filed with him.

Affidavits of notice required

7150. Before the hearing of any protest there shall be filed with the legislative body affidavits showing that the notices have been posted and published as required thus far in the proceedings. The legislative body shall thereupon cause to be entered in its minutes an order reciting that notice of the hearing has been posted and published as required by law, and such order shall be prima facie evidence of the truth of the facts therein recited.

Hearing

7151. The legislative body shall hear and pass upon the protests at that meeting, or at any time to which the hearing thereof may be continued, and its decision shall be final and conclusive.

Majority protest

7152. If the protests are against the proposed improvement, and the legislative body finds that such protests are signed by the owners of a majority of the frontage of the property fronting on the streets or parts of streets within the assessment district, all further proceedings shall be barred for six months after the filing of such majority protests, unless the owners of a majority of such frontage shall in the meantime petition for the improvement to be made.

If such protests are not signed by a majority of the owners of such property, and such protests are sustained, no further proceedings shall be had under that resolution of intention, but a new resolution of intention for the same improvement may be passed at any time.

Denial

7153. If the protests are denied, the proceedings shall continue as if they had not been made.

Jurisdiction to order work done

7154. If no protests are filed at or before the time fixed for the hearing thereof by the resolution of intention, or if protests are filed and after hearing are denied, the legislative body shall have jurisdiction to order the establishment, change or modification of grade or other improvement described in the resolution of intention.

Order

7155. Having acquired jurisdiction to do so, it shall by resolution order the establishment, change or modification of grade or such other improvement to be made, and refer that resolution to the commission provided for in this division, to estimate the damages caused thereby, and report an assessment of damages, and of all costs and expenses of the improvement, on the property benefited thereby.

Chapter 4. Determination of Damages

Commission

7170. In any city having a board of public works, that board, and in other cities the mayor, city engineer or surveyor and superintendent of streets, or if all of such officers last mentioned do not exist in cities having no board of public

works, any three competent and disinterested persons appointed by the legislative body, shall act as a commission to estimate the damages caused by the proposed improvement and to assess the damages, and all costs and expenses of the proposed improvement upon the property benefited thereby.

Such commissioners, if they are appointed by the legislative body, shall be sworn to make the assessment of benefits and damages faithfully, impartially and to the best of their ability.

The commission shall have power to subpena witnesses to appear before it to be examined under oath, which any of the commissioners may administer.

Time and place for hearing
Notice

7171. Upon the passage of the resolution ordering the improvement, the commission shall appoint a time and place for the hearing of petitions for damages caused by the improvement, and shall cause notice of such time and place to be published for at least five days in a daily newspaper, or three times in a weekly newspaper, published and circulated in the city, or if no such newspaper is so published and circulated, then by posting.

Notice by mail

7172. The commission shall also cause a similar notice to be mailed to each owner of property, abutting upon the improvement where any change of grade is to be made, at his last known address as it appears on the tax rolls of the city, or as known to the clerk. The failure of the commission to cause these notices to be mailed, or the failure of property owners or any of them to receive the notices, shall not affect the validity of the proceeding or the jurisdiction of the legislative body to proceed.

Time for hearing

7173. The time set for the hearing of petitions for damages shall be not less than 30 days from the first publication or posting of such notice. Before the hearing the commission shall view the location of the proposed improvement and the property affected thereby. The hearing may be continued from time to time by the commission.

Petition for damages

7174. At or before the time set for the hearing of petitions for damages any person owning property, and claiming that his property will be damaged by the proposed improvement, shall file a petition with the superintendent of streets, who shall transmit it to the commission. The petition shall show the fact of such ownership, a description of the property claimed to be damaged, its market value, the amount of damages which it is claimed such property will sustain by the proposed improvement, and the post-office address of the petitioner, or his agent. Every petition shall be verified by the petitioner or his agent.

Determination of damages

7175. After considering the petitions filed in accordance with this chapter, after hearing the petitioners who appear,

and after viewing the location of the proposed improvement and the property affected thereby, the commission shall proceed to determine the amount of damages, if any, which will accrue to each lot or parcel of land and to each separate estate or interest therein because of the proposed improvement.

Benefits to be received from the improvement shall not be considered in computing damages.

Failure to petition for damages

7176. Any property owner who fails to file any petition for damages shall waive his right (1) to a hearing with respect to any damages to any property owned by him, and (2) to object to the amount of such damages fixed by the commission.

Chapter 5. Award and Performance of Contract

Specifications and notice inviting bids

7190. Before awarding any contract for doing any work authorized by this division, the legislative body shall cause a notice with specifications to be posted conspicuously for five days on or near its chamber door, inviting sealed bids for doing the work ordered. It shall also cause a notice inviting bids, and referring to the specifications posted or on file, to be published for two days in a daily or weekly newspaper published and circulated in the city and designated by the legislative body for that purpose. If there is no newspaper published in the city, then the notice shall only be posted.

Bids and security

7191. Every bid shall be delivered to the clerk and shall be accompanied by a certified check, amounting to 10 per cent of the amount of the bid, payable to the order of the clerk, or by a bond for that amount, and so payable, signed by the bidder and by two sureties who shall justify before any officer competent to administer an oath, in double the amount of the bond, and over and above all statutory exemptions. The amount of the check or bond shall be forfeited to the city if the bidder depositing the check or bond does not, within 10 days after written notice that the contract has been awarded to him, enter into a contract with the city to do the work and furnish the bonds required.

Award of contract

7192. The legislative body shall open the bids in public session and publicly declare them, and no bid shall be considered unless accompanied by the required bond or certified check. The legislative body shall let the contract to the lowest responsible bidder, who shall give bond for the faithful performance of the work in such sum as the legislative body may require, with sureties satisfactory to the legislative body. The legislative body may reject any and all bids, if it deems this for the public good, and also the bid of any person who has been delinquent or unfaithful in the performance of any contract let by or under the authority of the city.

Acceptance of work

7193. The contract shall provide that the work is to be done under the supervision of the superintendent of streets, and no work shall be paid for until it has been accepted by the legislative body.

Application for acceptance

Notice of hearing

7194. Whenever the contractor desires all or any part of the work to be accepted, he shall make written application therefor to the legislative body. Upon the filing of such application, the clerk shall give not less than five days' notice by publication by two insertions in a daily or weekly newspaper published and circulated in the city, or by posting for two days in three public places in the city if no such newspaper is published and circulated in the city, that at a certain time and place named in the notice, the legislative body will hear and consider any objections to the acceptance of all or part of the work, for the acceptance of which the contractor has made such application. The legislative body shall not accept any work until after such a hearing.

Objections

7195. If upon such hearing any objections to the acceptance are made and sustained by the legislative body, the legislative body shall require the contractor to take such steps as will remove such objections. If the contractor fails to do so, within such time as the legislative body shall prescribe, the legislative body may relet such portion of the work, and may charge the contractor the cost thereof together with all expenses incident to the reletting. The legislative body may retain the amount of such cost and expenses out of any moneys due or to become due to him under the contract, and may also hold him and his sureties responsible therefor upon his bond.

Contract terms

7196. The contract shall provide that the work shall be commenced within 20 days after the contractor receives written notice from the superintendent of streets that there is sufficient money or bonds or money and bonds in the special fund devoted to the improvement to pay the contract price, and that the contractor shall complete the work within such time as the superintendent of streets shall prescribe.

Abandonment by contractor

7197. If the contractor abandons or fails to proceed with the work as required by his contract, the legislative body may either relet all or any portion of the contract or it may complete the work by the direct purchase of labor and materials, and pay the cost of completing the work, including any expenses incident thereto, out of the funds due or to become due the contractor. The legislative body may also hold the contractor and his sureties responsible upon his bond for such costs and expenses, and also any damages resulting from such abandonment or failure to proceed with the work as required by his contract.

Completion by city

7198. If the legislative body elects to complete the work, it shall serve not less than five days' written notice of its election upon the contractor or upon his agent having charge of the work. Such notice may be served by personally delivering such notice to the contractor, or to his agent having charge of the work, or by sending it by registered mail to the contractor or agent at his last known address (the period of five days to run from the date of registration in the post office). If the contractor or his agent has left the State or if his address is unknown, it shall be sufficient to post such notice in a conspicuous place upon the premises of work.

Chapter 6. Bond for Labor and Material

Labor and material-men's bond

7210. At the time of executing the contract, the contractor shall execute, deliver to, and file with the superintendent of streets a good and sufficient bond in a sum not less than one-half of the total contract price. The bond shall be executed by two or more good and sufficient sureties or by a corporate surety as provided by law, and shall provide that if the contractor or any of his subcontractors fail to pay (1) for any materials, provisions, provender or other supplies or teams, or (2) for the use of implements or machinery used in, upon, for or about the performance of the work contracted to be done, or (3) for any work or labor thereon of any kind, that the surety shall pay therefor in an amount not exceeding the sum specified in the bond, and (4) if an action is brought upon the bond, that the surety shall pay a reasonable attorney's fee to be fixed by the court.

The bond by its terms shall inure to the benefit of any and all persons entitled to file claims under this division, so as to give a right of action to them or their assigns in any action brought upon the bond.

Claims against contractor

7211. At any time prior to the expiration of the periods within which claims of lien are required to be filed for record by Section 1187 of the Code of Civil Procedure, a verified statement of claim, together with a statement that all or some part thereof has not been paid, may be filed with the superintendent of streets by any of the following whose claim has not been paid by the person to whom the contract was awarded, or by the subcontractors of such person:

(a) Any person furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed.

(b) Any person renting or hiring teams or implements, or machinery for, or contributing to, the work to be done.

(c) Any person who performs work or labor upon such work.

(d) Any person who supplies both work and materials.

Notice of completion

7212. The superintendent of streets may, within 10 days after the completion of any such contract or work of improvement, or within 10 days after a cessation of labor thereon for a period of 30 days, record in the office of the county recorder of the county where the property is situated, a notice giving the date on which such contract or work was completed or on which cessation from labor occurred, the name of the city, a description of the property or work of improvement sufficient for identification, and the name of the contractor and of the surety. Such notice shall be verified by the superintendent of streets, and if such notice is not recorded the failure so to record shall have the same effect as provided in Section 1187 of the Code of Civil Procedure, with reference to the "owner."

Claimants' lien

7213. Any person entitled to the benefit of this chapter, whose claim has not been paid by the contractor, or his subcontractors, shall severally have a first lien upon and against the assessment, any partial assessment, any reassessment and any bonds which may be issued to represent any assessment or reassessment. Any actions against the city or superintendent of streets to establish such liens brought by any claimant who has filed claims under this division, or by his assigns, shall be governed by the provisions of Sections 1184, 1184a, 1184b, and 1184c of the Code of Civil Procedure, and the verified notice provided for in the said sections shall be equivalent for all purposes to the verified claim provided for in this chapter.

Assignments by contractor

7214. No assignment by the contractor of all or any part of the money, assessment, partial assessment, any reassessment and any bonds which are issued to represent any assessment or reassessment, due him or to be due him, or for "extras" in connection therewith, whether made before or after a verified claim is filed as provided in this chapter, shall be held to take priority over claims filed under this chapter. Any such assignment shall have no binding force as against the rights of claimants or their assigns, who file claims under this chapter.

Payments to contractor

7215. Nothing in this chapter shall prohibit:

(a) Payment to the contractor or his assigns, so long as no verified claim is on file before the disbursing officer actually surrenders possession of the assessment, partial assessment, any reassessment, and any bonds issued to represent any assessment or reassessment.

(b) The payment to the contractor or his assigns of any assessment, partial assessment, any reassessment and any bonds issued to represent any assessment or reassessment, due him or his assigns over and above the total amount of the claims filed at that time plus such interest and court costs as might be reasonably anticipated in connection with those claims.

Action on bond

7216. Any claimant or his assign may bring an action against the sureties on the bond of the contractor at any time after the claimant has ceased to perform labor or furnish material or both and until the expiration of six months after the period in which verified claims may be filed. The filing of a verified claim shall not be a condition precedent to the maintenance of an action against the sureties on the bond and an action on the bond may be maintained separately from and without the filing of an action against the city or officer by whom such contract was awarded. Upon the trial of any such action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment rendered in the action.

Disputed claim

7217. If the contractor, subcontractor or other person against whom any claim is filed disputes the correctness or validity of the claim, the city or superintendent of streets by whom the contract was awarded, in its or his discretion, may permit the contractor to whom the contract was awarded to deliver to the city or superintendent of streets a bond executed by a corporate surety in a penal sum equal to one and one-fourth times the amount of the claim.

Bond guaranteeing payment

7218. Such bond shall guarantee the payment of any sum which the claimant may recover on his claim, together with his costs of suit if he recovers in the action. Upon the filing of such bond by and with the consent of the city or superintendent of streets, the city or superintendent of streets shall not withhold from the contractor on account of that claim any funds, assessment, partial assessment, any reassessment and any bonds which may be issued to represent any assessment or reassessment. The sureties upon the bond shall be jointly and severally liable to the claimant with the sureties upon the original bond inuring to the benefit of persons entitled to file claims under this chapter.

Chapter 7. Making the Assessment

Assessment

7230. The commission shall, as soon as practicable after determining what damage will be caused by the improvement, and after the signing of the contract for the work, assess the total amount of all the incidental expenses of such improvement upon the respective lots or parcels of land in the assessment district, in proportion to the benefits to be received by such lots or parcels of land, respectively, from the improvement. Such incidental expenses:

Incidental expenses

(a) Shall include the necessary expenses and disbursements of the commission, the cost of making the assessment, and all expenses necessarily incurred by the city in connection with the proposed improvement for maps, diagrams, plans, surveys and other matters incident to the improvement.

(b) May also include all cost and expense incurred in carrying out the investigations and reports required by the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931."

Commission's report

7231. The commission shall make and file with the clerk of the legislative body a written report containing the following:

(a) A schedule describing the lots or parcels of land belonging to each petitioner for damages and which will be damaged by the improvement, stating its determination as to the owner of and damages to each such lot or parcel of land and to each separate estate or interest therein.

(b) A diagram of the assessment district, and also the boundaries and dimensions of each lot or parcel of land within the district. Each lot or parcel of land shall be given a separate number in red ink upon the diagram.

(c) A proposed assessment of the total amount of damages that the commission determines will be caused by the improvement, the total amount of the contract price for the work and the total amount of the incidental expenses thereof as above specified, upon the respective lots or parcels of land in the district in proportion to the benefits to be received by such lots or parcels of land, respectively, from the improvement. The assessment shall refer to such lots or parcels of land upon the diagram by the red ink numbers thereof, and need contain no other description thereof. The assessment shall show the names of the owners, if known, otherwise designating them as unknown; but no mistake in the name of the owner of any lot or parcel of land shall affect the validity of the assessment thereon.

In case the commissioners do not all agree, a majority of the whole number may make such report.

Time of hearing

7232. Upon the filing of the commission's report, the clerk of the legislative body shall present such report to the legislative body. The legislative body shall fix a day for the hearing thereof, which day shall not be less than 20 days from the date of filing the report.

Notice

7233. The legislative body shall cause a notice of such hearing to be published by the clerk thereof, by three insertions in a daily newspaper published and circulated in the city, or if there is no daily newspaper published and circulated in the city, then by two successive insertions in a weekly newspaper so published and circulated; or if no newspaper is so published and circulated, then by posting. Such publication or posting shall be completed at least 10 days before the date fixed for the hearing.

Contents

7234. The notice shall state that the report has been filed, and the date set for the hearing thereof, and require all persons interested to file with the clerk, at or before the time fixed

for the hearing, their objections, if any they have, to the confirmation of the report.

Notice by mail

7235. The clerk shall also give such notice by mailing a post card to each owner of property abutting upon the improvement at his last known address as it appears on the tax rolls of the city, or as known to the clerk. The clerk's failure to give such notice or of the person addressed to receive it shall not affect the jurisdiction of the legislative body to proceed with the hearing.

Objections

Hearing

7236. The owners and all other persons interested in the report may object thereto by filing with the clerk, prior to the date fixed for the hearing of the report, a brief written statement of the grounds for their objections. At the time fixed, or at any other time to which the hearing may be continued, the legislative body shall hear the report and any objections thereto.

Action on the report

7237. At the hearing the legislative body may remedy and correct any error or informality in the proceedings; may confirm, amend, modify or correct the report in such manner as to it seems just; and may instruct and direct the commission to correct the report in any particular.

Determinations final

All the decisions and determinations of the legislative body upon notice and hearing as provided in this chapter, shall be final and conclusive, except as to the damages to be caused by the improvement, upon all persons entitled to object under the provisions of this chapter, as to all errors, informalities and irregularities which the legislative body might have avoided or remedied during the progress of the proceeding, or which it could at that time remedy.

Validity

7238. Neither the report, nor any proceedings prior thereto, shall be held invalid by any court for any error, informality or other defect if the resolution of intention to do the work has been actually published as provided in this division.

Assessment roll

7239. If no objection is filed or when the orders and determinations of the legislative body made at the hearing have been complied with, and the legislative body is satisfied with the correctness of the report the clerk of the legislative body shall transmit to the superintendent of streets the diagram and assessment as finally confirmed. The superintendent of streets shall thereupon record such assessment and diagram in his office in a suitable book to be kept for that purpose, and append thereto his certificate of the date of such recording. Such record shall be the assessment roll. From the date of such recording all persons shall be deemed to have notice of the contents of the assessment roll.

Assessment lien

7240. Immediately upon such recording the several assessments contained in the assessment roll shall become due and

payable, and each of such assessments shall be a lien upon the property against which it is made, paramount to all other liens, except liens for State, county and municipal taxes. Such lien shall be subordinate to all special assessment liens previously imposed upon the property, but it shall have priority over all special assessment liens thereafter created against the same property. The liens shall only be discharged by payment of the assessment or by redemption of the land after sale for delinquency.

Notice of recording assessment

7241. The superintendent of streets shall, upon the recording of the assessment, give notice of such recording by publication for five days in a daily newspaper published and circulated in the city, or by two insertions in a weekly newspaper so published and circulated. If no daily or weekly newspaper is so published and circulated in the city, then he shall post such notice for four days in three public places in the city.

Contents

7242. Such notice shall state:

(a) That the assessment has been recorded in the office of the superintendent of streets and that all sums assessed therein are due and payable immediately.

(b) That payment of those sums must be made to the superintendent of streets within 30 days after the date of the first publication or posting, which date shall be stated in the notice.

(c) Assessments not paid before the expiration of the 30 days shall be delinquent, and thereupon 5 per cent shall be added to the amount thereof.

Payment

7243. When payment of any assessment is made the superintendent of streets shall mark opposite such assessment the word "paid," the date of payment, and the name of the person by or for whom the payment is paid, and shall give a receipt for such payment.

Delinquency

7244. Upon the expiration of the 30-day period specified in the notice, all assessments then unpaid shall be delinquent, and the superintendent of streets shall mark each such assessment "delinquent" on the assessment roll, and add 5 per cent to the amount thereof.

CHAPTER 8. SALE AND REDEMPTION OF DELINQUENT PROPERTY

Delinquent list

7260. The superintendent of streets shall within 30 days from the date of delinquency begin the publication of a list of the delinquent assessments. Such list shall contain a description of each lot or parcel of land delinquent, and opposite each description the name of the owner as stated in the assessment roll, and the amount of the assessment and costs due, including the cost of advertisement, which shall not exceed the sum of fifty cents ($0.50) for each lot or parcel of land assessed.

Notice of sale

7261. The superintendent of streets shall append to and publish with the delinquent list a notice that unless each delinquent assessment, together with the penalty and costs thereon, is paid, the property upon which such assessment is a lien will be sold at public auction at a time and place to be specified in the notice.

Time and manner of publication

7262. Such publication shall be made by five insertions in some daily newspaper published and circulated in the city, or by two insertions in a weekly newspaper so published and circulated. If no daily or weekly newspaper is so published and circulated in the city, such list of delinquent assessments and notice shall be posted in three public places in the city for five days.

Time of sale

7263. The time of sale shall not be less than five days nor more than 10 days after the last publication of the delinquent list, or after the completion of such posting, as the case may be, and the place of sale shall be in or in front of the office of the superintendent of streets.

Redemption prior to sale

7264. At any time after such delinquency and prior to the sale of any lot or parcel of land assessed and delinquent, any person may pay the assessment on such piece of property, together with the penalties and costs due thereon, including the cost of advertising, if such payment is made after the first publication of the list of delinquent assessments.

Sale

7265. At the time and place fixed for the sale the superintendent of streets shall, commencing at the head of the list, and continuing in numerical order, sell the lots or parcels of land advertised until all are sold. He may continue the sale from day to day until all the property is sold.

Terms of sale

7266. Each lot or parcel of land separately assessed shall be offered for sale separately, and the person who will take the least quantity of land and then and there pay the amount of the assessment, penalty and costs due, including fifty cents ($0.50) to the superintendent of streets for a certificate of sale, shall become the purchaser. If there is no other purchaser for any lot or parcel of land offered for sale, it shall be struck off to the city as purchaser.

After all sales have been made the superintendent of streets shall report to the city treasurer the amount collected.

Certificate of sale

7267. After making the sale the superintendent of streets shall execute in duplicate a certificate of sale setting forth:

(a) A description of the property sold.

(b) The name of the owner thereof as given in the assessment roll.

(c) A statement that the property was sold for a delinquent assessment, specifying the improvement for which the assessment was made.

(d) The amount for which such property was sold.

(e) The date of sale.

(f) The name of the purchaser.

(g) The time when the purchaser will be entitled to a deed.

Record of sale

7268. The superintendent of streets shall file one copy of the certificate of sale in his office, and deliver the other to the purchaser, or if the city is the purchaser, to the clerk of the legislative body, who shall file such copy in his office. Upon the filing of the copy of the certificate in the office of the superintendent of streets, the lien of the assessment shall vest in the purchaser and is only divested by a redemption of the property as provided in this division.

The superintendent of streets shall also enter upon the assessment roll opposite the description of each lot or parcel of land offered for sale, the description of the portion thereof sold, the amount for which it was sold, the date of the sale, and the name of the purchaser.

Redemption

7269. At any time before the expiration of one year from the date of the sale, any lot or parcel of land sold for a delinquent assessment may be redeemed by any party in interest by the payment to the superintendent of streets of the amount for which the property was sold, and in addition thereto, 10 per cent thereon if paid within six months from the date of sale; and 25 per cent if paid within 12 months.

Redemption record

7270. The superintendent of streets shall note any redemption made and the date thereof on the duplicate certificate of sale on file in his office, and deposit the amount paid with the city treasurer, who shall credit the purchaser named in the certificate of sale with that amount and pay that amount to the purchaser or to his assigns, upon the surrender of the certificate of sale and upon satisfactory proof of assignment thereof, if any. If the city is the purchaser, the superintendent of streets shall notify the clerk of the legislative body of the redemption, and the clerk shall thereupon cancel the certificate of sale on file in his office.

Deed

7271. At any time after the expiration of 12 months from the date of sale the superintendent of streets shall on request execute to the purchaser, or to his assignee, if such purchaser or assignee has complied with this chapter, a deed to the property sold, in which shall be recited substantially the matters contained in the certificate, also any assignment thereof, and the fact that no person has redeemed the property. The superintendent of streets shall receive one dollar ($1) for such deed unless the city is the purchaser, in which case no charge shall be made therefor.

Notice of application for deed

7272. The purchaser or his assignee shall, at least 30 days before he applies for a deed, serve upon the owner of the property, and upon the occupant of the property if it is occupied, a written notice, setting forth a description of the property, that the property has been sold for a delinquent assessment (specifying the improvement for which the assessment was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice, and the time when such purchaser or assignee will apply to the superintendent of streets for a deed.

Unknown owners

If the owner can not be found, after due diligence, the notice shall be posted in a conspicuous place upon the property at least 30 days before the time stated therein at which the application for a deed will be made.

Affidavits

7273. The person applying for a deed shall file with the superintendent of streets one or more affidavits, showing that notice of such application has been given, as required in this chapter, and if the notice was not served on the owner of the property personally, that due diligence was used to find the owner. The superintendent of streets shall file such affidavits in his office.

Service fees

If redemption of the property is made after such affidavits are filed, and more than 11 months from the date of sale, the person making such redemption shall pay, in addition to the other amounts required, three dollars ($3) for the service of notice and the making of such affidavits, which amount shall be paid over to the purchaser or his assignee, in the same manner as other sums paid for redemption.

When deed issues

7274. No deed for any property sold for a delinquent assessment shall be made until the purchaser, or his assignee, has complied with all of the provisions of this chapter, and filed the proper affidavits with the superintendent of streets. The deed shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the execution thereof, and of title in the grantee.

Chapter 9. Special Improvement Fund

Improvement fund

7290. The funds collected by the superintendent of streets under the proceedings provided for in this division, either upon voluntary payment or as the result of sales, shall be paid by the superintendent of streets as fast as collected to the city treasurer who shall place such funds in a special fund designated by the number or name of the proceedings, and payment shall be made out of the special fund only for the purposes provided for in this division.

Loans by city

7291. To expedite the making of any improvement under this division the legislative body may at any time transfer into the special fund out of any money in the general fund such sums as it may deem necessary. The sums so transferred

shall be deemed a loan to such special fund, and shall be repaid out of the proceeds of the assessments provided for in this division.

Contributions by city

7292. The legislative body of any city may order, by resolution entered upon its minutes, that the whole or any part of the costs and expenses of any of the work mentioned in this division shall be paid out of the treasury of the city from such fund as the legislative body may designate. Whenever a part of such cost and expenses is so ordered to be paid the commission in making up the assessment for such cost and expenses shall first deduct from the whole cost and expenses such part thereof as has been so ordered to be paid out of the city treasury, and shall assess the remainder of the costs and expenses proportionately upon the lots or parcels of land within the assessment district in the manner heretofore provided in this division.

Financing deficits

7293. If the first assessment for any improvement under this division, or if the sale of any bonds issued to represent assessments under this division, fails to raise sufficient money to pay all costs, damages and expenses of the improvement, including any judgments rendered in the action and proceedings mentioned in this chapter and the costs and expenses of such action or proceedings, the legislative body may pay the deficit out of the general fund, or may order a supplemental assessment to raise such deficit, which shall be made and collected in the same manner, as nearly as may be, as the first assessment, and so on until sufficient money is raised to pay for such improvement.

Notice of payments

7294. When sufficient money is in the special fund devoted to the proposed improvement to pay the total amount of estimated damages therefrom, all expenses of the proceedings and the cost of doing the work, the superintendent of streets shall:

(a) Notify the contractor for the work of that fact.

(b) Draw demands on the special fund for the respective amounts of damages awarded by the report.

(c) Notify the owner of each lot or parcel of land declared by the report to be damaged, if the name of such owner is stated in the report, that the awards of damages are payable, and that he may receive the sum awarded to him on executing a release to the city of all liability for damages caused by the improvement. Such notification may be given by depositing a notice, postage prepaid, in the post office addressed to such person at his last known residence.

Condemnation action

7295. If any owner of property that will be damaged by the improvement fails or refuses to accept the amount awarded to him by the report of the commission, the legislative body may cause proceedings to be brought against him in the name of the city, in the superior court, to have the damages to such

property determined. Such proceedings shall conform, as nearly as may be, to the provisions of the Code of Civil Procedure, regarding eminent domain, except that the plaintiff shall not be required to pay the amount of damages awarded within 30 days after judgment. In such proceeding the resolution ordering the improvement shall be conclusive evidence of the necessity of the improvement.

Owner's action against city

7296. If no such proceeding is brought against him, any owner of property damaged by the improvement may decline to accept the amount awarded him, if any, and bring an action against the city to recover the amount to which he claims to be entitled. Any such action shall be brought within 30 days after the final completion of the improvement. If in such action he fails to recover more than the amount awarded to him by the report of the commission, he shall not recover costs.

CHAPTER 10. REASSESSMENTS

Conditions of reassessment

7310. If any assessment heretofore or hereafter issued is void or unenforceable for want of sufficient authority for its issuance or from irregularities, or illegalities in the proceedings, or if bonds are heretofore or hereafter issued to represent any assessments and such issuance is not effective through the curative provisions thereof to make them valid and enforceable, then, in any of such events a reassessment therefor shall be issued.

Costs payable by benefited property

7311. The true intent and meaning of this chapter is to make the cost and expense of any work or improvement made through an attempted compliance with this division, payable by the lots or parcels of land benefited by such work or improvement by making a reassessment therefor.

The power of reassessment embraces both a full and a partial reassessment, and is not exhausted by a single attempted exercise thereof.

Reassessments

7312. A reassessment shall be ordered under any one of the following circumstances:

Request of bondholder

(a) Whenever the owner or holder of any assessments, or of bonds issued to represent assessments, requests the legislative body of the city in which the assessment is issued to order a reassessment. If the legislative body is of the opinion that the assessments or bonds in question are not enforceable, it shall order the making and issuing of a reassessment covering only the assessments owned or held by the petitioner, or the assessments represented by the bonds owned or held by the petitioner.

Court order

(b) Whenever any court of competent jurisdiction in any action to foreclose the lien of any assessment or to enforce the obligation of any bond issued to represent any assessment issued under this division, has for any reason held such lien

unenforceable, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such action.

Court order

(c) Whenever any court of competent jurisdiction in any action to set aside the lien of any assessment or of any bond representing any assessment or in any action to quiet title against the lien of any such assessment or bond in its judgment decrees such assessments or bonds to be void or unenforceable, then it shall in and by its decree direct the making of a reassessment to cover the assessments involved in such action.

Making the reassessment

7313. The superintendent of streets shall, upon the entering of a decree of court directing a reassessment or upon the making of an order by the legislative body of the city directing a reassessment, assess upon and against the lots or parcels of land mentioned in the decree or order the benefits derived or to be derived by each from the work or improvement estimated as of the date of the original assessment.

To each sum so reassessed there shall be added interest thereon from the date of the original assessment at the rate of 7 per cent per annum.

Form

7314. The reassessment need not be in any prescribed form, but shall refer to the original assessment, give the date of the original assessment and state that it is made pursuant to the order of the legislative body of the city or decree of the court, as the case may be. It shall then be presented to the legislative body, which shall fix a time for hearing before it. Such time shall be at least 20 days after the reassessment is so presented.

Time of hearing

Notice

7315. The city clerk shall then advertise the time of the hearing before the legislative body by publishing a notice in the newspaper in which the notice of award of contract for the improvement for which the assessment was made, was published unless the legislative body directs publication in some other newspaper. Such notice shall be published for five insertions, if the newspaper is a daily, or by two insertions, if the newspaper is published less frequently.

Objections

7316. At the time fixed for the hearing or at any time to which it may be thereafter adjourned, the legislative body shall consider the objections to the reassessment and in its discretion informally direct the revision, correction or modification of such reassessment in such manner as is most equitable. When such reassessment is revised, corrected or modified to comply with the judgment of the legislative body, then it shall pass a resolution confirming the reassessment.

Recordation

7317. The street superintendent shall thereupon record the reassessment with a certificate at the end thereof by the city

clerk, that it is the reassessment approved by the legislative body. He shall also note opposite the several assessments in the original assessment that are displaced by the reassessment the fact that the reassessment has been made, giving its date, and shall credit upon such reassessment all payments theretofore made upon the original assessment, or upon the bonds issued to represent the original assessment, applying such payments first to the interest due and then upon the principal.

Enforcement

7318. A reassessment shall be collectible and payable in the same manner as an original assessment and shall be enforceable by action in the manner provided for enforcing an original assessment. If bonds issued under the original assessment they shall also issue upon the reassessment for such sum as may be reassessed against the lot or parcel of land covered thereby.

Bonds

Lien

The lien of such reassessment shall hold its relative rank as to other special assessment liens as of the date of the original assessment.

Chapter 11. Abandonment of Proceedings

Abandonment by city

7330. The legislative body may, at any time prior to the letting of the contract for any improvement under this division, determine that the proceedings shall be abandoned, which determination shall be declared by resolution entered upon its minutes.

Abandonment by contractor

7331. The legislative body may in like manner abandon such proceedings after the letting of such contract in any case where the contractor has failed to begin work within the time provided in this division, or has failed to complete the work within the time specified in the contract, or has failed to diligently prosecute the work after beginning it.

The legislative body may also in like manner abandon the proceedings when the contractor has failed, neglected or refused, for a period of 10 days after receiving the notice from the city treasurer that there is not enough money in the fund for the improvement to pay the incidental expenses and the awards of damages, to advance to that fund an amount sufficient for such purposes.

Reletting the contract

7332. Such legislative body may in any of the contingencies specified in this chapter, instead of abandoning the proceedings, direct the superintendent of streets to readvertise for bids for the doing of all or any part of the work, and the contract may be relet as in the first instance, but the bid of any contractor who has failed in any of the obligations imposed upon him by this division, or by his contract, shall not be considered in any subsequent bidding for the same work.

PART 4. BONDS

CHAPTER 1. DETERMINATION TO ISSUE BONDS

Bonds

7360. The legislative body may determine that serial bonds shall be issued in the manner and form provided in this part to represent assessments of twenty-five dollars ($25) or more for the cost and expenses of any work or improvements authorized by this division.

Period of bonds

7361. Such serial bonds shall extend over a period not to exceed 25 years from the second day of January next succeeding the issuance of the bonds, and an even annual proportion of the principal sum thereof shall be payable by coupon on the second day of January every year after their date until the whole is paid. If the period over which the bonds are to extend exceeds 10 years, one-tenth of the principal sum thereof shall be payable by coupon on the second day of January of each of the last 10 years of that period. The interest on the bonds shall be payable semiannually by coupon on the second day of January and July respectively, of each year, at the rate of not to exceed 10 per cent per annum on all sums unpaid, until the whole of the principal and interest is paid.

Declaration in resolution of intention

7362. Whenever the legislative body of any city determines that serial bonds shall be issued to represent the cost and expenses of any proposed work or improvement under this division, it shall so declare in the resolution of intention to do the work, which resolution shall specify the rate of interest which they shall bear and the period of time over which they are to run, and shall also state that a bond will issue to represent each assessment of twenty-five dollars ($25) or more remaining unpaid at the expiration of 30 days after the first publication or posting of the notice of the recording of the assessment by the superintendent of streets.

Assessments less than $25

7363. If the amount of the unpaid assessment or reassessment upon any lot or parcel of land is less than twenty-five dollars ($25), then it shall be collected as is provided in this division.

CHAPTER 2. ISSUE OF BONDS

List of unpaid assessments

7370. Whenever it is determined that serial bonds shall be issued to represent assessments amounting to twenty-five dollars ($25) or over, the superintendent of streets shall, forthwith after the full expiration of 30 days from the date of the first publication of the notice of the recording of the assessment roll, or forthwith after the full expiration of 30 days from the recording of any reassessment that may be made, and after all previous payments have been credited on such reassessment, make and certify to the city treasurer a

complete list of all assessments unpaid, which amount to twenty-five dollars ($25) or over upon any assessment or diagram number.

Issuance of bonds

7371. Upon receiving the list of unpaid assessments the city treasurer shall make out and sign a separate bond for each lot or parcel of land representing the total amount of the assessments or reassessments, as the case may be, as shown on the list of unpaid assessments.

Description of land

7372. If any lot or parcel of land is described upon the assessment and diagram by its number or block, or both, upon the official map of the city, or upon any map on file in the office of the county recorder of the county in which the city is situated, then it shall be a sufficient description of the lot or parcel of land to designate it in the bond by the number or block, or both, as it appears on the official or recorded map.

Objection to issuance of bond

7373. If at any time before the issuance of the bond representing an assessment or reassessment upon his lot or parcel of land, the owner or his authorized agent presents to the city treasurer his affidavit made before a competent officer, that he is the owner of that lot or parcel of land, accompanied by the certificate of a searcher of records that he is such owner of record, and with such affidavit and certificate notifies the treasurer in writing that he desires no bond to be issued for the assessment upon that lot or parcel of land, then no such bond shall be issued therefor and the street superintendent shall retain his right to enforce collection of the assessment or reassessment as if the lot or parcel of land had not been included on the list of unpaid assessments prepared by the street superintendent.

Chapter 3. Form and Effect of Bonds

Bond form

7390. Each bond shall be substantially in the following form:

Improvement Bond

$_____ Series _____ No._____

Under and by virtue of and pursuant to the provisions of the Street Improvement Act of 1913 (Division 8 of the Streets and Highways Code), I, out of the fund for the above designated improvement bonds, series _____ will pay to bearer the sum of _____ dollars ($_____) with interest at the rate of _____ per cent per annum, as is hereinafter specified, at the office of the city treasurer of the City of _____, State of California. This bond is issued to represent an assessment for _____ in the City of _____, as the same is more fully described in the assessment therefor. Its amount is the amount assessed in said assessment against the lot numbered

Bond form (cont'd) ------ therein and in the diagram attached thereto, and which now remains unpaid; but until paid, with accrued interest, is a first lien upon the property affected thereby, as the same is described herein, and in said recorded assessment with its diagram, to wit: The lot or parcel of land in the City of ------, County of ------, State of California, described as follows:

This bond is payable exclusively from said fund, and neither the City of ------, nor any officer thereof is to be holden otherwise for its principal or interest. The term of this bond is ------ years from January 2, 19----, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the second day of January of each year, after the date hereof, an even annual proportion of its principal is due and payable upon presentation of the coupon therefor, until the whole is paid, with accrued interest, at the rate of ------ per cent per annum.

The interest is payable semiannually on the second day of January and July in each year hereafter upon presentation of the coupons therefor, the first of which is for the interest from date to the second day of ------, 19------, and thereafter the interest coupons are for the semiannual interest.

Should default be made in the first, or any succeeding payment of the principal, or in the payment of interest, by the owner of said lot, or any one in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have said lot or parcel of land advertised and sold forthwith, in the manner provided by law.

Dated at said City of ------, this ------ day of ------, in the year 19---.

City treasurer of the City of

Errors in description 7391. No mistake or error in the description in the bond of the lot assessed shall affect the validity or lien of the bond, unless the mistake or error is such that the lot can not be identified, and in such event the holder of such bond may have the description corrected upon application to the city treasurer and the officers or board who made the assessment to represent which the bond was issued.

Bond terms 7392. The bonds issued by the treasurer shall be payable to the bearer, shall be serial bonds, and shall bear interest at the rate specified in the resolution of intention to do the work.

Annual principal coupons 7393. The bonds shall have annual coupons attached thereto, payable in annual order on the second day of January in each year after the date of the bonds until all are paid, or

if the term of the bonds is more than 10 years, then the coupons shall be payable on the second day of January of each of the last 10 years of the term of the bonds. Each coupon shall be for an even annual proportion of the principal of the bond.

Annual interest coupons

7394. The bonds shall have semiannual interest coupons thereto attached, the first of which shall be payable upon the second day of January or July, as the case may be, next after its date, and shall be for the interest accrued at that time, and the rest of which shall be for the semiannual interest accruing from the second day of January or July, as the case may be.

Signatures

7395. If any officer whose signature or countersignature appears on any bond or coupon ceases to be such officer before delivery of such bonds to the purchaser thereof, such signature or countersignature appearing either on the bonds or on the coupons, or both, shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of such bonds.

Bond lien

7396. The improvement bonds issued under this part shall take the place of and have the same force, validity and effect as assessment liens that the assessments would have if no bonds had been issued, and the lien of the bonds shall not be held or construed to be merely contractual.

Effect of issuance

7397. The bonds shall by their issuance be conclusive evidence of the regularity and validity of all proceedings leading up thereto.

Bond lien

7398. The amount due upon any bond shall be a lien upon the lot described in such bond superior to all other liens, charges and incumbrances, except the liens of prior assessments and of municipal, State and county taxes.

Chapter 4. Bond Records and Payments

Bond record

7410. The city treasurer shall enter a record of each bond in a book kept for that purpose in his office. Such record shall specify:

(a) The date the bond was issued.
(b) The amount for which the bond was issued.
(c) To whom the bond was delivered.
(d) The duration of the bond.
(e) A description of the lot against which the bond was issued.

Record of payments

7411. Payments of principal and interest on account of any bond shall be made to the city treasurer at his office. The treasurer shall keep a separate account of all such payments, entering them in the record required to be kept. He

shall place the money so received in appropriate funds, designated by the name of the bonds, for the payment of principal and interest of the bonds on account of which paid. Upon the surrender of the coupons attached to any bond, the treasurer shall pay to the holder thereof, or his order, the amount called for by the coupons out of the funds in his possession applicable thereto.

Under no circumstances shall the bonds or the interest thereon be paid out of any other fund.

Bond register

7412. The city treasurer shall keep a register in his office which shall show the series, number, date, amount, rate of interest, payee and indorsees of each bond, and the number and amount of each coupon of principal or interest paid by him. He shall cancel and file each coupon so paid.

Payments in advance of maturity

7413. The owner of, or any person interested in, any lot or parcel of land upon which a bond is issued may at any time pay off such bond and discharge his land from the lien of the assessment, by paying to the city treasurer for the holder of such bond the amount then unpaid on the principal sum thereof, and all interest thereon which has accrued and is unpaid, together with the semiannual installment of interest which will next become due thereafter, and in addition thereto, interest for one year at the rate specified in the bond upon the unpaid amount of the principal. The treasurer shall thereupon make an entry upon his bond register that such bond has been paid in full.

Indorsements on assessment roll

7414. When all the coupons of principal and interest are paid or the bond is surrendered or satisfied, the city treasurer shall report that fact to the street superintendent, who shall forthwith indorse the same on the margin of the record of the assessment to the credit of which the same is paid.

CHAPTER 5. SALE OF BONDS

Sale to highest bidder

7430. Any number of such bonds, except as otherwise provided in this division, shall be sold to the highest cash bidder, after advertisement for bids, or shall be sold in such other manner as the legislative body may determine. Such advertisement for bids shall be published for at least three times in a daily newspaper published and circulated in the city, or if there is no such daily newspaper, then such advertisement shall be published at least once in a weekly or semiweekly newspaper so published and circulated.

Disposition of proceeds

7431. If any bond is sold for an amount in excess of par such excess shall be paid into such fund of the city as the legislative body thereof may prescribe. The proceeds of the sale of the bonds shall be paid into the fund of the proceeding to represent assessments for which the bonds were issued.

Issuance to contractor

7432. Any bonds not sold within 15 days after the completion of the publication of the advertisement for bids shall be turned into the fund for the improvement for which the assessment is made, and shall be treated as so much money in the fund, and shall upon final acceptance of the improvement be issued to and accepted by the contractor for the work, or his assigns, in payment pro tanto of the contract price of the improvement, if there is sufficient money in the fund to pay all incidental expenses and all awards of damages that are required to be paid prior to the doing of the work.

Advancements by contractor

7433. If, at the expiration of 15 days after the completion of the publication of the advertisement for bids, there is not sufficient money in the fund for the improvement to pay the incidental expenses and the amount of any awards of damages required to be paid prior to the doing of the work, the contractor may advance to the fund for the improvement an amount sufficient to pay the incidental expenses and damages, and receive therefor bonds in sufficient amount, at their par value and exclusive of any accrued interest thereon, to equal the amount so advanced by him.

Forfeiture of contract

7434. If the contractor fails, neglects or refuses for a period of 10 days after written notice from the city treasurer that the 15 days from the completion of the publication of the advertisement for bids has expired, and that there is not sufficient money in the fund to pay the incidental expenses and the awards of damages, to advance to the fund a sum sufficient for those purposes, the legislative body may declare the contracts forfeited, and the contractor shall thereupon lose all rights under the contract.

Bonds in payment of damages

7435. The owner of any property assessed, to whom damages have been awarded, may take bonds in lieu of, or in satisfaction pro tanto of, such damages. When so taken such bonds shall be deemed to have been sold to such owner and the amount of damages to which he is entitled shall be reduced by the amount of such bonds so taken at their par value.

Damages offset against assessments

7436. An owner may also, at any time after the assessment becomes payable and before the sale of the property for nonpayment thereof, demand of the street superintendent that such assessment, or any number of such assessments, be offset against the amount of damages to which he is entitled. Thereupon, if the amount of such damages is equal to or greater than the assessments, including any penalties and costs due thereon, the assessments shall be marked "paid by offset"; and if the amount is less than the assessments, and any penalties and costs due thereon, the person demanding such offset shall at the same time pay the difference to the street superintendent in money. The assessments shall, on

such payment, be marked paid, the entry showing what part thereof is paid by offset and what part in money.

Advances by city

7437. The legislative body may, upon the failure of any contractor to advance sufficient money to the fund devoted to any improvement to pay the incidental expenses and the awards of damages, advance from the general fund or from such fund as the legislative body may designate, to the improvement fund the amount necessary for such purposes. Whereupon the city treasurer shall issue to the city bonds of the improvement in an amount equal at their par value to the amount of money so advanced by the city. In any event the city may advance to the appropriate fund the par value of all or any part of the bonds, in which case the bonds shall be issued to the city, and the city shall have the same rights in respect to the enforcement and collection thereof as other purchasers. If the city advances money as in this section provided, it shall have full authority at any time to sell the bonds at a price acceptable to the legislative body thereof.

Disposition of unsold bonds

7438. Whenever the contractor or the city has advanced to the appropriate fund an amount sufficient to pay the incidental expenses and the damage awards, and has received bonds at their par value in an amount equal to the sum so advanced, the bonds remaining shall be turned into the improvement fund, and shall be treated and regarded as so much money in that fund. Upon final acceptance of the work these remaining bonds shall be issued to and received by the contractor in payment pro tanto of the contract price of the improvement.

CHAPTER 6. SALE FOR DELINQUENCY

Demand for sale

7450. Whenever payment, either of the principal or of the interest, is not made when due, and the holder of the bond thereupon demands, in writing, that the city treasurer proceed to advertise and sell the lot or parcel of land as provided in this part, then the whole bond or its unpaid remainder, with its accrued interest, as expressed in the bond, shall become due and payable immediately and on the day following shall become delinquent.

Notice of delinquency

7451. Upon the application of the holder of any bond that becomes delinquent the city treasurer shall publish twice in a newspaper of general circulation, published in the city and designated by him, a notice which shall contain:

(a) The date, number, and series of the delinquent bond.

(b) A description of the property mentioned in the bond.

(c) The name of the owner of such property (if known), and if unknown, a statement of that fact.

(d) The amount due thereon.

(e) A statement that unless the amount of the bond and the interest due thereon, together with the cost of publication of such notice are paid, the real property described in the bond will be sold at public auction on a day to be therein fixed, which shall not be less than 15 nor more than 30 days from the date of the first publication of the notice.

(f) The place of such sale, which shall be in or in front of the office of the city treasurer.

Personal service

7452. A like notice shall not less than 15 days before the day so fixed for the sale be served upon any such owner, if known, either personally or by depositing the notice in the post office at such city addressed to such owner at his address, if known, with the postage thereon prepaid.

Redemption prior to sale

7453. At any time prior to the sale, the owner or person in possession of the property may pay the whole amount of the bond then due, with costs, and the bond shall thereupon be canceled. If such payment is not made by the owner or person in possession, or by someone in behalf of the owner or person in possession, the property subject thereto shall be sold at public auction to the bidder offering to pay the amount due on the bond with costs for the least portion of such lot or parcel of land offered for sale.

Affidavits

7454. The city treasurer, before the day of sale, shall file with the city clerk a copy of the publication of the notice of sale, with an affidavit of the publisher of such newspaper, or someone in his behalf, attached thereto, that it is a true copy of the publication, that the publication was made in a newspaper, stating its name and place of publication and the date of each issue thereof in which such publication was made. Such affidavit is prima facie evidence of all the facts stated therein.

Costs

7455. The city treasurer shall collect, in addition to the amount due on such bond, the cost of the publication of such notice, and fifty cents ($0.50) for the certificate of sale which is delivered to the purchaser.

Record of sale

7456. The city treasurer, before delivering any certificate of sale, shall enter the following in a book kept in his office for that purpose:

(a) The date, number and series of the bond.

(b) A description of the lands sold, corresponding with the description in the certificate of sale.

(c) The date of sale.

(d) The purchaser's name.

(e) The amount paid.

He shall regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Such book shall be open to public inspection during

office hours, when not in actual use, and he shall enter on the record of the bond the words "canceled by sale of the property," giving the date of such sale.

Purchasers lien

7457. Immediately on the sale, the purchaser is vested with a lien on the property, so sold to him, to the extent of his bid, and is only divested of such lien by a redemption.

CHAPTER 7. REDEMPTION AND DEED TO PURCHASER

Redemption

7470. A redemption of the property sold may be made by the owner of the property, or any party in interest, within 12 months from the date of purchase, or at any time prior to the application for a deed. Redemption shall be made in lawful money of the United States, and when made to the city treasurer he must mark the word "Redeemed," the date and by whom redeemed on the margin of the book where the entry of the certificate is made, and credit the amount paid to the purchaser named in the certificate, and pay that amount to such purchaser or his assignee, upon the surrender of the certificate of sale, and upon satisfactory proof of an assignment thereof, if any.

Deed

7471. If the property is not redeemed within the time allowed by this part, the city treasurer, upon application of the purchaser or his assignee shall make to the purchaser or his assignee a deed to the property, reciting in the deed, substantially, the matter contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption. For making the deed, the treasurer shall be entitled to receive from the purchaser two dollars ($2), the amount of which shall be deposited in the city treasury for the use of the city after payment has been made therefrom for the acknowledgment of the deed.

Notice of intention to apply for deed

7472. The purchaser of the property or his assignee or agent shall, 30 days prior to the expiration of the time of the redemption, or 30 days before the date of his application for a deed, serve upon the owner or agent of the property purchased, if named in such certificate of sale, and upon any person occupying the property, a written notice, stating that the property or a portion thereof has been sold to satisfy the bond lien, the date of sale, the date, number, and series of the bond, the amount then due, and the time when the right of redemption will expire, or when the purchaser will apply for a deed. The owner of the property shall have the right of redemption until such notice is given and the deed applied for upon the payment of the fees, penalties, and costs required for redemption.

7473. In case of unoccupied property, a similar notice shall be posted in a conspicuous place upon the property at least 30 days before the purchaser applies for a deed. Posted notice

7474. No deed to the property sold shall be issued by the city treasurer to the purchaser of such property until such purchaser files with the treasurer an affidavit showing that the notice required to be given has been given as required. This affidavit shall be filed and preserved by the treasurer in the same manner as other records kept by him in his office. When deed issues

7475. The purchaser shall be entitled to receive the sum of fifty cents ($0 50) for his service of such notice and the making of such affidavit, which sum of fifty cents ($0.50) shall be paid by the redemptioner at the time and in the same manner as the other sums, costs and fees are paid. Service fees

7476. The deed, when duly acknowledged or proved, shall be conclusive evidence of all things of which the bond upon which it is based is conclusive evidence, and prima facie evidence of the regularity of all proceedings subsequent to the issue of the bond, and conveys to the grantee the absolute title to the lands described therein, free of all incumbrances, except the lien for State, county and municipal taxes. Effect of deed

DIVISION 9. CHANGE OF GRADE AND VACATION

PART 1. CHANGE OF GRADE ACT OF 1909

CHAPTER 1. GENERAL PROVISIONS

8000. This part may be cited as the Change of Grade Act of 1909. Short title

8001. This part shall be liberally construed in order to effectuate its purposes. Construction

8002. "City" includes all corporations organized and existing for municipal purposes. "City"

8003. "City council" and "council" include any body which by law is the legislative department of the government of the city. "City council"

8004. "Clerk" and "city clerk" include any person or officer who is clerk of the city council. "Clerk"

8005. "Street superintendent" includes any person, officer or board whose duty it is under the law to have the care or charge of streets, or the improvement thereof, in any city. In any city in which there is no street superintendent, or no such board, the legislative body may designate some other officer or board to perform the duties imposed by this part on "Street superintendent"

the street superintendent, and all the provisions hereof applicable to the street superintendent shall apply to the officer or board so designated.

"Street" 8006. "Street" includes public street, lane, alley, court, or other place.

"Ordinance" 8007. "Ordinance" includes resolution.

Proof notice given 8008. Proof of publication of any notice required by this part shall be made by affidavit, as provided in the Code of Civil Procedure, and proof of the posting of any such notice shall be made by the affidavit of the person posting the notice, setting forth the facts regarding such posting.

Any officer who is required by this part to have any notice published or posted shall obtain and file in his office the affidavits in proof thereof but his failure so to do shall not affect the validity of any proceedings under this part. Any such affidavit so filed shall be prima facie evidence of the facts therein stated regarding such publication or posting.

Alternative system 8009. This part provides an alternative system of proceedings for changing or modifying the grades of streets in cities; and the provisions of this part shall not apply to or affect any other provisions of this code.

Provisions applicable When any proceedings are commenced under this part, the provisions of this part, and no other, shall apply to such proceedings.

CHAPTER 2. THE ORDINANCE OF INTENTION

Change of grade 8020. The city council of any city may change or modify the grade of streets therein, in the manner provided in this part.

Determination to proceed 8021. The election of the city council to proceed under the provisions of this part shall be expressed in its ordinance of intention to order any change or modification of grade.

Ordinance of intention 8022. Before any change or modification of grade is ordered, the city council shall pass an ordinance of intention to order such change or modification of grade. The ordinance of intention shall name or otherwise designate the street the grade of which, or any portion of which is proposed to be changed or modified, and shall set forth the change or modification of grade proposed to be made.

One or more streets or portions thereof may be included in the same ordinance of intention.

Posting and publication 8023. The ordinance of intention shall be posted conspicuously for two days on or near the chamber door of the city council, and shall be published by two insertions in a daily or

weekly newspaper published and circulated in the city, and designated by the council for that purpose. If no such newspaper is published and circulated in the city, the ordinance of intention shall be posted for two days on or near the council chamber door, and in two other public places in the city.

Street posting

8024. The street superintendent shall thereupon cause copies of the notice of the passage of the ordinance of intention to be conspicuously posted along all streets or portions thereof designated in the ordinance of intention, where such change or modification of grade is proposed to be made, at not more than 100 feet in distance apart, but not less than three notices in all.

Contents

8025. The notice shall be headed "Notice of Change of Grade," in letters of not less than one inch in height, and shall in legible characters state the fact of the passage of the ordinance of intention, its date, the name or other designation of the street or portion thereof the grade of which is proposed to be changed or modified, and shall refer to the ordinance of intention for further particulars.

Published notice

8026. The street superintendent shall also cause a notice similar in substance to be published for six days in a daily newspaper published and circulated in the city, and designated by the city council for that purpose, or in cities in which there is no daily newspaper, he shall cause the notice to be published by two insertions in a weekly newspaper so published, circulated and designated. If there is no daily or weekly newspaper published in the city, the notice shall be posted for six days on or near the council chamber door, and in two other public places in the city.

Chapter 3. Protests and Hearing

Protests

8040. Any person owning any real property fronting upon any street or portion thereof on which such change or modification of grade is proposed to be made, may, within 30 days after the first publication of the notice of the passage of the ordinance of intention, or within 30 days after the first posting thereof if no publication thereof is made, file with the clerk of the city council a written protest against such proposed change or modification of grade.

Contents

8041. Every protest shall contain a description of the property owned by each signer thereof, sufficient to identify the property, and if signed by more than one person, shall be accompanied by the affidavit of one of the signers that each signature thereto is the genuine signature of the person whose name purports to be thereto subscribed. If any signature is made by an agent, there shall be attached to the protest the affidavit of the agent that he is duly authorized to sign such

protest. Any protest which does not comply with the foregoing requirements shall not be considered by the city council.

Presentment to council

8042. The clerk of the city council shall indorse on every protest the date it is filed with him and at the next regular meeting of the city council after the expiration of the time for filing protests, shall present to the city council all protests so filed with him.

Majority protest

8043. If the city council finds that such protests are signed by the owners of a majority of the frontage of the property fronting on the street or portion thereof on which the change or modification of grade is proposed to be made, all further proceedings under the ordinance of intention shall be barred for six months from and after the filing of such majority protests, except as provided in this chapter, unless the owners of a majority of such frontage shall in the meantime petition the same change or modification of grade to be made. A new ordinance of intention to make a different change or modification of grade of the same street or portion thereof may be passed at any time.

Majority protest on intersecting streets

8044. If the ordinance of intention designates any street or portion thereof, the grade of which is proposed to be changed or modified, and there is included in the ordinance of intention any other street or portion thereof, intersecting therewith or terminating therein, the grade of which is also proposed to be changed or modified, neither proposed change or modification of grade shall be barred by any protests unless such protests are signed by the owners of a majority of the total frontage of the property fronting on all such streets or portions thereof where such change or modification of grade is proposed to be made.

Time for hearing

8045. If the city council finds that:

(a) Such protests are not signed by the owners of a majority of the property fronting on the street or portion thereof on which such change or modification of grade is proposed to be made; or

(b) The proposed change or modification of grade extends for a distance of not more than one block, and the grade of such street for at least one block thereof immediately adjacent to the block in which such change or modification of grade is proposed to be made, on each side thereof, has already been established; or

(c) The proposed change or modification of grade extends for a distance of not more than one block at the end of a street, and the grade thereof for at least one block thereof immediately adjacent to such block has already been established, the city council shall thereupon fix a time for hearing such protests, which time shall be not less than 10 days after the meeting of the council at which such time is so fixed.

Notice of hearing

8046. Thereupon the city council shall cause notice of the time and place of such hearing to be published for two days in a daily newspaper published and circulated in the city, or by one insertion in a weekly newspaper so published and circulated. If no daily or weekly newspaper is published and circulated in the city, then the notice shall be posted for two days on or near the council chamber door, and in two other public places in the city. Such publication or posting shall be completed at least five days before the hearing.

Disposition of protests

8047. At the time and place appointed for the hearing of protests or at any time to which the hearing thereof may be continued, the city council shall hear and pass upon the protests, and its decision thereon shall be final and conclusive. If the protests are sustained, no further proceedings shall be had under the ordinance of intention but a new ordinance of intention to make the same or a different change or modification of grade may be passed at any time. If the protests are denied, the proceedings shall continue as if such protests had not been filed.

"Owner" defined

8048. Except as otherwise provided in this chapter, the person owning the fee or the person in whom, on the day any protest or petition is filed, the legal title to real property appears, by deed duly recorded in the county recorder's office of the county in which the city is situated, shall be deemed to be the owner thereof for the purpose of this part. But any person in possession of real property as the executor, administrator, trustee, guardian, or other legal representative of the owner, or any person in possession of real property under a written contract of purchase duly recorded, shall be deemed to be the owner thereof for the purposes of this part.

Protests by coowners

8049. In the case of property held by tenancy in common, if any cotenant signs a protest under this part, only the proportionate share of the frontage thereof represented by his interest therein shall be counted in determining the amount of frontage represented by the protest. If the change or modification of grade proposed by the ordinance of intention is only on one side of any street or portion thereof, only the owners of the real property fronting on the side of such street or portion thereof where such change or modification of grade is proposed to be made, shall be entitled to make or file a protest under the provisions of this part.

Chapter 4. Ordering the Change of Grade

Ordinance changing grade

8060. If no protests are filed within the time provided, or if protests are filed and after hearing are denied, as provided in this part, the city council shall acquire jurisdiction to order

to be made and shall by ordinance order the change or modification of grade as proposed by and described in the ordinance of intention to be made.

Publication

8061. The ordinance ordering the change or modification of grade shall be published by two insertions in a daily or by one insertion in a weekly newspaper published and circulated in the city. If no such newspaper is published and circulated therein, the ordinance shall be posted for two days on or near the council chamber door, and in two other public places in the city.

Subsequent changes of grade

8062. If the grade of any street or portion thereof has been heretofore or is hereafter changed or modified, nothing in this part shall be construed to prevent any subsequent change or changes, modification or modifications of grade of any such street or portion thereof.

DIVISION 10. THE IMPROVEMENT BOND ACT OF 1915

PART 1. GENERAL PROVISIONS

Short title

8500. This division may be cited as the Improvement Bond Act of 1915.

Construction

8501. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this part shall govern the construction of this division.

Alternative system

8502. This division provides an alternative system for the issuance of bonds to represent and be secured by the assessments made to pay the costs and expenses of the work or improvements referred to in this division and the provisions of this division shall not apply to or affect any other provisions of this code.

Provisions applicable

When any proceedings for the issuance of bonds are commenced under this division, the provisions of this division and no other shall apply to such proceedings.

"City"

8503. "City" includes counties, cities and counties and all corporations organized and existing for municipal purposes.

"Legislative body"

8504. "Legislative body" means:

(a) When used with reference to a county, the board of supervisors.

(b) When used with reference to a city, the body which by law constitutes the legislative department of the government of the city.

"Clerk" 8505. "Clerk" means:

(a) When used with reference to a county, the person or officer who is or acts as the clerk of the legislative body of the county.

(b) When used with reference to a city, the person who is or acts as clerk of the legislative body of the city.

"Treasurer" 8506. "Treasurer" means:

(a) When used with reference to a county, the county treasurer.

(b) When used with reference to a city, the city treasurer.

"Engineer" 8507. As used with reference to a county, "street superintendent" or "superintendent of streets" means the county surveyor, or such other competent county officer as may be appointed by the legislative body of the county to perform the duties imposed on the street superintendent.

"Auditor" 8508. As used with reference to a county, "engineer" means the county surveyor, or such other competent county officer as may be appointed by the legislative body of the county to perform the duties imposed on the engineer.

"Tax collector" 8509. "Auditor" means:

(a) When used with reference to a county, the county auditor.

(b) When used with reference to a city, any person who is charged with the duty of extending taxes upon the assessment rolls and lists.

8510. "Tax collector" means:

(a) When used with reference to a county, the county tax collector.

(b) When used with reference to a city, the person who is charged with the duty of collecting taxes, advertising delinquent lists of unpaid taxes, selling lands thereunder and executing certificates of sale and deeds thereon.

Certain provisions directory only 8511. The provisions of this division relative to the time or place of performance of official duty or relative to the form of any resolution, notice, order, list, certificate of sale, deed or other instrument, are directory only.

PART 2. NOTICE

CHAPTER 1. NOTICE BY PUBLICATION

Method of publication 8530. Whenever in this division a notice, resolution, order or other matter is required to be published and the manner of such publication is not specified, it shall be published in a daily, semiweekly, or weekly newspaper published and circulated in the city conducting the proceedings and which is

selected by the legislative body for that purpose, or by the clerk or other officer issuing the notice or responsible for the publication where the legislative body has not selected any newspaper for that purpose.

Time of publication

8531. Whenever in this division, a notice, resolution, order or other matter is required to be published and the time for such publication is not specified, it shall be published in two entire issues of the newspaper, one being on one day and the other issue being on a subsequent day of the same or a subsequent week.

When may be posted

8532. If there is no newspaper published in the city any notices required to be published under any provision of this division may in lieu of publication, be given by posting in three public places in the city for at least 10 days.

The first posting shall be made not later than the date specified for the first publication of the notice.

CHAPTER 2. NOTICE BY POSTING

Time and method of posting

8550. Whenever in this division a notice, resolution, order or other matter is required to be posted and the time or method for such posting is not specified, the clerk shall conspicuously post the notice, resolution, order or other matter on the door of the legislative body's regular meeting place for not less than five days.

PART 3. DETERMINATION TO ISSUE BONDS

When bonds may issue

8570. The legislative body of any city may determine that serial bonds shall be issued as provided in this division to represent and be secured by the assessments which shall be made to pay the cost of any work or improvement which is made in any of the streets, avenues, lanes, alleys, courts, places or public ways of the city, or in, over, or through any property or rights of way owned by the city, and which is authorized by Part 1 of Division 6 (Street Opening Act of 1903) or by Division 7 (Improvement Act of 1911) of this code, or which is made to pay the cost of any other work or improvement which is charged and assessed upon real property pursuant to any other provision of law.

Declaration in resolution of intention

8571. If the legislative body determines that serial bonds shall be issued as provided in this division to represent the expense of any proposed work or improvement, it shall in the resolution of intention to do the work:

(a) Declare that serial bonds shall be issued pursuant to Division 10 of this code to represent the expenses of the proposed work or improvement; and

(b) Specify the rate of interest which the bonds shall bear.

Description in assessment

8572. A similar description of the bonds shall be inserted in the assessment issued by the street superintendent to the contractor, or in the assessment prepared by the street superintendent and in the notice of recording the assessment if the work is done under the Street Opening Act of 1903.

Form

8573. The bond declaration in the resolution of intention, assessment, and notice of recording the assessment may be substantially in the following form:

"Notice is hereby given that serial bonds to represent unpaid assessments, and bear interest at the rate of ------ per cent per annum, will be issued hereunder in the manner provided by Division 10 of the Streets and Highways Code, the Improvement Bond Act of 1915, and the last installment of such bonds shall mature ------ years from the second day of July next succeeding 10 months from their date."

PART 4. NOTICE AND HEARING

List of unpaid assessments

8590. After confirmation of the assessment by the legislative body and after the return of the warrant attached thereto and after the filing of the statement of payments received upon the assessment by the contractor as provided by the law pursuant to which the work was done, or after 30 days from the date of the first publication of the notice of recording the assessment, if the work was done under the Street Opening Act of 1903, the street superintendent shall make and file with the clerk a complete list of all unpaid assessments, upon the assessment.

Notice of filing list

8591. The clerk shall give notice of the filing of the list and of a time and place, to be therein fixed by the clerk, when interested persons may appear before the legislative body and show cause why bonds should not be issued upon the security of the unpaid assessments shown on the list.

Posting and publishing notice

8592. The notice shall be posted and shall be published. The first publication shall be not less than five days before the time fixed for the hearing. If no newspaper is published in the city then in addition to the posting required by Section 8550, the notice shall also be posted in accordance with Section 8532. Copies of the notice shall also be mailed to the owner of each lot listed according to the name and address appearing on the last equalized assessment roll for the city, or as known to the clerk. The failure of the clerk to mail the notice or of the person addressed to receive the same shall not affect the jurisdiction of the legislative body to proceed with the hearing.

Description of work

8593. The notice may refer to the resolution of intention and the date of its passage for a description of the work and

for any other particulars therein set forth. No other description of the work shall be necessary.

Objections

8594. At the hearing any owner of property affected by the assessment, the contractor, or his assigns, and any other person interested in the matter, may appear and set forth his objections, or any reason which he may have why bonds should not be issued upon the security of the unpaid assessments. He may show any act or determination done or made in the proceeding whereby he is aggrieved and any act or thing done in the proceeding which may be irregular, defective, erroneous or faulty, and may set forth what assessments are unpaid and what assessments have been paid. If he claims that the legislative body does not have jurisdiction to issue the bonds he shall set forth the grounds upon which his contention is made.

Hearing

8595. The legislative body shall at the time and place fixed in the notice hear any objections or matters presented to it, whether in writing or orally, and shall pass upon the same. It may continue the hearing from time to time. Evidence may be adduced going to any of the matters to be determined and in such order as the legislative body may direct. If the legislative body does not meet at the time fixed in the notice it may hear the matter at its first adjourned or regular meeting to be held thereafter.

Reassessment

8596. If at the hearing the legislative body determines that any assessment is void or unenforceable, it shall order a reassessment to be issued as provided in Part 9, and thereafter such proceedings shall be taken as are provided in that part.

PART 5. ISSUANCE OF BONDS

Determinations final

8620. All of the decisions and determinations of the legislative body upon the objections and matters submitted at the hearing, shall be final and conclusive upon all persons who were entitled to appear at the hearing.

Correction of errors

8621. Upon the conclusion of the hearing the legislative body may remedy and correct any error or informality in the proceedings and revise and correct any of the acts or determinations previously had relating to the work, and it may thereupon determine the assessments which are unpaid and the aggregate amount of the same.

Bond denominations

8622. The legislative body shall prescribe the denominations of the bonds, which shall be in convenient amounts, not necessarily equal, and shall provide for their issuance.

Delivery to contractor

8623. The bonds shall be immediately delivered to the contractor in satisfaction of the balance due him upon his assessment and warrant, or, if the work was done under the Street

Opening Act of 1903, the bonds shall be sold to the highest cash bidder after advertising for bids. The advertisement for bids shall be published for at least three times in a daily newspaper published and circulated in the city, or if there is no such daily newspaper, then the advertisement shall be published once in a weekly or semiweekly newspaper so published and circulated. The bonds shall not be sold for less than par.

Incidental expenses

8624. The estimated cost of the publications provided for in Parts 4 and 5 and the cost of printing the bonds shall constitute an incidental expense of the work and shall be included in the assessment issued to the contractor.

Effect of restraining orders

8625. If bonds can not be issued upon the security of any particular unpaid assessments because of a restraining order, injunction or other cause not applicable to other unpaid assessments, the issuance of bonds upon the security of the assessments not affected by such restraining order, injunction or other cause, shall not be delayed, and such bonds may be issued in advance of the issuance of the bonds so affected.

Disposition of bond proceeds

8626. If the work was done under the Street Opening Act of 1903 the proceeds of the sale of the bonds shall be paid into the fund of the proceeding to represent the assessments for which the bonds were issued. If the bonds are sold for an amount in excess of par, the excess shall be paid into the general fund of the city.

PART 6. FORM AND CONTENT OF BONDS

Bond terms

8650. The bonds shall be issued in series and an even annual proportion of the aggregate principal sum thereof shall be payable on the second day of July every year succeeding the first 10 months after their date, until the whole is paid. The bonds shall bear interest at a rate not in excess of 6 per cent per annum from the date of filing the unpaid assessment list with the clerk, or from 30 days after the first publication of the notice of recording the assessment, if the work was done under the Street Opening Act of 1903, on all sums unpaid, until the whole of the principal sum and interest are paid. However, bonds issued in place of bonds issued prior to August 27, 1937, may bear interest at a rate not exceeding 8 per cent per annum on all sums unpaid.

Interest rate

Interest shall be payable semiannually by coupon, on the second day of January and July, respectively, of each year. The first payment of interest shall not become due until six months before the maturity of the first series of bonds.

Maturity date

8651. The final series or installment of the bonds shall mature and be payable on a date which shall not exceed 14 years from the second day of July next succeeding 10 months from their date.

Form 8652. The bonds shall be substantially in the following form:

IMPROVEMENT BOND

City (or County) of (naming it)

$_____ No._____

Under and by virtue of the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code the _____ of _____ will on the second day of July, 19___, out of the redemption fund for the payment of the bonds issued upon the assessments made for the work upon and improvements on certain streets (or on _____ Street, or in improvement district No. _____, or on certain rights of way owned by, or by other suitable description), (or for the laying out, opening, extending, widening, straightening or acquiring of certain streets, as they are more particularly set forth in ordinance (or resolution) of intention No. _____) more fully described in the certain resolution of intention passed by the legislative body of said city (or county) on the _____ day of _____, 19___, pay to bearer the sum of _____ ($_____) with interest thereon from the _____ day of _____, 19___, at the rate of _____per cent per annum, all as is hereinafter specified, and at the office of the treasurer of said city (or county).

This bond is one of several annual series of bonds of like date, tenor and effect, but differing in amounts and maturities, issued by said city (or county) under said law for the purpose of providing means for paying for the work and improvements described in said resolution of intention, and is secured by the moneys in said redemption fund and by the unpaid assessments made for the payment of said work, and, including principal and interest, is payable exclusively out of said fund.

The interest is payable semiannually, to wit: On the second day of January and July in each year hereafter, upon presentation of the proper coupons therefor; provided, that the first of said coupons is for the interest to the second day of January, 19___, and thereafter the interest coupons are for the semiannual interest.

This bond will continue to bear interest after maturity at the rate above stated; provided, it is presented at maturity and payment thereof is refused upon the sole ground that there is not sufficient moneys in said redemption fund with which to pay same. If it is not presented at maturity interest thereon will run until maturity.

This bond may be redeemed and paid in advance of maturity upon the second day of January or July in any year by giving the notice provided in said law and by paying principal and accrued interest together with a premium equal to 5 per centum of the principal.

In witness whereof, said _____ of _____ has caused this bond to be signed by the treasurer of said _____ and by its

clerk and has caused its clerk to affix thereto its corporate seal all on the _____ day of _____, 19___.

Treasurer

[SEAL] Clerk

Signatures on coupons

8653. The coupons affixed to the bonds shall be signed by the treasurer. However, the legislative body may by order authorize the use upon the coupons of an engraved, printed or lithographed signature of the treasurer in place of a signature by hand. Semiannual coupons shall be attached to the bonds, the first of which shall be payable upon the second day of January next before the maturity of the first series of bonds coming due, and shall be for the interest accrued at that time.

Bonds payable to bearer

8654. The bonds shall be payable to the party to whom they are issued, or to the bearer, and shall bear interest at the rate specified in the resolution of intention to do the work. The bonds maturing in any year shall constitute the annual series of that year and the aggregate principal of the bonds in such series shall equal the even annual proportion of the aggregate principal sum of the entire bond issue hereinbefore referred to.

Effect of issuance

8655. The bonds, by their issuance, shall be conclusive evidence of the regularity of all proceedings had prior thereto under this division and under the law pursuant to which the work was done.

PART 7. BOND RECORDS AND PAYMENTS

Payments

8670. The bonds and interest shall be paid at the office of the treasurer.

Redemption fund

8671. The treasurer shall keep a redemption fund designated by the name of the bonds, into which he shall place all sums received by him from the collection of the assessments made for the payment of the cost of the work or improvements upon which the bonds are issued and of the interest and penalties thereon and from which fund he shall disburse and pay the bonds and the interest due thereon upon presentation of the proper bonds and coupons. Under no circumstances shall the bonds or the interest thereon be paid out of any other fund.

Bond record

8672. The treasurer shall keep a register in his office showing the series, number, date, amount, rate of interest, and last known holder of each bond, and the number and

amount of each interest coupon paid by him. He shall cancel and file each bond and coupon which he pays.

Registration

8673. Bonds may be surrendered by the holder to the treasurer for registration in accordance with the provisions of any law applicable to the registration of other city bonds, and thereafter the principal and interest thereon shall be paid to the registered owner thereof.

PART 8. COLLECTION OF ASSESSMENTS

Payment of assessments

8680. The unpaid assessments shall be payable in annual series corresponding in number to the number of series of bonds issued. An even annual proportion of each assessment shall be payable in each year preceding the date of maturity of each of the several series of bonds which have been issued. The annual proportion of each assessment coming due in any year, together with the annual interest on such assessment, shall be payable in the same manner and at the same time and in the same installments as the general taxes of the city on real property are payable and the assessment installments and the annual interest on the assessment shall be payable and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property of the city.

Interest

8681. Interest on all unpaid assessments shall begin to run from the date of filing of the contractor's statement, or as otherwise provided in the law pursuant to which the work was done or from 30 days after the first publication of notice of recording the assessment, if the work was done under the Street Opening Act of 1903, and shall be computed at the rate specified in the bonds secured by such assessments. Such interest shall for each year be computed and collected up to the next second day of July succeeding, no deduction being made by reason of any installment of such assessment being due or paid prior thereto in such year.

Auditor's record

8682. A copy of the order of the legislative body determining the assessments remaining unpaid and upon the security of which bonds are issued shall be filed in the office of the auditor. The auditor shall keep a record in his office showing the several installments of principal and interest on said assessments which are to be collected in each year during the term of the bonds. The auditor shall annually enter in his assessment roll on which taxes will next become due, opposite each lot or parcel of land affected in a space marked "public improvement assessment," or by other suitable designation, the several installments of such assessment coming due during the fiscal year covered by such assessment roll, including in each case the interest due on such total unpaid

assessments, and also including a percentage of one-fourth of 1 per cent of the amount of such installments and of such interest so entered. Such percentages when collected shall belong to the city and shall cover the expenses and compensation of the city treasurer incurred in the collection of such assessments, and of the interest and penalties thereon. No other percentage shall be claimed for any such collections. Addition of collection costs

8683. If the legislative body conducting the proceedings is not a county and collections of assessments are made by county officials the county auditor shall at the close of the tax collecting season promptly render to the city auditor a detailed report showing the amounts of such installments, interest, penalties and percentages so collected on each proceeding and from what property collected, and also giving a statement of the percentages retained for the expenses of making such collections. Collection by county for cities

8684. Taxpayers shall have the same right to pay assessments together with interest, and any penalties thereon, under protest as they have to pay general city taxes under protest, but their written protest must accompany each such payment. Payment under protest

8685. If any lot or parcel of land affected by any assessment is not separately assessed on the tax roll so that the installment of the assessment to be collected can be conveniently entered thereon, then the auditor shall enter on the roll a description of the lot or parcel affected, with the name of the owners if known, but otherwise the owners may be described as "unknown owners," and extend the proper installment opposite the same. Assessment roll entries

8686. If it appears to the legislative body that, according to the dates when taxes are collected in the city, there will be an insufficient amount on hand to pay the interest when due, according to the method of collection provided by the preceding provisions of this division, the legislative body may direct that such interest or some portion of it be collected in the year preceding that in which the same would otherwise be collected, and thereupon such interest or portion thereof shall be extended on the rolls for such preceding year and be due and collected therein. Advance collections to meet interest

8687. Any assessment may be paid by depositing with the treasurer the total unpaid balance due on the assessment together with the total interest which would become due on the assessment if it were paid in the regular way. If the amount of the payment is sufficient to provide surplus moneys with which to redeem any bond outstanding and not due on the next succeeding second day of July, the person making the payment may direct the treasurer to redeem that bond. The treasurer shall then give the proper notice for redeeming such Payments in advance of maturity

bond, by advancing its maturity in accordance with the provisions of Part 11 upon which redemption the person paying the assessment shall be entitled to credit and reimbursement for the par value of any coupons thereon which shall be canceled but not paid less any accrued interest paid thereon and less the premium paid on the bond, and less any costs incurred for publishing or serving the notice of redemption.

Tender of bond as payment

8688. Any interested owner shall have the right to tender to the treasurer in payment or part payment of any installment of his assessment or interest or penalties thereon which may be due or payable, any bond or coupon secured thereby, the said bond to be taken at par and the said coupons to be credited for the accrued interest shown thereby computed to date of such tender. The treasurer shall thereupon cancel such bond and all coupons so produced or which may have been attached thereto, and shall cause proper credit therefor to be entered on the records of such assessment, in the office of the auditor and tax collector.

PART 9. ASSESSMENT LIENS AND REASSESSMENTS

Trust fund

8700. In the event bonds are ordered to be issued, the unpaid assessments, as shown on the list filed by the street superintendent and determined by the legislative body, and any reassessments which may be issued thereon or in lieu thereof, together with interest thereon, shall remain and constitute a trust fund for the redemption and payment of the principal of the bonds and for the interest which may be due thereon.

Assessment lien

8701. Such assessments and reassessments and each installment thereof and the interest and penalties thereon shall constitute a lien against the lots and parcels of land on which they are made, until the same be paid, but for a period not exceeding the time within which an action might be brought on the last series of bonds issued upon the security of such unpaid assessments. Such lien shall be prior and superior to all other liens, except the lien for State, county and city taxes and public improvement assessments and reassessments which may have priority thereover.

Unmatured installments, interest and penalties secured by any such lien or liens shall not be deemed to be within the terms of any general warranty of title.

Reassessments

8702. If any assessment heretofore or hereafter issued is void or unenforceable, for any cause, or if bonds are issued to represent or be secured by any assessments and such issuance is not effective through the curative provisions in relation thereto under the law pursuant to which the work was done or under this division to make them valid and enforceable,

then a reassessment may be made. The reassessment shall be made upon the demand of the owner or holder of bonds aggregating one-third of the principal amount outstanding and shall be made in the manner and form provided by the law pursuant to which the work was done.

Trust fund

8703. When made the reassessment shall constitute a trust fund for the redemption and payment of the original bonds issued against the original assessment; or the legislative body may call in the original issue of bonds outstanding and issue new bonds upon the security of the reassessment in lieu thereof. If the legislative body determines that new serial bonds shall be issued upon the security of the reassessment, the notice of hearing upon the reassessment shall contain a declaration of intention to issue bonds substantially in the form provided for in Section 8573. Upon confirmation of the reassessment the legislative body may issue the new bonds after the same notice and hearing as is required for the original issuance of bonds.

New serial bonds

Advance maturity of old bonds

8704. If the legislative body calls in the original issue of outstanding bonds, the legislative body may direct the treasurer to, and the treasurer shall thereupon, advance the maturity of the outstanding bonds bearing interest in the manner provided in Part 11, notwithstanding the fact that there may not be surplus moneys in the redemption fund with which to pay the same. New bonds shall be issued in an aggregate amount equal to the total balance of the reassessment unpaid and shall bear interest from the date of recordation of the reassessment at the rate fixed by the legislative body.

New bonds

Issuance

8705. Upon the surrender of the outstanding bonds, the new bonds shall be issued ratably to the holders of the original outstanding bonds. Each holder of such original bonds shall be entitled to such proportion of the new bonds as the total amount of the principal and interest due him on his original bonds, upon the date of the recordation of the reassessment, bears to the total amount of the principal of the new bonds. In making distribution the legislative body may assign the different bonds and allot maturities in such manner as to it shall seem equitable.

PART 10. DIVISION OF LAND AND BOND

Apportionment of assessment

8730. If any lot or parcel of land upon which there is an unpaid assessment against which a bond has been issued under this division, is subdivided, or the ownership of a portion of such lot or parcel of land is transferred to another person, the legislative body may order the street superintendent to file with the clerk an amended assessment of the original parcel of land affected by such subdivision or transfer of ownership,

segregating and apportioning the unpaid installments of the original assessment in accordance with the benefits to the several parts of the original lot or parcel.

Report and amended assessment

8731. The street superintendent shall file with the clerk a report and an amended assessment of the lots or parcels of land described in the order of the legislative body, together with a map or plat showing how such lots or parcels have been divided. The total amount of the assessments of the several portions of any one original lot or parcel shall be equal to the unpaid assessments upon that original lot or parcel of land.

Time of hearing

Notice

8732. Upon the filing of the street superintendent's report and amended assessment the clerk shall fix a time and place for a hearing upon the amended assessment and shall give notice of the hearing by publication. The notice shall contain a statement of the time fixed for the hearing upon the amended assessment and any objections thereto, which time shall not be less than 15 days from the first publication of the notice. The notice shall contain a reference to the original assessment and to the improvement proceedings, and shall refer to the report and map or plat of the amended assessment for particulars and no other description of the lots or parcels of land affected thereby shall be necessary.

Protests

Hearing

8733. All persons interested in the original assessment, or in the lands affected thereby or in the bonds secured thereby, may, at the time of the hearing or at the time to which the hearing may be continued, appear and protest against the amended assessment. At the hearing the legislative body shall hear and determine all objections to the division of the assessments and shall confirm or modify the same. All determinations and decisions of the legislative body shall be conclusive upon all persons entitled to object under the provisions of this section. Final action of the legislative body upon the report and amended assessment shall be taken on or before the fifteenth day of July of any year.

Filing amended assessment

8734. The clerk shall file the amended assessment as confirmed or modified by the legislative body with the auditor, who shall annually thereafter enter upon the assessment roll the installments becoming due on each component part of the original parcel opposite a description of the respective parcels so assessed.

When a city is conducting the proceedings and collections upon the assessments are made by county officials the city clerk shall transmit a copy of the amended assessment to the county auditor.

PART 11. ADVANCE RETIREMENT OF BONDS

Advanced maturity

8750. By proceeding in accordance with the provisions of this part the treasurer may advance the maturity of any bond to the second day of January or July in any year and pay and cancel the same whenever there is sufficient surplus moneys in the redemption fund for its retirement.

Notice

8751. Notice of advanced maturity may be given in writing to the holder or owner of the bond by registered mail or personal service, or it may be addressed "To whom it may concern" and be given by publication. If the notice is given by publication a copy of the notice shall be mailed to the last known holder or owner of the bond at his last known address at least 60 days prior to the date of advanced maturity. If the notice is given:

(a) By personal service, service thereof shall be made at least 60 days before the date fixed for advanced maturity.

(b) By registered mail, the mailing shall be made at least 60 days before the date fixed for advanced maturity.

(c) By publication, the first publication shall be made at least 60 days before the date fixed for advanced maturity.

Surrender of bonds

Payment to owner

8752. If notice of advanced maturity is given, the bond shall mature and become payable on the date fixed for maturity in the notice. The holder or owner of the bond may prior to the date of advanced maturity surrender it and receive the principal and interest thereon to the date of payment together with a premium thereon equal to 5 per cent of the principal. If the bond has not been sooner surrendered on the date fixed for advanced maturity, the treasurer shall set aside to the credit of the owner of the bond the amount of principal and accrued interest then due on the bond together with the premium of 5 per cent of the principal, and the bond shall then be deemed to have matured and interest shall cease to accrue on the bond. The amount so set aside shall upon demand and upon the surrender and cancellation of the bond be paid to the holder or owner of the bond.

Costs

8753. The cost of serving or publishing the notice of advanced maturity shall be paid from the redemption fund.

Single notice

8754. More than one bond may be covered in a single notice of advanced maturity.

Tender of other bonds for cancellation

8755. Prior to the surrender of any bond or the setting aside of any funds, the treasurer may waive and vacate any notice of advanced maturity upon being tendered for cancellation some other bond or bonds of an equivalent amount and of a maturity not earlier than that noticed, if 10 days' notice of his intention so to do is first given by mail or otherwise to

the holder or owner of the bond noticed for advanced maturity and such holder or owner has not objected to such action.

Selection of bonds for advance maturity

8756. In selecting bonds for retirement, the treasurer shall choose the bond of earliest maturity that is feasible for retirement but shall make provision for returning to owners releasing unpaid assessments under Part 8 all interest not accrued less the premium and interest paid on the bonds retired and the cost of giving notice of advanced maturity.

PART 12. REDEMPTION FUND DEFICIENCIES

Withholding payments

Report

8770. If it appears to the treasurer that there is danger of an ultimate loss accruing to the bondholders for any reason, he shall withhold payment on all matured bonds and coupons and report the facts to the legislative body so that proper action may be taken by that body to equitably protect all bondholders.

Notice of hearing

8771. On receipt of the report, the legislative body shall fix a date for hearing thereon. The clerk shall give notice of the hearing by posting for 10 days. At the hearing the legislative body shall determine whether in its judgment there will ultimately be insufficient money in the redemption fund to discharge the unpaid bonds and interest coupons. If it determines that in its judgment there will be no such shortage, it shall direct the treasurer to pay matured bonds and coupons as presented as long as there is available money in the redemption fund.

Proportionate payments

8772. If the legislative body determines that in its judgment there will be a shortage in the redemption fund, it shall direct the treasurer to pay to the holders of all outstanding and unpaid bonds and coupons such proportion thereof as the amount of funds on hand bears to the total amount of the unpaid principal of the bonds and the interest which has accrued or will accrue thereon. Similar proportionate payments shall thereafter be made periodically as moneys come into the redemption fund.

Registration of bonds

8773. In order to facilitate the making of proportionate payments, the holders of outstanding bonds and coupons shall surrender them to the treasurer for registration and cancellation. Upon such cancellation each holder shall be credited with the amount of his bonds so canceled. Thereupon the treasurer shall by warrant pay to each holder such proportionate amount of principal and accrued interest due on his bonds as may be available from time to time out of the money in the redemption fund. Interest shall cease on payments made on account of principal from the date of payment, but interest shall continue to run on the unpaid principal at the rate specified in such bonds until payment thereof be made.

No premiums shall be paid on payments made in advance of the due date. If bonds or coupons are not surrendered for registration and payment the treasurer shall give notice to the holder thereof by registered mail, at the holder's address as last known to the treasurer, of the amount available for payment. Thereupon interest shall cease as to the amount so available for payment 10 days from the date of mailing of the notice.

Supplemental hearings

8774. The legislative body may hold supplemental hearings on like notice and such other and supplemental orders may be made from time to time as may be equitable and proper.

Temporary redemption fund deficiencies

8775. If a deficiency occurs in the redemption fund with which to pay past due bonds or past due coupons or bonds or coupons which will become due during the current tax collecting year, but it does not appear to the treasurer that there will be an ultimate loss to the bondholders, he shall pay matured bonds and coupons as presented as long as there are available funds in the redemption fund. If any matured bond or coupon is presented and not paid for lack of funds, the treasurer shall register such bond or coupon by noting the fact of nonpayment on the bond or coupon or on a slip affixed thereto and giving the bond or coupon a serial number. He shall keep a record of registered bonds and coupons and of the name and address of the holders of the same. Thereafter and as long as it appears that there will be no ultimate loss to the bond or coupon holders, registered bonds and coupons shall be first paid in order according to such serial numbers when funds therefor become available before other bonds or coupons are paid. Registered bonds and coupons shall bear interest, which shall not be compounded, until paid.

Payments to holders of registered bonds

8776. When funds become available for the payment of any registered bonds or coupons, the treasurer shall notify the holder thereof according to the address given, or as known to him, by registered mail and thereupon it shall be the duty of the holder to forthwith present his bond or coupon for payment. If the bond or coupon is not presented for payment within 10 days after the mailing of the notice, interest shall cease to run on such bond or coupon.

Supplemental assessment hearing

8778. If a deficiency remains in the redemption fund after one year from the issuance of the bonds, the legislative body may require all persons interested to appear before it at a day, hour and place fixed by it for a hearing and to show cause why a supplemental assessment should not be made to pay for the cost and incidental expenses of the original work done upon which the original assessments were made upon which the bonds were issued.

Notice

8779. Notice of the hearing shall be given by publication, and shall also be posted by the street superintendent in the same manner as provided by the law pursuant to which the work was done for the posting of notices of the passage of the resolution of intention. The first publication of the notice and the posting shall be completed 10 days before the time fixed for the hearing.

Levy of supplemental assessment

8780. At the time set for the hearing the legislative body shall proceed to hear any person appearing and may determine whether or not such deficiency was due to the fact that the original assessment for such cost and incidental expenses was not apportioned equitably or in accordance with benefits. The hearing may be postponed from time to time. If it appears to the legislative body that the amount apportioned to any lot was less than the amount which such lot should equitably bear according to the benefit which it received from the improvement, the legislative body may levy a supplemental assessment apportioning to such lot the additional sums which it should equitably bear according to such benefits.

Costs

8781. The cost of the publication and posting of the notice and of making the supplemental assessment may be included in the supplemental assessment. A copy of the order levying the supplemental assessment shall be recorded in the office of the street superintendent and from and after such recording, the sum therein levied on any lot shall be and constitute a lien thereon and thereafter bear interest at the rate specified in the bonds. The several amounts levied by the supplemental assessment shall be extended on the next succeeding tax rolls to be delivered to the tax collector and shall be collected in the manner provided for the collection of installments of the original assessments.

Lien

Collection

Installment payments

8782. The legislative body may provide in its order levying the supplemental assessment that the supplemental assessments may be collected in annual installments during the remaining term of years during which the bonds run, an equal proportion of principal coming due in each of the remaining years. However, any property owner may pay the whole of the supplemental assessment subsequent to the order of the legislative body and before the amount has been extended on the tax roll, whereupon interest shall cease on such assessment.

Disposition of proceeds on supplemental assessment

8783. All money collected on the supplemental assessment shall be paid into the redemption fund and be applied to the payment of the costs of publishing and posting the notice of hearing and of making the supplemental assessment and then to the payment of the bonds and interest thereon. After satisfaction of the bonds, repayment, if possible, of all funds collected on the supplemental assessment shall be made to those persons paying the same out of recoveries had through the

collection of the delinquent installments of the assessments upon which the bonds were originally issued and of the interest and penalties thereon, and then out of any surplus remaining in the redemption fund after repayment to the city of any special taxes levied by it for the purpose of paying for lands purchased by it under Part 13 of this division less its recovery on the lands purchased at such delinquent sale and any costs incurred by it under this division.

Disposition of surplus

8784. If there is a surplus remaining in the redemption fund after payment of all bonds and the interest thereon, that surplus shall first be applied to repayment to the city of any special taxes levied by it for the purpose of paying for lands purchased by it under Part 13 of this division less its recovery on the lands purchased at such delinquent sale, and also of any costs incurred by it under this division. The remainder shall be repaid in accordance with the provisions of Section 8783 to persons paying supplemental assessments, if any, and the balance shall be proportionately credited upon the final installments due upon the assessments securing the bonds and repaid to those persons whose assessments have been previously paid.

PART 13. SALE FOR DELINQUENCY

Sale

8800. Upon default in the payment of any installment of principal or interest on any assessment or reassessment, the lands securing such installments and assessments shall be sold in the same manner in which real property in such city is sold for the nonpayment of general city taxes, and be subject to redemption within one year from the date of sale in the same manner as such real property is redeemed from such delinquent sale, and if not redeemed it shall in like manner pass to the purchaser.

Effect of certificate of sale

8801. If any lot or parcel of land is sold for nonpayment of taxes and of any installment of the assessment thereon, or of the penalties, interest or costs on the same, or for the nonpayment of any installment of the assessment or of the penalties, interest or costs on the same, any certificate of such sale and deed issued pursuant thereto, is primary evidence of the regularity of all proceedings had prior thereto, and shall be conclusive evidence of all things of which bonds issued upon the security thereof are conclusive evidence, and prima facie evidence of the regularity of all proceedings subsequent to the issuance of the bonds, and such deed conveys to the grantee the absolute title to the lands described therein, free of all incumbrances, except the lien for other State, county and city taxes and unpaid installments, interest and penalties under the same proceeding and except all public improvement assessments which may have priority thereover.

Purchase by city

8802. The city may be the purchaser at any delinquent sale in the same manner in which it becomes or may become the purchaser of property sold for nonpayment of general city taxes. If the city becomes the purchaser it shall pay and transfer into the redemption fund the amount of the delinquent assessment and of the delinquent interest for which the property is sold.

Purchase by State

8803. If a county or a city whose taxes are collected by the county is conducting the proceedings and sales for nonpayment of such taxes are made to the State, the State shall be the purchaser at any such sale hereunder, but shall hold the title acquired at such sale upon behalf of the county or the city and shall account to the county or the city for any moneys received upon redemption or from the sale of such property. In such case for the purposes of this division the county or the city shall be deemed to be the real purchaser. In other cases where under the law the city is not always the purchaser at sales for delinquent city taxes, the city shall become such purchaser at any delinquent sale hereunder where there is no other purchaser.

Purchase by city

Payment of delinquent assessments by city

8804. If there are no available funds in the treasury with which to make payment of the amount of the delinquent assessment and interest for which the property was sold, the tax collector shall delay the entry of the certificate of sale until such funds are available, and shall in the meantime make demand upon the legislative body that a suitable amount be included in the next tax levy for the purpose of providing funds with which to make such payment. However, the period of redemption from such tax sale shall not be extended thereby nor shall the rights or privileges of the property owner be in any wise affected.

Subsequent sales

8805. If the city purchases any property for delinquency and any succeeding installment of the assessment or of the interest on the assessment is not paid in any future year, the property shall not be sold unless there has previously been a redemption from such sale or unless under the law the property is then being sold for delinquent taxes.

Payments by city

8806. The provisions of the preceding section notwithstanding, the city shall, unless a resale has been made by it, from time to time when due pay and transfer into the redemption fund the amount of any future delinquent installments of the assessment and interest thereon pending redemption, and no redemption shall be made until any such subsequent payments, with interest and penalties, shall also be paid.

Redemption sale

8807. The purchaser, at the tax collector's sale, or at a resale by the city if the city has become the purchaser, or at a foreclosure sale by order of court, shall take the property

subject to all unpaid installments, interest and penalties under the same proceeding and subject to all public improvement assessments which may have priority thereover.

Payment of taxes by city

8808. The city shall have the right to advance and pay any other taxes wherever necessary to protect its interest in property against which there is a delinquent assessment. It may also at its discretion temporarily transfer moneys into the redemption fund from other funds in which such moneys are not immediately needed, the moneys so transferred to be used to pay sums due from such redemption fund and to be retransferred therefrom out of the first available receipts.

Tax levy

8809. The legislative body may, and in the event of demand by the tax collector therefor as provided in Section 8804 hereof shall, at the time of fixing the annual tax rate and levying the taxes to be collected for general city purposes, levy a special tax upon the taxable property in the city for the purpose of paying for the lands purchased or to be purchased at tax sales held under the provisions of this part, but not to exceed for each local improvement ten cents ($0.10) on each one hundred dollars ($100) of assessable property. Such special tax shall be in addition to all other taxes levied for city purposes, and shall be computed, entered and collected in the same manner, and by the same persons and at the same time and with the same penalties and interest as are other taxes of the city.

PART 14. FORECLOSURE BY ACTION

Cumulative remedy

8830. As a cumulative remedy, if any assessment or reassessment or installment thereof, or of any interest thereon, together with any penalties and other charges accruing under the taxation ordinance of the city are not paid when due, the legislative body may, not later than four years after the due date of the last installment of principal, order that the same be collected by an action brought in the superior court to foreclose the lien thereof.

Costs

8831. Costs in the action shall be fixed and allowed by the court and shall include a reasonable attorney's fee, interest, penalties and other charges or advances authorized by this division, and when so fixed and allowed by the court the costs shall be included in the judgment.

Judicial sale

8832. The court shall have the power to adjudge and decree a lien against the lot or parcel of land covered by the assessment or reassessment for the amount of the judgment and to order the premises to be sold on execution as in other cases of the sale of real property by the process of the court, with the same rights of redemption.

The foreclosure action shall be governed and regulated by the provisions of this chapter, and also where not in conflict with this chapter, by the codes of this State.

Release of tax collector

8833. When any foreclosure actions are ordered the tax collector shall be credited upon the assessment roll then in his hands with the amount charged against him on account of the assessments or reassessments to be sued on and he shall be relieved of further duty in regard thereto.

Action

8834. The foreclosure action shall be brought in the name of the city, and may be brought at any time prior to the expiration of four years subsequent to the date of delinquency of the last installment due or to become due upon the assessment or reassessment sued on. The complaint may be brief and include substantially only the following allegations with reference to the assessment or reassessment sought to be collected:

Complaint

(a) That on a date stated the legislative body passed its resolution ordering certain work to be done, without describing the same.

(b) That work was done pursuant to the resolution.

(c) That an assessment and warrant to pay the cost of the work was duly given and made; and was returned on a stated date.

(d) That certain property (describing it) was therein assessed a stated amount and that bonds upon the security of such assessment were duly issued under this division giving the date of said bonds, their interest rate and the number of years the last installment of same were to run, but it shall not be necessary to state the amount, number, denomination or other terms of the bonds.

(e) That on a date stated a certain sum came due against the described property on the assessment and had not been paid and that the legislative body had ordered the action to foreclose.

Penalties

8835. The amount of penalties, costs and interest due shall be calculated up to the date of the judgment.

PART 15. MISCELLANEOUS PROVISIONS

Errors in computation

8850. No bond, coupon, assessment or installment thereof or of the interest or penalties thereon, or certificate of sale or deed shall be held invalid for any error in the computation of the proper amount due on the same, if the error is found to be comparatively negligible, or is found to be in favor of the owner of the real property affected thereby.

Examination by superintendent of banks

8851. Upon the application of the legislative body or of any holder or other interested party, the superintendent of banks shall examine into the regularity of the issuance of bonds under this division and the sufficiency of the security

provided for the payment thereof and if satisfied therewith he may certify the same as suitable for investment by savings banks and trustees whereupon the bonds may be used for investment of savings deposits and trust funds. The cost of any such examination may on approval of the legislative body be paid out of any surplus money in the redemption fund not required for the payment of the interest or principal of the bonds.

DIVISION 14. STREET LIGHTING

PART 1. THE STREET LIGHTING ACT OF 1919

CHAPTER 1. GENERAL PROVISIONS

Short title

18000. This part may be cited as the Street Lighting Act of 1919.

Construction

18001. Unless the particular provision or the context otherwise requires, the definitions and general provisions obtained in this chapter shall govern the construction of this part.

Same

18002. This part shall be liberally construed in order to effectuate its purposes.

Alternative system

18003. This part provides an alternative system for making the improvements authorized by this part and the provisions of this part shall not apply to or affect any other provisions of this code.

When any proceedings are commenced under this part, the provisions of this part and no others shall apply to such proceedings.

"Street lighting system"

18004. "Street lighting system" and "system" include any or all appliances, poles, posts, electroliers, transformers, lighting units, lamps, cables, wires, pipes, conduits and other suitable or necessary works or appliances for street lighting purposes.

"Tax collector"

18005. "Tax collector" and "city tax collector" mean the city officer, board or employee designated as such by the city council in the resolution levying the assessment, and the officer, board or employee so designated shall discharge all duties prescribed as those of tax collector or city tax collector and all provisions applicable to the tax collector or city tax collector shall apply to the officer, board or employee so designated.

"Service"

18006. "Service," and any of its variants, means and includes the furnishing of electric current or energy, gas, or other illuminating agent to all or part of any street lighting system.

"Improvement" 18007. "Improvement," and any of its variants, includes the maintenance or servicing, or both, of all or part of any one or more street lighting systems.

"Assessment district" 18008. "Assessment district" means the territory to be benefited by the proposed improvement and to be assessed to pay the costs and expenses thereof.

"Clerk" 18009. "Clerk" and "city clerk" mean any person or officer who is or acts as clerk of the city council.

"Treasurer" 18010. "Treasurer" and "city treasurer" include any person or officer who has charge of and makes payment of city funds.

"City" 18011. "City" includes all corporations organized and existing for municipal purposes.

"City council" 18012. "City council" and "council" include any body which by law is the legislative department of the government of the city.

Posting notices 18013. Any notice required by this part to be given by publication in a daily or weekly newspaper may be given in any city where there is no such daily or weekly newspaper published and circulated, by posting such notice for four days in three public places in such city.

Public property 18014. If any lots or parcels of land belonging to the United States, or to this State or to any county, city, public agency, mandatory of the government, school board, educational, penal or reform institution, or institution for the feeble-minded or the insane are in use in the performance of any public function and are included within the assessment district, the city council may, in the resolution of intention, declare that such lots or parcels of land, or any of them, shall be omitted from the assessment thereafter to be made to cover the costs and expenses of the improvement. If the lots or parcels of land, or any of them, are omitted from the assessment by the resolution, the total cost and expense of all work done shall be assessed on the remaining lots lying within the limits of the assessment district, without regard to such omitted lots or parcels of land. If the city declares in the resolution of intention that the said lots or parcels of land, or any of them, shall be included in the assessment, or if no declaration is made respecting such lots or parcels of land, or any of them, the city shall be liable for such sums as may thereafter be assessed against such lots or parcels of land, and such sums shall be payable by the city out of the general fund unless the city council shall in its resolution of intention designate another fund. However, any such sums which may be assessed against any such lots or parcels of land, shall not be payable

by the city when such sums are paid by the owner of or the governing body controlling such lots or parcels of land.

CHAPTER 2. AUTHORITY TO MAINTAIN AND SERVICE

Authority to make improvements

18030. Whenever in the opinion of the city council of any city the public interest or convenience may require, that body may do one or more of the following:

(a) Order any street lighting system to be maintained in or along the whole or any part of any one or more of the streets in such city.

(b) Order electric current or energy, gas, or other illuminating agent to be furnished for such street lighting system.

For any of the purposes expressed in subdivision (a) or (b) of this section, the city council may determine and declare the district to be benefited by any such improvement and fix the exterior boundaries thereof and assess, either partly or wholly, the costs and expenses (including all incidental expenses) of such improvement, or of any one or more of the items thereof, upon the lands in the district.

Improving public utility system

18031. The city shall not be limited by the provisions of this part to the maintenance or servicing of street lighting systems, or any part thereof, owned only by the city, but the city council may also order such maintenance or service to be furnished upon street lighting systems provided and installed by, and remaining the property of, any public utility, public corporation, or other person with whom a contract is entered into for such maintenance or service and may assess the costs and expenses thereof in accordance with the provisions of this part.

CHAPTER 3. THE PRELIMINARY REPORT

Report

18040. The city council shall, prior to the passage of the resolution of intention, order the board, commission or officer of the city having charge and control of the maintenance or servicing of street lighting systems or any competent person employed by the city for that purpose, as the city council may name in the order, and direct such board, commission, officer or person to make and file with the city clerk a report in writing.

Contents

18041. Such report shall contain the following:

(a) Plans and specifications of the proposed improvement. Plans and specifications shall be sufficient with respect to location of lights to be improved if such plans and specifications show or describe the approximate location of said lights.

(b) An estimate of the cost of the improvement, for the period of time during which it is proposed to be continued.

(c) A diagram showing the proposed assessment district and also the boundaries and dimensions of the respective lots or parcels of land within the district, each of which lots or

parcels shall be given a separate number upon the diagram. The diagram shall govern for all details as to the extent of the proposed assessment district.

(d) A proposed assessment of the total amount of the costs and expenses of the proposed improvement upon the several lots or parcels of land in the assessment district in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvement. If any portion or percentage of the costs and expenses of such proposed improvement is ordered to be paid out of the city treasury, the amount of such portion or percentage shall first be deducted from the total estimated cost and expense of such improvement, and the assessment proposed in the report shall include only the remainder of the estimated costs and expenses. The proposed assessment shall refer to such lots or parcels upon the diagram by the respective numbers thereon and it shall show the names of the owners, if known, otherwise designating them as unknown. No mistakes in the name of the owner of any lot or parcel of land shall affect the validity of the assessment thereon.

Consideration of report

18042. When the report is filed with him the clerk shall present it to the city council for consideration, and that body may modify it in any respect, and in case of any such modification, the report as modified shall stand as the report for the purpose of all subsequent proceedings.

CHAPTER 4. THE RESOLUTION OF INTENTION

Resolution of intention

18060. After the report is considered by it, the city council may pass a resolution of intention to order the improvement.

Contents

18061. The resolution of intention:

(a) Shall briefly describe the proposed improvement.

(b) Shall designate the assessment district by describing the exterior boundaries thereof.

(c) May order that a certain portion or percentage of the costs and expenses of the improvement, the amount of which portion or percentage shall be specified in the resolution, shall be paid out of the city treasury from such fund as the city council may designate.

Period of improvement

18062. The city council shall, in the resolution of intention, provide that the improvement of the street lighting system shall be for a period of time stated in the resolution of intention, which period of time shall not exceed five years. The dates of commencement and ending of that period shall be fixed by the city council on or before the date of execution of any contract as provided in this part, or, in the event that

no contract is let and the maintenance or servicing is furnished by the city, those dates shall be fixed by the city council on or before the date of ordering the maintenance or servicing by the city. The city council may subsequently postpone the dates of commencement and ending of the period for a reasonable time upon good and sufficient reason appearing therefor and may, in any advertisement for bids and in any contract entered into, reserve the right to make such postponement for such reason.

CHAPTER 5. PROTEST AND HEARING

Time of hearing

18070. After the adoption of the resolution of intention, the city council shall by resolution appoint a time and place for hearing protests in relation to the proposed improvement, which time shall not be less than 20 days from the date of the passage of the resolution of intention, and shall direct the clerk to give notice of the hearing in the manner provided in this part.

Posted notice

18071. After the passage of the resolution of intention the clerk, street superintendent, or other person designated by the city council shall cause to be conspicuously posted along all streets in the district where the improvement is proposed to be made or which is to be assessed for the benefits thereof, at not more than 300 feet apart, but not less than three in all, notices of the passage of the resolution. The notice shall:

Contents

(a) Be headed "Notice of local improvement," in letters of not less than one inch in height.

(b) In legible characters state the fact and date of the filing of the report and the passage of the resolution of intention.

(c) State the date, time and place fixed for the hearing of protests.

(d) Briefly describe the improvement proposed to be made and refer to the resolution of intention and report for further particulars.

Published notice

18072. The clerk shall also cause a notice, similar in substance, to be published by two successive insertions in a daily or weekly newspaper published and circulated in the city and designated by the city council for that purpose. The publication and posting of the notices shall be completed at least 10 days before the date set for the hearing of the protests.

Description of district by reference

18073. The assessment district need not be described in the notices or in any resolution provided for in this part other than the resolution of intention. All such notices and resolutions, if a description of the assessment district is necessary, shall refer to the resolution of intention for such description.

Protests

18074. Any person interested who objects to the proposed improvement or to the assessment therefor may file a written protest, stating his objections thereto, with the clerk at or before the hour set for the hearing of protests. The clerk shall indorse on every such protest the date and time of its reception by him, and at the time appointed for the hearing shall present to the governing body all protests so filed.

Hearing

18075. The city council shall hear, consider and pass upon the protests at the time appointed therefor, or at any time to which the hearings thereof may be adjourned, and may modify or correct the proposed assessment, and its decision on all matters of protest shall be final and conclusive. If such protests are sustained, the proceeding shall be abandoned but may be renewed at any time. If such protests are denied or if no protests are filed the proposed assessment as the same shall have been modified or corrected shall be confirmed, and the city council shall thereupon acquire jurisdiction to proceed with the improvement and may by resolution order the proposed improvement to be made.

CHAPTER 6. LEVYING AND COLLECTING THE ASSESSMENT

Assessments to meet annual costs

18090. After acquiring jurisdiction to proceed with the improvement, the city council shall levy the assessment for the portion or percentage required to pay for the improvement for the period of time beginning with the date of commencement of the improvement fixed by the city council and ending, as determined by and at the discretion of the city council either with the close of one 12-month period thereafter or with the close of the current or of the following fiscal year, upon all the respective lots or parcels of land in the assessment district. Thereafter during the period of time provided in the resolution of intention, the city council shall, on or before the beginning of the next succeeding 12-month period or the following fiscal year, levy in like manner and on the same lots or parcels of land the assessment for the portion or percentage required to pay for such improvement for such year, and said board, commission, or officer of the city authorized therefor shall, on or before 60 days prior to the commencement of each such period make and file with the city council a report in writing.

Annual reports

Contents

18091. Such report shall contain:

(a) An estimate of the cost and expense of the improvement for the ensuing 12-month period or the ensuing fiscal year.

(b) A diagram showing the assessment district referred to in the resolution of intention, also the boundaries and dimensions of the respective lots or parcels of land within the district as it existed at the time of the making of the last mentioned diagram, each of which lots or parcels shall be given a separate number on the diagram.

(c) A schedule showing the proportionate amount of the assessment to be charged in proportion to the benefits to be received by each lot or parcel shown on the diagram required by subdivision (b) of this section.

Unexpended balances

18092. Any unexpended balance remaining in the fund devoted to the improvement at the expiration of any preceding assessment period shall be credited to the fund to be raised for the next ensuing assessment period and the assessment to be levied for such ensuing period shall be only for the amount required therefor after deducting from such estimated amount the amount of any such unexpended balance. Any unexpended balance remaining in such fund at the expiration of the period of time provided for in the resolution of intention shall, upon demands therefor made upon the city council within one year from and after the expiration of the time specified in the resolution of intention, be repaid pro rata to the persons by whom such assessments were paid. Any such unexpended balance remaining in such fund at the expiration of such period, and not demanded within said period of one year, shall revert to the general fund of the city or be placed in such fund as the city council may order.

Deficiencies

18093. If for any reason there is a deficiency in the funds derived from the assessment for any improvement, including all incidental expenses thereof, the city council may meet such deficiency by an appropriation out of the general fund of the city or by ordering a supplemental assessment in the same manner as nearly as may be as the first assessment, except that protests may only be made against such supplemental assessment.

Transmission of records to tax collector

18094. Upon the levying of any assessment, the city clerk shall transmit the diagram and assessment upon which such levy is based, or a certified copy of said diagram and assessment to the city tax collector or to such other city officer or employee as the city council designates in the resolution levying the assessment or in case the city has adopted a method for collection of taxes by county officers then to the county tax collector, and such county tax collector shall have full power to perform the duties required in this part of the city tax collector.

Limitation on actions

18095. The validity of any assessment levied under this part shall not be contested in any action or proceeding unless such action or proceeding is commenced within 30 days after the time the assessment is levied, and any appeal from a final judgment in such an action or proceeding shall be perfected within 30 days after the entry of such judgment.

Recording assessment

18096. Upon the receipt of the diagram and assessment or a certified copy thereof, the tax collector shall record them in

a suitable book to be kept for that purpose, and append thereto his certificate of the date of such recording. Such record shall be the assessment roll. From the date of such recording all persons shall be deemed to have notice of the contents of such assessment roll. Immediately upon such recording, the several assessments contained in such assessment roll shall become due and payable, and each of such assessments shall be a lien upon the land against which it is made, paramount to all other liens except liens for State, county, and city taxes, and shall only be discharged by payment of the assessment or by redemption of the land after sale for delinquency.

Notice of assessment

18097. The tax collector shall, upon the recording of such diagram and assessment, give notice by publication for five days in a daily newspaper, published and circulated in the city, or by two insertions in a weekly newspaper so published and circulated, that the diagram and assessment has been recorded in his office and that all sums assessed therein are due and payable immediately, and that payment of said sums shall be made to him within 30 days after the date of the first publication or posting, which date shall be stated in the notice. The notice shall also contain the statement that all assessments not paid before the expiration of the said 30 days shall be delinquent, and thereupon 5 per cent of the amount of each such assessment shall be added thereto.

Payment

18098. When payment of any assessment is made, the tax collector shall mark opposite such assessment the word "paid," with the date of the payment thereof, and shall give a receipt therefor. Upon the expiration of said period of 30 days, all assessments then unpaid shall become delinquent, and the tax collector shall mark each such assessment "delinquent," and shall add 5 per cent to the amount thereof.

Delinquency

CHAPTER 7. SALE AND REDEMPTION OF DELINQUENT PROPERTY

Notice of sale

18120. The tax collector shall, within 30 days after the date of delinquency, begin the publication of a notice of sale of the land upon which the assessments have not been paid, which publication shall be made by two insertions in a daily or weekly newspaper published and circulated in the city. The dates fixed for the sale of such land shall be not less than five days nor more than 10 days after the last publication of said notice of sale, or after the completion of posting, as the case may be.

Contents

18121. The notice of sale so published shall contain a description sufficient to identify each lot or parcel of land delinquent, and opposite each description the name of its owner, if known, otherwise designating him as unknown, and the amount of the assessment and costs due, including the cost of advertisement, which cost of advertisement shall not exceed

the sum of fifty cents ($0.50) for each lot or parcel of land separately assessed. The tax collector shall append to and publish with the notice of sale a notice that unless each delinquent assessment, together with the penalties and costs thereon, is paid, the land upon which the assessment is a lien will be sold at public auction, at a time and place to be specified in the notice.

Redemption prior to sale

18122. At any time after such delinquency and prior to the sale of any lots or parcels of land assessed and delinquent, any person may pay the assessment thereon, together with the penalties and costs due thereon, including the cost of advertising, if such payment is made after the first publication of notice of sale.

Sale

18123. At the time and place fixed in the notice of sale the tax collector shall proceed with such sale, commencing at the head of the list of lands contained in such notice and continuing in the numerical order thereof until all the land is sold, except that he may postpone or continue the sale from day to day until the sale is completed. The tax collector shall separately sell each lot or parcel of land described in such notice, or so much thereof as is necessary to realize the amount assessed against the lot or parcel together with the penalties and costs, and fifty cents ($0.50) for a certificate of sale. If there is no other purchaser the lot or parcel shall be struck off to the city as purchaser.

Certificates of sale

18124. The tax collector shall issue for each sale an original and duplicate certificate of sale, referring to the proceedings, describing the lot or parcel of land sold, and giving the name of the purchaser and the amount for which the lot or parcel was sold. He shall deliver the original certificate to the purchaser, and he shall keep the duplicate on file in his office.

Redemption prior to deed

18125. At any time after the date of sale and prior to the issuance and delivery of a deed to the land sold, any land sold under the provisions of this chapter may be redeemed by the payment to the tax collector of the amount for which the land was sold, with an additional penalty of 1 per cent per month of said amount together with such other penalties as may be payable as provided in this chapter. Said 1 per cent penalties shall be added on the first day of each month following the date of the sale of the land.

Payment to certificate holders

18126. The redemption money shall be paid by the tax collector to the person holding the original certificate of sale upon his delivering up such certificate and receipting for the amount received from the tax collector therefor. Upon redemption of any lot or parcel of land the tax collector shall enter the fact and date of such redemption upon the duplicate certificate of sale thereof.

Deed

18127. At any time after the expiration of 12 months from the date of sale, the tax collector shall execute to the purchaser, or his assignee, on his application, if such purchaser or assignee has complied with the provisions of this chapter a deed of the land sold, in which shall be recited substantially the matters contained in the certificate, also any assignment thereof and the fact that no person has redeemed the land. The tax collector shall receive from the applicant for a deed one dollar ($1) for making such deed, unless the city is the purchaser, in which case no charge shall be made therefor.

Fee

Notice of intention to apply for deed

18128. The purchaser or his assignee shall, at least 30 days before he applies for a deed, serve upon the owner of the land, and upon the occupant of the land if it is occupied, a written notice setting forth:

(a) A description of the land.

(b) That the land has been sold for a delinquent assessment (specifying the improvement for which the assessment was made).

(c) The amount for which the land was sold.

(d) The amount necessary to redeem at the time of giving notice.

(e) The date when such purchaser or assignee will apply to the tax collector for a deed.

Absentee owners

18129. If the owner can not be found, after due diligence, the notice shall be posted in a conspicuous place upon the land at least 30 days before the date stated therein, at which the application for a deed will be made. The person applying for a deed shall file with the tax collector an affidavit showing that notice of such application has been given, as required, and if the notice was not served on the owner of the land personally, that due diligence was used to find the owner. The tax collector shall receive and file such affidavit in his office.

Affidavits

Service fees

18130. If redemption of the land is made after such affidavit is filed, and more than 11 months from the date of sale, the person making such redemption shall pay, in addition to the other amounts required, three dollars ($3) for the service of notice and the making of such affidavit, which amount shall be paid over to the purchaser or his assignee in the same manner as other sums paid for redemption. No deed for any land sold for delinquent assessments shall be delivered by the tax collector until the purchaser or his assignee has complied with all the provisions of this chapter and filed the proper affidavit with the tax collector.

Effect of deed

18131. The deed of the tax collector shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the execution thereof, and of title in the grantee.

CHAPTER 8. ALTERNATIVE PROCEDURE FOR INSTALLMENT ASSESSMENTS

Alternative procedure

18150. The procedure in this chapter shall be an alternative procedure to that provided in other sections of this part, and the city council may use this procedure or not, in its discretion, and when used the period for which the work is to be done shall be upon a fiscal year basis.

Addition to city tax roll

18151. When the assessment has been adopted and confirmed, as provided in Section 18075, the city clerk shall transmit the report, diagram and assessment, or a certified copy thereof, as finally adopted and confirmed to the city auditor, who shall record the same and thereafter enter on the assessment roll for general city taxes next coming due, opposite each lot or parcel of land affected, in a space marked "street lighting assessment" or other suitable designation, the assessment coming due thereon during the fiscal year covered by the assessment roll.

Installment payments

18152. Assessments coming due under this procedure in any year during the period of time stated in the resolution of intention shall be payable in annual or semiannual installments, accordingly as the general city taxes are payable in annual or semiannual installments, and shall be payable and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as general city taxes. Property securing such assessments shall be sold after delinquency in the same manner as property is sold for delinquent general city taxes, and shall be subject to redemption in the same manner as property is redeemable from sale for delinquent general city taxes.

Delinquent penalties

Purchase by city

18153. The city may be the purchaser at any delinquent sale under this chapter in like manner as it may become the purchaser of property sold for delinquent general city taxes, and when the city becomes the purchaser it shall transfer into the special fund devoted to the improvement the amount of the delinquent assessment, penalties and interest then due thereon. In cases where under the law the city is not always the purchaser at sales for delinquent general city taxes, the city shall become the purchaser at any delinquent sale under this chapter if there is no other purchaser.

Payments of assessments by city

18154. When the city becomes the purchaser the land shall not again be sold for any succeeding delinquent assessment, penalties and interest until it has been redeemed from the previous sale. The city shall, however, unless a resale has been made by it, from time to time when due transfer into said special fund, pending redemption, the amount of any succeeding delinquent assessment, penalties and interest. No

redemption shall be made until all delinquent assessments, penalties and interest are paid. The purchaser at any delinquent sale, or at any resale by the city if the city was the purchaser, shall take the land subject to all unpaid assessments, penalties and interest due under this chapter.

County collect on of city taxes

18155. If the procedure provided for in this chapter is adopted and the duties of assessing property and collecting city taxes are performed for the city by the county assessor and the county tax collector, in the manner provided by law, a certified copy of the diagram and assessment shall be filed with the county auditor on or before the tenth day of August. In each such diagram and assessment so filed with the county auditor, the descriptions of the properties reported shall be the descriptions used for the same properties on the map books of the county assessor for the then current year. The county auditor shall enter the amounts of the respective assessments on the county tax roll opposite the respective parcels of land and thereafter the said amounts shall be collected at the same time and in the same manner as county taxes are collected and all laws applicable to the levy, collection and enforcement of county taxes shall be and are hereby made applicable to such special assessment taxes.

CHAPTER 9. BIDS AND AWARD OF CONTRACT

Awarding contract

18170. At any time after the transmission of the diagram and assessment to the city tax collector or city auditor, the city council may let the contract for making such improvement. If the proceeding was commenced before the street lighting system referred to in the resolution of intention was installed or ordered installed, then such contract shall not be awarded until the street lighting system is installed or is duly ordered installed by the city council. If the installation of such proposed lighting system is abandoned, then the proceedings under this part shall be abandoned.

Bids

18171. Every such contract shall be let to the lowest responsible bidder after notice published by two insertions in some newspaper published in the city and designated by the city council for that purpose. Every bid shall be accompanied by a certified check amounting to not less than 10 per cent of the bid, payable to the order of the city clerk, and the check shall be forfeited to the city in case the bidder depositing it does not, within 15 days after the notice that the contract has been awarded to him, enter into a contract with the city for making the improvement, the faithful performance of which shall be secured by an undertaking in such penal sums as the city council shall require, with sureties satisfactory to that body. The contract shall require that the improvement be made, and the improvement shall be made, strictly in accordance with the plans and specifications contained in the report provided for in Chapter 3.

Supervision

18172. The improvement shall be made under the supervision of the board, officer or person designated by the city council, and no portion shall be paid for until it has been accepted by that board, officer or person.

Abandonment by contractor

18173. If the contractor abandons the making of the improvement, or fails to proceed with it as rapidly as required by his contract, the city council may relet the contract in the same manner as in the case of the first letting thereof and retain the amount of the cost of the portion relet, and of any expenses incidental to the reletting, out of any funds due or to become due to the contractor. The city council may also hold the contractor and his sureties responsible upon his bond for such cost and expense, and for any damages resulting from such abandonment or failure.

Performance by city

18174. The city council may, at any time within 20 days after the opening of bids, or, if no bids are received, at any time within 20 days after the time fixed for the opening of bids, order by resolution adopted by a vote of two-thirds of all of its members, that the city itself execute the work of the improvement, or any part thereof, in accordance with the plans and specifications adopted for such work, or for such part thereof, and employ the labor and provide the materials, appliances, supplies or illuminating agent necessary therefor. The cost and expenses of such work, or of such part thereof, shall be paid out of the special fund collected to pay for the improvement. If the city council orders that only a part of the work of the improvement be executed by the city then the city council may reject all bids, if any, received for such part of the work and may proceed with the award of the contract for the remaining part of the work.

Cost limitations

18175. If the work of the improvement, or any part thereof, is executed by the city, then the amount appropriated and used from the special fund to pay the costs and expenses of the work or part thereof executed by the city shall not exceed the amount of the respective lowest valid bid received for such work or for such part thereof, or, if no bids have been received and the work of the improvement is executed by the city the amount appropriated and used from the special fund to pay the costs and expenses of such work shall not exceed the amount of the respective estimate thereof provided for in Section 18041. If such costs and expenses exceed the amount of the said bid, or of the said estimate in case no bids are received, then such excess cost and expense shall be paid out of any moneys in the general fund in the city treasury.

Performance by city

18176. At any time after the funds for the proposed improvement, or any part thereof, are in the hands of the city treasurer, the city council may, without calling for bids, order

by resolution, adopted by a vote of two-thirds of all its members, that the city itself execute the work of such improvement, or any part thereof, in accordance with the plans and specifications adopted for such work or for such part thereof, and employ the labor, and provide the materials, appliances, supplies or illuminating agent necessary therefor. In such case the costs and expenses of such work, or of such part thereof, shall be paid out of the aforesaid funds, except that if such costs and expenses exceed the amount of the respective estimates provided for in Section 18041, then such excess shall be paid out of the moneys in the general fund in the city treasury.

CHAPTER 10. MISCELLANEOUS PROVISIONS

Improvement fund

18190. The money collected by the tax collector shall be paid by him, as fast as collected, to the city treasurer, who shall place it in a special fund designated by the name of the improvement proceeding, and payment shall be made out of said special fund only for the purposes provided for in this part. To expedite the making of any such improvement, the city council may at any time transfer into said special fund, out of any money in the general fund, such sums as it may deem necessary, and the sums so transferred shall be deemed a loan to such special fund, and shall be repaid out of the proceeds of the assessments provided for in this part.

Abandonment by city

18191. The city council may, at any time prior to the awarding of the contract for making the improvement, by resolution abandon the improvement proceeding, and upon such abandonment all money collected for such improvement shall be repaid to the several parties paying it.

PART 2. THE STREET LIGHTING ACT OF 1931

CHAPTER 1. GENERAL PROVISIONS

Short title

18300. This part may be cited as the Street Lighting Act of 1931.

Construction

18301. This part shall be liberally construed in order to effectuate its purposes.

Alternative system

18302. This part provides an alternative system for making the improvements authorized by this part, and the provisions of this part shall not apply to or affect any other provisions of this code. When any proceedings are commenced under this part, the provisions of this part and no others shall apply to all such proceedings.

Construction

18303. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

18304. "Street lighting system" or "system" includes any or all appliances, poles, posts, electroliers, transformers, lighting units, lamps, cables, wires, pipes, conduits, and other suitable or necessary works or appliances for street lighting purposes. "Street lighting system"

18305. "Service," and any of its variants, means the electrical current or energy or other illuminating agent used to light a street lighting system. "Service"

18306. "Maintenance" means the repair, replacement, inspection, cleaning or painting of the posts and standards and the equipment attached to or used in connection with such posts and standards, and includes such incidental expenses incurred in connection therewith as may be necessary. "Maintenance"

18307. "Improvement," and any of its variants, includes the maintenance or servicing, or both, of all or part of any one or more street lighting systems. "Improvement"

18308. "Contract year" means a period of 12 months. "Contract year"

18309. "Installment assessment" means the amount levied by the city council for the first or any subsequent contract year to create a fund with which to pay for the improvement for the next contract year. "Installment assessment"

18310. "Clerk" or "city clerk" means any person or officer who is or acts as clerk of the city council. "Clerk"

18311. "Street" includes alleys and other public places. "Street"

18312. "City" includes all corporations organized and existing for municipal purposes. "City"

18313. "City council" includes any body which by law is the legislative department of the government of the city. "City council"

Chapter 2. Authority to Maintain and Service

18320. Whenever in the opinion of the city council the public interest or convenience may require, that body may: Improvements authorized

(a) Order any street lighting system to be maintained in or along the whole or any part of any one or more of the streets in such city.

(b) Order electric current or energy, gas, or other illuminating agent to be furnished for such street lighting system.

(c) Determine and declare the lands to be benefited by any such improvement.

(d) Assess, either partly or wholly, the costs and expenses (including all incidental expenses) of such improvement, or of any one or more of the items thereof, upon the lands benefited.

Period of work

18321. The improvement shall be for a period to commence at a time to be fixed by the city council but not exceeding five years from the date of commencement thereof.

Improvement of public utility systems

18322. The provisions of this part shall not be limited to the improvement of street lighting systems owned only by the city, but the city council may also order such improvement to be made upon street lighting systems provided and installed by, and remaining the property of, any public utility, public corporation, or other person with whom a contract is entered into for such improvement and may assess the costs and expenses thereof in accordance with this part.

Consolidated systems

18323. If there is more than one street lighting system in any city any or all of such systems may be consolidated and improved under one proceeding. In such case the consolidated system shall be zoned so that those systems of approximately the same general type are grouped together.

Boundary line systems

18324. Whenever a street lighting system is installed along a boundary line or street of any city, the city council may, by resolution, assess the land abutting upon such boundary line or street for the estimated cost and expense of improving the system, even though the system is partially or entirely without the boundaries of the city.

Same

18325. If land has been assessed pursuant to Section 18324, the city council may proceed in all respects in connection therewith as though the street lighting system were entirely within the city limits; except that the city council may enter into a contract with the legislative body of the city or county having jurisdiction over the adjoining territory either to improve all or any portion of the street lighting system, or to have all or any portion of the system improved by the legislative body of the adjoining territory. The legislative body contracting to furnish such improvement may enter into any contract or issue any purchase order authorized in this part.

Contracts for improvement

CHAPTER 3. REPORT AND RESOLUTION OF INTENTION

Report

18340. The city council shall, prior to the adoption of the resolution of intention to order any improvement to be made, require the superintendent of streets to make and file with the clerk a written report containing the following:

Contents

(a) An estimate of the cost of such improvement and incidental expenses for the period of time recommended to be specified in the resolution of intention.

(b) A diagram or map showing the streets affected by the proceeding and in which street lighting systems have been installed and also each lot or parcel of land abutting such streets. Each lot or parcel of land shall be given a separate

number upon the diagram. The diagram, as finally approved by the city council, shall govern for all details as to the lots or parcels of land benefited by the proceeding.

(c) A proposed assessment of the total amount of the probable or estimated costs and expenses of the proposed improvement upon the several lots or parcels of land shown on the diagram or map referred to in subdivision (b) above, in proportion to the estimated benefits to be received by each such lot or parcel of land, respectively, for the period of time recommended for the continuance of the improvement and which is to be set out in the resolution of intention. The assessment shall refer to such lots or parcels of land upon the diagram or map by the respective numbers thereon.

(d) Plans and specifications which shall set out, among other things, the general type of street lighting system in each zone. The lighting systems to be improved shall be divided into zones and in each zone shall be grouped those systems of approximately the same general type. It shall be a sufficient description of the location of the lights to be improved if such plans or specifications show or describe the approximate location of the lights.

Approval

18341. Upon the filing of the report, the clerk shall present it to the city council for consideration at its next regular meeting, and that body may correct or modify it in any respect. The report as approved or as corrected or modified by the city council shall stand as the report for the purpose of all subsequent proceedings.

Resolution of intention

18342. When the report has been approved, the city council shall adopt a resolution of intention to order the improvement to be made. The resolution shall:

(a) Briefly describe the proposed improvement.

(b) Refer to the streets, by their lawful or official names or the names by which they are commonly known.

(c) If the improvement is not upon a street and there is no lawful or common name thereof, then briefly describe the land or right of way on which the improvement is to be made.

(d) Refer to the report of the superintendent of streets on file in the office of the city clerk.

(e) Fix the period of time for which the improvement is to be made.

(f) Appoint a time and place for hearing protests, which time shall be not less than 15 nor more than 60 days from the date of passage of the resolution.

Publication

18343. The city council shall direct the clerk to publish the resolution of intention by one insertion in a daily or weekly newspaper circulated and published in the city and designated by the city council for that purpose.

CHAPTER 4. PROTEST AND HEARING

Posted notice

18360. After the adoption of the resolution of intention, the superintendent of streets shall cause to be conspicuously posted along the line of the proposed improvement, at not more than 300 feet in distance apart, but not less than three in all, notices of the passage of the resolution of intention. No proceeding shall be held invalid for failure to post any street, if this section has been substantially complied with. In every case all posting shall be fully completed at least 10 days before the day set for the hearing of protests.

Contents

18361. The notices shall:

(a) Be headed "Notice of Street Lighting Assessment" in letters of not less than one inch in height.

(b) State in legible characters the fact of the passage of the resolution of intention, its date, and briefly the improvement proposed, and refer to the resolution of intention for further particulars.

(c) State in legible characters the day, hour and place when and where any and all persons having any protests to the proposed improvement may appear before the city council and show cause why the proposed improvement should not be carried out in accordance with the resolution of intention.

Protests

18362. At any time not later than the hour set for hearing protests any owner of any lot or parcel of land liable to be assessed for the improvement may make written protest against the proposed improvement, or against the estimated amount of the assessment, by filing his protest with the clerk. No other protests shall be considered by the city council except as provided in this chapter.

Hearing

18363. The city council shall hear and consider the protests at the time appointed therefor, or at any time to which it may adjourn the hearing thereof, and may confirm, correct or modify the proposed assessment.

Majority protest in zones

18364. If there is a majority protest by the landowners in any zone to the improvement in such zone, or if the street superintendent reports that it is practical to subdivide a zone and a majority of the landowners in such subdivided zone protest the improvement in such subdivided zone, the city council shall strike such zone or subdivided zone from the proceedings and correct the proposed assessment accordingly, unless that body, by a four-fifths affirmative vote of all its members finds that the public interest and convenience require that street lights in that zone or subdivided zone be improved. The determination of the city council shall be final and conclusive.

Proceeding after elimination of zones

18365. If a zone or subdivided zone is struck from the proceedings, the city council may proceed the same as though that zone or subdivided zone was not a part of the original proceedings.

Ordering improvement

18366. Immediately upon the city council's determination it shall have jurisdiction to confirm the report and assessment, and order the proposed improvement to be contracted for or supplied as provided in this part.

CHAPTER 5. LEVYING AND COLLECTING THE ASSESSMENT

Assessments to pay annual costs

18390. The city council shall thereafter levy an assessment upon each lot and parcel of land for the first contract year for the amount estimated to be necessary to improve the street lighting system for the ensuing contract year. Prior to the expiration of each contract year the city council shall by resolution fix and levy the assessment for the amount estimated to be necessary to improve the system for such ensuing contract year.

City contributions

18391. The city council may order by resolution that any part or amount of the next installment of the estimated cost and expense of any improvement be paid out of the city treasury from such fund as the city council may designate, in which case the liability and obligation to pay any sum so provided for shall accrue and become fixed upon the date of the levy of the installment assessment next succeeding the adoption of the resolution.

Computation of assessments

18392. Whenever a part of the next installment of the estimated cost and expense is to be paid by the city, the superintendent of streets, in making up the installment assessment for such cost and expense, shall first deduct from the whole estimated cost and expense that part or amount which is to be paid by the city, and shall assess the remainder of the cost and expense proportionately upon the lots or parcels of land liable to be assessed in the manner provided in this part.

Surplus assessments

18393. Any surplus assessments collected shall be applied by the city council to reduce the assessment to be levied either for the next ensuing contract year or for the last contract year under the proceedings, and for the latter purpose such surplus may be permitted to accumulate in the assessment fund. Such reductions shall be made as nearly as possible to the zones or subdivided zones from which such surplus assessments were collected.

Disposition of surplus

18394. If there is any surplus remaining at the close of the last contract year under any proceedings, such surplus shall be used as follows:

(a) If new proceedings are started within one year after the close of the last contract year, such surplus shall be applied toward a reduction of the first installment of the new assessment. Such part of the surplus as was collected from each zone or subdivided zone shall be applied to reduce the installment levied against that zone or subdivided zone.

(b) If new proceedings are not started within the one-year period or if one or more zones or subdivided zones are omitted for any reason from the new proceedings any such surplus shall become and remain a part of the general funds of the city.

Public property

18395. Whenever any lot or parcel of land belonging to the United States or to the State of California or to any county, city, public agent, mandatory of the government, school board, educational, penal or reform institution, or institution for the feeble-minded or the insane and being in use in the performance of any public function abuts the public streets, in which street lighting systems are located and are to be improved under the proceedings, the city council may, by resolution adopted prior to the levy of any installment assessment, declare that the said lots or parcels of land or any of them shall be omitted from the installment assessments thereafter to be levied to cover the costs and expenses of the improvement.

Omission from assessment

18396. If the lots or parcels of land, or any of them, are so omitted from any installment assessment then the total cost and expense of the improvement shall be assessed on the remaining lots or parcels of land lying within such zones or subdivisions of zones as the city shall direct in the resolution, without regard to such omitted lots or parcels of land.

Liability of city for assessments

18397. If in such resolution the city council declares that the lots or parcels of land owned as provided in Section 18395 shall be included in an installment assessment or if no declaration is made respecting such lots or parcels of land, or any of them, the city shall be liable for such sums as may thereafter be assessed against such lots or parcels of land, which sums shall be payable by the city out of the general fund unless the city council shall in the resolution designate another fund.

Payment by public agency

Any such sums which may be assessed against any such lots or parcels of land shall not be payable by the city when such sums are paid by the owner of or the governing body controlling such lots or parcels of land.

Limitation on actions

18398. The validity of any assessment levied under this part shall not be contested in any action or proceeding unless

such action or proceeding is commenced within 30 days after the city council has acquired jurisdiction to confirm the report and assessment and any appeal from a final judgment in such an action or proceeding shall be perfected within 30 days after the entry of such judgment.

Transmission of assessment to tax collector

18399. Upon the levying of an installment assessment the city clerk shall transmit the diagram and assessment and any modifications or corrections thereof made by the city council to the tax collector.

Recordation

18400. Upon the receipt of the diagram and installment assessment the tax collector shall record them in a suitable book to be kept for that purpose and append thereto his certificate of the date of such recording. Such record shall become a part of the assessment roll upon which other taxes of the city are entered and shall be collected at the same time, in the same manner and by the same officer as in the case of other city taxes.

Collection of city taxes by county

18401. Where the duties of assessing property and collecting city taxes are performed for the city by the county assessor and the county tax collector, in the manner provided by law, a certified copy of the diagram and assessment shall be filed with the county auditor on or before the tenth day of August. In each such diagram and assessment so filed with the county auditor, the descriptions of the properties reported shall be the descriptions used for the same properties on the map books of the county assessor for the then current year. The county auditor shall enter the amounts of the respective assessments on the county tax roll opposite the respective parcels of land and thereafter the amounts shall be collected at the same time and in the same manner as county taxes are collected and all laws applicable to the levy, collection and enforcement of county taxes shall be and are hereby made applicable to such special assessment taxes.

Improvement fund

18402. All sums collected on account of such assessment shall be placed in the city treasury to the credit of a special fund, which shall be designated by the name of the proceeding. The special fund shall be used only for paying the costs and expenses of the improvement described in the resolution ordering the work, including the cost of all posting and publication provided for in this part and any other incidental expenses connected with the proceeding. The city council may at any time advance to such special fund out of any available funds in the city treasury, sums in excess of the amount to be paid by the city toward the cost of such improvement and may reimburse the city for such advances by repaying the amount thereof out of any money that thereafter comes into such special fund.

Assessment lien

18403. When the diagram and installment assessment are recorded, the several amounts assessed shall be a lien upon the lots or parcels of land assessed, respectively. Such lien shall continue and be enforced in the same manner and with the same penalties as other taxes of the city are continued and enforced.

Chapter 6. Bids and Award of Contract

Notice inviting bids

18420. At any time after the installment assessment becomes delinquent, the superintendent of streets may call for bids for such improvement and may fix a date, not less than 20 nor more than 30 days after the publication of a notice inviting bids for such improvement, for the receipt of such bids at his office at an hour not later than 10 a. m. on such date. Such notice shall be published once in a daily or weekly newspaper published and circulated in the city and designated by the city council for that purpose.

Security for bids

18421. Every bid shall be accompanied by a certified check or a satisfactory corporate surety bond amounting to 10 per cent of the bid, payable to the order of the city clerk or securing the city. The check or bond shall be forfeited to the city if the bidder depositing it does not within 10 days after the publication of a notice of award of the contract to him, enter into the necessary contract with the city. Upon such publication of notice of award of contract all other checks or bonds shall be returned to the bidders depositing them.

Contract terms

18422. The contract shall specify a date certain when the improvement shall be started, the date to be not more than 30 days after the execution thereof, and that the contract shall continue in force for a period of one year from the effective date of the contract.

Same

18423. The city council may, by resolution passed prior to the notice inviting bids, impose such other reasonable conditions, including faithful performance bonds and materialmen's bonds, as may in its discretion appear to be necessary and proper.

Chapter 7. City Furnishing Maintenance and Service

Improvement by city-owned utility

18440. If the city owns or operates or owns and operates a public utility capable of furnishing the improvement provided for in this part, this section may be used as an alternative procedure to that provided in Chapter 6 of this part. The city council by resolution may direct the superintendent of streets, instead of calling for bids and entering into a contract, to issue an interdepartmental purchase order for the

improvement of the street lighting system upon such terms as may be agreed upon between the street superintendent and the public utility board or commission. Such purchase order shall not be effective until it is approved by the city council. The interdepartmental purchase order shall state the date on which the improvement shall be started and that it shall continue in force for a period of one year from the effective date thereof.

PART 3. THE MUNICIPAL LIGHTING MAINTENANCE DISTRICT ACT OF 1927

CHAPTER 1. GENERAL PROVISIONS

Short title

18600. This part may be cited as the Municipal Lighting Maintenance District Act of 1927.

Construction

18601. This part shall be liberally construed in order to effectuate its purposes.

Alternative system

18602. This part provides an alternative system for the maintenance and operation of a street lighting system within cities, and the provisions of this part shall not apply to nor affect any other provisions of this code. When any proceedings are commenced under this part, the provisions of this part and no others shall apply to all such proceedings.

Construction

18603. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

"City"

18604. "City" includes all corporations organized and existing for municipal purposes.

"Street lighting system"

18605. "Street lighting system" or "system" includes any or all appliances, poles, posts, pipes, conduits, lamps and other necessary works or appliances used for street lighting purposes.

"Maintaining and operating"

18606. "Maintaining and operating" or any of its variants, when used with relation to a street lighting system, includes the cost of necessary repairs, replacements, fuel, power and all other items necessary for the proper maintenance and operation of a street lighting system, or the expense of any one or more of those items.

"City council"

18607. "City council" includes any body which by law is the legislative department of the government of the city.

"Clerk"

18608. "Clerk" or "city clerk" means any person or officer who is or acts as clerk of the city council.

"Public way" 18609. "Public way" includes all public highways, roads, streets, avenues, boulevards, alleys, parkways and other rights of way of the public, or any portion thereof, within a city.

CHAPTER 2. AUTHORITY TO CREATE THE DISTRICT

Creating district 18630. Whenever the public interest or convenience may require, the city council of any city in which a street lighting system has been installed may order that the expenses of maintaining and operating the system be assessed, either partly or wholly, upon lands in the city lying within a district which will be benefited by such maintenance and operation.

Benefited lands 18631. The lands which will be benefited by, and which are to be assessed for, the maintenance and operation of the system shall form and be known as a lighting maintenance district.

Size of district 18632. Any number of public ways and one or more street lighting systems may be included in one district, but the district, the public ways and the street lighting systems must lie entirely within the city whose city council forms the district.

Resolution of intention 18633. Before forming any district or ordering any part of the expenses of the maintenance and operation of any street lighting system to be assessed upon the lands within a district formed under the provisions of this part, the city council shall adopt a resolution of intention so to do.

CHAPTER 3. PRELIMINARY REPORT AND RESOLUTION OF INTENTION

Engineer's report 18660. Before adopting a resolution of intention, the city council shall order the city engineer to prepare and file with it a report containing substantially the following matters:

Contents (a) A statement of the public ways or portions thereof to be lighted.

(b) A general description of the lighting systems to be maintained and operated.

(c) A statement of the general items of maintenance and operation proposed to be furnished the systems. Such items may include electric power, gas, repairs, replacements, and any other items necessary for the proper maintenance and operation of the systems.

(d) A statement of the estimated cost of maintenance and operation for the first year and an estimate of the amount of electric power necessary for the operation of the system each year.

District maps 18661. The city council shall order the engineer to prepare and file with the report a map or plat of the district to be benefited by the maintenance and operation and which

is to be assessed to pay the expenses thereof. The map or plat shall also show the public ways to be lighted under the proceedings and the approximate location of the lights to be maintained and operated thereon.

Approval

18662. The report and map shall be presented to the city council and examined by it and either the report or map, or both, may be modified by the city council at any time prior to the adoption of the resolution of intention. When the report and map are finally approved by the city council, they shall be filed with the clerk.

Contents of resolution of intention

18663. The resolution of intention shall contain:

(a) A statement of the public ways to be lighted.

(b) A general description of the lighting systems to be maintained and operated.

(c) A statement of the general items of expense of maintenance and operation proposed to be furnished for the street lighting systems, the cost of which is to be assessed in whole or in part against the lands within the district. Such items may include electric power, gas, repairs, replacements, and any other items necessary for the proper maintenance of the street lighting systems.

(d) A statement of the estimated cost of all other items of maintenance and operation to be furnished the systems in the district for the first year and in addition thereto a separate estimate of the amount of gas or electric power necessary for the systems each year.

(e) A general description of the boundaries of the district to be benefited by and to be assessed to pay the costs of the maintenance and operation.

(f) A statement of the length of time, which shall not exceed five years from the date of the formation of the district, that the maintenance and operation shall be furnished for the systems.

(g) The designation of a time when and a place where all persons having any interest in lands within the district liable to be assessed for the expenses of the maintenance and operation may be heard and any of said persons may present any objections that they may have by written protest filed with the clerk at or before the time set for the hearing.

City contributions

18664. The city council may order in the resolution of intention that a certain percentage of the costs of such maintenance and operation shall be paid out of the treasury of the city from such fund as the city council may designate.

Description by reference

18665. The resolution shall refer to the map or plat on file with the clerk for the boundaries of the district to be assessed, the public ways to be lighted and the approximate location of the lights thereon.

Publication and posting of resolution of intention

18666. After the passage of the resolution of intention, the clerk shall publish it by at least two insertions in a daily or weekly newspaper of general circulation designated by the city council for that purpose. Copies of the resolution headed "Notice of formation of lighting maintenance district" in letters not less than one inch in height, and signed by the clerk shall be posted by the superintendent of streets not more than 300 feet apart, and not less than three in all, along all open streets within the district. The first posting of notice and the first publication of the resolution of intention shall each be at least 20 days before the date set for the hearing of protests.

CHAPTER 4. PROTEST AND HEARING

Hearing

18690. At the time and place fixed for the hearing of protests or at any time to which the hearing is adjourned, the city council shall hear the evidence introduced in support of the protests. At the hearing the city council may modify the provisions for the maintenance and operation as stated in the resolution of intention by omitting one or more of the items stated therein, and may modify the boundaries of the district, but any land not within the district as described in the resolution of intention may not be included therein. The city council may change the percentage of the total maintenance and operation cost to be paid by the city and by the district; but the percentage to be paid by the district shall not be increased without further notice being given and a hearing being held in the same manner as notice was given and a hearing held on the original resolution of intention.

Modifications of improvement

Action on protests

18691. The city council may, by four-fifths vote, deny all protests and its decision thereon shall be final and conclusive. If any protests on matters which can not be modified as provided in Section 18690 hereof are sustained, the proceedings shall be abandoned but may be renewed at any time. No land shall be included within the district which in the judgment of the city council will not be benefited by the street lighting system as that body has finally determined to maintain and operate it.

Jurisdiction to proceed

18692. If no protests are filed or if all protests filed are heard and denied, or if any of the authorized modifications are made and the city council after hearing evidence on the question of benefits, determines that the territory within the finally established boundaries of the district will be benefited by the maintenance and operation finally determined upon, then the city council shall have jurisdiction to proceed.

Chapter 5. The Final Resolution

Formation of district

18710. The city council may, by final resolution, order the district formed. The final resolution shall:

(a) Describe the boundaries of the district as finally established.

(b) List the items of maintenance and operation agreed to be furnished, and their estimated cost for the first year, and order that those items be furnished from time to time as necessary.

(c) Order that the percentage of the total expenses of the maintenance and operation to be paid by the district shall be paid by special assessment taxes levied upon all the lands, exclusive of improvements, within the district.

(d) Specify the percentages of the total expenses of maintenance and operation to be paid by the district and by the city respectively.

Notice to assessor

18711. A certified copy of the final resolution shall be filed with the assessor who makes the assessment for general city taxes. Thereafter the assessor in making up the city assessment roll shall segregate the property included within the district on the assessment roll under the district designation contained in the resolution.

Chapter 6. Levying and Collecting the Assessment

Cost estimates

18730. Each year during the existence of the district and at least 30 days prior to the making of the general tax levy for city purposes, the city engineer shall furnish to the city council an estimate of the expenses for the next year of the items of maintenance and operation provided for in the final resolution. The first year the engineer shall not make an estimate but the estimate in the final resolution shall be used. The city council shall at the time of making the next general tax levy in the city and in the manner provided for the general tax levy, levy a special assessment tax upon all the lands, exclusive of improvements, within the district which will be sufficient to raise that percentage of the total sum required in the estimate which is to be raised from the district.

Levy of assessments

Collection with city taxes

18731. The special assessment tax shall be levied, computed, entered, collected and enforced at the same time, in the same manner, by the same persons and with the same penalties as other taxes for city purposes and when collected shall be paid into the city treasury to the credit of the fund of the district and shall be used only for the payment of the expenses of the district.

Expenditure of funds

18732. The city council shall control and order the expenditure of the funds of the district for the purposes of maintenance and operation as provided in the final resolution.

If at the expiration of any year there is an unexpended balance in the district fund, the balance shall, to that extent, reduce the fund to be raised from the district for the next year. Any balance remaining in the fund at the end of the term for which the district is formed shall be used to help furnish electric current for the systems maintained and operated from the funds raised in whole or in part from the district.

City contributions

18733. Each year at the time of making the special assessment tax levy the city council shall appropriate from the fund designated in the resolution of intention or from any other available fund a sum sufficient to pay that percentage of the total expenses of the maintenance and operation which is to be paid by the city.

Loans by city

18734. The city council may also transfer from the general fund of the city to the fund of the district sufficient money to pay all or any part of the percentage of the yearly expenses of the maintenance and operation which is to be paid from funds raised from the district. The amount of money so transferred shall be deemed a loan to the district fund and shall be repaid to the general fund from the first money thereafter coming into the district fund from taxes levied upon lands within the district.

CHAPTER 7. BIDS AND AWARD OF CONTRACT

Contracts

18760. The city council shall make all contracts and all necessary provisions for the furnishing of the maintenance and operation finally determined upon for the lighting systems which are to be maintained and operated from funds of the district. Such contracts shall be made in the same manner and after the same notice and by the same persons as other city contracts for such items of maintenance and operation are made unless such contracts of the city are not required to be made after competitive bidding. In that case the contracts for the district shall be let only after competitive bidding and the officer whose duty it is to let contracts for such items for the city shall give or cause to be given a notice inviting sealed bids on the items to be purchased and fix a time and place at which the bids will be opened and declared in public. The contract shall be awarded to the lowest responsible bidder, or if necessary for the public good any and all bids may be rejected and in such case readvertisement shall be had in the same manner as before. The notice inviting bids shall be published at least twice and the first publication shall be at least 10 days before the time set for opening the sealed bids.

Competitive bidding

CHAPTER 8. MISCELLANEOUS PROVISIONS

Acts essential to jurisdiction

18780. The sole acts necessary to confer jurisdiction upon the city council to order the formation of a district under the provisions of this part and the furnishing of maintenance and operation for street lighting systems therein shall consist of the adoption of a resolution of intention and the publication of the same in accordance with the provisions of this part.

Effect of irregularities

18781. No error, defect, irregularity, informality, neglect or omission of any officer of any city in any proceeding taken under the provisions of this part, which does not affect the jurisdiction of the governing body to order the formation of a district shall avoid or invalidate the proceedings.

PART 4. THE HIGHWAY LIGHTING DISTRICT ACT

CHAPTER 1. GENERAL PROVISIONS

Short title

19000. This part may be cited as the Highway Lighting District Act.

Construction

19001. This part shall be liberally construed to effectuate its purposes.

Alternative system

19002. This part provides an alternative system for making the improvements authorized by this part, and the provisions of this part shall not apply to or affect any other provisions of this code. When any proceedings are commenced under this part, the provisions of this part and no others shall apply to all such proceedings.

Construction

19003. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

"Street lighting system"

19004. "Street lighting system" or "system" includes any system of illumination by means of street lights which are set upon poles or suspended in the air and use gas, electricity or any other feasible means of illumination.

"Clerk"

19005. "Clerk" or "county clerk" means any person or officer who is or acts as clerk of the board of supervisors of the county.

"Service"

19006. "Service," and any of its variants, means and includes the furnishing of electric current or energy, gas, or other illuminating agent to all or part of any street lighting system.

"Governing body" 19007. "Governing body" refers to the board of supervisors of the county acting as the ex officio governing body of the lighting district, unless the context clearly indicates otherwise.

"Public highway" 19008. "Public highway" or "highway" includes any highway, county highway, State highway, public street, avenue, alley, park, parkway, driveway, or public place, in any county, or unincorporated town or village dedicated to the public and generally used for traffic by the public.

CHAPTER 2. PROCEEDINGS FOR THE FORMATION OF THE DISTRICT

Formation 19030. Any unincorporated town or village of this State may establish a highway lighting district for the purpose of installing and maintaining a street lighting system on public highways, for the better protection of its residents in accordance with the provisions of this part.

Petition 19031. Proceedings for the formation of a highway lighting district may be instituted by filing, at a regular meeting of the board of supervisors of the county in which the town or village to be benefited thereby is situated, a petition signed by 15 or more taxpayers and residents thereof.

Contents 19032. The petition shall contain the name of the proposed district, a description of its boundaries, and a statement that the provisions of this part shall govern the proceeding.

District name 19033. The name of the proposed district shall be in the following form: _____ lighting district (using the name of the district), of ____ County (using the name of the county in which the district is situated), and if the district is established it shall be thereafter designated by that name.

CHAPTER 3. PROTESTS AND HEARING

Time for hearing 19050. The board of supervisors shall fix a time, not less than 25 nor more than 30 days after the filing of the petition, for hearing the petition and the protests of interested persons.

Posted notice 19051. The clerk shall cause notices of the filing and hearing of the petition to be posted at least seven days before the date set for the hearing in three public places in the district. The notice shall be headed "Notice of the proposed formation of _____ (insert name of the proposed lighting district) lighting district" in letters not less than one inch in height and in legible type it shall:

(a) State the fact and date of the filing of the petition.

(b) Specify the date and hour set for hearing the petition and the protests of interested parties.

(c) Specify the boundaries of the proposed district.
(d) Refer to the petition for further particulars.

Published notice

19052. The clerk shall also cause a notice, similar in content to the posted notice, to be published at least once a week for two consecutive weeks in a newspaper selected by the board of supervisors which is of general circulation and is printed and published in the county in which the proposed district is located. The last publication shall be made at least seven days before the date set for the hearing of the petition.

Protests

19053. Any person interested, who objects either to the formation of the district, or to the extent of the district, or to the proposed improvement, or to the inclusion of his property in the district, may file a written protest, setting forth his objections, with the clerk at or before the time set for the hearing of the petition. The clerk shall indorse on each protest the date of its filing with him, and at the time appointed for the hearing he shall present all protests so filed with him to the board of supervisors.

Hearing

19054. The board of supervisors shall hear and pass upon the petition and protests at the time appointed or at any time to which the hearing thereof is adjourned. Its decision thereon shall be final and conclusive.

Establishment of district boundaries

19055. If any person protests against the extent of the district, or against the inclusion of property in the district, the board of supervisors shall have power to make such changes in the boundaries of the proposed district as it finds to be proper and advisable. The board of supervisors shall establish the boundaries of the district in accordance with its findings, but it shall not extend the boundaries of the district, nor shall it modify the boundaries so as to exclude from the proposed district any territory which will be benefited by the improvement. Any territory which in the judgment of the board will not be benefited by the improvement shall not be included within the proposed district.

Chapter 4. Authority to Proceed

Jurisdiction to proceed

19070. If no protests are filed, or if all protests filed are heard and denied or if authorized modifications are made in the boundaries of the proposed district and the boundaries finally established, the board of supervisors shall have jurisdiction to proceed.

Chapter 5. Calling and Conducting the Election

Election

19090. Within 30 days after acquiring jurisdiction to proceed, the board of supervisors shall by resolution order that an election be held in the proposed district to determine

whether or not the district shall be formed. The board shall appoint three qualified electors residing in the district to conduct the election, which must be held within 40 days after the date of the resolution ordering it to be held.

Posting; and publishing notice

19091. The election shall be called by posting notice thereof in three public places in the proposed lighting district, and by publishing the notice in a daily or weekly newspaper, published and circulated in the district, if there is one, at least once a week for not less than 15 days. The notices shall specify the time, place and purposes of the election, give the boundaries of the proposed lighting district, and the hours during which the polls will be kept open. If the district has a population of 10,000 or over, the polls shall be open from 8 o'clock a.m. to 7 o'clock p.m. If the population of the district is less than 10,000, the polls shall be open from 1 o'clock p.m. to 7 o'clock p.m.

Laws applicable

19092. The election shall be conducted in accordance with the general election laws of this State, where applicable, without reference to form of ballot or manner of voting. The ballots shall contain the words, "For lighting district," and the voter shall write or print after said words on his ballot in a space provided for that purpose the word "Yes" or the word "No."

Persons eligible to vote

19093. Every qualified elector, who has resided within the proposed district for the period necessary to enable him to vote at a general election, shall be entitled to vote at this election.

Canvass of vote

19094. It shall be the duty of the election officers to publicly canvass the votes immediately after the close of the election, and to report the result of the election to the board of supervisors within five days subsequent to the holding thereof.

CHAPTER 6. ESTABLISHING THE DISTRICT

Favorable vote

19110. If a majority of the votes cast at the election is in favor of a lighting district, the board of supervisors shall by resolution establish the district.

Unfavorable vote

19111. If a majority of the votes cast are against the lighting district, the board of supervisors shall by order so declare. No other proceedings shall be taken for the formation of another lighting district until the expiration of one year from the date of filing of the defeated petition.

Evidence of district establishment

19112. The fact of the filing of the petition, and the resolution establishing the lighting district, shall be entered in the minutes of the board of supervisors and that entry shall be conclusive evidence of the existence and validity of the

district and of the fact that all steps prerequisite to its existence were duly and regularly taken.

CHAPTER 7. AUTHORITY OF THE GOVERNING BODY

Governing body

19130. The board of supervisors of the county in which the lighting district has been established shall be ex officio the governing body of the lighting district and shall serve without compensation.

Power to sue

19131. The district may sue and be sued.

Powers of governing body

19132. The governing body shall:

(a) Make all rules, regulations and laws necessary for the administration, operation and maintenance of the highway lighting district.

(b) Supervise and plan a system of highway illumination for the district and decide upon the kind of service most feasible for the district. Nothing in this chapter shall prevent the board of supervisors from installing and maintaining electric lights on highways in the district and from paying for the same out of the general road fund of the county or district road fund.

(c) Indicate the placing and installation of all lights and any and all subsequent additional lights.

(d) Receive bids, award and make contracts with lighting companies in the name of the district to its very best advantage for the installation and maintenance of the street lighting system or any portion thereof and for servicing the same.

(e) Determine the number of employees necessary to properly care for and maintain the system. The governing body shall prescribe their duties and fix their compensation. All district employees shall hold their positions at the pleasure of the governing body.

(f) Designate the hours for lighting the district.

(g) Perform all other acts necessary or proper to carry out the provisions of this part.

CHAPTER 8. BIDS AND AWARD OF CONTRACTS

Bids and award of contract

19150. Within 10 days after the establishment of the district, the governing body shall advertise for bids for installing and maintaining the system and for servicing the same. The contract shall be awarded to the lowest responsible bidder. However, the rates to be paid therefor shall not exceed the rates paid at that time by the county for highway lighting in other portions of the county. The rates to be paid for service shall not be fixed for a term exceeding five years, and the governing body shall reserve the right to abrogate the contract whenever service is offered to be supplied at two-thirds of the fixed contract price.

Installation of system

19151. In granting authority to install the system and in contracting for service the governing body shall impose such restrictions and conditions, and provide for such locations of the various wires and lights, as will work the least possible public or private inconvenience.

CHAPTER 9. INSTALLATION OF ADDITIONAL LIGHTS

Petition

19160. On or before the first day of September in any year, a petition, signed by 25 or more taxpayers and residents of the district asking for the installation and maintenance of additional lights, may be filed with the governing body.

Installation

19161. Upon the receipt of the petition the governing body shall immediately estimate the cost of installing and maintaining the additional lights, and shall include in the tax levy for the ensuing fiscal year a tax upon the taxable property within the district, at the equalized value thereof for that year, sufficient to pay the cost of installing and maintaining the additional lights. After the tax levy has been made the governing body shall proceed with the installation of the additional lights.

CHAPTER 10. ESTIMATING AND LEVYING THE ASSESSMENT

Cost estimates

19180. On or before the first day of September of each year, the governing body shall make an estimate of the cost of conducting and maintaining the lighting district for the ensuing fiscal year, and shall include therein the cost of installing and maintaining such additional lights as may have been petitioned for by the residents of the district as well as the cost of any other things which may be necessary for carrying out the purposes of this part.

Levy of assessment

19181. When the estimate has been made, the board of supervisors of the county shall at the time of levying county taxes, levy a special tax upon all of the taxable property within the district at the equalized value thereof, sufficient to raise the amount of the estimate.

Two year levy

19182. If a lighting district is organized after the general county tax levy has been made in any year, the governing body may authorize the immediate installation of the lighting system in the district, and shall include in the levy of taxes for the lighting district for the ensuing fiscal year, a sum sufficient to pay the cost of the installation and maintenance of the system for that portion of the preceding fiscal year for which no levy of taxes was made for that purpose.

Inclusion of lights maintained by public subscription

19183. If any lights have been maintained by public subscription or by money supplied from the district road funds, within any territory which subsequently becomes a lighting

district organized under this part, at the time of the establishment of such lighting district, or at the time of expiration of any then existing contract for the maintenance of such lights; such lights and the future cost of maintaining and operating them shall be included in the estimate of the governing body and shall thenceforth be maintained as a part of the lighting system of the district.

CHAPTER 11. DISPOSITION OF FUNDS

Lighting fund

19200. The revenue derived from the special tax, together with all other moneys acquired by the district, shall be paid into the county treasury to the credit of the lighting fund of the district subject only to the order of the governing body and shall be expended by it only for and on behalf of the district.

Disposition of surplus funds

19201. Any funds arising from assessments made under this part remaining in the county treasury after the payment of all outstanding legal obligations incurred by the district, shall be ordered transferred by the governing body to the city treasurer of any city that has been incorporated since the formation of the district, and which includes the district or a considerable portion thereof within its corporate limits. If no such city has been incorporated then the funds so remaining in the county treasury shall be transferred to a separate fund and upon the order of the governing body shall be repaid pro rata to the persons by whom the assessments were originally paid.

CHAPTER 12. ANNEXATION OF TERRITORY

Petition

19210. Contiguous territory in the same county may be annexed to a highway lighting district. A petition for that purpose may be filed with the board of supervisors of the county in which the district is situated. The petition shall:

(a) Designate the boundaries of the contiguous territory proposed to be annexed to the district.

(b) Designate the number of owners of real property in such territory and the assessed value of the real property in the territory as shown by the last equalized assessment roll of the county.

(c) State that the territory proposed to be annexed is not within the limits of any other lighting district, and request that such territory be annexed to the lighting district.

(d) Be signed by the owners representing at least one-fourth of the total assessed valuation of the real property proposed to be annexed to the district, as shown by the last equalized assessment roll of the county, and by at least one-fourth of the total number of owners of real property in such territory.

Time for hearing

19211. At the first regular meeting after the petition has been filed with it, the board of supervisors shall fix a time for hearing the petition and the protests of interested parties,

Notice

and shall cause a notice of the filing of the petition and the time set for the hearing to be published in a newspaper published and circulated in the county in which the district is situated. If there is no such newspaper, copies of the notice shall be posted in three conspicuous places in the territory to be annexed, for three weeks prior to the date fixed for hearing the petition.

Hearing

19212. Upon the date fixed for the hearing, or at any time to which it is continued, the board of supervisors shall consider the petition, and any objections which may be filed against it or against the annexation of any territory to the district.

Order granting petition

The board of supervisors may by order entered on its minutes grant the petition either in whole or in part, and by order entered on its minutes alter the boundaries of the district, and annex thereto all or such portion of the contiguous territory described in the petition as will be benefited by inclusion in the district.

Certain territory not to be included

19213. Any territory which will not be benefited, by inclusion in the district, or which is not contiguous to the district, or which is not described in the petition, shall not be included in the district.

Effect of order of annexation

19214. The order of annexation shall be conclusive evidence of the validity of all prior proceedings leading to the annexation recited therein and after the making of the order, the territory shall become a part of the lighting district and shall be taxed, together with the remainder of the district, for all taxes thereafter levied by the board of supervisors for the maintenance of the district.

CHAPTER 13. WITHDRAWAL OF TERRITORY

Petition

19230. Any portion of the territory of a highway lighting district which will not be benefited by remaining within the district may be withdrawn therefrom. Proceedings for the withdrawal of territory may be instituted by filing with the board of supervisors a petition signed by 50 or more freeholders or by a majority thereof if there are less than 100, within the territory desired to be withdrawn from the district requesting the withdrawal of the territory because it will not be benefited by remaining in the district and describing the exterior boundaries of the territory so sought to be withdrawn.

Time for hearing

19231. The board of supervisors shall fix a time and place for the hearing of the petition and for hearing protests

against the continuance of the remaining territory as a highway lighting district. The time fixed for the hearings shall not be less than 15 nor more than 30 days after the receipt of the petition.

Publishing and posting notice

19232. At least 10 days before the time fixed for the hearing the board of supervisors shall publish a notice of the hearing by one insertion in the newspaper circulated in the district which the board believes will best serve to give notice to the inhabitants of the district of the proposed withdrawal of territory. The notice shall also be posted at least one week prior to the time fixed for the hearing in three public places within the district, one of which shall be within the portion of the district proposed to be withdrawn.

Objections

19233. Any person interested may appear at the hearing and object to the withdrawal of territory from the district or may object to the continuance of the remaining territory as a highway lighting district. The board of supervisors shall consider all objections and shall pass upon the same, and if it finds that a portion of the district described in the petition and sought to be withdrawn will not be benefited by remaining within the district and that the territory not sought to be withdrawn will be benefited by continuing as a highway lighting district, then the board of supervisors may grant the petition for withdrawal either in whole or in part and by resolution reestablish the boundaries of the district omitting therefrom the territory withdrawn.

Effect of withdrawal

Effective date of

19234. Upon the withdrawal of any territory from the district, the remaining territory in the district shall continue as a lighting district until dissolved. No withdrawal of territory shall become effective until any outstanding contract for service has expired or such contract has, with the consent of the person furnishing such service, been modified or canceled so as to relieve the district of further obligation to pay for future lighting service within the territory withdrawn.

CHAPTER 14. DISSOLUTION BY PETITION

Petition

19250. Proceedings for the dissolution of the district may be instituted by filing with the board of supervisors a petition signed by 50 or more property owners and residents of the district, asking for its dissolution. The board of supervisors shall, within 30 days after receiving the petition, by resolution, order that an election be held in the district for the determination of the question of dissolution. The board shall appoint three qualified electors of the district to conduct the election which shall be called and conducted in the same manner as other elections of the district.

Election

Two-thirds vote

19251. If two-thirds of the qualified electors of the district vote in favor of dissolution, the district shall be dissolved.

Disposition of property

19252. Upon the dissolution of the district the title to any property which it may have acquired shall vest in any city which has at that time a considerable portion of the territory of the lighting district within its boundaries. If there is no such city, the title to the property shall vest in the board of supervisors of the county wherein the district is situated until such a city is created.

Outstanding indebtedness

19253. If at the time of the election to dissolve the district there is any indebtedness of the district outstanding, the vote to dissolve shall dissolve the district for all purposes except the levy and collection of taxes for the payment of such outstanding indebtedness. From the time the district is thus dissolved until the indebtedness is fully paid, the legislative body of the city which is entitled to the property of the district as provided for in Section 19252, or if there is no such city, the board of supervisors of the county wherein the district is located shall be the ex officio governing body of the district. That body shall levy such taxes and perform such other acts as may be necessary to pay the outstanding indebtedness of the district.

CHAPTER 15. DISSOLUTION BY ANNEXATION OR INCORPORATION PROCEEDINGS

Inclusion in cities

19270. Upon the inclusion of all of the territory embraced in any highway lighting district within one or more incorporated cities, either by annexation proceedings or by the incorporation of the cities, all funds paid into the lighting fund of the district in the county treasury shall be paid over by the governing body of the district to such city or cities.

Disposition of funds

19271. If all of the territory of the district is included within one incorporated city, the money paid into the lighting fund shall be paid to the treasurer of that city, and administered by the legislative body thereof. The city legislative body shall have all of the powers and perform all of the duties granted to or imposed upon the board of supervisors of the county in which the district is located and shall carry out the provisions of this part as to such district to the same purpose and extent as if originally constituted the governing body thereof. The city shall be liable for all outstanding liabilities of the district incurred prior to the time the district was included within the city.

Liability for debts

Inclusion in more than one city

19272. If all of the territory of the district is included within more than one incorporated city, then such proportionate part of the money paid into the lighting fund shall be paid to the treasurer of each such city as the area of that

portion of the district included in that city bears to the total area of the district. The funds so paid shall be administered by the legislative body of each such city, and each of the said legislative bodies shall have all the powers and perform all of the duties, so far as that portion of the district within its boundaries is concerned, granted to or imposed upon the board of supervisors of the county in which the district is located and shall carry out this part as to the portion of the district included within its boundaries to the same purpose and extent as if originally constituted the governing body thereof.

Liability for debts

19273. Each city shall be liable for such proportionate part of all the outstanding liabilities of the district incurred prior to its inclusion within the cities as the area of that portion of the district included in each city bears to the total area of the district.

Dissolution

19274. After all of its territory has been included within one or more cities, upon the expenditure of its funds and the discharge of its obligations the district shall be ipso facto dissolved.

Chapter 16. Miscellaneous Provisions

Annexation of part of district to a city

19290. If less than the whole of the territory of the district is included within one or more cities, the district shall continue in existence and shall continue to function without being affected thereby, unless it is dissolved upon petition. The board of supervisors may levy a special tax upon all of the taxable property within the boundaries of the district for the purposes and in the manner provided in this part, the same as though all of such property is situated in the unincorporated territory of the county, and with the same effect.

Disposition of funds of particular districts

19291. If a portion of the territory embraced in any district has been detached therefrom prior to the twenty-ninth day of July, 1927, either by annexation or incorporation proceedings, and the portion of the territory of such district remaining unannexed or unincorporated has been dissolved instead of continuing its existence as a lighting district, and thereafter moneys are paid into the fund of such district by reason of the collection of delinquent taxes or otherwise, such portion of the subsequent fund accretions, as was provided by law at the time of such annexation or incorporation, shall be paid to the city or cities within which the detached portion of such district was included. The remainder of such moneys shall be paid into the road fund of the road district within which the remaining unannexed or unincorporated portion of such district lay.

DIVISION 15. TREE PLANTING

PART 1. TREE PLANTING ACT OF 1931

CHAPTER 1. GENERAL PROVISIONS

Short title

22000. This part may be cited as the Tree Planting Act of 1931.

Construction

22001. This part shall be liberally construed to effectuate its purposes.

Alternative system

22002. This part provides an alternative system for the planting, maintaining or removing of trees in cities, and the provisions of this part shall not apply to or affect any other provisions of this code. When any proceedings are commenced under this part, the provisions of this part and no other shall apply to all such proceedings.

Construction

22003. Unless the particular provision or the context otherwise requires, the definitions and general provisions contained in this chapter shall govern the construction of this part.

Chartered cities

22004. The city charter of any city adopting the provisions of this part shall control if any provision of this part is contrary to or in conflict with the charter, or if any provision of the charter requires any matter or thing specified in this part to be done in a particularly described manner.

"City"

22005. "City" includes all corporations organized and existing for municipal purposes.

"Improvement"

22006. "Improvement" includes the planting, maintenance, or removal of trees, and any and all acts necessarily incident thereto.

"City council"

22007. "City council" and "council" include any body which by law is the legislative department of the government of the city.

"Board"

22008. "Board" means a board of park commissioners, park department, or other similar municipal authority, whether composed of one or more individuals, having control of or jurisdiction over, or charged with the duty of superintending, directing, planting, maintaining, removing and otherwise caring for the parks, trees, shrubs and vegetation within a city.

"Tree"

22009. "Tree" includes all varieties of trees, shrubs and other ornamental vegetation.

"Street"

22010. "Street" means all or any portion of territory within a city set apart and designated for the use of the

public as a thoroughfare for travel, and includes the sidewalks, the center and the side plots thereof.

"Lot line" 22011. "Lot line" means the boundary line separating that portion of a lot or parcel of land set apart for individual use and occupancy from the street.

"Maintain" 22012. "Maintain" or any of its variants when used in reference to trees includes clipping, spraying, fertilizing, irrigating, propping, treating for disease or injury, and other similar acts which promote the life, growth, health and beauty of trees.

"Tax collector" 22013. "Tax collector" includes any body, board, bureau or officer charged with the duty of collecting assessments for a city.

Notice required 22014. No publication or notice other than that provided for in this part shall be necessary to give validity to any proceedings had hereunder.

Chapter 2. Administration

Jurisdiction over trees 22030. The board in addition to the authority otherwise conferred upon it shall have full power and authority over the trees planted, or to be planted, pursuant to the provisions of this part, and may plant, maintain and remove such trees.

Rules and regulations 22031. The board may establish rules and regulations relating to the planting, maintenance and removal of the said trees and may recommend to the city council the enactment of any ordinances the board deems necessary to protect such trees.

City forester 22032. The board may appoint and employ a qualified person to be designated as city forester or by some similar title, to take charge of and direct, subject to the supervision and control of the board, all of the work authorized to be done under this part. The board may, if a city forester has not been appointed, fix the term of and compensation for the position of city forester, and determine the qualifications and fitness of applicants for the position and remove at pleasure persons so appointed and employed. If the method of employing and compensating a city forester is otherwise regulated by law or ordinance the law or the ordinance shall govern and control as to such matters.

Powers of the board 22033. The board may:

(a) Employ, or authorize the city forester to employ, as many assistants as it deems necessary to carry on the work.

(b) Fix the compensation of the assistants.

(c) Purchase the necessary machinery, tools and implements, for the proper conduct of the work, such purchases to be made in the manner provided by law or ordinance, and only out of funds available for expenditure by the board for that purpose.

(d) Incur such other expenses as it deems necessary for the conduct of the work.

Financing improvements

22034. The board, or the city council, shall include in the annual budget of the board the amount of money necessary to meet the expenses of doing the work during the following fiscal year, including the compensation of the city forester and other employees, but excepting so much of the expense of doing the work as is assessable to abutting property, in accordance with the provisions of this part. The taxes levied for such purposes shall be in addition to any other taxes for park or street improvement purposes. If these expenditures are already provided for by law or by ordinance, then the law or the ordinance shall govern and control.

Duties of city forester

22035. The city forester shall take charge of and direct, subject to the supervision and control of the board, all of the work authorized to be done by the board and may plant, maintain, and remove all trees over which the board is given power and authority by this part.

CHAPTER 3. REMOVAL OF TREES

What trees may be removed

22060. The board may remove any tree or any part thereof which appears to be dead, is liable to fall, is dangerous or is an obstruction to public travel, whether or not the tree is on any private property and overhangs or projects into any street or is in any street, park, parkway or other public grounds of the city.

Notice of removal

22061. Except in the case of manifest public danger and immediate necessity, no such tree shall be wholly cut down or removed unless 10 days' notice in writing is given to the owner, tenant, or occupant, or agent of the owner, tenant or occupant of the land upon which the tree is situate.

Objections

22062. If the owner, tenant, occupant, or agent, within seven days after the giving of the notice, files with the board his objections in writing to the removal, the tree shall not be cut down or removed unless the board gives the owner, tenant, occupant, or agent a reasonable opportunity to be heard and shall thereafter approve in writing the removal of the tree.

CHAPTER 4. UNDERTAKING THE IMPROVEMENT

Improvement proposal

22080. When the board proposes the planting, maintenance or removal of any trees in any streets of the city, the

city forester, under the direction of the board, shall present the proposal in writing to the city council. The proposal shall:

(a) Specify in detail the streets upon which the improvement is proposed to be made.

(b) Describe the general nature of the improvement.

(c) Give the estimated total cost of the improvement.

(d) Specify the kinds of trees to be planted, if any.

Diagram

22081. The proposal shall be accompanied by a diagram showing:

(a) The streets to be improved.

(b) The abutting lots or parcels of land and the front footage of each.

(c) The legal description of each such lot or parcel of land.

Frontage assessments

22082. Each lot or parcel of land shall be separately assessed in proportion to its frontage at a rate per front foot sufficient to cover that proportion of the total cost and expense of the work which is to be paid for by means of special assessments.

Petition for improvement

22083. A proceeding for the planting, maintenance, or removal of trees may also be instituted by a petition to the council of property owners whose property will be among that to be assessed to pay the cost of the proposed improvement. Upon such petition being filed the city forester shall file with the city council a diagram similar to the one accompanying a written proposal of the board for similar improvements, which shall describe the improvement proposed by the petition.

Improvements at owner's expense

22084. The board or the city forester may plant, maintain, or remove any trees in any street of the city by private arrangement for reimbursement with the owner of any lot or parcel of land upon which or fronting upon which the trees are situate.

Improvements at board's expense

22085. The board or the city forester may expend any funds which it may have on hand to plant, maintain, or remove trees. The board or city forester may expend such funds if in its judgment the expenditures will not embarrass or affect the efficient discharge of its duties as defined by this part, or any other law or ordinance, and are advisable and for the best interests of the public. Any planting, maintenance, or removal done under the circumstances specified in this section shall not require the initiation of any proceedings as elsewhere specified in this part, or any other proceedings, or any formal action by the board or by the city council.

Resolution of intention

22086. Before ordering any improvement specified in either the written proposal of the board or in the petition of

property owners, the city council shall adopt a resolution of intention declaring its intention so to do, briefly describing the improvement, the streets which are to be improved, the general nature and the estimated costs and expenses thereof, the kinds of trees to be planted, if any, and fixing a time when the city council shall hear and pass upon protests against the improvement.

Period of maintenance

22087. If the proposal or the petition contains a provision for the maintenance of trees which are already planted or are proposed to be planted, the resolution shall provide for the maintenance of the trees for the period specified in the proposal, but in any event not to exceed five years.

Contribution of city funds

22088. The city council may order in the resolution of intention, or thereafter, that all or a specified portion of the costs and expenses of the improvement shall be paid out of the treasury of the city from any funds which the city council may designate.

Protests

22089. Owners of property which will be assessed to pay the cost of the proposed improvement may protest against the improvement by filing their objections in writing with the city council at any time before the time fixed for the hearing thereof.

Notice by mail

22090. Upon the adoption of the resolution of intention, written notice thereof shall be sent by mail or otherwise to the owner or his agent, if known, of each lot or parcel of land specified in the diagram filed with the city council.

Contents

22091. The notice shall refer to the resolution of intention, and state:

(a) The general nature of the improvement.

(b) The estimated costs and expenses of the improvement, or of that portion thereof which is to be paid for by means of special assessments.

(c) The streets to be improved.

(d) The kinds of trees to be planted, if any.

(e) That the cost of the improvement will be assessed against the particular lots or parcels of land on a foot frontage basis.

(f) That any lot owner may protest against the improvement as provided in the resolution of intention.

Majority protest

22092. If the owners of a majority of the front footage involved in the improvement object to the improvement, all further proceedings shall be terminated. If there is a majority protest the proceeding shall not be renewed for a period of six months, and then shall only be renewed by the adoption of another resolution of intention.

Hearing

22093. On the date fixed by the resolution of intention for the hearing of protests, the city council shall proceed to hear and pass on all protests filed with it, and its decision thereon shall be final and conclusive.

Decision

22094. After the hearing, the city forester, under the direction and supervision of the board, shall abandon the improvement or proceed with it, according to the decision of the city council.

Ordering the improvement

22095. If the council decides to proceed with the improvement, it shall, by resolution order the improvement to be made according to the resolution of intention, or with such alterations or changes as it may deem best.

Assessment of costs

22096. After deducting any contribution to be made by the city, the balance of the entire cost of the improvement between the lot lines, in front of any lot or parcel of land abutting on a street which is to be improved, shall be chargeable to and assessed upon such lots or parcels of land.

Chapter 5. Performing the Work

City forester to perform work

22110. The city forester, under the direction of the board, shall do or cause to be done, all of the work ordered to be done by the city council under this part.

Contracts for performing work

Competitive bidding

22111. The board may direct the city forester to let contracts for all or any part of any improvement ordered by the city council. The city forester shall let the said contracts to the lowest responsible bidder, after notice by publication in two successive issues of any daily, or in one issue of any weekly, newspaper published and circulated in the city, or if there is no such newspaper, by posting for five days at three public places in the city. The work so contracted for shall be done under the supervision of the city forester.

Abandonment by contractor

22112. If the contractor abandons the work, or fails to proceed with it as rapidly as required by his contract, the city forester may relet the work in the same manner as in the first letting, or complete or cause it to be completed in any other manner he deems advisable. He may retain the amount of any expense incidental to the reletting, out of any funds due or to become due to the contractor, and may also hold him and the sureties upon his bond responsible for any additional expenses and for any damages resulting from the abandonment or failure to complete his contract.

Chapter 6. Levying and Collecting the Assessment

Levying the assessment

22130. If the council orders the improvement to be made, it shall levy an assessment upon the lots or parcels of land

specified in the diagram provided for in this part for the total amount required to pay for the improvement, less any sums allotted by the city council therefor in its resolution of intention or otherwise.

Transmission to tax collector

22131. Upon the levying of the assessment, the clerk of the council shall transmit to the city tax collector the diagram and assessment upon which the levy is based.

Limitation on actions

22132. The validity of any assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the time the assessment is levied. Any appeal from a final judgment in such an action or proceeding must be perfected within 30 days after the entry of the judgment.

Recording

22133. Upon the receipt of the diagram and assessment the tax collector shall record them in a suitable book to be kept by him for that purpose, and append thereto his certificate of the date of recording. The record shall be the assessment roll. From the date of recording all persons shall be deemed to have notice of the contents of the assessment roll.

Assessment lien

22134. Immediately upon the recording, the several assessments contained in the assessment roll shall become due and payable, and each of the assessments shall be a lien upon the property against which it is made, paramount to all other liens except liens for State, county and municipal taxes, and shall only be discharged by payment of the assessment or by redemption of the land after sale for delinquency.

Notice of assessment

22135. The tax collector shall, upon the recording of the assessment, give notice thereof by publication for five days in a daily newspaper, published and circulated in the city, or by two insertions in a weekly newspaper so published and circulated. If there is no such newspaper, the notice shall be given by posting in three public places in the city.

Contents

22136. The notice shall state that:

(a) The assessments have been recorded in the tax collector's office.

(b) All sums assessed therein are due and payable immediately.

(c) The payment of the sums shall be made to him within 30 days after the date of the first publication or posting of notice, which date shall be stated in the notice.

(d) All assessments not paid before the expiration of the 30 days shall be delinquent, and thereupon 10 per cent of the amount of each such assessment shall be added thereto.

Payment

22137. When any assessment is paid, the tax collector shall mark opposite the assessment the word "paid," with the date of the payment and shall give a receipt therefor.

22138. All assessments unpaid shall be delinquent at the expiration of a period of 30 days from the first publication or posting of the notice that the assessment is due and payable. Delinquencies

22139. The tax collector shall, when any assessment is delinquent, mark opposite the assessment the word "delinquent," and shall add 10 per cent to the amount of the assessment. Penalty

CHAPTER 7. SALE AND REDEMPTION OF DELINQUENT PROPERTY

22160. The tax collector shall, within 30 days after the date of delinquency, begin the publication or posting of a notice that the lots or parcels of land upon which the assessments have not been paid will be sold. The publication shall be made by two consecutive insertions in a daily or weekly newspaper published and circulated in the city. If there is no such newspaper, the notice shall be given by posting in three public places in the city. Notice of sale

22161. The date fixed for the sale shall be not less than five days, nor more than 10 days after either the last publication or the completion of posting of the notice. Date of sale

22162. The notice shall contain a description of each lot or parcel of land delinquent, and opposite each description the name of the owner as shown by the assessment roll, and the amount of the assessment and costs due, including the cost of advertisement. The cost of advertisement shall not exceed the sum of fifty cents ($0.50) for each lot or parcel of land separately assessed. Contents of notice

22163. The notice shall contain a statement that unless each assessment which is delinquent, together with the penalties and costs thereon, is paid, the property upon which the assessment is a lien will be sold at public auction, at the time and place specified in the notice. Same

22164. At any time after the delinquency and prior to the sale of any lots or parcels of land, any person may redeem the property by paying the delinquent assessment thereon, together with the penalties and costs and, if the payment is made after the first publication or posting of notice of sale, the cost of advertising. Redemption prior to sale

22165. At the time and place stated in the notice the tax collector shall proceed with the sale, commencing at the head of the list of the lots and parcels of land contained in the notice and continuing in the numerical order thereof until all the lots and parcels are sold. He may postpone or continue the sale from day to day until it is completed. He shall separately sell each lot or parcel of land, or so much thereof Sale

as may be necessary to realize the amount of the delinquent assessment which is a lien on the same, together with the penalties and costs, and fifty cents ($0.50) for a certificate of sale. If there is no other purchaser, the lot or parcel shall be struck off to the city as purchaser.

Certificates of sale

22166. The tax collector shall issue for each sale an original and a duplicate certificate of sale, which shall refer to the proceedings, describe the lot or parcel sold, and give the name of the purchaser and the amount for which the sale was made. He shall deliver the original certificate to the purchaser, and he shall keep the duplicate on file in his office.

Redemption after sale

22167. At any time before the expiration of 12 months from the date of the sale, any property so sold may be redeemed by the payment to the tax collector of the amount for which it was sold, with an additional penalty of 20 per cent of that amount.

Record of redemption

22168. Upon redemption of any lot or parcel of land, the tax collector shall enter the fact and date of redemption upon the duplicate certificate of sale.

Payment to purchaser

22169. The tax collector shall pay the redemption money to the person holding the original certificate of sale upon the surrender of the certificate and the execution of a receipt for the amount received.

Deed

22170. If there has been no redemption of the property at any time after the expiration of 12 months from the date of sale, the tax collector shall, upon proper application being made therefor, execute to the purchaser, or his successor in interest a deed of the property sold.

Contents

22171. The deed shall recite substantially the matters contained in the certificate of sale, any change of interest therein, and the fact that no person has redeemed the property.

Fee

22172. The applicant for a deed shall pay the tax collector one dollar ($1) for making the deed. If the city is the purchaser no charge shall be made for making the deed.

Notice of intention to apply for deed

22173. At least 30 days before he applies for a deed, the purchaser or his successor in interest shall serve upon the owner of the property, and upon any occupant, a written notice setting forth:

(a) A description of the property.

(b) That the property has been sold for a delinquent assessment.

(c) The improvement for which the assessment was made.

(d) The amount for which the property was sold.

(e) The amount necessary to redeem at the time of giving the notice.

(f) The time when the purchaser or his successor in interest will apply to the tax collector for a deed.

Unknown owners

22174. If the owner of the property can not with due diligence be found, the notice shall be posted in a conspicuous place upon the property at least 30 days before the time specified in the notice at which the application for a deed will be made.

Affidavits

22175. The applicant for a deed shall file with the tax collector an affidavit or affidavits showing that notice of the application has been given, and if the notice was not served personally on the owner of the property, that due diligence was used to find the owner. The tax collector shall file the affidavit or affidavits in his office.

Service fees

22176. The person redeeming shall, if he redeems after the filing of the affidavits and more than 11 months from the date of sale, pay, in addition to the other amounts required, three dollars ($3) for the service of notice and the making of the affidavits, which amount shall be paid over to the purchaser or his successor in interest in the same manner as other sums paid for redemption.

When deed issues

22177. No deed for any property sold for a delinquent assessment shall be executed until the purchaser or his successor in interest has complied with all the provisions of this chapter and filed with the tax collector the proper affidavits.

Effect of deed

22178. The deed of the tax collector shall be prima facie evidence of the truth of all matters recited therein, of the regularity of all proceedings prior to the execution thereof, and of title in the grantee.

CHAPTER 8. IMPROVEMENT FUNDS

Improvement fund

22200. The funds collected by the tax collector under this part shall be paid by him, as fast as collected, to the city treasurer. The city treasurer shall place the funds in a special fund designated by the name of the improvement proceeding, and shall make payments out of that fund only for the purposes provided for in this part.

Payments

22201. Payments out of the special fund shall be made by the city treasurer to the board as funds are required for the prosecution and completion of the improvement.

Loans by city

22202. To expedite the making of the improvement, the city council may at any time transfer into the special fund out of any money in the general fund, any sums which it may

deem necessary. The sums so transferred shall be a loan to the special fund, and shall be repaid out of the proceeds of the assessments provided for in this part.

DIVISION 50. REPEALS

Repeals

50000. The following acts, together with all acts amendatory thereof and all acts supplementary thereto, are hereby repealed:

Year	Chapter	Page
1889	76	70
1903	268	376
1909	335	551
1909	677	1018
1911	397	730
1911	630	1192
1913	566	954
1915	733	1441
1919	335	612
1921	395	579
1921	872	1658
1923	149	308
1927	543	909
1927	690	1174
1931	615	1324
1931	642	1372
193[illegible]	1106	2325

Stats 1935, p 349

SEC. 2. Section 10000 of the Streets and Highways Code is hereby amended by renumbering the same to be Section 50001, to read as follows:

Repeals

50001. The following acts and sections, together with all acts amendatory thereof and supplementary thereto, are hereby repealed:

Year	Chapter	Page
1858	272	227
1858	315	297
1859	225	228
1859	240	244
1859	244	252
1859	328	368
1860	96	60
1860	125	95
1860	152	119
1860	180	147
1860	184	150
1860	331	327
1860	368	359
1861	164	160
1861	209	209
1861	381	398
1861	387	408
1861	395	414
1861	421	482
1861	466	519
1862	29	22
1862	81	69
1862	89	78
1862	138	127
1862	144	134
1862	163	161
1862	183	187
1862	233	251
1862	240	256
1862	407	531
1863	115	130
1863	131	163
1863	205	266
1863	322	484
1863	339	498
1863	351	533
1863	358	555
1863	403	619
1863–4	78	77
1863–4	158	151
1863–4	211	214
1863–4	244	248
1863–4	322	347
1863–4	453	501

Repeals

Year	Chapter	Page
1865–	6:	34: 18
1865–	6:	131: 116
1865–	6:	188: 167
1865–	6:	287: 318
1865–	6:	435: 544
1865–	6:	448: 570
1865–	6:	474: 616
1865–	6:	516: 664
1865–	6:	592: 822
1867–	8:	32: 30
1867–	8:	51: 48
1867–	8:	78: 69
1867–	8:	125: 100
1867–	8:	186: 168
1867–	8:	269: 281
1867–	8:	405: 495
1867–	8:	460: 615
1867–	8:	498: 670
1869–70:		74: 73
1869–70:		91: 88
1869–70:		130: 126
1869–70:		239: 340
1869–70:		289: 396
1869–70:		350: 456
1869–70:		358: 475
1869–70:		442: 638
1869–70:		452: 654
1871–	2:	93: 89
1871–	2:	112: 105
1871–	2:	122: 125
1871–	2:	135: 142
1871–	2:	199: 239
1871–	2:	224: 297
1871–	2:	248: 322
1871–	2:	249: 327
1871–	2:	270: 372
1871–	2:	294: 397
1871–	2:	306: 414
1871–	2:	339: 448
1871–	2:	353: 496
1871–	2:	431: 627
1871–	2:	567: 826
1871–	2:	614: 901
1873–	4:	66: 62
1873–	4:	97: 105
1873–	4:	138: 178
1873–	4:	158: 213
1873–	4:	301: 436
1873–	4:	320: 453
1873–	4:	334: 490
1873–	4:	342: 503
1873–	4:	386: 551
1873–	4:	401: 573
1873–	4:	446: 621
1873–	4:	472: 705
1873–	4:	534: 771
1873–	4:	597: 833
1873–	4:	601: 844
1875–	6:	15: 6
Sec. 4 of		
1875–	6:	47: 22
1875–	6:	52: 30
1875–	6:	53: 31
1875–	6:	54: 31
1875–	6:	87: 57
1875–	6:	176: 180
1875–	6:	200: 237
1875–	6:	210: 270
1875–	6:	246: 316
1875–	6:	264: 341
1875–	6:	266: 354
1875–	6:	270: 358
1875–	6:	286: 376
1875–	6:	289: 385
1875–	6:	315: 405
1875–	6:	321: 413
1875–	6:	322: 421
1875–	6:	338: 477
1875–	6:	387: 530
1875–	6:	393: 539
1875–	6:	406: 570
1875–	6:	408: 571
1875–	6:	425: 594
1875–	6:	431: 606
1875–	6:	434: 611
1875–	6:	455: 650
1875–	6:	459: 658
1875–	6:	493: 752
1875–	6:	543: 817
1875–	6:	572: 858
1875–	6:	610: 907
1877–	8:	10: 6
1877–	8:	12: 18
1877–	8:	39: 50

Repeals

Year	Chapter	Page
1877–8	126	157
1877–8	174	211
1877–8	225	273
1877–8	311	395
1877–8	314	402
1877–8	328	438
1877–8	362	544
1877–8	363	545
1877–8	383	565
1877–8	461	703
1877–8	463	716
1877–8	528	826
1877–8	552	859
1877–8	665	1024
Sec. 2 of 1883	10	5
1895	128	119
1897	25	21
1897	176	239
1897	244	374
1899	26	26
1901	111	272
1903	141	156
1903	366	515
1903	378	523
1905	150	146
1905	589	790
1905	596	796
1905	598	797
1905	609	805
1907	116	138
1907	117	139
1907	118	140
1907	192	237
1907	204	246
1907	349	666
1907	528	982
1909	223	351
1909	224	352
1909	523	853
1909	561	880
1909	641	974
1911	158	324
1911	165	339
1911	274	455
1911	280	474
1911	334	529
1911	468	931
1911	498	1036
1911	502	1044
1911	503	1044
1911	709	1391
1913	117	210
1913	118	211
1913	119	211
1913	120	212
1913	121	212
1913	256	445
1913	398	855
1913	423	869
1913	609	1134
1913	610	1134
1913	619	1152
1915	32	41
1915	99	179
1915	203	441
1915	283	478
1915	304	487
1915	306	488
1915	396	635
1915	415	688
1915	678	1327
1915	680	1328
1915	704	1379
1915	748	1491
1915	762	1527
1915	764	1529
1915	765	1530
1917	416	535
1917	697	1314
1917	703	1325
1917	704	1326
1917	746	1519
1917	769	1611
1919	12	18
1919	66	102
1919	93	136
1919	95	138
1919	510	1069
1919	542	1190
1921	195	215
1921	207	237
1921	831	1597
1921	832	1598

Year	Chapter	Page
1921	836	1606
1921	837	1606
1921	839	1608
1921	841	1610
1921	845	1627
1921	883	1673
1921	888	1685
1923	61	123
1923	181	422
1923	223	448
Sec. 13½ of		
1923	267	571
1925	82	190
1925	279	463
1925	309	508
1925	335	572
1925	351	635
1925	369	670
1925	375	689
1925	471	1009
1927	636	1067
1927	773	1503
1927	794	1562
1927	804	1585
1929	605	1016
1931	71	80
1931	82	102
1931	463	1026
1931	624	1350
1931	1023	2071
1933	428	1078
1933	441	1152
Secs. 3 and 4 of		
1933	909	2362

SEC. 3. Section 10001 of the Streets and Highways Code is hereby amended by renumbering the same to be Section 50002, to read as follows: Stats. 1935, p. 352

50002. Sections 159 and 160 of the California Vehicle Act are hereby repealed, such repeal being contingent upon the taking effect of the "Vehicle Code." In the event said code takes effect the repeal of said sections shall take effect simultaneously therewith. Repeals

SEC. 4. Section 10002 of the Streets and Highways Code is hereby amended by renumbering the same to be Section 50003, to read as follows: Stats. 1935, p. 352

50003. The following sections of the Political Code are hereby repealed: Repeals

363b	363aa	365o
363h	363cc	365p
363k	363dd	2618
363o	363ee	2619
363q	363ff	2621
363r	363gg	2622
363s	365e½	2623
363t	365g	2631
363u	365h	2632
363v	365i	2636
363w	365j	2639
363x	365k	2640
363y	365*l*	2641
363z	365n	2642

Repeals

2643	2696	2752
2643a	2697	2753
2644	2698	2754
2645	2711	2755
2646	2712	2756
2647	2713	2757
2651	2714	2758
2652	2715	2759
2653	2716	2760
2654	2731	2761
2655	2732	2762
2655a	2733	2763
2656	2734	2764
2671	2735	2765
2681	2736	2766
2682	2738	2767
2683	2739	2768
2684	2740	2769
2685	2742	2770
2686	2743	2771
2687	2744	2772
2688	2745	2773
2689	2746	4041.7
2690	2747	4041.7a
2691	2748	4043
2693	2749	4161a
2694	2750	4222
2695	2751	

Stats 1935, p 353

SEC. 5. Section 10003 of the Streets and Highways Code is hereby amended by renumbering the same to be Section 50004, to read as follows:

50004. Section 588c of the Penal Code is hereby repealed.

Stats 1935, p 349

SEC. 6. The division heading of Division 20 of the Streets and Highways Code is hereby repealed.

Effect of repeal and codification

SEC. 7. The repeal of any act and the codification and reenactment thereof as a part of the Streets and Highways Code by this act shall not operate to divest, limit or prevent the legislative body of any city, city and county, county or district, of whatever type or kind, which is authorized by law to conduct a proceeding or issue bonds under any such act, or any amendment thereof, from exercising all authority, power, and jurisdiction and performing any or all functions, acts or duties, imposed, prescribed or authorized by any such act as amended, in any proceeding wherein the ordinance or resolution of intention for such proceeding or for the issuance of bonds was adopted as provided by law before the effective date of this act, nor shall the repeal and codification and reenactment of any such act as a part of the Streets and Highways Code, be applicable to or affect in any way any bonds or refunding bonds heretofore issued or authorized to be issued

under any such act or any assessment or reassessment levied or authorized or required to be levied under any such act, and for all purposes (except that no new proceeding can be begun thereunder after the effective date of this act) all of the authority, power, and jurisdiction now conferred by any such act and all of the provisions of any such act are retained in full force and effect until all bonds or refunding bonds issued under any such act shall be fully paid and discharged.

Same
Stats. 1931, p 1372

SEC. 8. The repeal of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Chapter 642 of the Statutes of 1931, as amended) and the codification and reenactment thereof as a part of the Streets and Highways Code by this act shall not operate to divest, limit or prevent the legislative body of any city, city and county, county or district, of whatever type or kind, from exercising all authority, power, and jurisdiction and performing any or all functions, acts or duties imposed, prescribed or authorized by that act if the legislative body thereof has prior to the effective date of this act by resolution or ordinance determined in general the nature, location and extent of a proposed improvement or acquisition or both and has designated the act under which the proceeding is to be conducted all as required by Section 2 of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Chapter 642 of the Statutes of 1931, as amended), and all of the authority, power, and jurisdiction conferred by that act upon the effective date of this act and all of the provisions of that act are for all purposes (except that no new proceedings can be begun thereunder after the effective date of this act) retained in full force and effect until all of the proceedings required or authorized thereunder are completed.

CHAPTER 80

An act to amend Sections 337b, 337c, 337d and 337e of, and to add Section 337f to, the Penal Code, relating to crimes in connection with sporting events, contests and exhibitions, including horse racing, baseball, football, boxing and wrestling, declaring the urgency of this act, to take effect immediately.

[Approved by Governor April 4, 1941. Filed with Secretary of State April 7, 1941.]

In effect April 4, 1941

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

Stats 1921, p 62

SECTION 1. Section 337b of the Penal Code is hereby amended to read as follows:

Bribery of players

337b. Any person who gives, or offers or promises to give, or attempts to give or offer, any money, bribe or thing of value, to any participant or player in any sporting event, contest, or exhibition of any kind whatsoever, where admission is charged, and specifically including but without being

limited to such sporting events, contests, and exhibitions as baseball, football, boxing, wrestling and horse racing, with the intention or understanding or agreement that such participant or player shall not use his best efforts to win such sporting event, contest or exhibition, or so conduct himself in such sporting event, contest or exhibition that any other player, participant or team of players or participants shall thereby be assisted or enabled to win such sporting event, contest or exhibition, is guilty of a felony, and shall be punished by imprisonment in the State prison for a period not exceeding five years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

Stats 1921, p 62

SEC. 2. Section 337c of the Penal Code is hereby amended to read as follows:

Acceptance of bribes by players

337c. Any person who accepts, or attempts to accept, or offers to accept, or agrees to accept, any money, bribe or thing of value, with the intention or understanding or agreement that he will not use his best efforts to win any sporting event, contest or exhibition of any kind whatsoever, and specifically including but without being limited to, such sporting events, contests or exhibitions as baseball, football, boxing, wrestling and horse racing, in which he is playing or participating or is about to play or participate in, or to so conduct himself in such sporting event, contest or exhibition that any other player or participant or team of players or participants shall thereby be assisted or enabled to win such sporting event, contest or exhibition, is guilty of a felony, and shall be punished by imprisonment in the State prison for a period not exceeding five years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

Stats 1921, p 62

SEC. 3. Section 337d of the Penal Code is hereby amended to read as follows:

Bribery of officials

337d. Any person who gives, or offers to give, or promises to give, or attempts to give, any money, bribe or thing of value to any person who is umpiring, managing, directing, refereeing, supervising, judging, presiding or officiating at, or who is about to umpire, manage, direct, referee, supervise, judge, preside or officiate at any sporting event, contest or exhibition of any kind whatsoever, and specifically including but without being limited to, such sporting events, contests and exhibitions as baseball, football, boxing, wrestling and horse racing, with the intention or agreement or understanding that such person shall corruptly or dishonestly umpire, manage, direct, referee, supervise, judge, preside or officiate at, any such sporting event, contest or exhibition, or the players or participants thereof, with the intention or purpose that the result of the sporting event, contest or exhibition will be affected or influenced thereby, is guilty of a felony and shall be punished by imprisonment in the State prison for a period not exceeding five years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

SEC. 4. Section 337e of the Penal Code is hereby amended to read as follows: Stats 1921, p 63

337e. Any person who as umpire, manager, director, referee, supervisor, judge, presiding officer or official receives or agrees to receive, or attempts to receive any money, bribe or thing of value, with the understanding or agreement that such umpire, manager, director, referee, supervisor, judge, presiding officer or official shall corruptly conduct himself or shall corruptly umpire, manage, direct, referee, supervise, judge, preside or officiate at, any sporting event, contest or exhibition of any kind whatsoever, and specifically including but without being limited to, such sporting events, contests and exhibitions as baseball, football, boxing, wrestling and horse racing, or any player or participant thereof, with the intention or purpose that the result of the sporting event, contest or exhibition will be affected or influenced thereby, is guilty of a felony and shall be punished by imprisonment in the State prison for a period not exceeding five years, or by a fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. Penalty for umpire, etc., accepting bribe

SEC. 5. Section 337f is hereby added to the Penal Code, to read as follows: New section

337f. Any person: Penalty for fixing horse race

(a) Who influences, or induces, or conspires with, any owner, jockey, groom or other person associated with or interested in any stable, horse, or race in which a horse participates, to affect the result of such race by stimulating or depressing a horse through the administration of any hypnotic or narcotic to such horse, or by the use of any electrical device or any electrical equipment or by any mechanical or other device not generally accepted as regulation racing equipment, or

(b) Who so stimulates or depresses a horse, or

(c) Who knowingly enters any horse in any race within a period of 24 hours after any hypnotic or narcotic has been administered to such horse for the purpose of increasing or retarding the speed of such horse, is guilty of a felony and punishable by a fine of not more than five thousand dollars ($5,000), or by imprisonment in a State prison or a county jail for not less than one nor more than two years or by both such fine and imprisonment, or

(d) Who wilfully or unjustifiably enters or races any horse in any running or trotting race under any name or designation other than the name or designation assigned to such horse by and registered with The Jockey Club or the United States Trotting Association or who wilfully sets on foot, instigates, engages in or in any way furthers any act by which any horse is entered or raced in any running or trotting race under any name or designation other than the name or designation duly assigned by and registered with The Jockey Club or the United States Trotting Association is guilty of a felony and punishable by imprisonment in the State prison for a period

not exceeding five years or by a fine not exceeding five thousand dollars ($5,000) or by both such fine and imprisonment.

Definitions

The term "hypnotic" shall include all barbituric acid preparations and derivatives.

The term "narcotic" shall include opium and all its alkaloids, salts, preparations and derivatives, cocaine and all its salts, preparations and derivatives and substitutes.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall therefore take effect immediately. A statement of the facts constituting such necessity is as follows:

Investigation has recently shown that corruption in the conduct of horse races has existed and that great sums of money have been taken from the public through improper influencing of race results. This evil will continue to exist in race meetings conducted prior to the time this act would take effect in ordinary course, and it is therefore necessary for the immediate protection of the public from harmful practices that this act take effect immediately.

CHAPTER 81

Stats. 1929, p. 1108, amended

An act to amend Section 1 of the California Nautical School Act, relating to the California Nautical School and the place of its maintenance; declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor April 7, 1941. Filed with Secretary of State April 7, 1941.]

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

Stats. 1939, p. 2763

SECTION 1. Section 1 of the California Nautical School Act is hereby amended to read as follows:

State Nautical School

Section 1. A State nautical school is hereby created which shall be maintained at the Port of San Francisco, for the purpose of giving instruction in the science and practice of navigation, seamanship, steam, diesel and electrical engineering to male pupils from the several counties of the State, who shall have the qualifications of good moral character, education and physical fitness, which may be required by the board of governors of said school. The board shall appoint and may remove a superintendent of the school and all necessary instructors and other employees; determine their powers, duties and compensation; fix the terms upon which students shall be received and instructed therein and suspended, discharged or graduated therefrom; make all regulations necessary for the procurement or purchase of supplies and materials therefor while the vessel is cruising and for its management and control and

Superintendent and instructors, etc

shall provide from time to time for cruises in and from San Francisco Harbor. The board may appoint as superintendent of said school and as instructors therein such officer or officers as may be designated for that purpose by the Secretary of the Navy. The term "Port of San Francisco" as used in this act shall be deemed to include all of San Francisco, San Pablo, and Suisun bays and all rivers flowing into those bays or into the straits connecting the same. The nautical school created hereunder may be known as the California State Nautical School, the California State Maritime School, or by such other name as the board of governors may determine; provided, that the terms "college" or "university" shall not be used in any such designation.

Designation of school

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall therefore go into effect immediately. The following is a statement of the facts constituting such necessity:

Urgency

The Federal Government has been compelled to order the California Maritime Academy from its present site. The academy training ship is now on cruise and upon its return will have no place to dock unless another site is immediately provided. It is therefore imperative that construction work on a new site be started immediately so that at least a pier be constructed before the training ship returns. It is therefore essential that this act take effect immediately.

CHAPTER 82

An act to add Section 395.4 to the Military and Veterans Code, relating to leaves of absence of public employees for military service, declaring the urgency thereof, and providing that this act shall take effect immediately.

Stats. 1935, p. 1338, amended

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.]

In effect immediately

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

SECTION 1. Section 395.4 is hereby added to the Military and Veterans Code, to read as follows:

New section

395.4. Whenever the United States is engaged in war or whenever the Governor finds and proclaims that an emergency exists in preparing for the National defense, any employee or officer, other than an elected officer, of a county, city, political subdivision, school, irrigation, public district, or other local authority or public body whatsoever who enters the armed forces of the United States shall be entitled to a leave of absence for service with such armed forces for the duration

Absence of public officers and employees during war or emergency

of the war or until the Governor finds and proclaims that the emergency no longer exists, and for 90 days thereafter, or until 90 days after the termination of such service.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

In view of the apparent necessity for providing an adequate National Defense Program as promptly as possible, it is anticipated that many public employees will volunteer their services with the armed forces of the United States instead of awaiting conscription under the Federal Selective Military Service Law. It has, therefore, become necessary to provide for the retention of the rights of those so going into the armed forces. The preservation of a sound system of public administration requires that this protection be afforded to all public employees and in order to make this act fully effective it is necessary that it take effect immediately.

CHAPTER 83

Stats 1897, p 254, amended

An act to amend Section 14a of the California Irrigation District Act, relating to annual statements by the board of directors.

In effect September 13, 1941

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.]

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

Stats 1917, p 756

SECTION 1. Section 14a of the California Irrigation District Act is hereby amended to read as follows:

Publication of financial condition

Sec. 14a. The board of directors on or before their regular monthly meeting in March of each year shall render and immediately thereafter cause to be published a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some newspaper, published in the county where the office of the board of directors of such district is situated.

CHAPTER 84

An act to amend Section 690.4 of the Code of Civil Procedure, relating to exemption from execution or attachment.

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.] In effect September 13, 1941

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

SECTION 1. Section 690.4 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1939, p. 1862

690.4. The tools or implements of a mechanic or artisan, necessary to carry on his trade; the wardrobe of an entertainer; the uniforms of a waitress or waiter; the tools or implements of a cook necessary to carry on his trade; the notarial seal, records and office furniture of a notary public; the tools and instruments of an optometrist, chiropodist or chiropractor; the instruments and chest of a surgeon, physician, surveyor or dentist, necessary to the exercise of their profession, with their professional libraries and necessary office furniture; the professional libraries of attorneys, judges, ministers of the gospel, editors, school teachers and music teachers, and their necessary office furniture; including one safe and one typewriter; also musical instruments of a musician that are used by him in earning a livelihood and the musical instruments of music teachers actually used by them in giving instructions, and all the indexes, abstracts, books, papers, maps and office furniture of a searcher of records necessary to be used in his profession; also the typewriter of a stenographer, the typewriter of a newspaper reporter and the typewriters or other mechanical contrivances employed for writing in type, actually used by the owner thereof for making his living; also one bicycle when the same is used by the owner for the purpose of carrying on his regular business, or when the same is used for the purpose of transporting the owner to and from his place of business. Tools, etc

CHAPTER 85

Stats 1935, p. 248, amended

An act to add a new section, to be numbered 109.5, to the Streets and Highways Code, relating to cooperative agreements as to highways and bridges required in connection with the construction of the Central Valley Project by the United States, to take effect immediately.

In effect immediately

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.]

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

New section

SECTION 1. A new section is hereby added to the Streets and Highways Code, to be numbered 109.5, and to read as follows:

Central Valley Project Agreement with U. S.

109.5. Whenever the construction of the Central Valley Project, or any feature thereof, requires construction or relocation of, or other change in any State highway or bridge, the department may enter into an agreement with the United States, or with the United States and any person, providing therefor, and for the exchange of any property required thereby. The department may enter into like agreements for acquisition of a right of way over, or respecting maintenance of, any bridge, constructed or owned by the United States, all or any portion of which is to be used for highway purposes.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the State Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Construction of the Shasta Reservoir as an integral part of the Central Valley Project by the United States necessitates the relocation of a substantial portion of the State highway, Route 3, and also a substantial portion of the railroad of the Southern Pacific Company. In connection with such relocation, the United States is committed to the construction of a bridge across Pit River and over a portion of the proposed reservoir to serve jointly the highway and railroad as so relocated. It is essential to the completion and use of said bridge that an agreement be entered into at this time relating to the joint use and maintenance thereof. Such an agreement is ready for execution but the legal authority of any officer of the State to execute the same is questioned. In order that provision may be made for the completion and use of said bridge as contemplated, it is necessary that this act, which authorizes the execution of such an agreement by the State of California, take effect immediately.

CHAPTER 86

An act to add Chapter 7, comprising Sections 20700 to 20981, inclusive, to Division 8 and to add Section 30036 to Division 30, of the Business and Professions Code, thereby consolidating and revising the law relating to the regulation of the importation, distribution and sale of gasoline or other motor fuel, distillate, kerosene and lubricating oil and repealing acts and parts of acts specified herein.

Stats 1937, p 1229, amended

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Chapter 7, comprising Sections 20700 to 20981, inclusive, is hereby added to Division 8 of the Business and Professions Code, to read as follows:

New chapter

CHAPTER 7. PETROLEUM

Article 1. General Provisions

20700. "Department," as used in this chapter, means the Department of Agriculture, acting through the Division of Weights and Measures.

"Department"

20701. "Person," as used in this chapter, includes without limitation any natural person, partnership, association, trustee, receiver, corporation, and any member, officer, agent or employee thereof, or assignee for the benefit of creditors.

"Person"

20702. "Advertising medium," as used in this chapter, includes banner, sign, placard, poster, streamer and card.

Advertising medium

20703. "Gasoline," as used in this chapter, means any petroleum product offered for sale which meets the standards prescribed for gasoline by this chapter.

"Gasoline"

Article 2. Importation

20740. It is unlawful for any person to bring or cause to be brought into this State, or to sell or distribute or offer for sale or distribution, or assist in the bringing into this State or in the sale or distribution in this State of any crude petroleum oil produced in violation of any law of any State, other than the State of California, or Nation in which such crude petroleum oil was produced or of any order, rule or regulation of any board, commission or officer having jurisdiction to enforce such law in that State or Nation.

"Hot oil"

20741. It is unlawful for any person to bring or cause to be brought into this State or to sell or distribute, or offer for

Processed oil

sale or distribution, or assist in the bringing into this State or in the sale or distribution in this State of any gasoline, distillate, kerosene, gas oil or other motor fuel extracted, manufactured, distilled or compounded, in whole or in part, from crude petroleum oil or gas produced in violation of any law of the State or Nation in which such crude petroleum oil or gas was produced, or of any order, rule or regulation of any board, commission or officer having jurisdiction to enforce such law in that State or Nation.

Exemptions

20742. The provisions of this article do not apply to:

(a) Gasoline or other motor fuel used in internal combustion engines brought into this State in motor vehicles for their own operation in quantities ordinarily carried in the fuel tanks of like vehicles.

(b) Common carriers performing in good faith their duties as common carriers.

(c) Railroads which bring into this State any crude petroleum oil, gasoline, distillate, kerosene, gas oil, or other motor fuel for their own use or for the use of their subsidiary companies and not for sale or redistribution to the public.

Statement filed

See also Stats 1941, p 1922

20743. Every person bringing any crude petroleum oil into this State from any other State or Nation for delivery sale, distribution, use, refining or blending in this State shall file with the department a certificate of lawful production to the effect that such crude petroleum oil was not produced, in whole or in part, in violation of any law of the producing State or Nation, or in violation of any order, rule or regulation of any board, commission or officer having jurisdiction to enforce such law in that State or Nation.

Same

See also Stats 1941, p 1922

20744. Every person bringing any gasoline, distillate, kerosene, gas oil or other motor fuel into this State from any other State or Nation for delivery, sale, distribution, use or blending in this State, shall file with the department a certificate of lawful production showing that such gasoline, distillate, kerosene, gas, oil or other motor fuel was not extracted, manufactured, distilled or compounded, in whole or in part, from any crude petroleum oil or gas produced in violation of any law of the producing State or Nation, or in violation of any order, rule or regulation of any board, commission or officer having jurisdiction to enforce such law in that State or Nation.

Certificates

20745. Certificates required by this article shall be issued by and over the official seal of the board, commission or officer charged with the enforcement of laws relating to the production of petroleum in the State or Nation where the petroleum was produced and shall contain all of the following:

(a) The names of the seller and buyer of such crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel.

(b) The names of the producer and of the field of production of the crude petroleum oil to be brought in or of the crude petroleum oil or gas from which the gasoline, distillate, kerosene, gas oil or other motor fuel to be brought in was extracted, manufactured, distilled, or compounded, in whole or in part.

(c) Such other information as the department may require.

Permits

20746. No person shall unload or cause to be unloaded or take delivery of any crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel brought into this State for delivery, sale, distribution, use, refining, distilling or blending therein, without first having obtained a permit to do so from the department or the person authorized by the department in the county in this State into which such crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel is sought to be brought.

See also Stats. 1941, p. 1922

Fee

20747. For each permit issued under this article a fee of twenty-five dollars ($25) shall be paid into the Department of Agriculture Fund.

Reports

20748. Every person bringing into this State crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel for which a certificate and permit are required under this article, shall, on or before the fifteenth day of each calendar month, render to the department on forms prescribed by it a true and complete report of all such crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel brought into, delivered, sold, distributed, used, refined, distilled or blended in this State by such person during the preceding month.

Contents

20749. The report required by this article shall show all of the following:

(a) Date of delivery, sale or distribution.

(b) Number and size of barrels or other containers.

(c) Total number of gallons.

(d) Names of consignor and consignee or persons to whom delivery, sale or distribution was made.

(e) The net quantity consigned, delivered, sold, used, refined, distilled or blended.

(f) Such other information as the department may require.

Investigations

20750. The department may make investigations to determine whether or not any crude petroleum oil brought into this State was produced in violation of any law of the State or Nation in which such crude petroleum oil was produced, or of any order, rule or regulation of any board, commission or officer having jurisdiction to enforce such law in that State or Nation, or whether any gasoline, distillate, kerosene, gas oil or other motor fuel brought into this State was extracted,

manufactured, distilled or compounded, in whole or in part, from crude petroleum oil or gas produced in violation of any law of the State or Nation in which such crude petroleum oil or gas was produced, or of any order, rule or regulation of any board, commission or officer having jurisdiction to enforce such law in that State or Nation.

Penalty
See also Stats 1941, p 1922

20751. Every person who brings or who assists another to bring into this State for delivery, sale, distribution, use, refining or blending therein, any crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel without the permit provided for in this article, and every person who sells, distributes, offers for sale or distribution or assists in the sale or distribution in this State of any crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel which he knows has been brought into this State without the permit provided for in this article, is guilty of a misdemeanor.

Upon conviction thereof such person shall be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. The product so brought in shall be seized and destroyed by the department.

False representations

20752. Every person who files a certificate of lawful production required by this article knowing such certificate to have been issued under false representations, and every person who refuses to file the report required by this article, or who knowingly makes any false statement in such report is guilty of a misdemeanor.

Upon conviction thereof such person shall be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Article 3. Licensing Retailers

Retail licenses

20760. Before engaging in the business of selling gasoline, distillate, or other petroleum products at retail, for use as fuel for internal combustion engines, every person shall obtain from the department a license for that purpose, effective for one year.

Fee

20761. The licensee shall pay, annually, a license fee equal to one dollar ($1) for each motor vehicle fuel pump installed and used or to be installed and used, or from time to time installed and used by the licensee.

Application

20762. Before granting any license the department shall require the applicant therefor to file an application with the department in the form prescribed by the department, accompanied by the license fee required by this article.

20763. All applications for the renewal of a license under this article shall be filed with the department on or before the first day of July of each year. Filing

See also Stats 1941, p 1866

20764. Every licensee shall at all times conspicuously display any license granted under this chapter on the premises where the licensee is doing business. Display

20765. All license fees collected under the provisions of this article shall be credited to the Department of Agriculture Fund, to be expended for the administration and enforcement of this chapter, except the provisions of Article 2 of this chapter, relating to importation. Deposit

Article 4. Standards for Gasoline

20780. "Gasoline" as defined in this chapter means any liquid petroleum product which conforms to the following specifications: "Gasoline"

(a) It shall be free from water and suspended matter.

(b) A clean copper strip shall not show more than extremely slight discoloration when submerged in the gasoline for three hours, at 122 degrees Fahrenheit, the test being conducted in accordance with the American Society for Testing Materials, Standard D 130-30, as published in "American Society for Testing Materials Standards," 1936.

(c) It shall distill, within the following limits, when tested in accordance with the American Society for Testing Materials, Standard D 86-35, Standard Method of Test for Gasoline, Naphtha, Kerosene and similar petroleum products, as published in "American Society for Testing Materials Standards," 1936, using the low distillation thermometer:

1 When the thermometer reads 167 degrees Fahrenheit, not less than 10 per cent shall be evaporated. Evaporation

2. When the thermometer reads 284 degrees Fahrenheit, not less than 50 per cent shall be evaporated.

3. When the thermometer reads 392 degrees Fahrenheit, not less than 90 per cent shall be evaporated.

4. The end point shall not be higher than 437 degrees Fahrenheit.

5. At least 95 per cent shall be recovered as distillate in the receiver from the distillation.

6. The distillation residue shall not exceed 2 per cent.

20781. It is unlawful for any person to sell, offer for sale, assist in the sale of, permit to be sold or offered for sale, or deliver or offer to deliver to any premises for the purpose of sale, any product as or purporting to be "gasoline," unless the product conforms to the specifications of this article. Conformity

20782. It is unlawful for any person to sell, offer for sale, or cause or permit to be sold or offered for sale, or deliver or Label

offer for delivery, any petroleum product as a fuel for internal combustion engines at any place where petroleum products are kept or stored for sale, which does not conform to the requirements of this article, unless and until there shall be firmly attached to or painted upon each container, receptacle, pump, and inlet end of the fill-pipe of each underground storage tank, from which or into which such petroleum product is drawn or poured for sale or delivery, a sign or label, plainly visible, comprising the brand, trade-mark or trade name of such fuel, or the words "no brand," which words shall be in letters of gothic type with a stroke of not less than one-eighth inch in width and not less than one inch in height, and also the words "*not gasoline*" in red letters of gothic type with a stroke of not less than one-half inch in width and not less than three inches in height, on a white background and not less than twice the size of any other letters or words appearing on or near the label or sign.

"Not gasoline"

Tank inlet

20783. The sign or label required by this article to be attached to the inlet end of the fill-pipe of an underground storage tank shall consist of a tag or plate firmly attached or affixed and plainly visible while the tank is being filled.

The letters on such sign or label may be of any convenient size.

Article 5. Standards for Lubricating Oils

Lubricating oils

See also Stats 1941, p 1923

20800. Crankcase drainings, lube-distillate or any other petroleum product shall not be sold, offered for sale, delivered, offered for delivery or stored as a motor oil or lubricating oil for use in an internal combustion engine unless such product conforms to the following specifications:

(a) It shall be free from water and suspended matter when tested by means of centrifuge, in accordance with the American Society for Testing Materials, Standards Designation D 96-35, as published in "American Society for Testing Materials Standards," 1936.

(b) The Neutralization Number shall not be higher than 0.5 when tested in accordance with the American Society for Testing Materials, American Tentative Standard Designation D 188-27T, as published in "American Society for Testing Materials Standards," 1936.

Reclaimed oil

20801. Except as provided in this article if any lubricating or motor oil sold, or offered for sale or delivery, has been previously used for the lubrication of internal combustion engines or any gearing or shafting attached to or connected thereto, or for any other lubricating purposes, or has been rerun or filtered, redistilled or reclaimed, the container shall bear a superimposed sign or label of rectangular shape not less than four by six inches containing the words "reclaimed motor oil" or "lubricating oil, reclaimed," in red letters of gothic type over a white background with a stroke of not less

than one-eighth inch in width and not less than three-fourths inch in height.

On all containers of one gallon or less, a superimposed sign or label of rectangular shape of not less than two by three inches containing the words "reclaimed motor oil" or "lubricating oil, reclaimed," in red letters of gothic type over a white background with a stroke of not less than one-sixteenth inch in width and not less than one-half inch in height shall be sufficient. Label

20802. If any reclaimed, rerun or redistilled oil is used in blending or compounding in other petroleum products being sold, offered or kept or stored for sale, the fact of such blending or compounding shall be indicated on all containers as required by this article for containers of unblended reclaimed, rerun or redistilled lubricating oil. Mixing

20803. The sign or label required by this article to be attached to the inlet end of the fill-pipe of an underground storage tank shall consist of a metal tag firmly attached or affixed and plainly visible while the tank is being filled. Tags

The letters on such sign or label may be any convenient size.

20804. Where bottles used for dispensing lubricating or motor oil, either unused or reclaimed, are kept in baskets, stands or racks it is sufficient to label each such basket, stand or rack in lieu of labeling each bottle therein. All bottles kept in such baskets, stand or rack as provided in this article shall contain a product of the same brand, quality and viscosity rating. Baskets

20805. No bottles containing reclaimed lubricating or motor oil shall be kept or commingled in any basket, stand or rack containing any bottles used to dispense unused lubricating or motor oils. Commingled

Article 6. Prices

20820. No person shall sell, offer for sale, or advertise for sale, any gasoline or other motor vehicle fuel from any place of business in this State by use of or through or from any dispensing apparatus, unless there is displayed on such dispensing apparatus in a conspicuous place at least one sign showing the actual total price, including taxes, per gallon of all gasoline or other motor vehicle fuel sold, offered for sale, or advertised for sale therefrom. Statement of price

20821. Each sign required by this article shall be placed in a conspicuous place on the dispensing apparatus and if service of gasoline or other motor vehicle fuel may be made from more than one side of such dispensing apparatus the Sign

sign shall be so placed as to be visible from at least two sides of the dispensing apparatus.

Size

20822. Each sign required by this article shall be not less than five inches nor more than eight inches in height and shall be not less than eight inches nor more than 12 inches in width.

Lettering

20823. All letters, figures or numerals on each sign required by this article, however affixed, marked, imprinted, placed or embossed, shall be at least three-fourths of an inch in height and all lines or marks used in the making or forming of all such letters, figures or numerals which are a part of the sign shall be at least one-eighth of an inch in width.

Coloring

20824. All letters, figures or numerals which are part of any sign required by this article shall be plainly legible, and of like color or tint and such color or tint shall contrast with the background and other parts of the sign.

20825. For the purpose of this article a fraction is considered one numeral.

Scale

See also Stats 1941, p. 1924

20826. Where a price computing scale is used in connection with or as a part of any sign required by this article, the figures, letters or numerals of the computing scale need not comply with this article.

Article 7. Labeling

Labels

See also Stats 1941, p. 1924

20840. It is unlawful for any person to sell, offer for sale, assist in the sale of, permit to be sold or offered for sale, or deliver or offer for delivery, any gasoline, distillate, kerosene, or any oil represented as lubricating or motor oil for internal combustion engines, at any place where petroleum products are kept or stored for sale, unless and until there is firmly attached to or painted upon each container, receptacle, pump, and inlet end of the fill-pipe of each underground storage tank, from which or into which such gasoline or oil is drawn or poured out for sale or delivery, a sign or label plainly visible consisting of the word or words, in letters not less than one-half of an inch in height, "gasoline," "distillate," "kerosene," "lubricating oil" or "motor oil," as the case may be, together with the brand, trade-mark or trade name of such product.

"No brand"

20841. If any gasoline has no brand, trade-mark or trade name, each sign or label required by this article shall consist of the words, in letters of gothic type with a stroke of not less than one-half inch in width, and not less than three inches in height, "gasoline, no brand." Such sign or label shall consist of red letters upon a white background.

Name

20842. If any lubricating or motor oil has no brand, trade-mark or trade name, each sign or label required by this article therefor shall consist of the words, in letters of gothic type with a stroke of not less than one-half inch in width, and not less than three inches in height, "lubricating oil, no brand," "motor oil, no brand." Such sign shall consist of red letters upon a white background.

Reclaimed oil

20843. If lubricating or motor oil is reclaimed used oil, each sign or label required by this article shall also include the words "reclaimed lubricating oil" or "reclaimed motor oil." Such sign shall consist of red letters upon a white background.

Size

20844. Letters of gothic type with a stroke of not less than one-sixteenth inch in width and not less than one-half inch in height shall be sufficient on all containers with a capacity of one gallon or less to meet the requirements of this article.

Inlets

20846. The provisions of this article as to size of letters shall not apply to signs or labels at the inlet end of any underground storage tank, which letters may be of any convenient size but such letters shall be plainly visible while such underground storage tank is being filled.

Visibility

20847. Whenever any pump, receptacle or other container is maintained or used to serve more than one driveway, the signs or labels required by this chapter shall be placed upon both sides of such pump, receptacle or other container so that one set of signs or labels shall be clearly visible from each such driveway.

Wherever any pump, receptacle or other container is maintained or used to serve only one driveway, the signs or labels required by this chapter shall be upon the side of such pump, receptacle or other container adjacent to such driveway.

Hand measures

20848. Small hand measures used for delivery of petroleum products, and filled in the presence of the customer, need not be labeled in accordance with this chapter if the receptacle, container or pump from which petroleum products are drawn or poured into such hand measures is properly labeled as required by this chapter.

Conformity to designation

See also Stats 1941, p 1925

20849. It is unlawful for any person to deposit or deliver into any tank, pump, container or receptacle, or into any bottle or bottles kept in a basket, stand or rack, at any place where petroleum products are kept or stored for sale, any gasoline or other motor fuel, or any distillate, kerosene, lubricating or motor oil, other than that indicated by the brand, trade-mark or trade name displayed on the tank, pump, container, receptacle, bottle, basket, stand or rack, or the inlet

end of the underground storage tank, except as provided in this chapter.

Attachment of devices

20850. Subject to the provisions of this chapter relating to tank vehicles, it is unlawful for any person to attach or connect, or cause or permit to be attached or connected, any pump, container or other device, used for or in the drawing, pouring, or delivery of any petroleum product referred to in this chapter, and intended for sale, to or with any tank or receptacle containing any petroleum product or any liquid other than the one described on the label, tag or sign attached or affixed to such pump, container or other device.

Deliveries

20851. Subject to the provisions of this chapter relating to tank vehicles, it is unlawful for any person in making any sale, to pump, draw, furnish or deliver, or to cause or permit to be pumped, drawn, furnished or delivered, by means of, or through, any pump or other device, any product other than the one described on the label, tag or sign attached or affixed to such pump or other device.

Article 8. Tank Vehicles

Tank vehicles

See also Stats 1941, p 1925

20860. It is unlawful for any person to transport in any tank vehicle, for the purpose of sale, or for delivery to any place where petroleum products are kept or stored for sale, any petroleum products as a fuel for internal combustion engines, distillate, kerosene or any oil represented as lubricating or motor oil for internal combustion engines, unless and until there is compliance with either of the following:

(a) There shall be firmly attached to or affixed at each outlet faucet or valve of each such tank vehicle, a metal tag, plate or label, on which is displayed in letters not less than one-half inch in height, the name of the particular product in the tank compartment of the tank vehicle with which such valve or faucet is connected and the brand, trade-mark or trade name of such product, or the words "no brand."

(b) The tank vehicle shall be equipped with a meter conforming to the provisions of this article relating to meters.

Contents

20861. If any product transported in a tank vehicle does not conform to the requirements of this chapter, there shall also be displayed on the tag, plate, or label required by this article for gasoline, in red letters not less than one inch in height, the words "not gasoline."

Meters

20862. If a tank vehicle is equipped with a meter for the purpose of measuring the quantities of different grades, brands or trade names of a product withdrawn from more than one compartment, then means shall be provided whereby there will be a clear and easily legible indication of the grade,

brand or trade name of the product which is being measured by the meter.

Indication of brand

20863. The device used for the indication of grade, brand or trade name as required by this article shall be so interlocked or interconnected with the valve or other device with which the selection of product is controlled, that any change in position of the controlling or selecting device shall automatically indicate the grade, brand, or trade name of the product which has been selected for measurement and delivery. Such device shall not permit the flow of products of different grades, brands or trade names at any given time.

Single meters

20864. Nothing in this chapter prohibits the use of a single meter, with its accessory devices and without a controlling or selecting mechanism, for the purpose of measuring the contents of one compartment only, or of two or more compartments if, or when, a product of a single grade, brand, or trade name is carried in all such compartments at any one time.

Same

20865. In the event that a tank vehicle is equipped with a meter for the purpose of measuring the quantities of products withdrawn from more than one compartment, it is unlawful to transport at any one time, in either or any of the compartments whose contents are to be measured by one meter, more than one product.

This section does not prohibit transporting two or more grades of gasoline, or of other motor fuel, or of distillate, or of kerosene, or of burner oil, at any one time in all compartments whose contents are to be measured by the one meter.

In the application of this section to deliveries to the fuel tank of any aircraft, it is unlawful to handle gasolines specifically refined or manufactured for the operation of aircraft engines and gasolines not specifically refined or manufactured for the operation of aircraft engines through the same meter.

Size of meter
See also Stats 1941, p 1926

20866. It is unlawful for any person to operate a tank vehicle equipped with a meter for the purpose of measuring the quantities of products of different grades, brands or trade names withdrawn from any one or more compartments:

(a) Where the meter is designed for a two-inch or smaller standard pipe size, if the quantity which is contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is more than three and one-half gallons.

(b) Where the meter is designed for any other pipe size, if the quantity which is contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is more than five and one-half gallons.

Pump and hose

20867. If a tank vehicle is equipped to make deliveries through the medium of pump and hose in connection with a meter for the purpose of measuring the quantities of different grades, brands or trade names of a product from any one of two or more compartments, there shall be no limitation on the quantity of product which may be contained within the pump, meter, accessory devices and hose on the discharge side of the controlling or selecting mechanism except that the pump and hose shall be cleared of such quantity of product of a grade other than that which is to be delivered as may remain on the discharge side of the controlling or selecting mechanism from a former delivery. The product thus cleared may be returned to its appropriate compartment by means of the pump.

Quantity in meter

20868. If a single meter with its accessory devices, and without a controlling or selecting mechanism is used for the purpose of measuring the contents of one compartment only, or of two or more compartments, it is required that if such volume of liquid as may be retained in the discharge piping and devices shall exceed three and one-half gallons with a two-inch or smaller meter, or five and one-half gallons with a meter larger than two-inch, the quantity so remaining shall be replaced whenever a change is made in the grade, brand or trade name of a product which is carried in such compartment or compartments.

Discharge pipes

20869. Whenever a change is made in the petroleum product carried in any compartment, the entire contents of its discharge piping and devices shall be replaced and the discharge piping and devices flushed with the product intended for delivery.

Article 9. Advertising

Statement of prices

See also Stats 1941, p 1926

20880. No person shall keep, maintain or display on or near the premises of any place of business in this State any advertising medium, which indicates or shows or advertises the price of gasoline or other motor vehicle fuel sold, offered for sale or advertised for sale from such premises, unless the actual price per gallon of gasoline or other motor vehicle fuel, including taxes, is also shown on such advertising medium, together with the trade name or brand name of the gasoline or other motor vehicle fuel product advertised for sale by such advertising medium.

"No brand"

20881. If gasoline or other motor vehicle fuel is offered for sale or advertised for sale from the premises of any place of business in this State, but not under any trade name or brand name, then the words "no brand" shall be used and designated on the advertising medium.

Size

20882. All letters, figures or numerals used in designating the brand name or words "no brand" in any advertising medium referred to in this article, shall be of uniform size and at least six inches in height and the height shall not be more than twice the dimension of the width of each such letter, figure or numeral.

Uniformity

20883. All letters, words, figures or numerals used on the advertising medium referred to in this article for the purpose of indicating or showing prices of gasoline or other motor vehicle fuel sold or advertised for sale shall be uniform in size and shall be not more than twice the size of the letters, figures or numerals used to designate the brand name, or the words "no brand."

Content

20884. The advertising medium referred to in this article shall not contain any other advertising matter whatsoever, except words of description of the product sold or offered for sale, and if words of description of the product offered for sale or advertised for sale by any such sign are used, the letters, figures or numerals which form any words, marks, letters, figures or numerals of description shall not be larger than the words, marks, letters, figures or numerals used in forming or designating the brand name or the words "no brand."

20885. For the purpose of this article, fractions are considered one numeral.

Size

20886. The numeral one or the letter "1" need not conform to specifications prescribed for other letters, words, figures or numerals by this article but all letters, words, figures or numerals shall be of the same type and design and shall be uniform with other letters, words, figures or numerals with which they are used.

Visibility

20887. All letters, words, figures or numerals appearing on any advertising medium referred to in this article shall be plainly visible and of such colors or tints as will contrast such letters, words, figures or numerals with the remaining parts of the advertising medium.

Color

See also Stats 1941, p 1927

20888. All words, letters, figures or numerals on the advertising medium referred to in this article which form or designate the brand name or the words "no brand" shall be of like color or tint, and all words, letters, figures or numerals designating or indicating the price of gasoline or other motor vehicle fuel so offered for sale shall be of like color or tint.

Misleading location

20889. No advertising medium shall be placed on the premises of any place of business in this State in such a manner or in such a position to another advertising medium as

will render the advertising medium advertising gasoline or other motor vehicle fuel offered for sale susceptible of being read in conjunction with any other advertising medium, if any person so reading from any public street, or highway may be misled.

Nearby figures

20890. It is unlawful to place letters, words, figures or numerals on any advertising medium located or maintained on the premises of any place of business in this State advertising or offering for sale any goods, wares or merchandise, other than gasoline or other motor vehicle fuel, which advertising medium may be construed by any reasonable person as advertising or offering for sale gasoline or other motor vehicle fuel.

Brand names

20891. No person shall keep, maintain or display on the premises or near any place of business in this State any advertising medium, which indicates or shows or advertises the price of "motor oil" or "lubricating oil" offered for sale or advertised for sale from such premises without clearly and conspicuously showing on the same advertising medium where such price is advertised, the trade name or brand name of the particular "motor oil" or "lubricating oil," the price of which is so advertised together with the words "motor oil" or "lubricating oil." If such "motor oil" or "lubricating oil" has no brand name or trade name, then the words "no brand" shall be displayed in connection with the designation of the product.

Form

See also Stats 1941, p 1927

20892. All letters, figures or numerals which are part of any advertising medium indicating, showing or advertising the price of "motor oil" or "lubricating oil" shall be plainly legible, shall be of the same type and design, shall be uniform with other letters or numerals, and shall be of like color or tint. Such color or tint shall contrast with the background and other parts of such advertising medium.

Brands sold

20893. It is unlawful for any person engaged in the business of selling at retail any gasoline or other motor fuel or any distillate, or kerosene, or any lubricating or motor oil for internal combustion engines, to display any sign or other designating mark at or near the place of business of such person describing or designating a brand, trade-mark or trade name or the words "no brand" of a gasoline or other motor fuel, distillate, kerosene, or lubricating or motor oil for internal combustion engines, not actually sold or offered for sale or delivery at such place of business.

Article 10. Passing Off

Definitions

See also Stats 1941, p 1928

20910. As used in this article:

"Sell" and any of its variants includes attempt to sell, offer of sale or assist in the sale of, permit to be sold or offered for sale or delivery or offer for delivery.

"Manufacturer" includes refiner, producer or importer.

"Petroleum products" includes gasoline, distillate, kerosene or other motor fuel or lubricating oil or motor oil.

Manufacturer
See also Stats 1941, p 1928

20911. It is unlawful for any person to sell any petroleum product of any kind or quantity for use in internal combustion engines when the petroleum product is, at the time it is sold, falsely represented to the purchaser or intended purchaser thereof either verbally or by advertising labels, signs or literature as the product of any manufacturer other than the true manufacturer.

It is unlawful for any person knowingly to permit, direct or cause any other person to do any of the acts prohibited by this section.

No brand

20912. This article does not prohibit any person from selling under his own trade-marks, trade names, brands, or the words "no brand," the product of any manufacturer if such person has first obtained the written authorization of the true manufacturer so to sell such product.

Designations

20914. Any person other than the true manufacturer who purchases any petroleum product shall not change the designation under which the product is purchased by him, without a written authorization.

Authorizations

20915. The written authorizations required by this article shall be obtained prior to the displaying, handling, marketing, transporting, selling, advertising for sale, or otherwise dealing in any of the products covered by such authorizations, and shall be issued for and cover each sale for resale and each admixture of any such products.

Contents

20916. The written authorizations required by this article shall contain all of the following:

(a) A reference by appropriate and adequate designation to an applicable invoice for, or written contract covering the sale of, the petroleum products.

(b) The quantity of such products sold or to be delivered.

(c) The name of the true manufacturer.

(d) The vendor's name and the vendee's name.

(e) The trade-marks, trade name or brand under which such products are authorized to be sold.

Record

20917. The written authorizations required by this article shall be kept in the form prescribed by the department and shall contain in addition to the data specifically required by this article, such other pertinent data and information as the department may deem necessary for the enforcement of this chapter.

Place of keeping

20918. The written authorizations required by this article shall be kept at the main office in this State of both the manufacturer who has authorized the resale of the products referred to in this article under a particular trade-mark, trade name, brand or the words "no brand" and the person who owns the particular trade-mark, trade name or brand under which such products have been authorized to be sold, or who sells the products under the words "no brand."

Inspection

20919. The written authorizations required by this article shall be available for inspection during business hours by the duly authorized representatives of the department, each county sealer of weights and measures, each deputy county sealer, each sealer and deputy sealer of each incorporated city, and any representative of a duly incorporated petroleum trade association.

Copies

20920. Copies of the written authorizations required by this article shall be furnished the department or any county sealer of weights and measures upon request.

Forgeries

20921. It is unlawful for any person to fail to keep in the form prescribed, or to forge or falsify, any records or authorizations provided for in this article, or knowingly to keep, use or display any such false or forged records.

Article 11. Adulteration

Adulteration

See also Stats 1941, p 1929

20930. It is unlawful for any person to mix or adulterate any gasoline or other motor fuel, distillate, kerosene, or lubricating or motor oil, and fraudulently to sell or offer for sale or attempt to sell or assist in the sale of, any of the products resulting from such mixture or adulteration as the gasoline or other motor fuel, distillate, kerosene, or lubricating or motor oil, of a brand, trade-mark or trade name, maintained and in general use by the manufacturer, refiner, producer, or marketer of either or both of the products so mixed or adulterated or by any other manufacturer, refiner, producer, or marketer.

The application of the requirement of this section to deliveries by tank vehicle is subject to the modifications contained elsewhere in this chapter.

Storage

20931. It is unlawful for any person to place, store or keep, or cause or permit to be placed, stored or kept, for the purpose of sale any petroleum product in any storage tank underground or otherwise, or container or receptacle which contains or has previously contained a different product, or the product of a different manufacturer, refiner, producer, or marketer unless and until such tank, container or receptacle has first been emptied and relabeled in accordance with this chapter.

Article 12. Enforcement of the Chapter

Enforcement
See also Stats 1941, p 1929

20950. It is the duty of the department to enforce the provisions of this chapter, and to appoint and employ such inspectors as may be necessary therefor.

Local enforcement

20951. Each county sealer, each deputy county sealer, each sealer and deputy sealer of each incorporated city and each person authorized and empowered by law to inspect the petroleum products referred to in this chapter, and any place where the same are kept or stored for sale within this State shall enforce the provisions of this chapter.

Samples

20952. The department, each county sealer and deputy county sealer, each sealer and deputy sealer of each incorporated city, and any person now or hereafter authorized or empowered by law to inspect the petroleum products referred to in this chapter, may take such sample or samples as may be necessary of any petroleum or petroleum product kept or stored for the purpose of sale within this State.

Same

20953. It is unlawful for any person, or any member, officer, agent or employee of a firm, association or corporation, to refuse to permit any person authorized by this article to take such sample or samples permitted by this chapter, or to prevent or to attempt to prevent the taking of such sample or samples.

Payment

20954. If the owner or person in possession of the product of which a sample is taken under this article shall at the time of the taking, demand payment for the commodity taken, then the person taking the sample shall pay therefor the reasonable market price.

Sealing

20955. The department, each county sealer and deputy county sealer, each sealer and deputy sealer of each incorporated city, and any person now or hereafter authorized by law to inspect the petroleum products referred to in this chapter, may close and seal outlets and inlets of any unlabeled or mislabeled receptacles, containers, pumps or storage tanks connected thereto, containing any petroleum product which is sold, offered for sale, stored, or delivered as, or which is, any petroleum product specifically mentioned, defined or described in this chapter.

Warning

The person so sealing shall post in a conspicuous place on the premises, where such receptacle, container, pump or storage tank connected thereto has been sealed, a notice stating that the action of sealing has been taken in accordance with the provisions of this chapter, and giving warning that it is unlawful to break, mutilate or destroy the seal or seals thereof, under the penalty provided in this chapter.

Removal
See also Stats 1941, p 1929

20956. Upon at least 24 hours written notice from the owner, manager or operator of the container, receptacle, pump or storage tank which has been sealed, to the city sealer of the city in which the premises are situated, or if said premises be not situated in a city or if such city has no sealer, then to the sealer of the county in which the premises are situated, stating that the contents of such container, receptacle, pump or storage tank will be removed or that such container, receptacle, pump, or storage tank or inlet end of the fill-pipe thereof will be properly labeled as in this chapter provided, at a specified time, between the hours of 9 a.m. and 4 p.m. of a day specified in the notice, other than a holiday, such officer shall, at the time specified, break the seal or seals for the purpose of permitting the removal by such manager, owner or operator, of the contents of such container, receptacle, pump or storage tank connected thereto, or the use thereof after proper labeling.

The removal of contents or proper labeling of the container, receptacle, pump, storage tank or inlet end of the fill-pipe thereof, as the case may be, shall be made at the time specified and in the presence of the officer removing the seal.

Re-sealing

20957. If for any reason at the time specified in the written notice the contents are not removed, or the container, receptacle, pump, storage tank or inlet end of the fill-pipe thereof, is not properly labeled, then the container, receptacle, pump or storage tank connected thereto and the inlet end of the fill-pipe of such storage tank, shall be again sealed as hereinbefore provided in this article and the contents may not thereafter be removed or the container, receptacle, pump or storage tank connected thereto or inlet end of the fill-pipe thereof be again used, except upon the giving of a new notice and proper labeling.

Use

20958. Upon removal of the contents or proper labeling as provided in this article, the notice previously posted shall be removed and the container, receptacle, pump or storage tank may be restored to lawful use.

Re-labeling

20959. No container, receptacle, pump or storage tank connected thereto, or the inlet end of the fill-pipe of such storage tank, shall, however, be relabeled by the owner, manager or operator, whether under the provisions of this article or otherwise, without first removing from such container, receptacle, pump or storage tank connected thereto, or the inlet end of the fill-pipe thereof, all distinctive colors, brands, trade-marks or trade names thereon of any manufacturer, refiner, producer, distributor or marketer, indicative of any product not actually contained therein and sold therefrom.

Penalty

20960. It is unlawful for any person, or any member, officer, agent or employee of a firm, association or corporation, other than the department or any of the officers mentioned

in this article, to break, mutilate or destroy any seal or seals placed upon a container, receptacle, pump or storage tank connected thereto, or any other storage tank containing a petroleum product, when placed thereon as provided by this article, or to cover, deface or remove the notice of sealing required by this article.

Article 13. Penalties

20980. Unless otherwise specified, any person, or any member, officer, agent or employee of a firm, association or corporation, who violates this chapter is guilty of a misdemeanor. Penalty

20981. Each person or any member, officer, agent or employee of a firm, association or corporation is guilty of a separate offense for each day during any portion of which any violation of this chapter is committed, continued or permitted by such person, and such person shall be punishable therefor as provided in this chapter. Offense

SEC. 2. Section 30036 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30036. The following acts, together with all acts amendatory thereof and supplementary thereto, are hereby repealed: Repeals

GENERAL LAWS

Year	Chapter	Page
1929	697	1207
1931	609	1313
1933	689	1766

PENAL CODE

Section 353a

CHAPTER 87

Stats 1937, p 1229, amended

An act to amend Section 7694 of the Business and Professions Code, relating to funeral directing and embalming.

In effect September 13, 1941

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.]

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

Stats 1939, p 420

SECTION 1. Section 7694 of the Business and Professions Code is hereby amended to read as follows:

Solicitation

7694. Solicitation, after a death or while a death is impending, of funeral directing or embalming business by the licensee, or by the agents, assistants or employees of the licensee, when such solicitation is authorized or ratified by the licensee, constitutes a ground for disciplinary action. This section does not prohibit general advertising.

CHAPTER 88

Stats 1937, p 1229, amended

An act to amend Sections 7686.5, 7695, 7697, 7716, 7718 of the Business and Professions Code, relating to funeral directing and embalming.

In effect September 13, 1941

[Approved by Governor April 10, 1941 Filed with Secretary of State April 10, 1941.]

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

Stats 1939, p 1236

SECTION 1. Section 7686.5 of the Business and Professions Code is hereby amended to read as follows:

Complaints

7686.5. All complaints against licensees shall be written and shall be signed by the complainant and filed with the secretary within one year after the performance of the act or omission alleged as the ground for disciplinary action.

Stats 1939, p 421

SEC. 2. Section 7695 of the Business and Professions Code is hereby amended to read as follows:

Runners

7695. Employment by the licensee of persons known as "cappers" or "steerers" or "solicitors," or other such persons to solicit, after a death or while a death is impending, funeral directing or embalming business constitutes a ground for disciplinary action.

Stats 1939, p 421

SEC. 3. Section 7697 of the Business and Professions Code is hereby amended to read as follows:

Buying business

7697. The buying, after a death or while a death is impending, of funeral directing and embalming business by the licensee, his agents, assistants or employees, or the direct or

indirect payment, or offer of payment, of a commission by the licensee, his agents, assistants or employees for the purpose of such buying of business, constitutes a ground for disciplinary action.

SEC. 4. Section 7716 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 422

7716. Every funeral director or embalmer, or the agents or representatives thereof, who, after a death or while a death is impending, pays, offers to pay or causes to be paid, directly or indirectly, any sum of money or other valuable consideration for the securing of business is guilty of a misdemeanor. Fee splitting

SEC. 5. Section 7718 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 422

7718. Every person who, after a death or while a death is impending, solicits or accepts any sum of money or other valuable consideration, directly or indirectly, from a funeral director or embalmer, his agent or representative, in order that the funeral director or embalmer might obtain business, is guilty of a misdemeanor. Receipt prohibited

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CHAPTER 89

An act to amend Section 1600 of Chapter 13 of the Probate Code, relating to request for special notice after the issuance of letters of guardianship. Stats 1931, p 587, amended

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1600 of the Probate Code is hereby amended to read as follows: Stats 1931, p 682

1600. At any time after the issuance of letters of guardianship, any relative of the ward, in person or by attorney, or the attorney for any department or bureau of the United States Government, or the attorney for any department, bureau or agency of this State, or any of its political subdivisions, which makes or awards compensation, pension, insurance or other allowance for the benefit of the ward's estate, may serve upon the guardian or upon the latter's attorney, and file with the clerk of the court where the proceedings are pending, with a written admission or proof of such service, a written request, stating that he desires special notice of the filing or commencing of any or all of the following: Request for special notice

(1) Petitions for the sale, lease or mortgage or confirmation of sale of any property of the ward.

(2) Accounts.

(3) Application for removal of the ward's property to a foreign jurisdiction.

(4) Petitions for partition of any property of the ward.

(5) Petitions for allowances of any nature payable from the ward's estate.

(6) Petitions for the investment of funds of the estate.

(7) Proceedings for the removal, suspension, or discharge of the guardian or final termination of the guardianship.

CHAPTER 90

Stats 1933, p 394, amended

An act to amend Section 619.5 of the Fish and Game Code, relating to Mackinaw trout.

In effect September 13, 1941

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.]

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

Stats 1939, p 2309

SECTION 1. Section 619.5 of the Fish and Game Code is hereby amended to read as follows:

Mackinaw trout

619.5. In District 23 the bag limit on Mackinaw trout is five per day, regardless of size.

Not more than 10 such trout may be possessed by any person during one day.

CHAPTER 91

Stats 1935, p 496, amended

An act to amend Sections 1703.5, 1704, 1708, 1709 and 1713 of, to repeal Section 1713.8 of the Insurance Code and to add Sections 1708.5, 1708.6 and 1709.2 thereto, relating to the transaction of life and disability insurance.

In effect September 13, 1941

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.]

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

Stats 1939, p 1803

SECTION 1. Section 1703.5 of the Insurance Code is hereby amended to read as follows:

License to act as disability agent

1703.5. A person may obtain a license under this article permitting him to act as a disability agent only. Such person and his licensing, appointment, business practice and conduct is in all other respects governed by the provisions of this article, except that the qualification examination for such disability agent may be limited to his qualifications as a disability agent and passage of such examination shall not constitute compliance with the examination requirement in respect to a life agent's license. Persons licensed to transact casualty

insurance under Article 1 of this chapter may be authorized to transact disability insurance on behalf of life insurers by the filing of a company appointment by a life insurer with the commissioner for that purpose. The commissioner shall prescribe the forms of such appointments.

SEC. 2. Section 1704 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 583

1704. An applicant for a license other than a renewal license under this article shall file with the commissioner a statement by a duly authorized representative of the insurer which the agent seeks to represent, setting forth the following: Statement of insurer

(a) The applicant is known to him.

(b) The applicant has had experience or instruction in life insurance, or will, within 30 days from the issuance of his license, be given the necessary instruction.

(c) The nature of any business other than insurance in which the applicant is engaged and the name under which such business is conducted.

(d) The applicant is of good reputation.

(e) The applicant is worthy of a license.

SEC. 3. Section 1708 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 584

1708. In lieu of proceeding under Sections 1704 and 1705, a person who is licensed as a life agent for one or more life insurers may be appointed to transact life insurance for one or more additional life insurers by the filing with the commissioner of a certificate of appointment by a life insurer desiring to authorize him to transact life insurance on its behalf. Certificate of appointment

The certificate of appointment shall bear written evidence of acceptance of the appointment by the agent. Unless the license of the life agent is suspended by the commissioner, the appointment shall remain in effect until the end of the license period in which it is filed, until canceled by the insurer, or until the license of the agent is revoked, whichever event first occurs.

Upon the filing of a certificate of appointment pursuant to this section, or an application and statement pursuant to Sections 1704 and 1705, the commissioner shall, subject to the provisions of this article, issue to the person appointed a license to act as life agent.

SEC. 4. Section 1708.5 is hereby added to the Insurance Code, to read as follows: New section

1708.5. Any life insurer may file a request with the commissioner for notification that any life agent authorized to represent it has been appointed to represent another life insurer. Pursuant to such request for notice, the commissioner shall notify such an insurer of the appointment of its life agents as life agents for other insurers. Notice to insurer of dual representation

New section

SEC. 5. Section 1708.6 is hereby added to the Insurance Code, to read as follows:

Expiration and renewal Until January 1, 1944

1708.6. Until July 1, 1942, unless sooner suspended, revoked, or terminated, the license of every life agent expires on the first day of July next after its issue or renewal. Applications for renewal of license for the license period commencing July 1, 1942, shall be made for the period July 1, 1942, to and including December 31, 1943. Renewal licenses issued on the basis of such applications shall be issued for the same period and new licenses issued during that period shall be issued for the unexpired portion of that period. The fee for filing for a certificate of appointment of life agent or application for life agent's license or any document requesting renewal thereof as a basis for issuance of a license covering any portion of that period is three dollars ($3).

Stats 1935, p 584

SEC. 6. Section 1709 of the Insurance Code is hereby amended to read as follows:

Expiration and renewal. January 1, 1944 and after

1709. (a) Except as provided in Section 1708.6, unless sooner suspended, revoked, or terminated, the license of every life agent expires January 1, 1944, and on January 1st of each year thereafter unless application for renewal is filed as provided in subdivision (b).

(b) Application for renewal of such license may be filed at any time prior to December 16th, upon payment of the renewal fee.

(c) The commissioner shall mail notice of forfeiture of renewal rights not later than December 2d, to:

(1) The licensee.

(2) The appointing insurer.

Failure to mail such notice shall not continue the right of renewal.

(d) Such license shall not be renewed after December 15th but the person may make application for a new license under this article and shall take and pass the qualifying examination before license may issue. A certificate of convenience shall not be issued to a person who has once forfeited his right to renew his license under this article.

New section

SEC. 7. Section 1709.2 is hereby added to the Insurance Code, to read as follows:

Issuance of permanent license to certificate holder

1709.2. If a holder of a certificate of convenience becomes entitled to a permanent license after the expiration of the license period during which his certificate was issued, a permanent license shall be issued to him upon payment of the fee required for filing application for renewal of such a permanent license. If he fails to pay this fee within 60 days after notice of eligibility for permanent license he forefeits his right to permanent license and all privileges under his certificate of convenience terminate.

SEC. 8. Section 1713 of the Insurance Code is hereby amended to read as follows: Stats 1939, p 1792

1713. Except as provided in Section 1708.6, the fee for filing a certificate of appointment of life agent or application for a life agent's license or for filing any document requesting renewal thereof is two dollars ($2) for each individual authorized to exercise agency powers thereunder and the fee for filing the first amendment to any such application or document or for filing any such application or document as first amended is one dollar ($1). Fees

SEC. 9. Section 1713.8 of the Insurance Code is hereby repealed. Stats 1939 p 1792

CHAPTER 92

An act to amend Sections 760, 781 and 1706.8 of, and to add Section 760.5 to, the Insurance Code, relating to insurance, declaring the urgency thereof, to take effect immediately. Stats 1935, p 496, amended

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.] In effect immediately

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

SECTION 1. Section 760 of the Insurance Code is hereby amended to read as follows: Stats 1937, p 1789

760. As used in this section "personal or controlled insurance" means insurance covering an insurance agent, broker, or solicitor, or "Personal or controlled insurance" —agent, broker or solicitor

(a) His spouse, his employer or his employer's spouse.

(b) Any person related to him or the persons mentioned in subdivision (a) within the second degree by blood or marriage.

(c) If his employer is a corporation, any person directly or indirectly owning or controlling a majority of the voting stock or controlling interest in such corporation.

(d) If his employer is a partnership or association, any person owning any interest in such partnership or association.

(e) If the agent or broker is a corporation, any person directly or indirectly owning or controlling a majority of the voting stock or controlling interest in the agent or broker and any corporation which is also similarly directly or indirectly controlled by the person who directly or indirectly controls the agent or broker.

(f) If the agent or broker is a corporation, any corporation making consolidated returns for United States Income Tax purposes with any corporation described in subdivision (e).

If premiums on personal or controlled insurance transacted by an insurance agent, broker, or solicitor payable in one year exceed the premiums on other insurance transacted by such Unlawful rebate

licensee payable in the same year, the receipt of commissions upon the excess is an unlawful rebate.

Presumptions

Whenever an officer or director of a corporation acts as agent, broker, or solicitor in the transaction of insurance covering the corporation, he shall be conclusively presumed to have received the full commission on such contract while an employee of the corporation. Whenever the remuneration for services of an employee is decreased by the employer or is made unreasonably small in amount but the employee is permitted, as an insurance agent, broker, or solicitor, to transact personal or controlled insurance, it shall be conclusively presumed that such employee receives the full amount of commission on such personal or controlled insurance.

"Year"

"Year" as used in this section means the calendar year. Suspension, revocation or denial of license for violation of this section may be ordered at any time within five years after the close of the year in which the violation occurred.

New section

SEC. 2. Section 760.5 is hereby added to the Insurance Code, to read as follows:

"Personal or controlled insurance" —life agent

760.5. As used in this section "personal or controlled insurance" means insurance covering a life agent, or

(a) His spouse, his employer, his employer's spouse, or any group of employees under a group policy issued to his employer.

(b) Any person related to him, his spouse, his employer or his employer's spouse within the second degree by blood or marriage.

(c) If his employer is a corporation, any person directly or indirectly owning or controlling a majority of the voting stock or controlling interest in such corporation.

(d) If his employer is a partnership or association, any person owning any interest in such partnership or association.

(e) If the agent is a corporation, any person directly or indirectly owning or controlling a majority of the voting stock or controlling interest in the agent.

Unlawful rebate

If commissions on personal or controlled insurance transacted by a life agent under his license as a life agent received in one year exceed the commissions received in that year on other insurance transacted by such licensee under his license as life agent, the receipt of commissions upon personal or controlled insurance in excess of those on such other insurance is an unlawful rebate.

"Year"

"Year" as used in this section means the calendar year. Suspension, revocation or denial of license for violation of this section may be ordered at any time within five years after the close of the year in which the violation occurred.

SEC. 3. Section 1706.8 of the Insurance Code is hereby amended to read as follows: Stats 1939, p 1804

1706.8. A license shall not be issued under this article to any person required to pass an examination, until such examination has been passed, but the commissioner may issue to an applicant who has never theretofore held or been named in a license and who has met the requirements set forth in Section 1706 other than with respect to an examination a certificate of convenience, operative for a period not less than three months and not extending beyond six months from issuance, permitting such applicant to act as a life agent pending fulfillment of the examination requirements. In no event, however, shall certificates of convenience be effective for any period longer than six months from and after the date when the first such certificate is issued to the applicant. Such certificate does not permit the holder thereof to transact insurance covering himself or any person specified in Section 760.5 except as permitted by the next paragraph nor to participate directly or indirectly in any commission paid thereunder or therefor. Solely for the purpose of determining the fees in respect thereto, such certificate shall be deemed a license. Certificate of convenience

The holder of a certificate of convenience issued pursuant to this article may transact insurance upon himself, if he receives no commissions on such insurance until after he has received his permanent license, to the following extent:

(a) Life insurance having a face amount not exceeding five thousand dollars ($5,000).

(b) Disability insurance under which the largest specific indemnity is not more than ten thousand dollars ($10,000).

SEC. 4. Section 781 of the Insurance Code is hereby amended to read as follows: Stats 1935, p. 518

781. A person shall not make any misrepresentation (a) to any other person for the purpose of inducing, or tending to induce, such other person either to take out a policy of insurance, or to refuse to accept a policy issued upon an application therefor and instead take out any policy in another insurer, or "Twisting"

(b) To a policyholder in any insurer for the purpose of inducing or tending to induce him to lapse, forfeit or surrender his insurance therein.

A person shall not make any representation or comparison of insurers or policies to an insured which is misleading, for the purpose of inducing or tending to induce him to lapse, forfeit, change or surrender his insurance, whether on a temporary or permanent plan.

SEC. 5. This act is hereby declared to be an urgency measure within the meaning of Section 1, Article IV of the Urgency

Constitution of the State of California. The following is a statement of the facts constituting such necessity:

Under the present provisions of the Insurance Code amended by this bill, it is extremely difficult, if not impossible, by means of questions and answers in applications for renewal of licenses to determine whether licensees of this division are conforming with the requirements of law. The taking of immediate effect of this act will permit appropriate application forms and questions to be prepared and lawfully used during the current renewal period. Applications must be filed before June 1st and in order to eliminate the attendant confusion and inconvenience to the public, it is therefore necessary that this act take effect immediately.

CHAPTER 93

Stats 1935, p 496, amended

An act to amend Sections 981, 3016, 3035, 3036, 3039, 3040, 11715 and 12091, and to repeal Section 3017 of the Insurance Code, relating to insurance.

In effect September 13, 1941

[Approved by Governor April 10, 1941. Filed with Secretary of State April 10, 1941.]

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

Stats 1935, p. 537

SECTION 1. Section 981 of the Insurance Code is hereby amended to read as follows:

Nonmutual fire or marine insurer

981. Any fire or marine insurer issuing policies on a reserve basis and on other than the mutual plan, is insolvent whenever provision for its liabilities and for reinsurance of all outstanding risks would so far impair its capital paid in as to reduce such capital below two hundred thousand dollars ($200,000), or below 75 per cent of the aggregate par value of its issued capital stock. For the purpose of this computation, provision for reinsuring outstanding risks shall be estimated as prescribed in Section 908 for the statement required of such insurer by Section 900.

Stats 1935, p 605

SEC. 2. Section 3016 of the Insurance Code is hereby amended to read as follows:

Basis of dividends

3016. Domestic incorporated stock, fire or marine insurers shall be governed in the making of dividends exclusively by the provisions of this section. They may make dividends from funds remaining on hand only after retaining unimpaired the aggregate of the following:

(a) The aggregate par value of the entire issued or subscribed shares.

(b) Provision for reinsuring all outstanding risks, estimated as prescribed in Section 908 for the statement required of such insurers by Section 900.

(c) A sum sufficient to pay all outstanding losses and all liabilities for expenses, taxes and all other indebtedness.

SEC. 3. Section 3017 of the Insurance Code is hereby repealed. Stats. 1935, p. 605

SEC. 4. Section 3035 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 606

3035. After the passage and filing of such resolution, the insurer shall not declare or pay in any form any dividend in excess of the amount permitted by Section 3016 nor exceeding the amount specified in Section 3040, until after its guaranty surplus fund and its special reserve fund together amount to twice the minimum amount of the paid-in capital required to enable it to transact fire insurance. Dividend limitation

SEC. 5. Section 3036 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 606

3036. Each such fund is fully accumulated when it is equal in amount to the minimum paid-in capital required of admitted incorporated fire insurers issuing nonassessable policies on a reserve basis, for the transaction of fire insurance. Full accumulation of fund

SEC. 6. Section 3039 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 606

3039. Until both the Guaranty Surplus Fund and Special Reserve Fund are fully accumulated, profits of any such insurer shall be estimated, for the purpose of transferring assets to those funds, by deducting the sum of the following items from the gross assets of the insurer, including those funds: Estimation of profits

(a) The amount of all unpaid losses, expenses, taxes and all other indebtedness.

(b) An amount sufficient to make provision for reinsuring all its unexpired policies of every class, which provision shall be estimated as required in Section 908 for the statement required of such insurer by Section 900.

(c) The amount of its Guaranty Surplus Fund and its Special Reserve Fund.

(d) The amount of its capital stock.

SEC. 7. Section 3040 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 606

3040. An amount not to exceed the profits estimated as provided in Section 3039, nor in excess of the amount permitted by Section 3016, nor in excess, in any one calendar year, of Dividend limitation

7 per cent of the sum of the following items, shall be available for the dividends specified in Section 3035:

(a) The sum of the amounts specified in subdivisions (c) and (d) of Section 3039.

(b) One-half of the profits estimated as provided in Section 3039.

The excess, if any, of the profits estimated as provided in Section 3039, over the sum available for dividends under this section shall be equally divided between the Insurer's Guaranty Surplus Fund and its Special Reserve Fund.

Stats 1935, p 721

SEC. 8. Section 11715 of the Insurance Code is hereby amended to read as follows:

Deposit in lieu of bond

11715. Any workmen's compensation insurer may, in lieu of and subject to the same conditions as the bond required by Section 11690, deposit with the commissioner cash or approved interest-bearing securities readily convertible into cash. Such deposit shall be made from time to time as demanded by the commissioner. He shall forthwith redeposit such cash and securities as a separate deposit with the State Treasurer. Such deposit shall be maintained at an amount not less than twenty-five thousand dollars ($25,000) nor less than the required reserves at the time of deposit or of increase or decrease of deposit, for outstanding losses on the workmen's compensation business of the insurer in this State.

Stats 1935, p 736

SEC. 9. Section 12091 of the Insurance Code is hereby amended to read as follows:

Required financial condition

12091. Whenever a surety insurer fails to maintain such a financial condition that assets allowed under subdivision (a) are equal in value to the aggregate of the charges prescribed under subdivision (b), the commissioner shall act as prescribed in Section 12092.

(a) In estimating its condition the commissioner shall allow as assets only such as are allowed under law in force at the time of the estimate.

(b) The charges to be aggregated shall be:

(1) Eighty per cent of the paid-in capital, but in no case less than two hundred fifty thousand dollars ($250,000).

(2) All outstanding indebtedness.

(3) Provision for reinsuring all outstanding risks, estimated as prescribed in Section 988.

CHAPTER 94

An act to approve, confirm, ratify and validate contracts made by school districts or high school districts or by boards of education or boards of trustees or other governing bodies thereof, or by the board of education of any city for repairs, alterations or construction of school buildings or equipment, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by Governor April 11, 1941. Filed with Secretary of State April 11, 1941.] In effect immediately

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

SECTION 1. Any contract made after January 1, 1939, and before the passage of this act by any school district or high school district of whatever kind or class, or any board of education or board of trustees or other governing body, or any officer or agent thereof, or by the board of education of any city or any officer or agent thereof for repairs, alterations or construction of school buildings or equipment without advertising for bids, where the entire cost of the project exceeded five hundred dollars ($500) and did not exceed six thousand dollars ($6,000), and where all other requirements were complied with except only the failure to advertise for bids is hereby approved, confirmed, ratified and validated to all intents and purposes, and all payments made and obligations to pay to such contractors or any subcontractors, materialmen or laborers in connection with and as a part of such contracts are hereby ratified, approved, confirmed and declared to be legal and binding. Validation of school district contracts

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

Large and unanticipated increases in school attendance in certain areas of the State have overtaxed existing school facilities, necessitating new construction. Further increases are anticipated and it is necessary that added facilities be available for the commencement of the next school year. In addition to providing other methods for achieving this objective it is necessary to validate certain contracts entered into for such purposes in order that there may be no delay in providing essential school facilities and that obligations in connection with such contracts may be promptly discharged.

CHAPTER 95

Stats 1939, p 482, amended

An act to amend the chapter heading of Chapter 8 of Division 9 and to amend Sections 10600, 10601, 10602, 10603, 10607, 10625 and 10626 of the Health and Safety Code, relating to vital statistics, including proceedings to establish the fact of birth, death or marriage, to take effect immediately.

In effect immediately

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

Stats 1939, p 751

SECTION 1. The chapter heading of Chapter 8 of Division 9 of the Health and Safety Code is hereby amended to read as follows:

CHAPTER 8. PROCEEDINGS TO ESTABLISH RECORD OF BIRTH, DEATH OR MARRIAGE

Stats 1939, p 751

SEC. 2. Section 10600 of the Health and Safety Code is hereby amended to read as follows:

Petition

10600. If any birth, death, or marriage, occurring in this State:

(a) Was not at the time it occurred required by law to be registered; or

(b) Was not registered in conformity with the provisions of law in effect at the time it occurred by the filing of the proper certificate with the local registrar within a period of one year from the date of the event or if such record has been filed but thereafter lost or destroyed, any person beneficially interested in establishing of record the fact of and the time and place of, such birth, death, or marriage may file a petition for an order judicially establishing the fact of, and the time and place of the birth, death, or marriage in either of the following courts:

(1) The superior court of the county in which the birth, death or marriage is alleged to have occurred.

(2) The superior court of the county in which the person whose birth or marriage it is sought to establish is residing; or, if such person has died, the superior court of the county in which such person was domiciled at the date of death.

Stats 1939, p 752

SEC. 3. Section 10601 of said code is hereby amended to read as follows:

Contents

10601. The petition shall be verified and shall contain all the facts necessary to enable the court to determine the fact of and the time and place of the birth, death, or marriage upon the proofs adduced in behalf of the petitioner at the hearing.

SEC. 4. Section 10602 of said code is hereby amended to read as follows: Stats 1939, p 752

10602. A copy of the petition shall be served upon the local registrar of vital statistics referred to in Article 3 of Chapter 2 of this division and also upon the district attorney of the county in which the petition is filed, together with a notice of the time and place of hearing and either may appear at the hearing and oppose the making of the order. Service

SEC. 5. Section 10603 of said code is hereby amended to read as follows: Stats 1939, p 752

10603. The hearing shall be had at a time fixed by the court, not less than 10 days nor more than 30 days after the filing of the petition. The court, for good cause, may continue the hearing beyond the 30-day period. Hearing Time

SEC. 6. Section 10607 of said code is hereby amended to read as follows: Stats 1939, p. 753

10607. The order shall become effective upon the filing of a certified copy with the local registrar of vital statistics referred to in Article 3 of Chapter 2 of this division upon whom a copy of the petition was originally served, and with the State Registrar of Vital Statistics. Filing of copy, etc

SEC. 7. Section 10625 of said code is hereby amended to read as follows: Stats 1939, p 753

10625. The fee for the making and certification of a certified copy of a birth, death, or marriage record shall be paid by the applicant and shall be fixed by the State Director of Public Health, subject to the approval of the State Director of Finance. The fee shall not exceed one dollar and fifty cents ($1.50) for each certified copy. For certified copy of record

SEC. 8. Section 10626 of said code is hereby amended to read as follows: Stats 1939, p. 753

10626. The fee for any search of the files and records when no certified copy is made shall be paid by the applicant and shall be fixed by the State Director of Public Health, subject to the approval of the State Director of Finance. The fee shall not exceed one dollar and fifty cents ($1.50) for each hour or fractional hour of time of search. For file and record search

SEC. 9. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the Constitution, necessary for the immediate preservation of the public peace, health and safety, and shall take effect immediately. Urgency

The facts constituting such necessity are as follows: Persons seeking employment in or now employed in connection with the rapidly expanding and vital defense industries in this State are being required to furnish certificates establishing the time and place of their birth as one of the conditions of their employment.

In order to avoid hardship and to remove every obstacle possible in the National Defense Program, it is essential that the procedure for the judicial establishment of the time and place of birth, death or marriage in this State be clarified and simplified. This act should therefore go into effect immediately.

CHAPTER 96

An act to add Section 2722 to the Penal Code and to repeal Section 1 of an act entitled "An act fixing the price, terms and conditions of sale at which jute goods shall be sold by the State, and providing for prosecution of and punishment of offenses under the same," approved May 19, 1927, relating to the sale of jute goods.

Stats 1927, p. 1068, amended

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

New section

SECTION 1. Section 2722 is hereby added to the Penal Code, to read as follows:

Sale of jute goods

2722. It shall be the duty of the board from time to time to fix the price, and to give public notice of the same, at which jute goods shall be sold by the State, which price so fixed shall not be more than one and one-half cents ($0.01½) per bag in excess of the net cost of producing the same exclusive of the labor of prisoners and guards, of which excess of over one cent ($0.01) per bag shall be set aside and reserved within the permanent revolving fund created by Section 2720 of this article for use in purchasing additional plant and equipment for the jute mill. Notice of the price shall be given by publication in at least four newspapers of general circulation, printed and published as follows, to wit: One in Sacramento Valley, one in San Joaquin Valley, one in the Salinas Valley, and one in the Imperial Valley. Between the first day of October of each year and the first day of April of the following year jute bags shall be sold only to consumers thereof. At other times, if a surplus of said jute bags remain unsold, they may be sold to anyone in such quantities and at such prices as the board in its discretion may deem proper.

Notice of price

Stats 1937, p. 1992

SEC. 2. Section 1 of the act cited in the title hereof is hereby repealed.

Effect Stats 1941, p. 1080

SEC. 3. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section

1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

CHAPTER 97

An act to add Sections 2745 and 2746 to the Penal Code and to repeal Sections 6 and 7 of an act entitled "An act providing for the erection and operation of rock-crushing plants at the State prisons, for the preparation of highway material for the benefit of the people of the State, and providing for the necessary advances and appropriation of money to carry out said work," approved March 28, 1895, making an appropriation for the operation by prison labor of rock-crushing plants.

Stats. 1895, p. 274 amended

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2745 is hereby added to the Penal Code, to read as follows:

New section

2745. The sum of thirty thousand dollars ($30,000) is hereby advanced by the State, for the purposes of this article, and said sum is hereby appropriated out of the General Fund of the Treasury subject to the demand of the board; and the State Controller shall, on presentation of such demand, in writing, draw his warrant upon the Treasurer for the said sum of money in behalf of said board, and the State Treasurer shall, on presentation of such warrant, pay the same. Twenty-five thousand dollars ($25,000) of said sum of money so advanced and appropriated shall be returned to the fund from which drawn, as is specified and directed in this article.

Appropriation

SEC. 2. Section 2746 is hereby added to the Penal Code, to read as follows:

New section

2746. The sum of five thousand dollars ($5,000) is hereby set apart out of the money so appropriated in the previous section, to and for the use of the board to provide and maintain a permanent revolving fund for the purchase of tools, machinery, and other material and appliances, exclusive of the establishment of the plant described in this article, to be used in the process of crushing and handling rock or stone at the State prisons for the purposes contemplated and set out in this article. All money taken from said revolving fund shall be used exclusively in payment for such supplemental machinery, tools, materials and appliances necessary to the proper

Revolving fund

quarrying, handling, and preparing of highway material at said State prisons; and so much of the money received for sale of highway metal as shall be necessary to that end shall be returned to said revolving fund as is needed to keep the same constantly at the said figure of five thousand dollars ($5,000).

Stats 1895, p 275

SEC. 3. Sections 6 and 7 of the act cited in the title hereof are hereby repealed.

Effect: Stats 1941, p. 1080

SEC. 4. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

CHAPTER 98

An act to add Section 2056 to the Penal Code and to repeal Section 1595 of the Penal Code as added in 1907, relating to the rebuilding of buildings destroyed by fire.

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

New section

SECTION 1. Section 2056 is hereby added to the Penal Code, to read as follows:

Rebuilding of buildings destroyed by fire

2056. If any of the shops or buildings in which convicts are employed are destroyed in any way, or injured, by fire or otherwise, they may be rebuilt or repaired immediately, under the direction of the board by and with the advice and consent of the Governor, Attorney General, and Secretary of State and the expenses thereof paid out of any funds in the State Treasury not otherwise appropriated by law.

Stats 1907, p. 594

SEC. 2. Section 1595 of the Penal Code as added by Chapter 317 of the Statutes of 1907, is hereby repealed.

Effect: Stats 1941, p 1080

SEC. 3. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

CHAPTER 99

An act to add Section 2765 to the Penal Code and to repeal Section 1 of an act entitled "An act authorizing the use of convict labor on State highways or State roads; providing for the compensation of such convict labor; regulating the handling of such convict labor; providing for payment of compensation to the dependents of such convicts; providing for a forfeiture of such compensation; providing for creation of prisoners recreation and educational fund; providing for manner of payment of compensation to said convicts upon release on parole or release or discharge from prison; authorizing allowance of extra good time credits for such labor; providing penalties for interference with such convict labor and repealing all acts or parts of acts in conflict herewith," approved June 9, 1923, relating to forfeiture by prisoners of moneys earned by them.

Stats 1923 p. 667, amended

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2765 is hereby added to the Penal Code, to read as follows:

New section

2765. When any prisoner shall wilfully violate the terms of his employment, or the rules of the road camp or of the terms of his parole, the board may in its discretion determine what portion of all moneys earned by the prisoner shall be forfeited by the said prisoner and such forfeiture shall be deposited in the State Treasury in a fund to be known as the "Prisoners Fund," which said fund is hereby created. All the money in said fund is hereby appropriated for educational and recreational purposes at the prison road camps as the same shall be established and shall be expended under the direction of the Department of Public Works upon warrants drawn upon the State Treasury by the State Controller in accordance with law.

Forfeitures go into "Prisoners Fund"

SEC. 2. Section 1 of the act cited in the title hereof is hereby repealed.

Stats 1935, p 2053

SEC. 3. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

Effect Stats 1941, p. 1080

CHAPTER 100

Stats 1937, p 1195, repealed

An act to add Sections 2004 and 2006 to the Penal Code and to repeal an act entitled "An act relating to the first unit of the Southern California Prison and making an appropriation therefor," approved May 28, 1937, relating to an appropriation for the Southern California Prison.

In effect September 13, 1941

[Approved by Governor April 15, 1941 Filed with Secretary of State April 15, 1941.]

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

New section

SECTION 1. Section 2004 is hereby added to the Penal Code, to read as follows:

Appropriation First unit of Southern California Prison See also Stats 1941, p 2964

2004. The sum of two million dollars ($2,000,000), appropriated by Chapter 378 of the Statutes of 1937, shall be expended in accordance with law by the board in the erection and construction of the first unit of the Southern California Prison, including the purchase of land therefor.

New section

SEC. 2. Section 2006 is hereby added to the Penal Code, to read as follows:

Federal funds

2006. All money or funds which have heretofore been or shall hereafter be paid or released by the United States to the State of California for the building of such prison are hereby appropriated to be expended by the board for the uses and purposes herein set forth.

Repeal

SEC. 3. The act cited in the title hereof is hereby repealed.

Effect: Stats 1941, p 1080

SEC. 4. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

CHAPTER 101

Stats 1927, p. 799, amended

An act to amend Section 1 of an act entitled "An act providing for the use of the labor of inmates of any State prison or of the Preston School of Industry upon public roads and defining the powers and duties of public officials in relation thereto," approved May 14, 1927, relating to highways leading to State prisons or the Preston School of Industry.

In effect September 13, 1941

[Approved by Governor April 15, 1941 Filed with Secretary of State April 15, 1941.]

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

Stats 1927, p 799

SECTION 1. Section 1 of the act cited in the title hereof, is hereby amended to read as follows:

Prison labor on highways

Section 1. When any public road is a principal means of access to the Preston School of Industry the governing body

of such school, with the consent of the Board of Control, may arrange with the State Highway Commission or the board of supervisors of the county in which said road is located for the employment of the inmates of such institution in the improvement or maintenance of said road, under supervision of the officers of the institution and without compensation to the inmates so employed.

Effect Stats 1941, p 1080

SEC. 2. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

CHAPTER 102

Stats 1937, p 2437, amended

An act to amend Section 1 of an act entitled "An act empowering any State institution to advance to the Napa State Farm out of its support appropriation money to cover the cost of meat to be delivered to it, after processing for use," approved July 1, 1937, relating to the purchase of meat from the Napa State Farm.

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect September 13, 1941

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

Stats 1937, p 2437

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Advancements to Napa State Farm

Section 1. Any State institution, or home may advance from its revolving fund to the Napa State Farm, with the approval of the Department of Finance, money to cover the cost of live stock or meat to be purchased in the open market or for the processing thereof for the use of such institution or home to which such meat is to be delivered after processing.

Effect Stats 1941, p 1080

SEC. 2. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1166, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

CHAPTER 103

An act to add Section 2710 to the Penal Code and to repeal an act entitled "An act to create a revolving fund for the manufacturing departments at the State Prison at San Quentin and to appropriate money therefor," approved June 12, 1915, appropriating a revolving fund for the maintenance of the manufacturing departments of the State Prison at San Quentin.

Stats 1915, p 1430, repealed

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

New section Sec 2710 Stats 1941, p 2411

SECTION 1. Section 2710 is hereby added to the Penal Code, to read as follows:

San Quentin Manufacturing Revolving Fund

2710. There is hereby constituted a permanent revolving fund in the sum of not less than fifty thousand dollars ($50,000) to be known as the San Quentin Manufacturing Revolving Fund to be used to meet the expenses necessary in the purchasing of material and equipment and for the maintenance of the manufacturing departments of the State Prison at San Quentin. Said fund shall at all times contain the amount of fifty thousand dollars ($50,000), either in cash or assets, consisting of raw materials and finished or unfinished products inventory at cost, or both. Money received from the sale of manufactured products in San Quentin Prison shall be paid to the State Treasurer monthly and shall be credited to said revolving fund. At such time as the board or the Director of Finance decide that the balance in said revolving fund is greater than is necessary to carry out the purposes of this section, it, or he, shall so inform the State Controller and request a transfer of the unneeded balance from the said revolving fund to the General Fund of the State of California. The Controller is authorized to transfer such balances upon the request of the Director of Finance.

Repeal

SEC. 2. The act cited in the title hereof is hereby repealed.

Effect Stats 1941, p 1080

SEC. 3. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1166, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

CHAPTER 104

An act to add Section 2720 to the Penal Code and to repeal an act entitled "An act making an appropriation for the establishment of a permanent fund for the purchase of jute, to be manufactured at the State Prison at San Quentin," approved March 9, 1885, relating to a revolving fund for the purchase of jute.

Stats 1885, p 53, repealed

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2720 is hereby added to the Penal Code, to read as follows:

New section

2720. There is hereby constituted a permanent revolving fund in the sum of not less than four hundred thousand dollars ($400,000) to be used exclusively in payment of jute, and other materials, to be used in the jute mill in San Quentin State Prison, for the payment of operating expenses of the jute mill, and for the purchase and replacement of plant and equipment for the jute mill at said prison. Said fund shall at all times contain the amount of four hundred thousand dollars ($400,000), either in cash or assets, consisting of raw material and finished and unfinished products inventory at cost, or both. Money received from the sale of jute products in San Quentin Prison shall be paid to the State Treasurer monthly and shall be credited to said revolving fund. At such time as the board or the Director of Finance decide that the balance in said revolving fund is greater than is necessary to carry out the purposes of this section, they, or he, shall so inform the State Controller and request a transfer of the unneeded balance from the said revolving fund to the General Fund of the State of California. The Controller is authorized to transfer such balance upon the request of the Director of Finance.

Revolving fund for purchase of jute at San Quentin

SEC. 2. The act cited in the title hereof is hereby repealed.

Repeal

SEC. 3. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

Effect Stats 1941, p 1080

CHAPTER 105

An act to amend Section 4174a of the Political Code, relating to the duties of sheriff.

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

Stats 1937, p 1633

SECTION 1. Section 4174a of the Political Code is hereby amended to read as follows:

Jail maintained outside county: Sheriff's control, etc

4174a. The sheriff of the county which establishes or maintains a jail in another county shall have the same control and supervision of the property, personnel and inmates that he would have had if the jail had been located within the boundaries of the county which maintains it.

Effect Stats 1941, p 1080

SEC. 2. This act shall take effect only if and when that certain act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," takes effect.

CHAPTER 106

An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods.

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

Repeal

SECTION 1. Part 3, except Section 1595, of the Penal Code is hereby repealed.

Stats 1935, p 2118

SEC. 2. Section 107 of the Penal Code is hereby amended to read as follows:

Punishment for escape of prisoner

107. Every prisoner charged with or convicted of a felony who is an inmate of any public training school or reformatory or county hospital who escapes or attempts to escape from such public training school or reformatory or county hospital

is guilty of a felony and is punishable by imprisonment in the State prison not exceeding 10 years, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 3. Section 109 of the Penal Code is hereby amended to read as follows: Stats. 1907, p. 271

109. Any person who wilfully assists any inmate of any public training school or reformatory to escape, or in an attempt to escape from such public training school or reformatory is punishable by imprisonment in the State prison not exceeding 10 years, and fine not exceeding ten thousand dollars ($10,000). Assisting prisoners to escape

SEC. 4. Section 110 of the Penal Code is hereby amended to read as follows: Stats. 1937, p. 1555

110. Every person who carries or sends into a public training school, or reformatory, anything useful to aid a prisoner or inmate in making his escape, with intent thereby to facilitate the escape of any prisoner or inmate confined therein, is guilty of a felony and shall be imprisoned in the State prison not less than one year. Things useful to aid in escape

SEC. 5. Section 171 of the Penal Code is hereby amended to read as follows: Stats. 1905, p. 651

171. Every person, not authorized by law, who, without the permission of the officer in charge of any reformatory in this State, communicates with any person detained therein, or brings therein or takes therefrom any letter, writing, literature, or reading matter to or from any person confined therein, is guilty of a misdemeanor. Unauthorized communication

SEC. 6. Section 171a of the Penal Code is hereby amended to read as follows: Stats. 1911, p. 364

171a. Any person, not authorized by law, who brings into any reformatory in this State or within the grounds belonging or adjacent to any such institution, any opium, morphine, cocaine, or other narcotic, or any intoxicating liquor of any kind whatever, or any firearms, weapons, or explosives of any kind, is guilty of a felony. Taking opium etc., into jails

SEC. 7. Section 171b of the Penal Code is hereby amended to read as follows: Stats. 1905, p. 651

171b. Every person who, having been previously convicted of a felony and confined in any State prison in this State, without the consent of the officer in charge of any reformatory in this State, comes upon the grounds of any such institution, or lands belonging or adjacent thereto, in the nighttime, is guilty of a felony. Ex-convicts coming upon or near prison grounds

SEC. 8. Section 273b of the Penal Code is hereby amended to read as follows: Stats. 1905, p. 760

273b. No child under the age of 16 years must be placed in any place of confinement, or in any courtroom, or in any vehicle for transportation to any place, in company with adults charged with or convicted of crime, except in the presence of a proper official. Child not be confined

1872 Code

SEC. 9. Section 606 of the Penal Code is hereby amended to read as follows:

Destroying or injuring jails

606. Every person who wilfully and intentionally breaks down, pulls down, or otherwise destroys or injures any place of confinement, is punishable by fine not exceeding ten thousand dollars ($10,000), and by imprisonment in the State prison not exceeding five years.

Stats. 1929, p. 1443

SEC. 10. Section 644 of the Penal Code is hereby amended to read as follows:

Habitual criminals

644. (a) Every person convicted in this State of any felony who shall have been previously twice convicted upon charges separately brought and tried, and who shall have served separate terms therefor in any State prison and/or Federal penitentiary, either in this State or elsewhere, of the crime of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, grand theft, bribery of a public official, perjury, subornation of perjury, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, extortion, kidnaping, mayhem, escape from a State prison, conspiracy to commit any one or more of the aforementioned felonies, shall be adjudged an habitual criminal and shall be punished by imprisonment in the State prison for life;

(b) Every person convicted in this State of any felony who shall have been previously three times convicted, upon charges separately brought and tried, and who shall have served separate terms therefor in any State prison and/or Federal penitentiary, either in this State or elsewhere, of the crime of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, grand theft, bribery of a public official, perjury, subornation of perjury, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, extortion, kidnaping, mayhem, escape from a State prison, conspiracy to commit any one or more of the aforementioned felonies, or any of the aforementioned felonies, shall be adjudged an habitual criminal and shall be punished by imprisonment in the State prison for life;

(c) Provided, however, that in exceptional cases, at any time not later than 60 days after the actual commencement of imprisonment, the court may, in its discretion, provide that the defendant is not an habitual criminal, and in such case the defendant shall not be subject to the provisions of this section or of Sections 3047 and 3048 of this code;

(d) Nothing in this section shall abrogate or affect the punishment by death in any and all crimes now or hereafter punishable by death.

Stats. 1931, p. 1051

SEC. 11. Section 667 of the Penal Code is hereby amended to read as follows:

Second offenses, petit theft

667. Every person who, having been convicted of any felony either in this State or elsewhere, and having served a term therefor in any penal institution, commits petty theft

after such conviction, is punishable therefor by imprisonment in the county jail not exceeding one year or in the State prison not exceeding five years.

SEC. 12. Section 681 of the Penal Code is hereby amended to read as follows: Stats. 1933, p. 2396

681. It shall be unlawful to use in the reformatories, institutions, jails, State hospitals or any other State, county, or city institution any cruel, corporal or unusual punishment or to inflict any treatment or allow any lack of care whatever which would injure or impair the health of the prisoner, inmate, or person confined; and punishment by the use of the strait-jacket, gag, thumb-screw, shower-bath or the tricing up of a prisoner, inmate or person confined is hereby prohibited. Any person who violates the provisions of this section or who aids, abets, or attempts in any way to contribute to the violation of this section shall be guilty of a misdemeanor. Penalty for cruel punishment

SEC. 13. Section 1168 of the Penal Code is hereby amended to read as follows: Stats. 1937, p. 1555

1168. Every person convicted of a public offense, for which imprisonment in any reformatory or State prison is now prescribed by law shall, unless such convicted person be placed on probation, a new trial granted, or the imposing of sentence suspended, be sentenced to be imprisoned in a State prison, but the court in imposing the sentence shall not fix the term or duration of the period of imprisonment. Imprisonment

SEC. 14. Section 1202a of the Penal Code is hereby amended to read as follows: Stats. 1935, p. 1568

1202a. If the judgment is for imprisonment in the State prison the judgment shall direct that the defendant be taken to the warden of the California State Prison at San Quentin. Imprisonment in the State prison

SEC. 15. Part 3 is hereby added to the Penal Code, to read as follows: New part

PART 3. OF IMPRISONMENT AND THE DEATH PENALTY

TITLE 1. IMPRISONMENT OF MALE PRISONERS IN STATE PRISONS

See also Stats. 1941, p. 2963

CHAPTER 1. ESTABLISHMENT OF STATE PRISONS

Southern California Prison

Article 1. Southern California Prison

See also Stats. 1941, p. 2963

2000. There is and shall continue to be a State prison to be known as the Southern California Prison.

Located at Chino

2001. The Southern California Prison shall be located at Chino, San Bernardino County, California. See also Stats. 1941, p. 2963

Construction and equipment

2002. The board shall construct and equip, in accordance with law, suitable buildings, structures, and facilities for a prison at the location designated in the preceding section.

First unit
See also Stats 1941, p 2964

2003. The board shall erect and construct, the first unit of the Southern California Prison upon such lands as have heretofore been acquired or as shall hereafter be acquired for such purpose, in accordance with this article.

Federal funds

2005. The Governor may negotiate with the proper agencies of the Federal Government to obtain funds from the Federal unemployment relief budget to build such prison.

Proclamation of completion

2007. As soon as the prison hereby provided for is ready for occupancy and use, the said board shall certify that fact to the Governor who shall make proclamation thereof.

Primary purpose
See also Stats 1941, p 2964

2008. The primary purpose of the Southern California Prison shall be for the imprisonment of male offenders who, in the opinion of the board, seem capable of moral rehabilitation and restoration to good citizenship.

Transfer
See also Stats 1941, p 2964

2009. The board may remove any prisoner imprisoned in the Southern California Prison to any other State prison for males for further imprisonment.

Article 2. California State Prison at San Quentin

San Quentin Prison

2020. There is and shall continue to be a State prison to be known as the California State Prison at San Quentin.

Located at San Quentin

2021. The California State Prison at San Quentin shall be located at San Quentin, in Marin County, California.

Primary purpose

2022. The primary purpose of the California State Prison at San Quentin shall be for the imprisonment of male first offenders.

Transfer

2023. The board may remove any prisoner imprisoned in the California State Prison at San Quentin to any other State prison for males for further imprisonment.

Article 3. California State Prison at Folsom

Folsom Prison

2030. There is and shall continue to be a State prison to be known as the California State Prison at Folsom.

Located at Folsom

2031. The California State Prison at Folsom shall be located at Folsom, in Sacramento County, California.

Primary purpose

2032. The primary purpose of the California State Prison at Folsom shall be for the imprisonment of male prisoners who have previously served a term of imprisonment in any State or Federal penitentiary.

Transfer

2033. The board may remove any prisoner imprisoned in the California State Prison at Folsom to any other State prison for males for further imprisonment.

Chapter 2. Administration of State Prisons

Article 1. State Board of Prison Directors

"Board"
See also Stats 1941, p 2965

2040. As used in all chapters of this title, except Chapter 7, the word "board" shall mean the State Board of Prison Directors.

Organization of board

2041. The creation of the board, its membership, the appointments thereto, the removal of members thereof, and certain of its powers and duties are provided for in Article X of the Constitution of the State of California.

Director's oath

2042. Each director shall subscribe an oath of office, which shall be indorsed on his commission, within 10 days after receiving written notice of such appointment, and a duplicate of such oath shall also be filed with the Secretary of State.

President

2043. The board shall annually elect one of its members president of the board, whose duty it shall be to preside at the meetings of the board and to perform such other duties as may from time to time be prescribed by the rules and regulations for the government of the board, and the clerk of said board shall immediately notify the Governor in writing of such election.

Quorum

2044. Three members of the board shall constitute a quorum for the transaction of all business, but no order of the board shall be valid unless concurred in by three or more members

Visits to prisons
See also Stats 1941, p 2252

2045. At least three of the directors shall visit each of the prisons once in each month and oftener if necessary, at such times as they may select.

Rules and regulations

2046. The board shall have the power to prescribe rules and regulations, not inconsistent with the Constitution and laws of California, for the government of the board, and for the government of the prisons, and may change the same at its pleasure.

Printing and posting

2047. The rules and regulations prescribing the duties and obligations of prisoners shall be printed and hung up in each cell and shop.

Journal

2048. The board shall enter or cause to be entered on its journal by the clerks all official acts, which shall be signed by at least three members of the board.

Audit of claims
See also Stats 1941, p 2252

2049. The board shall audit all claims for supplies, services and expenses and any and all other claims against the prisons.

Office secretary

2050. The board shall have power to establish an office in San Francisco and to employ a secretary therefor.

Contracts

2051. The board is hereby authorized to contract for provisions, clothing, medicines, forage, fuel, and all other staple supplies needed for the support of the prisons for any period of time, not exceeding one year, and such contracts shall be limited to bona fide dealers in the several classes of articles contracted for. Contracts for such articles as the board may desire to contract for, shall be given to the lowest bidder at a public letting thereof, if the price bid is a fair and reasonable one, and not greater than the usual value and prices.

Bidder's bond

Each bid shall be accompanied by such security as the board may require, conditional upon the bidder entering into a contract upon the terms of his bid, on notice of the acceptance thereof, and furnishing a penal bond with good and sufficient sureties in such sum as the board may require, and to its satisfaction that he will faithfully perform his contract.

Rejected articles

If the proper officer of the prison reject any article, as not complying with the contract, or if a bidder fail to furnish the articles awarded to him when required, the proper officer of the prison may buy other articles of the kind rejected or called for, in the open market, and deduct the price thereof, over the contract price, from the amount due to the bidder, or charge the same up against him.

Call for bids

Notice of the time, place, and conditions of the letting of contracts shall be given for at least two consecutive weeks in two newspapers printed and published in the City and County of San Francisco, and in one newspaper printed and published in the County of Sacramento, and in the county where the prison to be supplied is situated.

Unsatisfactory bids

If all the bids made at such letting are deemed unreasonably high, the board may, in its discretion, decline to contract and may again advertise for such time and in such papers as it sees proper for proposals, and may so continue to renew the advertisement until satisfactory contracts are made; and in the meantime the board may contract with anyone whose offer is regarded as just and equitable, or may purchase in the open market.

Lowest bid

No bids shall be accepted, nor a contract entered into in pursuance thereof, when such bid is higher than any other bid at the same letting for the same class or schedule of articles, quality considered, and when a contract can be had at such lower bid.

Equal bids

When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by it be thought best for the interest of the State, or it may divide the contract between the bidders as in its judgment may seem proper and right.

Letting contract

The board shall have power to let a contract in the aggregate or they may segregate the items, and enter into a contract with the bidder or bidders who may bid lowest on the several articles.

Unsatisfactory bidder

The board shall have the power to reject the bid of any person who had a prior contract, and who had not, in the opinion of the board, faithfully complied therewith.

Gas, electricity, water

2052. The board shall have power to contract for the supply of electricity, gas and water for said prisons, upon such terms as said board shall deem to be for the best interests of the State, or to manufacture gas or electricity, or furnish water itself, at its option. It shall also have power to erect and construct or cause to be erected and constructed, electrical apparatus or other illuminating works in its discretion with or without contracting therefor, on such terms as it may deem just. The board shall have full power to erect any building or structure deemed necessary by it, or to alter or improve the same, and to pay for the same from the fund appropriated for the use or support of the prisons, or from the earnings thereof, without advertising or contracting therefor.

Construction work

2053. The board may advance from its revolving fund to the Napa State Farm, with the approval of the Department of Finance, money to cover the cost of live stock or meat to be purchased in the open market or for the processing thereof for the use of the prisons to which the meat is to be delivered after processing. Advancement to Napa State Farm

2054. The board shall cause the finances and accounts of the several prisons to be kept separate and apart from each other. Separate accounts

2055. The board is hereby authorized to insure from time to time against fire or marine loss, all furniture, shoes, clothing or other articles manufactured at San Quentin Prison and the materials from which the same are made, in such amounts as it may deem proper. The cost of such insurance shall be paid from the manufacturing revolving fund. Insurance

2057. The board shall, on or before the first day of December of each even numbered year, report to the Governor on the condition of the prisons, together with a detailed statement of receipts and expenditures, and such suggestions concerning the prisoners as may appear to be necessary and expedient. Annual report

2058. There shall be printed for the use of the prisons at least 500 copies of the biennial report of the board, and the clerk shall transmit to each of the State prisons in the United States one copy of such report. Printing report

Article 2. Wardens

2070. The appointment of the wardens is provided for in Section 3 of Article X of the Constitution of the State of California. Wardens

2071. Each warden appointed by the board shall take and subscribe an oath or affirmation to discharge faithfully the duties of his office, as prescribed by law and the rules and regulations of the board. Oath

2072. Each warden shall enter into a bond to the State of California, in the sum of twenty-five thousand dollars ($25,000), with two or more sufficient sureties, conditioned to the faithful performance of such duties. Bond

2073. Each warden shall hold his office for a term of four years from and after the date of appointment made in compliance with the provisions of the three preceding sections. Term

2074. The warden's salary shall be fixed by the board at the time the appointment is made, which salary shall not be changed during the term of office of such warden. Salary

2075. The removal of wardens is provided for in Section 3 of Article X of the Constitution of the State of California. Removal

2076. The wardens shall reside at the State prison to which they have been assigned, in houses provided, furnished, provisioned and maintained at the expense of the State, as may be ordered by the board. Residence

2077. It shall be the duty of the wardens to fill all subordinate positions that may be created by order of the board by appointment of suitable persons thereto. Appointment of subordinates

Prosecution of actions

2078. It shall be the duty of the wardens to prosecute, under the order and direction of the board, all suits, at law or in equity, that may be necessary to protect the rights of the State in matters of property connected with the prisons and their management, such suits to be prosecuted in the name of the board.

Supervision and enforcement

2079. It shall be the duty of the wardens to supervise the government, discipline and policy of the prisons, and to enforce all orders and regulations of the board in respect to such prisons.

Classification of prisoners

2080. The wardens shall grade and classify the prisoners, in accordance with the rules and regulations of the board, now existing or which may hereafter be made, and may provide for clothing them in such manner that the different grades or classes may readily be distinguished.

Punishment book

2081. The wardens shall keep a punishment book in which a record of all punishments and what kind of punishments are administered to prisoners or inmates, if any; the offense committed; the rule or rules violated; the nature of punishment administered; the name of the officer who ordered such punishment; the duration of time during which the offender was subjected to punishment; the condition of the prisoner's health; the number of times punished. Said book shall be kept by an officer of the prison.

Transmission of photographs, etc

2082. The warden shall within 30 days after receiving persons convicted of crime and sentenced to serve terms in the respective prisons, send to the sheriffs of the State of California, to the State and Federal bureaus of identification, and to the chiefs of police of all regularly constituted police departments, of incorporated cities and towns within this State, photographs together with minute descriptions including marks of identification of all such persons and also a statement of the nature of the crime for which said persons are imprisoned. Any expenditures incurred in carrying out the provisions of this section shall be paid for out of the appropriation made for the support of State's prisons.

Registry of prisoners

2083. The wardens shall keep a registry of prisoners in which shall be entered the name of each prisoner, the crime of which he is convicted, the period of his sentence, from what county sentenced, his nativity, to what degree educated, at what institution and under what system, an accurate description of his person, and whether he has previously been confined in any State or Federal prison, and if so, when and how he was discharged.

Bedding, clothing, food

2084. The wardens shall provide each prisoner with a bed of straw or other suitable material, and sufficient covering of blankets, and with garments of coarse, substantial material and of distinctive manufacture, and with sufficient plain and wholesome food of such variety as may be most conducive to good health.

Prisoners' property

2085. The wardens shall keep a correct account of all money and valuables upon the prisoner when delivered at the

prison, and shall pay the amount, or the proceeds thereof, or return the same to the prisoner when discharged or to his legal representative in case of his death; and in the case of the death of such prisoner without being released, if no legal representative shall demand such property within five years, the same shall be paid into the State Treasury as required by law.

Emergency rules

2086. The wardens may make temporary rules and regulations, in case of emergency, to remain in force until the succeeding meeting of the board.

Other duties

2087. The wardens shall perform such other duties as may be prescribed by the board.

Vouchers

2088. The wardens shall require vouchers for all moneys by them expended, and safely keep the same on file in their respective offices at the prisons.

Revenues

2089. All revenues of the prisons, unless in this title otherwise provided, shall be paid to the wardens, who alone are authorized to receipt for the same and discharge from liability. When any sum of money is paid to the wardens, who alone are authorized to receipt for the same and discharge from liability, they shall cause the same to be properly entered on the books by the clerks. On payment of any moneys into the State Treasury, as provided in this title, the wardens and State Treasurer shall report to the Controller of State the amount so paid, and the State Treasurer shall give the wardens a receipt therefor, which receipt shall be filed with the Controller. The wardens shall report to the Controller of State the amounts received and disbursed by them every three months, and during the period for which such report shall be made, which quarterly report shall be signed by the warden and at least three of the directors.

Quarterly reports

Federal prisoners

2090. The wardens are hereby authorized to receive from the Federal Government any Federal prisoner and to charge and receive from the United States, for the use of the State, an amount sufficient for the support of each such Federal prisoner, the cost of all clothing that may be furnished, and one dollar ($1) per month for the use of the prisoner. No other or further charges shall be made by any officer for or on account of such prisoners.

"Superintendent"

2091. The board may give to any warden the title of superintendent, but such superintendent shall have all the rights, powers, duties and liabilities of a warden, except as otherwise specifically provided by law.

Warden at Chino Term

2092. The warden or superintendent of the California State Prison at Chino shall hold office at the pleasure of the board.

Article 4. Clerks

Clerks

2500. The appointment of the clerks of the prisons is provided for in Section 3 of Article X of the Constitution of the State of California.

Oath

2501. Each clerk appointed by the board shall take and subscribe an oath or affirmation to discharge faithfully the

duties of his office, as prescribed by law and the rules and regulations of the board.

Bond 2502. Each clerk shall enter into a bond to the State, with two or more sufficient sureties, in the sum of ten thousand dollars ($10,000), conditioned that he will faithfully discharge the duties required of him.

Term 2503. Each clerk shall hold his office for the period of four years after his appointment.

Salary 2504. The board shall fix the compensation of the clerks in such manner and amounts as the board may deem just and equitable in each case.

Removal 2506. The removal of clerks is provided for in Section 3 of Article X of the Constitution of the State of California.

Accounts 2507. The clerks shall keep the accounts of the prisons to which they are severally appointed, in such manner as to exhibit clearly all its financial transactions.

Other duties 2508. The clerks shall perform such other duties as may from time to time be required of them by the board.

Article 5. Other Officers and Employees

Officers and employees 2520. The appointment and removal of other necessary officers and employees within the State prisons is provided for in Section 3 of Article X of the Constitution of the State of California. The board may consolidate or abolish positions and may fix and change the salaries to be paid.

Qualifications 2521. No person shall be appointed to any office by the wardens or be employed in the prisons on behalf of the State who is a contractor or agent, or who is interested directly or indirectly in any business carried on therein; and no male person who is not a qualified elector of the State of California shall be appointed by the wardens to any office in or about the prisons, nor shall any be appointed or employed who is in the habit of intemperate use of liquors. A single act of intemperance shall justify the discharge of such officer or employee, and the warden shall discharge him. Additional qualifications may be prescribed by the board.

Intemperance

Salaries 2523. The board shall fix the compensation of such officers and employees, but in no case shall the money compensation be less than one hundred ten dollars ($110) per month. The board may board and lodge such officers and employees, or allow them a commutation in lieu thereof.

See also Stats 1941, p 2253

Duties 2524. The board shall specify the duties to be performed by such officers and employees.

Article 6. Prohibition Upon Wardens, Clerks, Officers and Employees

Officers to receive no other than prescribed compensation 2540. No warden, clerk, parole officer or other officer or employee shall receive directly, or indirectly, any compensation for his services other than that prescribed or authorized by law or the board; nor shall he receive any compensation

whatever, directly or indirectly, for any act or service which he may do or perform for or on behalf of any contractor, or agent, or employee of a contractor. For any violation of the provisions of this section the officer, agent or employee of the State shall be discharged from his office or service; and every contractor, or employee, or agent of a contractor engaged therein, shall be expelled from the prison grounds, and not again permitted within the same as a contractor, agent, or employee.

Officers not make or receive gifts

2541. No warden, clerk, parole officer or other officer or employee of the State, or contractor, or employee of a contractor, shall, without permission of the board, make any gift or present to a prisoner, or receive any from a prisoner, or have any barter or dealings with a prisoner. For every violation of the provisions of this section, the party engaged therein shall incur the same penalty as prescribed in the preceding section. No officer or employee of the prison shall be interested, directly or indirectly, in any contract or purchase made or authorized to be made by anyone for or on behalf of the prisons.

Chapter 3. Civil Death of Prisoners

Article 1. Civil Death

Suspension of civil rights
See also Stats 1941, p 1798

2600. A sentence of imprisonment in a State prison for any term less than life suspends all the civil rights of the person so sentenced, and forfeits all public offices and all private trusts, authority, or power during such imprisonment.

Civil death
See also Stats 1941, p 1798

2601. A person sentenced to imprisonment in the State prison for life is thereafter deemed civilly dead.

Same

2602. A person sentenced to death is deemed civilly dead during the existence of the death sentence.

Rights not affected

2603. The provisions of the last three preceding sections must not be construed to render the persons therein mentioned incompetent as witnesses by affidavit or deposition in a civil case or proceeding or by affidavit or deposition or personally in a criminal case or proceeding, or incapable of making a will, or incapable of making and acknowledging, a sale or conveyance of property.

Forfeiture of property

2604. No conviction of any person for a crime works any forfeiture of any property, except in cases in which a forfeiture is expressly imposed by law; and all forfeitures to the people of the State, in the nature of a deodand, or where any person shall flee from justice, are abolished.

Article 2. Prisoners as Witnesses

Prisoners as witnesses

2620. When the testimony of a material witness is required in a criminal action, before a court of record in this State, or in an examination before a grand jury or magistrate for an offense triable in the superior court and such witness is a

Order for production before court

prisoner in a State prison, an order for his temporary removal from such prison, and for his production before such court, grand jury or magistrate, may be made by the superior court of the county in which such action or examination is pending or by a judge thereof; but in case the prison is out of the county in which the application is made, such order shall be made only upon the affidavit of the district attorney or prosecutor, or of the defendant or his counsel, stating that the testimony is material and necessary; and even then the granting of the order shall be in the discretion of said superior court or judge thereof. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, grand jury or magistrate, to safely keep him, and when he is no longer required as a witness, to return him to the prison whence he was taken; the expense of executing such order shall be a proper charge against, and shall be paid by, the county in which the order shall be made.

Such orders shall be signed by the magistrate or judge making the order, and sealed with the seal of the court, if any.

Form of order

Such order must be to the following effect:

FORM OF ORDER

County of _____ (as the case may be)

The people of the State of California to the warden _____:

An order having been made this day by me, that A. B. be produced in this court as witness in the case of _____, you are commended to deliver him into the custody of _____.

Dated this _____ day of _____, 19___.

Deposition

2621. When a material witness for a defendant, under a criminal charge, is a prisoner in the State prison, his deposition may be taken, on behalf of the defendant, in the manner provided for in the case of a witness who is sick, and the provisions of the Penal Code, commencing with Section 1335 and ending with Section 1345, shall, so far as applicable, govern in the application for and in the taking and use of such deposition. Such deposition may be taken before any magistrate or notary public of the county in which the prison is situated; or in case the defendant is unable to pay for taking the deposition, before a warden or clerk of the board of directors of the State prison, whose duty it shall be to act without compensation. Every officer, before whom testimony shall be taken by virtue hereof, shall have authority to administer, and shall administer, an oath to the witness that his testimony shall be the truth, the whole truth, and nothing but the truth.

Order for examination or production

2622. If in a civil action or special proceeding a witness be a prisoner, confined in a State prison within this State, an order for his examination in the prison upon deposition, or

for his temporary removal and production before a court or officer, for the purpose of being orally examined, may be made:

1. By the court itself in which the action or special proceeding is pending, unless it be a justice's court.

2. By a justice of the Supreme Court, or a judge of the superior court of the county where the action or proceeding is pending, if pending before a justice's court or before a judge or other person out of court.

Motion and affidavit

2623. Such order can only be made on the motion of a party, upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality.

Production outside county

2624. If the witness be imprisoned, other than in a State prison in the county where the action or proceeding is pending, his production may be required. In all other cases his examination, when allowed, must be taken upon deposition.

CHAPTER 4. TREATMENT OF PRISONERS

Article 1. Mistreatment of Prisoners

Mistreatment

2650. The person of a prisoner sentenced to imprisonment in the State prison is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if he were not convicted or sentenced.

Punishment

2651. No punishment shall be inflicted except by the order and under the direction of the wardens.

Cruel punishments

2652. It shall be unlawful to use in the prisons, any cruel, corporal or unusual punishment or to inflict any treatment or allow any lack of care whatever which would injure or impair the health of the prisoner, inmate or person confined; and punishment by the use of the strait-jacket, gag, thumb-screw, shower-bath or the tricing up of prisoners, inmates or persons confined is hereby prohibited. Any person who violates the provisions of this section or who aids, abets, or attempts in any way to contribute to the violation of this section shall be guilty of a misdemeanor.

Penalty for inhuman treatment

2653. Every person who is guilty of wilful inhumanity or oppression toward any prisoner in a State prison and under his care or in his custody, is punishable by fine not exceeding two thousand dollars ($2,000), and by removal from office.

Mistreatment of idiot, etc

2654. Every person guilty of any harsh, cruel or unkind treatment of, or any neglect of duty towards, any idiot, lunatic, or insane person in a State prison is guilty of a misdemeanor.

Confinement of persons under 16 years of age

2655. No child under the age of 16 years may be placed in any State prison in company with adults convicted of crime, except in the presence of a proper official.

Article 2. Asexualization

Asexualization

2670. Whenever in the opinion of the resident physician of any State prison it will be beneficial and conducive to the

benefit of the physical, mental or moral condition of any recidivist lawfully confined in such State prison, to be asexualized, then such physician shall call in consultation the General Superintendent of State Hospitals and the Secretary of the State Board of Health, and they shall jointly examine into the particulars of the case with the said resident physician, and if in their opinion or the opinion of any two of them, asexualization will be beneficial to such recidivist, they may perform the same; provided, that such operation shall not be performed unless the said recidivist has been committed to a State prison in this or some other State or country, at least two times for rape, assault with intent to commit rape, or seduction, or at least three times for any other crime or crimes, and shall have given evidence while an inmate of a State prison in this State that he is a moral or sexual degenerate or pervert; and provided further, that in the case of convicts sentenced to State prison for life, who exhibit continued evidence of moral and sexual depravity, the right to asexualize them, as provided in this section, shall apply whether they shall have been inmates of a State prison in this or any other country or State more than one time or not; provided further, that nothing in this section shall apply to or refer to any voluntary patient confined or kept in any State hospital of this State.

Article 3. Disposition of Insane Prisoners

Psychopathic hospital

2680. The board of directors shall establish, in a suitable building within the walls of one or more of the State prisons, a fully equipped and adequately staffed psychopathic hospital for the reception, care, and treatment of insane prisoners.

Examination and certificate

2681. When the warden of any prison at which such a psychopathic hospital is located, and such other officers as may be designated by the board to act with him in such cases, shall be of opinion that any prisoner confined therein is insane, they shall make proper examination, and if they remain of the opinion that the person is insane, the warden shall forthwith send the prisoner to the psychopathic hospital for care and treatment and shall make and file in the records of the prison a certificate that the prisoner has, on a date specified, been found insane and has been placed in the psychopathic hospital. The warden shall, also, send to the board a copy of the certificate, and thereafter a statement as to his subsequent acts regarding the insane prisoner.

Transmittal to psychopathic hospital

2682. When the warden of a State prison other than one at which a psychopathic hospital is located, and such other officers as may be designated by the board to act with him in such cases, shall be of opinion that any prisoner confined therein is insane, they shall make proper examination, and if they remain of the opinion that the person is insane, the warden shall certify the fact to the warden of any prison in

which such a psychopathic hospital is located, and shall forthwith send the prisoner to such psychopathic hospital for care and treatment. The warden shall, also, send to the board a copy of the certificate, and thereafter a statement of his subsequent acts regarding the insane prisoner. The warden of the prison at which the psychopathic hospital is located shall receive the insane prisoner, confine him in the psychopathic hospital, and there keep him until cured or transferred to a State hospital for the insane as hereinafter provided.

Recovery of prisoner

2683. The warden shall, upon receipt of the insane prisoner, notify the board of the fact giving name, date, and where from, and from whose hands received. When, in the opinion of the officer in charge of such psychopathic hospital, the insane prisoner is cured of insanity, the officer shall notify the warden, who shall immediately notify the board thereof, and shall also notify the warden of the prison from whence he was received, who shall immediately send for, take, and receive the prisoner back into the prison from which he was sent to such psychopathic hospital, the time passed in such psychopathic hospital counting as a part of the prisoner's sentence.

Transmittal to State hospital

2684. If, in the opinion of the warden of any State prison, any insane person confined therein may receive better treatment at any one of the State hospitals for the insane, the warden shall certify that fact to the superintendent of one of such hospitals, and he shall forthwith send the prisoner to such State hospital for care and treatment. The superintendent of the hospital shall receive the prisoner and keep him until he is cured. The warden shall send the board a copy of the certificate to the superintendent of the State hospital and thereafter a statement of his subsequent action regarding the prisoner therein referred to.

Recovery of prisoner

2685. Upon the receipt of a prisoner, as herein provided, the superintendent of the State hospital shall notify the board of that fact, giving his name, the date, the prison from which he was received, and from whose hands he was received. When in the opinion of the superintendent the insane prisoner is cured of insanity, he shall immediately notify the board of that fact and he shall also notify the warden of the prison from which the prisoner was received, who shall immediately send for, take and receive the prisoner back into the prison. The time passed at the State hospital shall count as part of the prisoner's sentence. If at the expiration of the insane prisoner's sentence he is still in the State hospital, he shall be allowed to remain there until discharged as cured.

CHAPTER 5. EMPLOYMENT OF PRISONERS AND SALE OF PRISON-MADE PRODUCTS

See also Stats 1941, p 2470

Article 1. Employment of Prisoners

See also Stats. 1941, p 2470

Hours of labor

2700. The board shall require of every able-bodied prisoner imprisoned in any State prison as many hours of faithful

labor in each day and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the board.

Articles to be produced or manufactured

2701. The board is hereby authorized and empowered to cause the prisoners in the State prisons of this State to be employed in the production and manufacture of such articles, materials, and supplies as are now, or may hereafter be, needed by the State, or any political subdivision thereof, or that may be needed for any State, county, district, municipal, school, or other public use, or that may be needed by any public institution of the State or of any political subdivision thereof.

Determination of articles

2702. The board, in conjunction with the State Board of Examiners, and subject to the approval of the Governor shall, from time to time, determine the kind, quality, and quantity, of the several articles, materials, and supplies to be thus produced and manufactured.

Road work in vicinity of prisons

2703. The board is hereby authorized and directed to employ at least 20 prisoners daily during fair weather in the construction and repair of such public roads as have been or shall hereafter be laid out or opened by the Board of Supervisors of Marin County, and which extend from San Quentin State Prison, or the grounds surrounding the same, to Point Tiburon, San Rafael, and all railroad stations in Marin County which lie in the neighborhood of the said State prison; providing, that no work shall be done by such prisoners beyond a point six miles distant from said prison buildings; and also to employ at least 20 prisoners under like conditions on roads extending from the State Prison at Folsom in Sacramento County or connecting therewith; providing, that no work shall be done by such prisoners beyond a point six miles distant from said prison buildings.

Arrangement with Highway Commission or supervisors

2704. When any public road is a principal means of access to any State prison the board, with the consent of the Board of Control, may arrange with the State Highway Commission or the board of supervisors of the county in which said road is located for the employment of the inmates of such institution in the improvement or maintenance of said road, under supervision of the officers of the institution and without compensation to the inmates so employed.

Jute manufacturing at Folsom

2705. At Folsom after the completion of the dam and canal the board may commence the erection of structures for jute manufacturing purposes. The board is hereby authorized to purchase from time to time such tools, machinery, and materials, and to direct the employment of such skilled foremen as may be necessary to carry out the provisions of this section, and to dispose of the articles manufactured, and not needed by the State, for cash, at private sale in such manner as provided by law.

Supervision

2706. All prisoners shall be employed under supervision of the wardens respectively, and such skilled foremen as they may deem necessary in the performance of work for the State.

or in the manufacture of any article or articles for the State, or the manufacture of which is sanctioned by law.

Machinery and equipment

2707. The board is further authorized and empowered to purchase, install, and equip, such machinery, tools, supplies, materials, and equipment as may be necessary to carry out the provisions of this article.

Prohibition Articles for personal use

2708. No inmate of any State prison shall be employed in the manufacture or production, of any article, intended for the private and personal use of any State officer, or officer, or employee, of any State institution; provided, that this act shall not prevent repairing of any kind nor the employment of such inmates in household or domestic work connected with such prison.

Articles for public use

2709. All articles, materials, and supplies, produced or manufactured under the provisions of this chapter shall be solely and exclusively for public use and no article, material, or supplies, produced or manufactured under the provisions of this chapter shall ever be sold, supplied, furnished, exchanged, or given away, for any private use or profit whatever.

Employment at Southern California Prison See also Stats 1941, p 2964

2711. The board shall cause to be included in the original plans and specifications of the Southern California Prison adequate provision for the employment and useful occupation of the maximum number of men capable of being confined in the institution, as planned. Such employment shall be designed to reduce the cost of maintaining the institution to the lowest figure consistent with good management and with the beneficial training, education and discipline of the prisoners confined therein.

Allowance of earnings See also Stats 1941, p 2964

2712 The board may allow to prisoners at the Southern California Prison such proportion of their earnings above the cost of their maintenance as the board may deem proper.

Article 2. Operation of Jute Mill

Purchase of California-grown hemp

2721. The board is authorized and empowered to purchase California-grown hemp, to be used in the manufacture of grain bags, and to pay for the same from the revolving fund created by law for the purchase of jute.

Sale price

2723. The price for which grain bags made at said prison from hemp shall be sold shall be fixed by the board in the same manner as the price of bags made from jute is now by law fixed by said board.

Jute goods not for resale affidavit

2724. All orders for jute goods filed with the board between the first day of October of each year and the first day of April of the following year must be accompanied by an affidavit, subscribed and sworn to before an officer authorized to administer oaths, setting forth the name, residence, post-office address and occupation of the applicant; that the amount of goods specified in the order is for the applicant's individual and personal use, and that he has not contracted

for or agreed to contract for the sale of any portion thereof to any person or persons whatever.

Record of sale of jute bags

2725. The board shall keep at San Quentin Prison a book open at all times to public inspection in which shall be entered the number of jute bags, the amount of jute goods manufactured each year, and also the name of each purchaser, his post-office address, his occupation, number of jute bags or jute goods purchased by him, and the price paid by him therefor, and the date of sale and the place to which shipment is made.

Purchase by farmers' cooperative

2726. Any nonprofit cooperative organization of farmers, may, through its duly elected, constituted and acting officers, make application to the board for jute bags on behalf of the members of such cooperative farmers' organization. The application shall state the names and addresses of the members desiring bags and the number desired by each. The application must contain or be accompanied by a certificate of the county farm adviser or the county agricultural commissioner to the effect that the number of bags required for each member is reasonably necessary for such member. Said application shall be accompanied by an affidavit verifying the contents of the application, made on behalf of said nonprofit cooperative organization by the president, secretary or managing head thereof; provided further, however, that said jute bags must be used by the said nonprofit cooperative organization for the exclusive use of its members and said nonprofit cooperative organization shall not sell, assign, deliver or transfer said jute bags to any other person or persons, other than its own members, in compliance with the terms and provisions of this section.

Rules and regulations

2727. The board may adopt rules and regulations for the enforcement of the provisions of the preceding five sections.

Insurance

2728. The board is hereby authorized and empowered to insure from time to time against fire or marine loss, all jute and jute goods owned by the State, in such amounts as it may deem proper. The cost of such insurance shall be paid from the revolving fund for the purchase of jute.

Article 3. Operation of Rock-Crushing Plants

Operation of rock crushing plants

2740. The Governor and the board shall, when satisfied that 50,000 cubic yards of prepared road or highway metal, as hereinafter described, will be taken for highway purposes, purchase, establish, and operate at one or both of the State prisons, a rock- or stone-crushing plant, to be operated by prison labor and by the application of power under control of the board and with such free labor as is necessary for superintendence and direction, to crush rock or stone into road metal for highway purposes, of different and necessary degrees of fineness; provided, that the authority and direction hereby and herein conferred and given, shall not be exercised or employed until the Governor and the board are satisfied that transportation can be had for such highway metal

for highway purposes at just and reasonable rates, and so as to justify the setting up and operation herein provided for of said plant.

Leasing railroad cars

2741. The board is hereby authorized to lease railroad cars with equipment suitable for the rapid and economical handling and delivery of highway material prepared as aforesaid, whenever in its judgment the interests of the people of the State will be conserved thereby in the matter of highway construction by the use of such highway metal so produced, as in this article provided. The cost of such leasing shall in such case be carried into the cost of production described in this article.

Cost of producing Computation

2742. When such plant is set up and operated there shall be taken into account in ascertaining the cost of producing highway metal therefrom, only the cost of necessary explosives, oil, fuel, tools, and machinery exclusive of the plant itself, repairs, superintendence, and direction, and the preparation and maintenance of beds, boxes, crates, or other unloading devices for carriage and delivery from cars of said highway metal.

Sale price

2743. To said cost of production so ascertained there shall be added for and to each and every cubic yard of highway metal so produced, 10 per cent, and the result or product of such addition shall be the sale price of such metal delivered from the plant free on board of the cars or other vehicles of transportation.

Reduction of price

2744. Said 10 per cent shall, as realized, and not less frequently than semiannually, be paid into the State Treasury, until there shall have been paid in the full sum of twenty-five thousand dollars ($25,000), and thereafter said percentage shall be reduced to 5 per cent, and the same, as realized, shall be paid into the fund for the support of the State prisons.

Article 4. Employment at Road Camps

Employment on road work

2760. The Department of Public Works of the State of California may employ or cause to be employed, prisoners confined in the State prisons in the construction, improvement and maintenance of any State highway.

Requisition of prisoners

2761. Upon the requisition of said department, the board shall send to the place and at the time designated the number of prisoners requisitioned or such number thereof as are in its judgment available.

Payment

2762. Said department shall fix the rate to be expended for such labor at not to exceed two dollars and fifty cents ($2.50) per day for each day which each prisoner actually performs labor upon the construction, improvement or maintenance of a State highway, and shall monthly set aside funds to pay for such labor. Said department shall set up an account for each prisoner which shall be credited monthly with an amount computed by multiplying the daily rate by the number of days such prisoner actually performed labor during the month.

See also Stats. 1941, p. 2119

Such account shall be debited monthly with such prisoner's expenses for transportation; his drawings from the commissary, such as clothing and toilet articles; and his proportionate share of all expenses for the proper maintenance of the road camp, including the expenses for food, medicine, medical attendance, clerical help, and the pro rata cost of reward for capturing escapes from the road camp, which award is hereby fixed at the sum of two hundred dollars ($200) for the capture of each escaped prisoner, payable to any individual or peace officer. No prisoner's account shall be credited with more than seventy-five cents ($0.75) over and above the debits to his account for any day's labor performed by him.

Additional credit

The Department of Public Works, in computing the debits to be made to the prisoner's accounts, may add not to exceed 10 per cent on all items except transportation and awards for escapes. When any prisoner escapes the Department of Public Works, after debiting the accounts of the prisoners in the camp from which the escape was made, shall set aside the sum of two hundred dollars ($200), and at any time within four years after said escape shall pay the award to the person entitled thereto. No such award can be claimed or paid more than four years after the escape to which it relates.

Debits Escape

Payment to prisoner's dependents

2763. The Department of Public Works shall monthly pay two-thirds of the net credit to each prisoner's account to his dependents who are receiving State aid. If the prisoner's dependents are not receiving State aid, such prisoner, by written order signed by him, may direct the department to pay not to exceed two-thirds of his net credit to such dependents as he designates. If a prisoner is discharged from prison while he is in a road camp, all sums to his credit shall be paid to him on his release. All sums to the credit of any prisoner who is for any reason returned to the prison or is paroled from the road camp shall be paid to the warden of the prison, and by him shall be paid to the prisoner at such times and in such amounts as the board prescribes.

See also Stats 1941, p 2120

Surplus

2764. Any surplus resulting from the employment of prisoners, including all sums heretofore or hereafter set aside for awards for escapes and unclaimed for four years or more, shall be retained by the department and expended for prisoner labor or the welfare and education of prisoners in road camps.

Declaration of intent

2766. This article is not intended to restore, in whole or in part, the civil rights of any prisoner used hereunder and said article shall not be so construed. No prisoner so used on the State highway or roads shall be considered as an employee or to be employed by the State Highway Commission, nor shall any such prisoner come within any of the provisions of the Workmen's Compensation, Insurance and Safety Act of 1917 or be entitled to any benefits thereunder whether on behalf of himself or that of any other person.

Prohibitions: Driving motor vehicle

2767. No prisoner while engaged in such construction, maintenance and improvement of a State highway shall drive

a motor truck or other vehicle or wagon outside of the camp limits of the prison road camp.

Use as skilled labor

2768. Said prisoners when employed under the provisions of this article shall not be used for the purpose of building any bridge or structure of like character which requires the employment of skilled labor.

Expenses

2769. The expenses of transportation of labor, necessary guarding, commissariat, camps, and all other expenses incidental to such work shall be borne by the respective funds provided for such State road or highway in the manner provided by law, subject, however, to the provisions of Sections 2760, 2761, 2762, 2763, 2764 and 2765 of this code.

Supervision

2770. The State Highway Commission shall designate and supervise all road work done under the provisions of this article. It shall provide, supervise and maintain necessary camps and commissariat.

Jurisdiction

2771. The board shall have full jurisdiction at all times over the discipline and control of the prisoners employed on said roads.

Interference with prisoners, etc

2772. Any person who, without authority, interferes with or in any way interrupts the work of any prisoners employed pursuant to this article, and any person not authorized by law, who gives or attempts to give to any prisoner so employed any opium, cocaine or other narcotics or any intoxicating liquors of any kind whatever, or firearms, weapons or explosives of any kind, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State prison for a term of not less than one year nor more than five years and shall be disqualified from holding any State office or position in the employ of this State. Any person who interferes with the discipline or good conduct of any prisoner employed pursuant to this article, while such prisoner is in the confines or limits of the State prison road camp is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term not more than six months or by a fine of not more than two hundred dollars ($200) or by both such fine and imprisonment. Any peace officer or any officer or guard of any State prison or any superintendent of such road work, having in charge the prisoners employed upon such highways or State roads, may arrest without a warrant any person violating any provisions of this article.

Penalty

Authority to transfer funds

2773. The board with the approval of the Department of Finance is hereby authorized to transfer to the control of the California Highway Commission an amount or amounts of money, not to exceed one hundred thousand dollars ($100,000), which may be available from the appropriation for the support of San Quentin Prison or Folsom Prison, by reason of the transfer of inmates from such prisons to prison road camps, to be used by the said California Highway Commission for the purpose of paying the compensation of prisoners in accordance with the provisions of this article.

Transfer

2774. Upon receipt of a certified copy of a resolution by the board with the approval of the Department of Finance, authorizing such transfer, the State Controller shall transfer to the control of the California Highway Commission the amount or amounts prescribed in such resolution, which shall be available for the purposes mentioned or referred to in Section 2773 of this code.

See also Stats. 1941, p 2471

CHAPTER 7. SALE OF PRISON-MADE GOODS

Article 1. Sale of California Prison-made Goods

Marking prison-made goods

See also Stats 1941, p 2964

2870. Each and every article manufactured under the provisions of Section 2701 and Section 2702 of this code shall have plainly marked or stamped thereon either the words "San Quentin Prison" or the words "Folsom Prison," or "Southern California Prison," according as such article may be manufactured at one or the other of said prisons.

Determination of price

2871. The board shall from time to time, determine the price at which such articles, materials, and supplies, shall be sold, which price shall be as near the prevailing market price as possible.

System of accounts

2872 The board shall establish and enforce a method and system of payments and accounts in connection with said purchases, sales, and deliveries.

Restrictions of purchases of prison-made goods

2873. All articles, materials and supplies, herein authorized to be produced or manufactured under Sections 2701 and 2702 shall be purchased from the State prisons of this State, by the agencies therein mentioned and at the prices fixed in the manner herein provided, except such articles, materials, and supplies as the State prisons are unable to furnish; provided, however, that on and after January 19, 1934, no goods, wares or merchandise, manufactured, produced or mined, wholly or in part, by prisoners, except prisoners on parole or probation, or in any penal and/or reformatory institution, and except commodities manufactured in Federal penal and correctional institutions used by the Federal Government, shall be purchased or used by this State or any agency thereof, or by any county, city, district, or political subdivision, or by any officer, employee or agency thereof, except such as may be manufactured, produced, or mined, wholly or in part, in the State prisons of this State.

Scope of article

2874. Nothing in this article contained shall repeal, or in any manner affect, any of the provisions of law relating to the purchase, manufacture, or sale of jute or jute products; nor shall anything contained in this article repeal or in any manner affect, any of the provisions of law relating to the crushing of rock or stone or the sale thereof.

Products of Southern California Prison

See also Stats 1941, p 2964

2875. Products of the Southern California Prison shall so far as possible be supplied for State, county, municipal, school or other public use, and the prison shall collect or be credited with the fair market price therefor. No manufactured product

shall be supplied, sold, exchanged or given away for private use or profit.

Article 2. Sale of Prison Goods Made Outside California

Certain prison-made goods subject to State law

2880. To the extent and in so far as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress, and particularly under the provisions of the act of Congress approved January 19, 1929, and entitled "An act to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases," all goods, wares, and merchandise manufactured, produced or mined wholly or in part by prisoners (except prisoners on parole or probation) or manufactured, produced or mined wholly or in part in any State prison, transported into the State of California and remaining herein for use, consumption, sale or storage, shall upon arrival and delivery in this State be subject to the operation and effect of the laws of this State to the same extent and in the same manner as though such commodities had been manufactured, produced or mined in this State by prisoners or in any State prison, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

U S Code, Title 49, Sec 60

Labeling of "convict-made" goods

2881. No person, firm, partnership, association or corporation within this State shall sell or offer, trade, consign, keep, expose or display for sale any goods, wares or merchandise manufactured, assembled, produced or mined in whole or in part by prisoners in any penitentiary, prison, reformatory or other establishment in which prison labor is employed, unless such prison-made goods, wares, or merchandise are plainly, legibly, conspicuously and indelibly branded, molded, embossed, stenciled or labeled with the words "Convict-made" in plain, bold letters followed by the name of such penitentiary, prison, reformatory or other establishment in which the goods, wares or merchandise were made.

Alternative provision: Label may be attached to goods

2882. It is hereby specifically provided that any article of prison-made goods, wares or merchandise, as described in the preceding section, may be labeled by the attachment of a label not smaller than four inches long and two inches wide, upon which is printed the words "Convict-made" in plain, bold letters followed by the name of such penitentiary, prison, reformatory, or other establishment in which the goods, wares or merchandise were made; provided, that in the judgment of officials charged with the enforcement of this article such prison-made goods, wares or merchandise can not be legibly, conspicuously and indelibly branded, molded, embossed, stenciled or labeled as provided in said preceding section.

Approval of label

2883. The size and type of such stenciling or label must be consistent with the size and character of the merchandise to which such stenciling or label applies. The size, type and character of such stenciling or label will be subject to the

approval of the officials of the State of California responsible for the enforcement of this article.

Disinfection of goods

2884. No person, firm, partnership, association or corporation within this State shall sell or offer, trade, consign, keep, expose or display for sale any goods, wares or merchandise manufactured, assembled, produced or mined in whole or in part by prisoners in any penitentiary, prison, reformatory or other establishment in which prison labor is employed, unless such prison-made goods, wares or merchandise have first been disinfected or sterilized in a plant located in California and licensed by the State Department of Health in accordance with any regulations of the State Board of Public Health now in force or which later may be made effective.

Certificate

It is hereby further provided that certificate of such disinfection or sterilization must accompany, be stamped on or attached to such goods, wares or merchandise in a manner or form prescribed by the officials of the State of California responsible for the enforcement of this article.

Notice to public Convict-made goods on sale

2885. No person, firm, partnership, association, or corporation within this State shall sell or offer, trade, consign, keep, expose or display for sale any goods, wares or merchandise manufactured, assembled, produced or mined in whole or in part by the prisoners in any penitentiary, prison, reformatory or other establishment in which prison labor is employed, unless such person, firm, partnership, association or corporation shall keep permanently and conspicuously displayed within the same inclosure and within 10 feet of the place where said prison-made goods, wares or merchandise are kept, exposed, displayed or offered for sale a suitable sign, at least 36 inches wide and 10 inches high, on which appear in legible letters not less than two inches high the following words: "Convict-made products on sale here."

Advertising sale of convict-made goods

2886. Any person, firm, partnership, association or corporation within this State, when advertising in any periodical or publication any goods, wares or merchandise made in whole or in part by prisoners in any penitentiary, prison, reformatory or other establishment in which prison labor is employed, must insert the words "Convict-made," in such advertisement in type or other letters conforming in size or shape to those used in the text of said periodical or publication.

Offense and penalty

2887. Any person, firm, partnership, association or corporation violating the provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500) for each offense, or by imprisonment in the county jail for not less than 30 days or more than six months or by both such fine and imprisonment.

Access to premises and records

2888. The State Superintendent of Weights and Measures or any deputy or inspector authorized by him, shall have access to any premises or any records held by any person, firm, partnership, association or corporation containing any

information pertaining to the prison-made goods, wares or merchandise referred to herein.

Enforcement

2889. The enforcement of the provisions of this article shall be under the supervision of the State Superintendent of Weights and Measures.

Exception

2890. The provisions of this article shall not apply to any goods, wares or merchandise manufactured in any penitentiary or prison of this State.

Unauthorized sales unlawful

2891. No person or corporation may sell, expose for sale or offer for sale any goods, wares or merchandise manufactured, produced or mined wholly or in part by prisoners (except prisoners on parole or probation) or manufactured, produced or mined wholly or in part in any State prison the sale of which is not specifically sanctioned by law; and any person or corporation violating any provision of this section is guilty of a misdemeanor.

CHAPTER 6. EXECUTION OF SENTENCES OF IMPRISONMENT

See also Stats. 1941, p. 2471

Article 1. Commencement of Term

When term of imprisonment commences, etc

2900. The term of imprisonment fixed by the judgment in a criminal action commences to run only upon the actual delivery of the defendant at the place of imprisonment, and if thereafter, during such term, the defendant by any legal means is temporarily released from such imprisonment and subsequently returned thereto, the time during which he was at large must not be computed as part of such term.

Warden to receive prisoners

2901. It is hereby made the duty of the wardens of the State prisons to receive persons sentenced to imprisonment in a State prison, and such persons shall be imprisoned until duly released according to law.

Federal prisoners

2902. All criminals sentenced to the State prisons by the authority of the United States shall be received and kept according to the sentence of the court by which they were tried, and the prisoners so confined shall be subject in all respects to discipline and treatment as though committed under the laws of this State.

Article 2. Credits on Term of Imprisonment

Reductions from terms Time credits

2920. Every prisoner who has committed no infraction of the rules or regulations of the prison, or the laws of the State, and who performs in a faithful, diligent, industrious, orderly and peaceable manner the work, duties and tasks assigned to him to the satisfaction of the prison officials, and in whose behalf the warden of the prison shall file a report certifying that his conduct and work have been satisfactory and recommending allowance of time credits to him, shall upon, but not until, the adoption of such recommendation by the board, be allowed time credit reductions from his term of confinement (instead of and in lieu of such time credits

as were heretofore allowed by law) a deduction of two months in each of the first two years, four months in each of the next two years, and five months in each of the remaining years of said term, and correspondingly for any part of the year, where such term of confinement is for more or less than a year. The mode of reckoning credits, recommended by the warden and allowed by the board, shall be as shown by the following table:

Table

Number of years of sentence	Good time that may be earned	Total good time that may be earned	Time to be served if full credits earned allowed
1st year	2 months	2 months	10 months
2d year	2 months	4 months	1 year 8 months
3d year	4 months	8 months	2 years 4 months
4th year	4 months	1 year	3 years
5th year	5 months	1 year 5 months	3 years 7 months
6th year	5 months	1 year 10 months	4 years 2 months
7th year	5 months	2 years 3 months	4 years 9 months
8th year	5 months	2 years 8 months	5 years 4 months
9th year	5 months	3 years 1 month	5 years 11 months
10th year	5 months	3 years 6 months	6 years 6 months

And so on, through as many years as may be the time of confinement. The phrase "term of confinement" as used herein shall not in any case be construed to include sentences for crimes committed while under commitment to a State prison but in all such cases the credits shall be computed on the separate sentence resulting from such conviction.

Extra good time allowance

2921. The board may allow, in addition to time credits, an extra good time allowance for meritorious conduct and industry.

Additional credits of prisoners employed in road camps

2922. The board is hereby empowered and directed to adopt a special rule applicable solely to prisoners employed under Article 4 of Chapter 5 of this title whereby prisoners so employed shall be granted additional good time allowance in addition to the compensation therein provided, conditioned upon their loyal obedience and efficient cooperation with the State in the construction, improvement and maintenance of the State Highway System or State roads and in the maintaining of discipline and good conduct in the prison road camps, but such additional good time allowance shall not exceed one day for each two calendar days that the prisoner is absent from the prison.

Forfeiture of credits

2923. If any prisoner shall assault any keeper, guard, foreman, officer, or any other person, or threaten or endanger the person or life of anyone, or violate or disregard any rule or regulation of the prison or of the State Board of Prison Directors or of the Board of Prison Terms and Paroles, or neglect or refuse to do the work to which he is assigned, or be guilty of any misconduct, the board may declare a forfeiture of any or all time credits theretofore earned by or allowed to him

before the commission of such offense and/or all time credits which he may thereafter earn, or the board may forfeit such part of such time credits as they may determine; such forfeitures, however, shall be made only by the board after due proof of the offense and notice to the offender unless such offender be outside the walls of the prison as an escape and fugitive from justice, and the board may restore time credits forfeited for good cause shown.

Hearing

2924. Such forfeiture of credits shall not be had except upon a hearing upon the question of such violation and an adjudication by the board that such prisoner was guilty thereof, which adjudication shall be final. At such hearing such prisoner, unless outside the walls of the prison as an escape and a fugitive from justice, shall be present and entitled to be heard and may present evidence and witnesses in his behalf.

See also Stats. 1941, p. 2253

Cause of revocation

2925. The cause for revocation of credits must be stated in the order forfeiting the credits.

Application of article

2926. The provisions of this article are to apply to all prisoners now serving sentence in the State prison, to the end that at all times the same provisions relating to credits shall apply to all the inmates thereof.

Article 3. Discharge Upon Completion of Term

Time of discharge

2940. Where the Board of Prison Terms and Paroles is authorized to fix and refix the term of imprisonment of a prisoner, such prisoner shall be discharged from custody upon the completion of said term so fixed or refixed and if the Board of Prison Terms and Paroles fails to fix the term of imprisonment the prisoner shall be discharged upon the completion of the maximum punishment provided by law for the offense for which the prisoner was convicted.

Same

2941. Where the Board of Prison Terms and Paroles is not authorized to fix or refix the term of imprisonment of a prisoner such prisoner shall be discharged only upon the completion of the specified term fixed by law.

Allowance for time credits

2942. The discharge date in the two preceding sections shall be shortened to the extent of any time credits allowed and not forfeited.

Entitled to money, etc., upon discharge

2943. Each prisoner, when he leaves the prison, shall be supplied with the money taken from him when he entered, and which he has not disposed of, together with any sum which may have been earned by him for his own account, allowed to him by the State for good conduct or diligent labor, or may have been presented to him from any source; and, in case the prisoner has not funds sufficient for present purposes, he shall be furnished with ten dollars ($10) in money, a suit of clothes, costing not more than ten dollars ($10), and his fare by the cheapest route to the place where sentenced from, if the prisoner desires to return there, or to any other place of the same cost for transportation; and shall be entitled, if he so

elect, to immunity from having his hair cut, or from being shaved, for three calendar months immediately prior to his discharge. It shall not be lawful for the officers of the prison to furnish, or permit to be furnished, to anyone, for publication, the name of any prisoner about to be discharged.

Additional allowance

2944. The board shall have power to give for meritorious service to any prisoner discharged, or about to be discharged, a sum in addition to that already allowed, not exceeding ten dollars ($10).

Assistance to discharged prisoners

2945. The board shall have the power and authority to provide for assisting discharged prisoners and to secure employment for the same and for that purpose it may employ necessary officers and employees, may purchase tools, and give any other assistance that, in its judgment, it deems proper for the purpose of carrying out the objects and spirit of this section.

Vouchers

2946. The board may draw moneys for the purposes of the preceding section in the amount of one thousand dollars ($1,000), without submitting vouchers thereon, which amount shall, from time to time, be replenished by demand upon any appropriation, made for the support of the board, equal to the amount of the expenditures represented by vouchers submitted to the Department of Finance and filed with the Controller.

Exposure or threat to expose discharged person

2947. Any person who knowingly and wilfully communicates to another, either orally or in writing, any statement concerning any person then or theretofore convicted of a felony, and then finally discharged, and which communication is made with the purpose and intent to deprive said person so convicted of employment, or to prevent him from procuring the same, or with the purpose and intent to extort from him any money or article of value; and any person who threatens to make any said communication with the purpose and intent to extort money or any article of value from said person so convicted of a felony is guilty of a misdemeanor.

Article 4. Disposition of Insane Prisoners Upon Discharge

Discharge of insane prisoner

2960. Before discharging any prisoner who may be insane at the time of the expiration of his sentence, the warden shall first give notice, in writing, to a judge of the superior court of the county in which the State prison may be located, over which he has control, of the fact of such insanity; whereupon said court shall forthwith make an order, and deliver the same to the sheriff of said county, commanding him to remove such insane prisoner and take him before said court.

Return to court

2961. Upon the receipt of such order, it shall be the duty of said sheriff, to whom it is directed, to execute, and return the same forthwith to the court by whom it was issued. The sheriff shall receive the same compensation as for transferring a prisoner to the State prison, and to be paid in the same manner.

Same

2962. If any judge, after having been notified by the warden, shall neglect to cause such order to be made, as herein provided, or any such sheriff shall neglect to remove such insane prisoner, as required by the provisions of this article, it shall be the duty of the warden to cause such insane prisoner to be removed before a superior court of a county in which the State prison is located, in charge of an officer of the prison, or other suitable person, for the purpose of examination; and the cost of such removal shall be paid out of the State Treasury, in the same manner as when removed by the sheriff, as in this article provided.

Examination and order

2963. The said court shall cause proper examination to be made by medical experts, and if it shall satisfactorily appear that such prisoner is insane, said court shall order him to be confined in one of the State hospitals for the insane.

CHAPTER 7. LENGTH OF TERM OF IMPRISONMENT AND PAROLES

See also Stats 1941, p 2471

Article 1. Board of Prison Terms and Paroles

Board of Prison Terms and Paroles

3000. There is, and shall continue to be, in the State Department of Penology, a division known as the Division of Prison Terms and Paroles. This division is and shall be under the control of a governing body, which is known as the Board of Prison Terms and Paroles, consisting of a chairman and two other members, each of whom shall be appointed by the Governor. The terms of the members of the board in office when this chapter takes effect shall expire as follows: One member, January 15, 1942; one member January 15, 1943; and one member January 15, 1945. With the exception of the members in office when this chapter takes effect, the term of office of members of the board shall be four years, and vacancies occurring under the provisions of this section shall be filled by appointment for the unexpired term.

"Board"

3001. As used in this chapter the word "board" shall mean the Board of Prison Terms and Paroles.

Meetings

3002. The board shall meet at each of the State prisons at such times as may be necessary for a full and complete study of the cases of all prisoners whose terms of imprisonment are to be determined by it or whose applications for parole come before it. Other times and places of meeting may also be fixed by the board.

Quorum

3003. A majority of the board shall constitute a quorum for the transaction of business and no order of the board shall be valid unless concurred in by at least two of its members.

Rules and regulations

3004. The board shall make all necessary rules and regulations to carry out the provisions of this chapter not inconsistent with the provisions hereof and provide the forms of all documents necessary therefor.

Salaries

3005. The chairman shall receive an annual salary of six thousand dollars ($6,000) and each of the other members of

the board shall receive an annual salary of five thousand dollars ($5,000). Each of the members of the board shall receive his actual necessary traveling expenses incurred in the performance of his duties thereunder. The board shall have power to employ, and to fix, with the approval of the Department of Finance, the compensation of and to prescribe the duties of a secretary and such other officers, employees and assistants as may be necessary.

Annual report

3006. On or before the first day of December in each year, the board shall transmit to the Governor a report of its work for the preceding fiscal year, in which shall be given the number of prisoners whose terms of imprisonment have been fixed, the number of paroles granted and the number of prisoners who have been released on parole, and such other information as the board may determine or the Governor require.

Article 2. Determining and Redetermining Term of Imprisonment

Determination of term

3020. In the case of all persons heretofore or hereafter sentenced under the provisions of Section 1168 of this code, the board may determine and redetermine, after the expiration of six months, from and after the actual commencement of imprisonment, what length of time, if any, such person shall be imprisoned, unless the sentence be sooner terminated by commutation or pardon by the Governor of the State.

Cumulative and consecutive sentences

3021. When a prisoner has imposed upon him two or more cumulative or consecutive sentences, the board may determine and redetermine after the expiration of six months of his first sentence, what length of time he shall serve on all such cumulative or consecutive sentences.

Notice

3022. At least 30 days before the board shall meet to fix and determine the length of time any prisoner shall be confined, the said board shall send written notice thereof to the judge of the superior court before whom the prisoner was tried and convicted, and to the district attorney and the sheriff of the county from which the prisoner was sentenced.

Term of imprisonment

3023. The term of imprisonment shall not exceed the maximum or be less than the minimum term of imprisonment provided by law for the public offense of which such person was convicted.

Minimum term

3024. The following shall be the minimum term of sentence and imprisonment in certain cases, notwithstanding any other provisions of this code, or any provision of law specifying a lesser sentence:

(a) For a person not previously convicted of a felony, but armed with a deadly weapon either at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, five years;

(b) For a person previously convicted of a felony either in this State or elsewhere, and armed with a deadly weapon,

either at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, 10 years;

(c) For a person previously convicted of a felony either in this State or elsewhere, but not armed with a deadly weapon at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, five years;

(d) For a person convicted at one trial of more than one felony, and upon whom are imposed cumulative or consecutive sentences the aggregate of the minimum terms of which exceed 10 years, 10 years;

(e) Such minimum penalties shall apply only when such possession of a deadly weapon or previous conviction of a felony as above specified has been charged and admitted or found to be true in the manner provided by law and the minimum terms specified in paragraphs (a) and (b) shall not apply in those cases wherein the property stolen or sought to be stolen is an animal or animals and the manner in which such property is taken or attempted to be taken constitutes the crime of theft and the weapon used during the commission thereof is not used or intended to be used against a person or to resist arrest.

"Deadly weapon"

(f) The words "deadly weapon" as used in this section are hereby defined to include any instrument or weapon of the kind commonly known as a blackjack, slung shot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

Application of article

3025. The provisions of this article are to apply to all prisoners now serving sentence in the State prisons, to the end that at all times the same provisions relating to the imprisonment of prisoners shall apply to all the inmates thereof.

Article 3. Paroles

Authority to parole

3040. The board shall have the power to allow prisoners imprisoned in the State prisons to go upon parole outside the prison walls and inclosures.

See also Stats. 1941, p. 1650

Time for determination by board

3041. In any case the matter of parole may be determined by the board at any time after the expiration of six months from and after the actual commencement of such imprisonment.

Notice

3042. At least 30 days before the board shall meet to consider the granting of a parole to any prisoner the board shall send written notice thereof to the judge of the superior court before whom the prisoner was tried and convicted, and to the district attorney and the sheriff of the county from which the prisoner was sentenced.

Cumulative and consecutive sentences

3043. No prisoner who has had imposed upon him two or more cumulative or consecutive sentences may be paroled until he has served at least two calendar years of the aggregate of such cumulative or consecutive sentences.

Prisoner convicted of escape

3044. No prisoner confined in the State prison and no prisoner under sentence to the State prison who is convicted of an escape or an attempt to escape from the prison or the guards may be paroled until he has served at least two calendar years from and after the date of his return to the prison after such conviction.

Prisoner with prior conviction

3045. No prisoner who has served a previous sentence in a State prison in this or any other State or in a Federal penitentiary may be paroled until he has served at least two calendar years.

Life-term er

3046. No prisoner imprisoned under a life sentence may be paroled until he has served at least seven calendar years.

Habitual criminal

3047. Any person imprisoned as an habitual criminal under paragraph (a) of Section 644 shall not be eligible for a release on parole until he shall have served a minimum term of at least 12 years.

Same

3048. Any person imprisoned as an habitual criminal under paragraph (b) of Section 644 shall not be eligible for release on parole.

Minimum term

3049. In all other cases not heretofore provided for no prisoner may be paroled until he has served the minimum term of imprisonment provided by law for the offense of which he was convicted, except that in cases in which the minimum term of imprisonment is more than one year, he may be paroled at any time after the expiration of one-half of the minimum term, with benefit of credits, but in no case shall he be paroled until he has served one calendar year.

Habitual criminal

3050. Any person imprisoned as an habitual criminal who has not been previously twice or three times convicted of any of the felonies mentioned in Section 644 may be released on parole.

Person convicted of petit theft

3051. Any person sentenced to a State prison under Section 667 of this code shall be subject to parole as a first term prisoner.

Rules and regulations

3052. The board shall have power to establish and enforce rules and regulations under which prisoners in State prisons may be allowed to go upon parole outside the prison buildings and inclosures when eligible for parole.

Conditions

3053. The board upon granting any parole to any prisoner may also impose on the parole such conditions as it may deem proper, and shall impose as a condition of the parole, that all or a portion of his credits earned, or to be earned, may be forfeited by order of the State Board of Prison Directors in the event that such prisoner shall break his parole or violate any law of this State or rule or regulation of the prison, or of the State Board of Prison Directors, or of the Board of Prison Terms and Paroles, or any of the conditions of his parole.

Civil rights

3054. The board may permit paroled persons civil rights, other than the right to act as a trustee, or hold public office, or exercise the privilege of an elector, during the term of such parole. The scope or extent of such civil rights shall be determined by such board as, in the judgment of such

board, is for the best interest of society and such paroled person.

Record of order
See also Stats. 1941, p 1798

3055. The board shall, at the time of permitting such civil rights, make a permanent record thereof, and give such paroled person a duly authenticated copy of such order or orders, and such record shall be a public record for the benefit of all persons requiring information in that behalf.

Assistance to paroled prisoners
See also Stats 1941, p 2471

3056. The board shall have the power and authority to provide for assisting paroled prisoners and to secure employment for the same and for that purpose it may employ necessary officers and employees, may purchase tools, and give any other assistance that, in its judgment, it deems proper for the purpose of carrying out the objects and spirit of this section.

Legal custody
See also Stats 1941, p 2471

3057. Prisoners on parole shall remain under the legal custody of the State Board of Prison Directors and shall be subject at any time to be taken back within the inclosure of the prison.

Exposure or threat to expose paroled person

3058 Any person who knowingly and wilfully communicates to another, either orally or in writing, any statement concerning any person then or theretofore convicted of a felony, and then on parole, and which communication is made with the purpose and intent to deprive said person so convicted of employment, or to prevent him from procuring the same, or with the purpose and intent to extort from him any money or article of value; and any person who threatens to make any said communication with the purpose and intent to extort money or any article of value from said person so convicted of a felony, is guilty of a misdemeanor.

Leaving State without permission

3059. If any paroled prisoner shall leave the State without permission of the board he shall be held as an escaped prisoner and arrested as such.

Suspension and revocation of parole

3060. The board shall have full power to suspend, cancel or revoke any parole without notice, and to order returned to prison any prisoner upon parole. The written order of the chairman of the board shall be a sufficient warrant for any peace or prison officer to return to actual custody any conditionally released or paroled prisoner.

Execution of order

3061. It is hereby made the duty of all peace officers to execute any such order in like manner as ordinary criminal process.

Power of Governor
See also Stats 1941, p 2471

3062. The Governor of the State shall have like power to revoke the parole of any prisoner. The written authority of the Governor shall likewise be sufficient to authorize any peace officer to retake and return said prisoner to the State prison. His written order revoking the parole shall have the same force and effect and be executed in like manner as the order of a member of the board.

Cause of suspension or revocation

3063. No parole shall be suspended or revoked without cause, which cause must be stated in the order suspending or revoking the parole.

Effect of suspens on or revocation

3064. From and after the suspension or revocation of the parole of any prisoner and until his return to custody he shall be deemed an escape and fugitive from justice and no part of the time during which he is an escape and fugitive from justice shall be part of his term.

Application of article

3065. The provisions of this article are to apply to all prisoners now serving sentence in the State prisons, to the end that at all times the same provisions relating to sentence, imprisonments and paroles of prisoners shall apply to all the inmates thereof.

TITLE 2. IMPRISONMENT OF FEMALE PRISONERS IN STATE INSTITUTIONS

CHAPTER 1. ESTABLISHMENT OF INSTITUTE FOR WOMEN

"California Institution for Women"

3200. There is and shall continue to be within the State an institution for the punishment, treatment, supervision, custody and care of females convicted of felonies to be known as "The California Institution for Women."

Purpose

3201. The purpose of said institution shall be to provide custody, care, protection, industrial, vocational, and other training, and reformatory help, for women confined therein.

"State prison"

3202. As used in the sections of this Part 3 of the Penal Code providing for penal offenses and punishments therefor, the term "State prison" or "prison" shall refer to and include the California Institution for Women.

CHAPTER 2. ADMINISTRATION OF INSTITUTION

Article 1. Board of Trustees

"Board"

3300. As used in this title the word "board" shall mean the Board of Trustees of the California Institution for Women.

Members

3301. Said institution shall be under the management and control of a board of trustees of five members appointed by the Governor, three of whom shall be women.

Terms

3302. The terms of office of the members of the board shall be four years and they shall hold office until the appointment and qualification of their successors.

Vacancies

3303. Vacancies occurring under the provisions of this article shall be filled by appointment for the unexpired term.

Oath

3304. Before entering upon the discharge of their duties, the trustees shall take an oath, in writing, to faithfully discharge the same.

Expenses

3305. The trustees shall be entitled to their reasonable expenses, including traveling expenses, incurred in the discharge of their duties.

Division of Women's Institutions

3306. The board shall be and constitute the Division of Women's Institutions within the Department of Penology of the State of California. The division hereby created shall be administered by said board of trustees, and the chairman of said board, who shall also be known as the chief of the division.

Article 2. Powers and Duties

Duties

3320. It shall be the duty of said board:

Organization

(a) To organize itself, adopt rules for the holding of its meetings, the transaction of its business, and for the administration and conduct of the institution;

Buildings

(b) To construct and equip in connection with or appurtenant to the site procured or appropriated, buildings and improvements necessary for the accomplishment by said institution of the purposes for which it is established. Said board is authorized, if it deems it advisable, pending the construction of permanent buildings and improvements, to construct and equip temporary accommodations, and to commence and carry on the work of the institution;

Supervision and administration

(c) To conduct, supervise and administer the institution for the purposes for which it was established, together with the right to possess, control and administer any and all property given or appropriated to or for the benefit of said institution, either by way of endowment, public or private, or otherwise;

Superintendent

(d) Said board shall employ a skilled superintendent, who shall be a woman, and who shall reside at, and have immediate charge and management of the institution, subject to the control of said board. Said board shall authorize the employment of such other assistants, officers, including a parole officer to supervise female inmates upon parole, and other employees, as may be necessary.

Assistants

Bond

3321. The superintendent shall give a bond to the State in such form as may be prescribed by said board, but not less than ten thousand dollars ($10,000), conditioned upon the faithful discharge by her of her duties.

Women employees

3322. All regularly employed assistants, officers and employees whose duties bring them in contact with the inmates of the institution shall be women as far as practicable.

Supplies or produce for sale

3323. Said institution may manufacture or raise for sale, supplies or produce for use in any State institution, or for the use of any political subdivision of the State, and said board may in its discretion pay to any inmate producing or assisting in the production of such article, or to the dependent family of such inmate, the proceeds or a part of the proceeds of the sale thereof. Said board shall also have the power to employ inmates in actual work in said institution, and to fix their compensation, if any, therefor, and to pay the same at such times and in such manner as said board may see fit.

Employment of inmates

Needlework

3324. Any needlework female prisoners may make from time to time may be sold. The money received from the sale of said needlework shall be paid to the superintendent and placed to the credit of the female who made the same. Upon the release of such female the money shall be paid to her.

Powers of board

3325. The board shall have such powers, perform such duties and exercise such functions, respecting such females convicted of felonies as the Board of State Prison Directors

or the Board of Prison Terms and Paroles now exercises over male prisoners, and the superintendent shall, subject to the control of the board, have such powers, perform such duties and exercise such functions, respecting such females convicted of felonies, as the wardens now exercise over male prisoners.

Powers of superintendent

Biennial reports

3326. Said board shall report to the Governor biennially, and at such other times as the Governor may direct.

CHAPTER 3. PRISONERS

Delivery of prisoners

3400. Upon the commitment or transfer of any woman to the institution it shall be the duty of the officer having custody of her or required to take custody of her, to deliver her to said institution, receiving therefor the fees payable for the transportation of prisoners to the State prisons. Such officer shall at the same time deliver to said institution a certified copy of the judgment of conviction and of the order of commitment or order of transfer. Every woman so committed or transferred under this act shall be accompanied by a woman attendant from the place of commitment or transfer until delivered to said institution.

Children of prisoners

3401. If any woman received by or committed to said institution have a child under two years of age, or gives birth to a child while an inmate of said institution, such child may be admitted to, and retained in, said institution until it reaches the age of two years, at which time said board may arrange for its care elsewhere; and provided further, that at its discretion in exceptional cases said board may retain such child for a longer period of time.

Any woman inmate who would give birth to a child during her term of imprisonment may be temporarily taken to a hospital outside the prison for the purposes of childbirth, and the charge for hospital and medical care shall be charged against the funds allocated to the institution. The board shall provide for the care of any children so born and shall pay for their care until suitably placed.

Records of prisoners

3402. There shall be kept at said institution a record of the history and progress of every woman confined therein during the period of her confinement, and so far as practically possible, prior and subsequent thereto, and all judges, courts, officials and employees, district attorneys, sheriffs, chiefs of police and peace officers, shall furnish said institution with all data in their possession or knowledge relative to any inmate that said institution may request. If upon the arrest of any woman it be discovered that she was theretofore an inmate of said institution, the institution shall be promptly notified of her arrest.

Examination and treatment of prisoners

3403. Every woman upon being committed to said institution shall be examined mentally and physically, and shall be given the care, treatment and training adapted to her particular condition. Such care, treatment and training shall be along the lines best suited to develop her mentality, character

and industrial capacity; provided, however, no inmate shall be confined longer than the term of her commitment.

TITLE 3. EXECUTION OF DEATH PENALTY

CHAPTER 1. EXECUTING DEATH PENALTY

Delivery to prison Males

3600. Every male person, upon whom has been imposed the judgment of death, shall be delivered to the warden of California State Prison at San Quentin, there to be kept until the execution of the judgment, unless the State Board of Prison Directors shall designate another State prison.

Females

3601. Every female person, upon whom has been imposed the judgment of death, shall be delivered to the superintendent of the California Institution for Women, there to be held pending decision upon appeal.

Removal of females

3602. Upon the affirmance of her appeal, the female person sentenced to death shall thereafter be delivered to the warden at California State Prison at San Quentin not earlier than three days before the day upon which judgment is to be executed; provided, however, that in the event of a commutation of sentence said female prisoner shall be returned to the California Institution for Women, there to be confined pursuant to such commutation.

Place of execution

3603. The judgment of death shall be executed within the walls of one of the State prisons designated by the court by which judgment is rendered.

Lethal gas

3604. The punishment of death shall be inflicted by the administration of a lethal gas.

Persons to be present

3605. The warden of the State prison where the execution is to take place must be present at the execution and must invite the presence of two physicians, the Attorney General of the State, and at least 12 reputable citizens, to be selected by him; and he shall at the request of the defendant, permit such ministers of the Gospel, not exceeding two, as the defendant may name, and any persons, relatives or friends, not to exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution. But no other persons than those mentioned in this section can be present at the execution, nor can any person under age be allowed to witness the same.

Warden's return

3607. After the execution, the warden must make a return upon the death warrant to the county clerk of the court by which the judgment was rendered, showing the time, mode, and manner in which it was executed.

CHAPTER 2. SUSPENSION OF EXECUTION OF DEATH PENALTY: INSANITY: PREGNANCY

Suspension of execution

3700. No judge, court, or officer, other than the Governor, can suspend the execution of a judgment of death, except the

warden of the State prison to whom he is delivered for execution, as provided in the six succeeding sections, unless an appeal is taken.

Insanity of defendant awaiting execution

3701. If, after his delivery to the warden for execution, there is good reason to believe that a defendant, under judgment of death, has become insane, the warden must call such fact to the attention of the district attorney of the county in which the prison is situated, whose duty it is to immediately file in the superior court of such county a petition, stating the conviction and judgment, and the fact that the defendant is believed to be insane, and asking that the question of his sanity be inquired into. Thereupon the court must at once cause to be summoned and impaneled, from the regular jury list of the county, a jury of 12 persons to hear such inquiry.

Hearing

3702. The district attorney must attend the hearing, and may produce witnesses before the jury, for which purpose he may issue process in the same manner as for witnesses to attend before the grand jury, and disobedience thereto may be punished in like manner as disobedience to process issued by the court.

Verdict and order

3703. The verdict of the jury must be entered upon the minutes, and thereupon the court must make and cause to be entered an order reciting the fact of such inquiry and the result thereof, and when it is found that the defendant is insane, the order must direct that he be taken to a State hospital for the insane, and there kept in safe confinement until his reason is restored.

Effect of finding

3704. If it is found that the defendant is sane, the warden must proceed to execute the judgment as specified in the warrant; if it is found that the defendant is insane, the warden must suspend the execution and transmit a certified copy of the order mentioned in the last section to the Governor, and deliver the defendant, together with a certified copy of such order, to the medical superintendent of the hospital named in such order. When the defendant recovers his reason, the superintendent of such hospital must certify that fact to the Governor, who must thereupon issue to the warden his warrant appointing a day for the execution of the judgment, and the warden shall thereupon return the defendant to the State prison pending the execution of the judgment.

Recovery

Pregnancy of female defendant

Proceedings

See also Stats 1941, p 2965

3705. If there is good reason to believe that a female against whom a judgment of death is rendered is pregnant, such proceedings must be had as are provided in Section 2011, except that instead of a jury, as therein provided, the court may summon three disinterested physicians, of good standing in their profession, to inquire into the supposed pregnancy, who shall, in the presence of the court, but with closed doors, if requested by the defendant, examine the defendant and hear any evidence that may be produced, and make a written finding and certificate of their conclusion, to be approved by the court and spread upon the minutes. The provisions of Section 2012 apply to the proceedings upon such inquiry.

3706. If it is found that the female is not pregnant, the warden must execute the judgment; if it is found that she is pregnant the warden must suspend the execution of the judgment, and transmit a certified copy of the finding and certificate to the Governor. When the Governor receives from the warden a certificate that the defendant is no longer pregnant, he must issue to the warden his warrant appointing a day for the execution of the judgment. Effect of finding. Termination of pregnancy.

TITLE 4. COUNTY JAILS

4000. The common jails in the several counties of this State are kept by the sheriffs of the counties in which they are respectively situated, and are used as follows: Common jails.

1. For the detention of persons committed in order to secure their attendance as witnesses in criminal cases; Purposes.

2. For the detention of persons charged with crime and committed for trial;

3. For the confinement of persons committed for contempt, or upon civil process, or by other authority of law;

4. For the confinement of persons sentenced to imprisonment therein upon a conviction for crime.

4001. Each county jail must contain a sufficient number of rooms to allow all persons belonging to either one of the following classes to be confined separately and distinctly from persons belonging to either of the other classes: Rooms required in county jails.

1. Persons committed on criminal process and detained for trial;

2. Persons already convicted of crime and held under sentence;

3. Persons detained as witnesses or held under civil process, or under an order imposing punishment for a contempt;

4. Males separately from females.

4002. Persons committed on criminal process and detained for trial, persons convicted and under sentence, and persons committed upon civil process, must not be kept or put in the same room, nor shall male and female prisoners (except husband and wife) be kept or put in the same room. Prisoners to be classified.

4003. Whenever any weapon or other personal property is taken from an arrested person, it shall be the duty of the desk clerk or other proper officer of any city, county or city and county jail, to which such person is committed for detention, to give a receipt to such person without delay for the property taken. Receipt for property.

4004. A prisoner committed to the county jail for trial or for examination, or upon conviction for a public offense, must be actually confined in the jail until he is legally discharged; and if he is permitted to go at large out of the jail, except by virtue of a legal order or process, it is an escape; provided, however, that during the pendency of a criminal proceeding, the court before which said proceeding is pending may make a legal order, good cause appearing therefor, Confinement of prisoners in county jail. Removal.

for the removal of the prisoner from the county jail in custody of the sheriff; and provided further, that the superior court of the county may make a legal order, good cause appearing therefor, for the removal of prisoners confined in the county jail, after conviction, in the custody of the sheriff.

Federal prisoners

4005. The sheriff must receive, and keep in the county jail, any prisoner committed thereto by process or order issued under the authority of the United States, until he is discharged according to law, as if he had been committed under process issued under the authority of this State; provision being made by the United States for the support of such prisoner.

Sheriff answerable for safekeeping

4006. A sheriff, to whose custody a prisoner is committed as provided in the last section, is answerable for his safekeeping in the courts of the United States, according to the laws thereof.

Use of jail in contiguous county

4007. When there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, the judge of the superior court may, by a written order filed with the county clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county, or of any of them, and may at any time modify or vacate such order.

Removal to State prison for safekeeping

When there is any reasonable grounds to believe that a prisoner may be forcibly removed from a county jail the sheriff may remove such prisoner to any California State prison for safekeeping and it is hereby made the duty of the warden of such prison to accept and detain such prisoner in his custody until his removal is ordered by the superior court of the county from which he was delivered. Immediately upon receiving such prisoner the warden shall advise the Attorney General of that fact in writing.

Keeper of jail in contiguous county to receive prisoners

4008. A copy of the appointment, certified by the county clerk, must be served on the sheriff or keeper of the jail designated, who must receive into his jail all prisoners authorized to be confined therein, pursuant to the last section, and who is responsible for the safekeeping of the persons so committed, in the same manner and to the same extent as if he were sheriff of the county for whose use his jail is designated, and with respect to the persons so committed he is deemed the sheriff of the county from which they were removed.

Revocation of order

4009. When a jail is erected in a county for the use of which the designation was made, or its jail is rendered fit and safe for the confinement of prisoners, the judge of the superior court of that county must, by a written revocation, filed with the county clerk thereof, declare that the necessity for the designation has ceased, and that it is revoked.

Return to proper jail

4010. The county clerk must immediately serve a copy of the revocation upon the sheriff of the county, who must thereupon remove the prisoners to the jail of the county from which the removal was had.

4011. When a county jail or building contiguous to it is on fire, and there is reason to apprehend that the prisoners may be injured or endangered, the sheriff or jailer must remove them to a safe and convenient place, and there confine them as long as it may be necessary to avoid the danger. Removal in case of fire

When it is made to appear to a judge of the superior court by affidavit of the sheriff or district attorney and oral testimony that a prisoner confined in any city or county jail requires medical or surgical treatment necessitating hospitalization, which treatment can not be furnished or supplied at said city or county jail, the court in its discretion may order the removal of such person or persons from said city or county jail to the county hospital in said county; provided, if there is no county hospital in said county, then to any hospital designated by said court; and it shall be the duty of the sheriff to maintain the necessary guards for the safekeeping of such prisoner, the expense of which shall be a charge against the county. Medical attention

When such prisoner is poor and indigent the cost of such medical services and such hospital care and treatment shall, in the case of persons removed from the city jail be paid out of the general fund of such city, and in the case of persons removed from the county jail to a hospital other than a county hospital, such cost shall be paid out of the general fund of such county or city and county. In the case of city jail prisoners removed to the county hospital, the cost of such hospital care and treatment to be paid by the city to the county, shall be the rate per day fixed by the board of supervisors of such county. The said board of supervisors may, but need not, fix different rates for different classes of patients, or for different wards, and any and all such rates may be changed by the said board of supervisors at any time, but shall at all times approximate as nearly as may be, the average actual cost to the county of such hospital care and treatment either in such wards or for such classes of patients or otherwise. Cost of medical treatment

In the event such prisoner is financially able to pay for his care, support and maintenance, the medical superintendent of said hospital other than a county hospital may, with the approval of said judge of the superior court, enter into a special agreement with such person, or with his relatives or friends, for his care, support, maintenance and other hospital expenses.

Any prisoner may decline such care or treatment and provide other care and treatment for himself at his own expense. Removal in case of pestilence

4012. When a pestilence or contagious disease breaks out in or near a jail, and the physician thereof certifies that it is liable to endanger the health of the prisoners, the county judge may, by a written appointment, designate a safe and convenient place in the county, or the jail in a contiguous county, as the place of their confinement. The appointment must be filed in the office of the county clerk, and authorize the sheriff to remove the prisoners to the place or jail designated, and

there confine them until they can be safely returned to the jail from which they were taken.

Papers served on jailer for prisoner

4013. A sheriff or jailer upon whom a paper in a judicial proceeding, directed to a prisoner in his custody, is served, must forthwith deliver it to the prisoner, with a note thereon of the time of its service. For a neglect to do so he is liable to the prisoner for all damages occasioned thereby.

Temporary guard

4014. The sheriff, when necessary, may, with the assent in writing of the county judge, or in a city, of the mayor thereof, employ a temporary guard for the protection of the county jail, or for the safekeeping of prisoners, the expenses of which are a county charge.

Duties of sheriff

4015. The sheriff must receive all persons committed to jail by competent authority, and provide them with necessary food, clothing, and bedding, for which he shall be allowed a reasonable compensation, to be determined by the board of supervisors, and, except as provided in the next section, to be paid out of the county treasury.

Prisoners upon civil process

4016. Whenever a person is committed upon process in a civil action or proceeding, except when the people of this State are a party thereto, the sheriff is not bound to receive such person, unless security is given on the part of the party at whose instance the process is issued, by a deposit of money, to meet the expenses for him of necessary food, clothing, and bedding, or to detain such person any longer than these expenses are provided for. This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court.

Exception

Labor on public works

4017. Persons confined in the county jail under a final judgment of imprisonment rendered in a criminal action or proceeding, may be required by an order of the board of supervisors to perform labor on the public works or ways in the county.

"Labor on public works" defined. The phrase "labor on the public works" as used in this section shall include among other things clerical and menial labor in the county jail or in the camps maintained for the labor of such persons upon the ways in the county.

Rules and regulations

4018. The board of supervisors making such order may prescribe and enforce the rules and regulations under which such labor is to be performed; and provide clothing of such a distinctive character for said prisoners as such board, in its discretion, may deem proper. For each month in which the prisoner appears, by the record, to have given a cheerful and willing obedience to the rules and regulations, and that his conduct is reported by the officer in charge of the jail to be positively good, five days shall, with the consent of the board of supervisors, be deducted from his term of sentence.

Credit for good behavior

Reduction of sentence for good conduct

4019. For each month in which a prisoner confined in a county jail or any city jail under a judgment of imprisonment in a criminal action or proceeding, appears, by the record, to have given a cheerful and willing obedience to the reasonable

rules and regulations established by the county board of parole commissioners for the conduct of such prisoners, and that his conduct is reported by the officer in charge of the jail to be positively good, five days shall, with the consent of the county board of parole commissioners, be deducted from his term of sentence.

Hair cutting for sanitary purposes

4020. Whenever the board of health of any city or county, or the board of supervisors of any county, or the county physician of any county of this State, presents, or causes to be presented to the sheriff, or other officer having charge of any county jail or prison in any county or city, in this State, a certificate, or order, in writing, to the effect that it is by them, or him, considered necessary for the purpose of protecting the public health, or to prevent the introduction or spreading of disease, or to protect or improve the health of criminals under sentence, that the hair of any criminal or criminals be cut, such sheriff, or other officer, must cut, or cause to be cut, the hair of any such person or persons in his charge convicted of a misdemeanor and sentenced to a longer term of imprisonment than 15 days, to a uniform length of one and one-half inches from the scalp of such person or persons so imprisoned.

Care of female prisoners

4021. Whenever any female prisoner or prisoners are confined in any county jail in the State, and no regular jail matron has been appointed, there shall be designated by the sheriff some suitable woman who shall have immediate care of such female prisoner or prisoners, and who shall be paid out of the general fund of the county upon claims to be presented and allowed by the board of supervisors as other claims against the county. Such female prisoners shall be so kept that they can not see or be seen by, or converse with, any male prisoners confined in said jail, and it shall be unlawful for any male officer or jailer to search the person of any female prisoner, or to enter into the room or cell occupied by any female prisoner, except in the company of such matron or woman having the care of such female prisoner.

Confinement in city jails

4022. Whenever by the terms of this code, or of any other law of the State, it is provided that a prisoner shall be confined in any county jail, such provision shall be construed to authorize the confinement of any prisoner convicted in a municipal or police court to be confined in a city jail of the city in which such conviction was had, and as to such prisoner so confined in such city jail, the designations, county jail and city jail shall be interchangeable, and in such case the obligations to which the county is liable in case of confinement in a county jail, shall become liabilities of the city where such prisoner is confined in a city jail.

Attendance of physician

4023. Whenever the daily average of more than 100 persons are confined in any county or city jail there shall be available at all times a duly licensed and practicing physician for the care and treatment of all persons confined therein. Such daily average shall be determined by the number of persons confined in such jails during the last fiscal year. Such

physician shall be designated by the sheriff and his salary fixed by the supervisors of the county or city and county for such county or city and county jail of the county or city and county and in cases of county or city and county jails shall be paid out of the same fund of the county or city and county as other claims against the county or city and county for salaries are paid and in cases of city jails, said physician shall be designated and his salary fixed by the council of said city and shall be paid out of the general fund of such city; provided, however, that any prisoner may decline such care or treatment and provide other care or treatment for himself at his own expense.

TITLE 5. OFFENSES RELATING TO PRISONS AND PRISONERS

CHAPTER 1. ASSAULTS BY PRISONERS

Assault by life prisoner

4500. Every person undergoing a life sentence in a State prison of this State, who, with malice aforethought, commits an assault upon the person of another with a deadly weapon or instrument, or by any means of force likely to produce great bodily injury, is punishable with death.

Assault by prisoner undergoing sentence less than life

4501. Every person undergoing a sentence of less than life in a State prison of this State who, with malice aforethought, commits an assault upon the person of another with a deadly weapon or instrument, or by any means of force likely to produce great bodily injury, shall be guilty of a felony and shall be imprisoned in the State prison not less than one year.

CHAPTER 2. ESCAPES AND RESCUES

Article 1. Escapes

Punishment for escape from State prison

4530. Every prisoner confined in a State prison, for a term less than for life, who escapes therefrom, is punishable by imprisonment in a State prison for a term of not less than one year; said second term of imprisonment to commence from the time he would otherwise have been discharged from said prison.

Penalty for escape from prison

4531. Every prisoner committed to a State prison for a term less than for life, who escapes or attempts to escape while being conveyed to or from or while confined within such prison or while at work outside such prison under surveillance of prison guards is punishable by imprisonment in a State prison for a term of not less than one year and on conviction thereof the term of imprisonment therefor shall commence from the time such prisoner would otherwise have been discharged from said prison.

Punishment for escape of prisoner

4532. Every prisoner charged with or convicted of a felony who is confined in any jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, who escapes or attempts to escape from such

jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and is punishable by imprisonment in the State prison not exceeding 10 years, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

Officer suffering prisoner to escape

4533. Every keeper of a prison, sheriff, deputy sheriff, constable, or jailor, or person employed as a guard, who fraudulently contrives, procures, aids, connives at, or voluntarily permits the escape of any prisoner in custody, is punishable by imprisonment in the State prison not exceeding 10 years, and fine not exceeding ten thousand dollars ($10,000).

Assisting prisoner to escape
See also Stats 1941, p 2965

4534. Any person who wilfully assists any paroled prisoner whose parole has been revoked, any escape, any prisoner confined in any prison or jail, or any person in the lawful custody of any officer or person, to escape, or in an attempt to escape from such prison or jail, or custody, is punishable as provided in Section 2313 of the Penal Code.

Carrying into prison things useful to aid in escape

4535. Every person who carries or sends into a prison or jail anything useful to aid a prisoner or inmate in making his escape, with intent thereby to facilitate the escape of any prisoner or inmate confined therein, is guilty of a felony and shall be imprisoned in the State prison not less than one year.

Article 2. Rescues

Rescuing prisoners

4550. Every person who rescues or attempts to rescue, or aids another person in rescuing or attempting to rescue, any prisoner from any prison, or prison road camp or any jail or county road camp, or from any officer or person having him in lawful custody, is punishable as follows:

1. If such prisoner was in custody upon a conviction of a felony punishable with death: By imprisonment in the State prison not less than one nor more than 14 years;

2. If such prisoner was in custody upon a conviction of any other felony: By imprisonment in the State prison not less than six months nor more than five years;

3. If such prisoner was in custody upon a charge of felony: By a fine not exceeding one thousand dollars ($1,000) and imprisonment in the county jail not exceeding two years;

4. If such prisoner was in custody otherwise than upon a charge or conviction of felony: By fine not exceeding five hundred dollars ($500) and imprisonment in the county jail not exceeding six months.

Chapter 3. Unauthorized Communications With Prisons and Prisoners

Unauthorized communication with prisoner

4570. Every person, not authorized by law, who, without the permission of the warden or other officer in charge of any State prison, or prison road camp, or any jail, or any county

road camp in this State, communicates with any prisoner or person detained therein, or brings therein or takes therefrom any letter, writing, literature, or reading matter to or from any prisoner or person confined therein, is guilty of a misdemeanor.

Ex-convict coming upon or near prison grounds

4571. Every person who, having been previously convicted of a felony and confined in any State prison in this State, without the consent of the warden or other officer in charge of any State prison or prison road camp or any jail or any county road camp in this State, comes upon the grounds of any such institution, or lands belonging or adjacent thereto, is guilty of a felony.

Tramp, vagrant, etc., coming into prison or upon grounds

4572. Any tramp, vagrant, or person who is a known associate of thieves, who comes into any State prison or prison road camp or any jail or any county road camp in this State, or upon the grounds belonging or adjacent thereto, and communicates with any of the inmates of such institution, without the consent of the supervising officer or other person having charge thereof, is guilty of a misdemeanor.

Taking narcotic into jails

See also Stats 1941, p 2965

4573. Any person, not authorized by law, who brings into any State prison or prison road camp or any jail or any county road camp in this State or within the grounds belonging or adjacent to any such institution, any narcotic, the possession of which is prohibited by the State Narcotic Act, or any alcoholic beverage, is guilty of a felony.

Taking firearms etc., into jails

4574. Any person, not authorized by law, who brings into any State prison or prison road camp or any jail or any county road camp in this State, or within the grounds belonging or adjacent to any such institution, any firearms, deadly weapons or explosives is guilty of a felony and punishable by imprisonment in the State prison for not less than one year.

CHAPTER 4. DEMOLISHING PRISONS AND JAILS

Destroying or injuring jails

4600. Every person who wilfully and intentionally breaks down, pulls down, or otherwise destroys or injures any jail or prison, is punishable by fine not exceeding ten thousand dollars ($10,000), and by imprisonment in the State prison not exceeding five years.

CHAPTER 5. TRIALS OF PRISONERS

Expense of trial of convicts

See also Stats 1941, p 2965

4700. Whenever a trial is had of any person under any of the provisions of Sections 2310 and 2311 of this code, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any prisoner in the State prison, whenever a prisoner in the State prison is tried for any crime committed therein, and whenever a trial or hearing is had on the question of the insanity of any such prisoner, the county clerk of the county where such trial or hearing is had must make out a statement of all the costs incurred by the county for the investigation, and the preparation of the trial, and

actual trial of such case, or of the hearing on the return of such writ, and all guarding and keeping of such prisoner, and of the execution of the sentence of such prisoner, exclusive of the cost of any report or statement required by Section 1192a of the Penal Code, properly certified to by a judge of the superior court of such county, which statement must be sent to the State Board of Prison Directors for its approval; and after such approval, said board must cause the amount of such costs to be paid out of the money appropriated for the support of the State prison, to the county treasurer of the county where such trial or hearing was had.

Jurisdiction for escape from prison

4701. The jurisdiction of a criminal action for escaping from any State prison is in any county of the State.

Venue for escape from jail in another county

4702. Whenever any prisoner confined in a jail established and maintained by the sheriff in another county, is tried for any offense committed in such jail or for escaping or attempting to escape therefrom, the venue shall be in the county establishing and maintaining such jail and the costs shall be charged against that county.

TITLE 6. REPRIEVES, PARDONS AND COMMUTATIONS

CHAPTER 1. POWERS AND DUTIES OF GOVERNOR

Power of Governor to grant reprieves commutations and pardons

4800. The general authority to grant reprieves, pardons and commutations of sentence is conferred upon the Governor by Article VII of the Constitution of the State of California.

Reports to Governor

4801. The State Board of Prison Directors or the Board of Prison Terms and Paroles may report to the Governor from time to time the names of any and all persons imprisoned in any State prison who, in their judgment, ought to have a commutation of sentence or be pardoned out and set at liberty on account of good conduct, or unusual term of sentence, or any other cause which, in their opinion, should entitle the prisoner to a pardon or commutation of sentence.

Application of felon twice convicted

4802 In the case of a person twice convicted of felony, the application for pardon or commutation of sentence shall be made directly to the Governor, who shall transmit all papers and documents relied upon in support of and in opposition to the application to the Advisory Pardon Board.

Report of case to Governor and recommendations

4803. When an application is made to the Governor for pardon or commutation of sentence, he may require the judge of the court before which the conviction was had, or the district attorney by whom the action was prosecuted to furnish him, without delay, with a summarized statement of the facts proved on the trial, and of any other facts having reference to the propriety of granting or refusing said application, together with his recommendation for or against the granting of the same and his reason for such recommendation.

Notice to district attorney

4804. At least 10 days before the Governor acts upon an application for a pardon, written notice of the intention to

apply therefor, signed by the person applying, must be served upon the district attorney of the county where the conviction was had, and proof, by affidavit, of the service must be presented to the Governor.

Publication of notice

4805. Unless dispensed with by the Governor, a copy of the notice must also be published for 30 days from the first publication, in a paper in the county in which the conviction was had.

Exceptions

4806. The provisions of the two preceding sections are not applicable:

1. When there is imminent danger of the death of the person convicted or imprisoned;

2. When the term of imprisonment of the applicant is within 10 days of its expiration.

Governor to communicate to Legislature reprieves, commutations and pardons

4807. The Governor must, at the beginning of every session, communicate to the Legislature in addition to each case of reprieve, or pardon, as provided in Article VII of the Constitution of California, each commutation, stating the name of the person convicted, the crime of which he was convicted, the sentence and its date, the date of the commutation and the reason for granting the same.

Advisory Pardon Board

4808. An Advisory Pardon Board of and for the State of California, is hereby created, which shall consist of the Lieutenant Governor, who shall be chairman of said board, the Attorney General, the Director of the Department of Penology and the wardens of the California State prisons at San Quentin and at Folsom. Should the Lieutenant Governor be absent or unable to perform the duties herein prescribed the President pro tempore of the Senate shall act in his place. The board shall have and exercise the powers and duties hereinafter set forth and specified. The members of said board shall not receive any salary or compensation.

Secretary

4809. The board shall have power to appoint a secretary, who shall hold office during its pleasure and who shall receive a salary to be fixed by the chairman of the board with the approval of the Director of Finance. The secretary shall keep a record, in which shall be entered all applications referred to the board, the name of each applicant, the date and place of his conviction, his sentence, his offense, and such other data as the board may direct, and a memorandum of the action taken by the board on each application. The secretary shall perform also such other duties as the board may require of him

Expenses

4810. The members of the board and the secretary shall each be allowed all actual and necessary expenses incurred while traveling on the business of the board.

Meetings

4811. The board shall meet at the State Capitol at least once in every two months and at such other times and places as proper exercise of its functions may require.

Investigations and recommendations to Governor

4812. Upon request of the Governor the board shall investigate and report on all applications for reprieves, pardons and commutation of sentence and shall make such recommendations to the Governor with reference thereto as to it may

seem advisable. To that end the said board shall examine and consider all applications so referred and all transcripts of judicial proceedings and all affidavits or other documents submitted in connection therewith, and shall have power to employ assistants and take testimony and to examine witnesses under oath and to do any and all things necessary to make a full and complete investigation of and concerning all applications referred to it. Members of said board and its secretary are, and each of them is, hereby authorized to administer oaths.

Applications of persons twice convicted of felony

4813. In the case of applications of persons twice convicted of felony, the Advisory Pardon Board, after investigation, shall transmit its written recommendation upon such application to the Governor, together with all papers filed in connection with the application.

Chapter 3. Duties of Supreme Court

Reference of application to justices of Supreme Court

4850. No application which has not received a recommendation from the Advisory Pardon Board favorable to the applicant shall be forwarded to the clerk of the Supreme Court, unless the Governor, notwithstanding the fact that the Advisory Pardon Board has failed to make a recommendation favorable to the applicant, especially refers an application to the justices for their recommendation.

Forwarding application and papers to clerk of Supreme Court

4851. In all cases where the Advisory Pardon Board has made a recommendation favorable to the applicant and in those cases referred by the Governor, notwithstanding an adverse recommendation, the application, together with all papers and documents relied upon in support of and in opposition to said application, including prison records and recommendation of the Advisory Pardon Board, shall be forwarded to the clerk of the Supreme Court for consideration of the justices.

Subsequent transmittal or disposal thereof

4852. If a majority of the justices recommend that clemency be granted, the clerk of the Supreme Court shall transmit the application, together with all papers and documents filed in the case, to the Governor; otherwise the documents shall remain in the files of the court.

Chapter 4. Effect of Full Pardon

Effect of full pardon

4853. In all cases in which a full pardon has been granted by the Governor of this State or will hereafter be granted by said Governor to a person convicted of an offense to which said pardon applies, it shall operate to restore to such convicted person, all the rights, privileges, and franchises of which he has been deprived in consequence of said conviction or by reason of any matter involved therein; provided, that nothing herein contained shall abridge or impair the power or authority conferred by law on any board or tribunal to revoke or suspend any such right, privilege or franchise for

any act or omission not involved in said conviction; provided further, that nothing in this article shall affect any of the provisions of the Medical Practice Act or the power or authority conferred by law on the Board of Medical Examiners therein, or the power or authority conferred by law upon any board that issues a certificate which permits any person or persons to apply his or their art or profession on the person of another.

CHAPTER 5. INDEMNITY FOR PERSONS ERRONEOUSLY CONVICTED AND PARDONED

Claim of persons erroneously convicted

4900. Any person who, having been convicted of any crime against the State of California amounting to a felony, and having been imprisoned therefor in a State prison of this State shall hereafter be granted a pardon by the Governor of this State for the reason that the crime with which he was charged was either not committed at all or, if committed, was not committed by him, or who, being innocent of the crime with which he was charged for either of the foregoing reasons, shall have served the term or any part thereof for which he was imprisoned, may, under the conditions hereinafter provided, present a claim against the State to the State Board of Control for the pecuniary injury sustained by him through such erroneous conviction and imprisonment.

Presented to Board of Control

4901. Such claim, accompanied by a statement of the facts constituting the claim, verified in the manner provided for the verification of complaints in civil actions, must be presented by the claimant to the Board of Control within a period of six months after judgment of acquittal or discharge given, or after pardon granted, or after release from imprisonment, and at least four months prior to the next meeting of the Legislature of this State; and no claim not so presented shall be considered by the Board of Control.

Hearing on claim

4902. Upon presentation of any such claim, the Board of Control shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General of this State at least 15 days prior to the time fixed for such hearing.

Proof of claimant

4903 On such hearing the claimant shall introduce evidence in support of the claim, and the Attorney General may introduce evidence in opposition thereto. The claimant must prove the facts set forth in the statement constituting the claim, including the fact that the crime with which he was charged was either not committed at all, or, if committed, was not committed by him, the fact that he did not, by any act or omission on his part, either intentionally or negligently, contribute to the bringing about of his arrest or conviction for the crime with which he was charged, and the pecuniary injury sustained by him through his erroneous conviction and imprisonment.

Board to report facts and conclusions to Legislature

4904. If the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant did not, by any act or omission either intentionally or negligently, contribute to the bringing about of his arrest or conviction, and that the claimant has sustained pecuniary injury through his erroneous conviction and imprisonment, the Board of Control shall report the facts of the case and its conclusions to the next Legislature of this State, with a recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for such pecuniary injury; but the amount of the appropriation so recommended shall not exceed in any case, the sum of five thousand dollars ($5,000).

Statement to Controller

4905. The Board of Control shall make up its report and recommendation and shall give to the Controller of this State a statement showing its recommendations for appropriations under the provisions of this chapter, as provided by law in cases of other claimants against this State for which no appropriations have been made.

Rules

4906. The Board of Control is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect the provisions of this chapter.

TITLE 10. GENERAL PROVISIONS

Declaration of intent

10000. The provisions of Part 3 of this code, in so far as they are substantially the same as existing provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

Existing officers

10001. All persons who, at the time this act goes into effect, hold office under any of the acts repealed by this act, which offices are continued by this act, continue to hold the same according to the former tenure thereof.

Pending proceeding and accrued rights

10002. No action or proceeding commenced before this act takes effect, and no right accrued, is affected by the provisions of this act, but all procedure thereafter taken therein shall conform to the provisions of this act so far as possible.

Constitutionality

10003. If any portion of Part 3 is held unconstitutional, such decision shall not affect the validity of any other portion of Part 3.

Effect of headings

10004. Division, chapter, article, and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division, chapter, article or section hereof.

Transfer of powers and duties

10005. Whenever, by the provisions of this act, a power is granted to a public officer or a duty imposed upon such an officer, the power may be exercised or the duty performed by a deputy of the officer or by a person authorized pursuant to law by the officer.

Repeals SEC. 16. The following sections of the Penal Code are hereby repealed:

101	246	675	1222	1229	1419
105	246a	676	1223	1230	1420
106	650a	677	1224	1333	1421
108	670	787	1225	1346	1422
111	673	1220	1226	1417	1423
171c	674	1221	1228	1418	

Repeals SEC. 17. The following acts, together with all acts amendatory thereof and supplementary thereto, are hereby repealed:

Year	Chapter	Page	Year	Chapter	Page
			1919	435	832
1895	208	274	1923	316	667, except Sec. 1
1901	160	515, Secs. 1, 2, 3, 4, 5	1927	637	1068, except Sec. 1
1903	116	127	1927	655	1112
1905	403	532	1929	248	490
1909	183	281	1929	453	817
1911	56	71	1929	881	1962
1913	165	245	1931	487	1061
1913	363	775, Sec. 2 only	1933	636	1655
			1933	945	2476
1915	260	465	1935	414	1465

Repeals SEC. 18. The following acts, together with all acts amendatory thereof and supplementary thereto, are hereby repealed:

Year	Chapter	Page	Year	Chapter	Page
1880	56	43	1927	456	783
1913	591	1048	1931	440	993
1925	346	622			

CHAPTER 107

An act to amend Sections 7055, 7057 and 7058 and the article heading of Article 2, Chapter 2, Part 6 of the Water Code, and Section 4 of the Central Valley Project Act of 1933, relating to the changing of the name of Kennett Dam to Shasta Dam.

Stats. 1933, p. 2643, amended

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect September 13, 1941

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

SECTION 1. The article heading of Article 2, Chapter 2, Part 6 of the Water Code is hereby amended to read as follows: See Sec 6

Article 2. Shasta Dam

SEC. 2. Section 7055 of the Water Code is hereby amended to read as follows: See Sec 6

7055. The unit designated as Shasta Dam consists of the following:

(a) A dam, reservoir and hydroelectric power plant, or plants, with necessary afterbay and regulatory appurtenant works located on the Sacramento River, at or near Kennett, Shasta County, California.

(b) A transmission line having capacity sufficient to transmit all the electric energy which can be generated at the dam, including substations, transformer stations, and other facilities for the distribution of power from the dam to a central substation near the City of Antioch.

SEC. 3. Section 7057 of the Water Code is hereby amended to read as follows: See Sec 6

7057. The unit designated as Shasta Dam shall be constructed and used primarily for the following purposes:

(a) Improvement of navigation on the Sacramento River to Red Bluff.

(b) Increasing flood protection in the Sacramento Valley.

(c) Salinity control in the Sacramento-San Joaquin Delta.

(d) Storage and stabilization of the water supply of the Sacramento River for irrigation and domestic use.

SEC. 4. Section 7058 of said code is hereby amended to read as follows: See Sec 6

7058. The unit designated as Shasta Dam shall be constructed and used secondarily for the generation of electric energy and other beneficial uses.

Stats 1937, p 2534 See also Stats 1941, p 2215

SEC. 5. Section 4 of the Central Valley Project Act of 1933 is hereby amended to read as follows:

Units of project

Sec. 4. Said Central Valley Project as hereby authorized shall consist of the following units:

(1) Shasta Dam

(1) A dam, reservoir and hydroelectric power plant, or plants, with necessary afterbay and regulatory appurtenant works located on the Sacramento River, at or near Kennett, Shasta County, California; also a transmission line having capacity sufficient to transmit all the electric energy which can be generated at said dam, including substations, transformer stations, and other facilities for the distribution of power from Shasta Dam to a central substation near the City of Antioch, which transmission line shall be located in such manner and along such route as shall enable the most convenient distribution of electrical energy to the load centers traversed thereby, or capable of service therefrom. Said unit is designated as the Shasta Dam, and shall be constructed and used primarily for improvement of navigation on the Sacramento River to Red Bluff, for increasing flood protection in the Sacramento Valley, for salinity control in the Sacramento-San Joaquin Delta, and for storage and stabilization of the water supply of the Sacramento River for irrigation and domestic use, and secondarily for the generation of electric energy and other beneficial uses. Said dam shall be built to such height, said reservoir shall have such capacity and said power plant or plants shall be of such capacity as the authority shall determine; provided, that said reservoir shall have a storage capacity of not less than 2,940,000 acre-feet of water.

(2) Contra Costa Conduit

(2) A conduit or canal, equipped with all necessary pumping plants and other works to convey water, and extending westerly from a diversion point near Knightsen, California, southerly of Suisun Bay to the vicinity of Martinez, California. Said unit is designated as the Contra Costa Conduit, and shall be of such capacity as shall be determined by the authority to be necessary to furnish an adequate supply of water for industrial, agricultural, domestic and other beneficial uses in the area served by it.

(3) San Joaquin Pumping System

(3) A channel or canal, together with all necessary dams, pumping plants, conduits, and other works as shall be determined by the authority to be necessary to convey a supply of water for irrigation and other beneficial uses, from the lower Sacramento River into the San Joaquin Delta, and also adequate to convey and transport not less than 3,000 cubic feet of water per second from a point on the lower San Joaquin River southerly to the mouth of Fresno Slough. Said unit is designated as the San Joaquin Pumping System.

(4) Friant Dam

(4) A dam, reservoir and hydroelectric power plant, or plants, to be located on the San Joaquin River, at or near Friant, Fresno County, California. Said unit is designated as Friant Dam, and shall be constructed and used primarily

for improvement of navigation, flood control, and storage and stabilization of the water supply of the San Joaquin River, for irrigation and domestic use, and secondarily for the generation of electric energy and other beneficial uses. Said dam shall be built to such height, said reservoir shall have such capacity and said power plant, or plants, shall be of such capacity as the authority shall determine; provided, that said reservoir shall have a capacity of not less than 400,000 acre-feet of water.

(5) Madera Canal

(5) A canal or conduit leading from said Friant Reservoir northerly to a point on the Chowchilla River. Said unit is designated as the Madera Canal, and shall be of such capacity as shall be determined by the authority to be necessary to furnish an adequate supply of water for beneficial purposes in the area to be served by it.

(6) Friant-Kern Canal

(6) A canal or conduit extending from said Friant Reservoir southerly to a point on Kern River near the City of Bakersfield in Kern County. Said unit is designated as Friant-Kern Canal. Said canal or conduit shall be of such capacity as shall be determined by the authority to be necessary to furnish an adequate supply of water for beneficial purposes in the area to be served by it. Said unit may include such pumps, supplemental dams and other works as are determined by the authority to be necessary for the economical and advantageous construction and operation and maintenance of the said unit.

(7) Other units

(7) Such other units as may be from time to time added by the authority to the units hereinabove specifically enumerated, and the authority shall be and is hereby empowered to add additional units consistent with and which may be constructed, maintained and operated as a part of said Central Valley Project and in furtherance of the single object contemplated by Section 3 of this act.

What units include

In addition to the works specified in the foregoing subdivisions said units shall include such plants and works for the generation of electric energy by steam or other power, and such electric transmission lines and facilities for the sale, use and distribution of electric energy as are determined by the authority to be necessary for making a reasonable, proper and advantageous sale, use and distribution of electric energy made available by said units.

Effect (Water Code not enacted)

SEC. 6. Sections 1, 2, 3 and 4 of this act shall take effect only if Division 6 of the Water Code is enacted by the Legislature at its Fifty-fourth Session, and in such case, at the same time said Division 6 takes effect, at which time Section 4 of the Central Valley Project Act of 1933 is hereby repealed.

CHAPTER 108

An act to amend Section 737hh of the Political Code, relating to compensation of the judges of the Superior Court in and for the County of Sacramento.

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

Stats 1939, p 2451

SECTION 1. Section 737hh of the Political Code is hereby amended to read as follows:

Superior judges Sacramento County

737hh. The annual salary of each of the judges of the Superior Court in and for the County of Sacramento is eight thousand five hundred dollars ($8,500).

CHAPTER 109

An act to amend Sections 737e and 737v of the Political Code, relating to the salaries of judges of the superior court.

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

Stats 1927, p 559

SECTION 1. Section 737e of the Political Code is hereby amended to read as follows:

Superior judge Calaveras County

737e. The annual salary of the judge of the Superior Court in and for the County of Calaveras is six thousand dollars ($6,000).

Stats 1933, p 1161

SEC. 2. Section 737v of the Political Code is hereby amended to read as follows:

Superior judge Mariposa County

737v. The annual salary of the judge of the Superior Court in and for the County of Mariposa is six thousand dollars ($6,000).

CHAPTER 110

An act to amend Section 12510 of the Business and Professions Code, relating to weights and measures, including the use of false or improper equipment.

Stats. 1937, p. 1229, amended

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 12510 of the Business and Professions Code is hereby amended to read as follows:

Stats. 1939, p. 463

12510. Any person, who by himself, or through or for another, does any of the following is guilty of a misdemeanor:

Offenses

(a) Uses, in the buying or selling of any commodity, or retains in his possession a false weight or measure or weighing or measuring instrument.

(b) Sells any weight or measure or weighing or measuring instrument which has not been sealed within one year, except weighing or measuring instruments required to be assembled prior to use.

(c) Uses any condemned weight or measure or weighing or measuring instrument contrary to law.

(d) Sells or uses any device or instrument to be used or calculated to falsify any weight or measure.

(e) So locates or positions a weighing or measuring device used in retail trade, except as used exclusively in preparation of packages put up in advance of sale, that its indications can not be accurately read or the weighing or measuring operation can not be observed by the purchaser under ordinary circumstances.

Possession of a false weight or measure or weighing or measuring instruments or records thereof is prima facie evidence of intention to violate the law.

Prima facie evidence

CHAPTER 111

An act to amend Section 3669c of the Political Code, relating to the taxation of insurance companies and the collection of taxes from such companies, including the suspension of corporate rights, privileges and powers.

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect July 1, 1943

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

Stats. 1939, p. 1898. See also Stats. 1941, p. 1472.

SECTION 1. Section 3669c of the Political Code is hereby amended to read as follows:

3669c. All corporate powers, rights and privileges suspended or forfeited prior to June 19, 1939, may be revived and

Restoration of privileges

restored to full force and effect by the payment of all accrued taxes due to the State under Sections 3664b and 3664b-1 of this code as they read prior to their repeal, together with the penalties thereon, and also, in addition thereto, a sum of money equal to the tax last assessed under the provisions of said sections of this code, for each year succeeding the year in which such tax was levied, and to the time of such revivor. "Year" within the meaning of the preceding sentence is hereby defined as the period between the first Monday in March of any calendar year and the first Monday in March of the following calendar year.

"Year"

Restoration certificate

Upon payment of all such taxes and penalties the State Controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such Controller's certificates recorded by him. Upon presentation of such Controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the Secretary of State that subsequent to the date of such certificate of revivor the powers of said corporation have been suspended or its right to do intrastate business forfeited.

Record

Relief of foreign insurer

A foreign insurer whose right and privilege to transact intrastate business in this State have been forfeited prior to June 19, 1939, may be relieved from such forfeiture and its right and privilege to transact business in this State restored upon complying with the provisions of this section.

Effect Stats 1941, p 1139

SEC. 2. In the event Part 7 is added to Division 2 of the Revenue and Taxation Code by a bill enacted at the Fifty-fourth Regular Session of the Legislature, the provisions of this act shall take effect simultaneously with the provisions of such act. The taking effect of the provisions of this act is contingent upon the taking effect of Part 7 of Division 2 of the Revenue and Taxation Code.

CHAPTER 112

An act to add Section 1283 to the Insurance Code, relating to the taxation of insurers, including reciprocal or inter-insurance exchanges.

Stats 1935 p 496, amended

[Approved by Governor April 15, 1941 Filed with Secretary of State April 15, 1941.]

In effect July 1, 1943

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

SECTION 1. Section 1283 is hereby added to the Insurance Code, to read as follows:

New section

1283. The provisions of Part 7, Division 2 of the Revenue and Taxation Code shall be applicable to reciprocal or inter-insurance exchanges.

Rev & Tax Code applicable

SEC 2. In the event Part 7 is added to Division 2 of the Revenue and Taxation Code by a bill enacted at the Fifty-fourth Regular Session of the Legislature, the provisions of this act shall take effect simultaneously with the provisions of such act. The taking effect of the provisions of this act is contingent upon the taking effect of Part 7 of Division 2 of the Revenue and Taxation Code.

Effect Stats 1941, p 1139

CHAPTER 113

An act to add Part 7, comprising Sections 12001 to 13113, inclusive, to Division 2 of, and to add Section 50013 to, the Revenue and Taxation Code, thereby consolidating and revising the law relating to taxation and the raising of revenue, including the taxation of insurance companies and associations and the collection of taxes from such companies and associations, and repealing acts and parts of acts specified herein.

Stats 1939, p 1274 amended

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect July 1, 1943

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

SECTION 1. Part 7, comprising Sections 12001 to 13113, inclusive, is hereby added to Division 2 of the Revenue and Taxation Code, to read as follows:

New part

PART 7. INSURANCE TAXATION

CHAPTER 1. GENERAL PROVISIONS

Article 1. Definitions

12001. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this part.

Definitions

"Ocean marine insurance" 12002. "Ocean marine insurance" means insurance written within this State upon hulls, freights, or disbursements, or upon goods, wares, merchandise, and all other personal property and interests therein, in course of exportation from, importation into any country, or transportation coastwise, including transportation by land or water from point of origin to final destination in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit or transportation, any portion of which exportation, importation, transportation, navigation, transit, or shipment is upon any ocean, and upon the property while being prepared for and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident to or in connection with the shipment or transportation. "Ocean marine insurance" includes marine builders and war risk insurance.

"Insurer" 12003. "Insurer" includes every business organization organized for the purpose of assuming the risk of loss under contracts of insurance, including insurance companies and associations referred to in Article XIII of the Constitution.

"Marine insurer" 12004. "Marine insurer" means an insurer transacting ocean marine insurance.

CHAPTER 2. OCEAN MARINE INSURANCE

Article 1. Definitions

Definitions 12071. The definitions contained in this article apply only to this chapter.

"Current calendar year" 12072. "Current calendar year" means the calendar year for which underwriting profit is computed pursuant to Section 12073.

"Underwriting profit" 12073. "Underwriting profit," as respects any one calendar year, means the amount arrived at by deducting from the net earned premiums of that calendar year on ocean marine insurance contracts written within the United States:

(a) Losses incurred.

(b) Expenses incurred.

In arriving at "underwriting profit" there shall not be deducted as expenses incurred an amount exceeding 40 per cent of the gross premiums on ocean marine insurance contracts written during the current calendar year.

"Net earned premiums" 12074. "Net earned premiums" means the amount arrived at by:

(a) Deducting all return premiums, premiums on policies not taken, and premiums paid for reinsurance, from

(b) Gross premiums on ocean marine insurance contracts written during the current calendar year, to which remainder is added

(c) Unearned premiums on outstanding ocean marine business at the end of the preceding calendar year, and from which sum is deducted

(d) Unearned premiums on outstanding ocean marine business at the end of the current calendar year.

"Losses incurred"

12075. "Losses incurred" means gross losses incurred during the current calendar year under ocean marine contracts written within the United States, less reinsurance claims collected or collectible and salvages or recoveries collectible from any source applicable to the losses.

"Expenses incurred"

12076. "Expenses incurred" includes specific and general expenses incurred in the current calendar year on ocean marine contracts written within the United States.

"Specific expenses"

12077. "Specific expenses" means expenses incurred directly and specifically in connection with earned ocean marine premiums, including all commissions, agency expenses, taxes, licenses, fees, and loss-adjustment expenses, less recoveries or reimbursements on account of or in connection with the commissions or other expenses collected or collectible because of reinsurance or from any other source.

"General expenses"

12078. "General expenses" means the portion of expenses not chargeable specifically to a particular class of insurance which is allocated to earned ocean marine premiums, consisting of that proportion of general or overhead expenses, including salaries of officers and employees, printing and stationery, and taxes of this State and of the United States, which the net premiums of ocean marine insurance written by the insurer bear to the total net premiums from all classes of insurance written by it during the current calendar year.

Article 2. Tax Base for Ocean Marine Insurance

5 per cent tax

12101. Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax measured by that portion of the underwriting profit of the insurer from ocean marine insurance written in the United States, which the gross premiums of the insurer from ocean marine insurance written in this State bear to the gross premiums of the insurer from ocean marine insurance written within the United States, at the rate of 5 per cent.

In lieu of other taxes

12102. The tax is in lieu of all other State, county and municipal taxes and licenses upon the marine insurer, except taxes upon real estate and taxes assessed or levied against the insurer on account of any other class of insurance written by it.

Article 3. Filing of Ocean Marine Statements

Date and contents

12126. Annually, on or before April 1st, every insurer transacting ocean marine insurance in this State shall file with the Insurance Commissioner a statement of all the items pertaining to its insurance business as defined and prescribed in Article 1 of this chapter.

Years included

12127. Every insurer which has been writing ocean marine insurance in this State for three years immediately preceding the year in which the statement is filed shall furnish to the Insurance Commissioner a statement, in the form prescribed by him, for each of the calendar years. An insurer which has not been writing ocean marine insurance for three preceding years shall furnish to the Insurance Commissioner a statement for each of the calendar years during which it has written ocean marine insurance in this State within the three-year period.

Article 4. Computation of Ocean Marine Tax

Insurance Commissioner

12151. The Insurance Commissioner shall annually compute the tax upon the average annual underwriting profit of the insurer from ocean marine insurance during the preceding three calendar years.

Non-transaction of insurance for three years

12153. If the insurer reporting has not written ocean marine insurance in this State for three years immediately preceding the year in which the statement is filed, its tax shall be computed on the basis of its annual underwriting profit on ocean marine insurance written within the United States for the calendar year. As soon as the Insurance Commissioner may compute the tax on a three-year basis in accordance with the provisions of this article, the insurer shall receive an adjustment in the tax.

Adjustment

Transaction of insurance for three years

12154. If the insurer reporting has transacted ocean marine insurance in this State for three years immediately preceding the year in which the statement is filed, and if the Insurance Commissioner finds the insurer's statement correct, he shall:

(a) Ascertain the insurer's average annual underwriting profit from ocean marine insurance written within the United States during the preceding three calendar years.

(b) Ascertain the proportion which the average annual premiums of the insurer from ocean marine insurance written by it in this State during the preceding calendar years bears to the average total of ocean marine premiums of the insurer during the three years.

(c) Compute an amount of 5 per cent on this proportion of the insurer's average annual underwriting profit from ocean marine insurance.

Refunds of premiums

12155. When computing the tax of a mutual marine insurer, the Insurance Commissioner shall not include in underwriting profit the amounts refunded by the insurer on account of premiums previously paid by its policyholders.

CHAPTER 3. ALL INSURANCE OTHER THAN OCEAN MARINE

Article 1. Tax Base

2 6/10 per cent tax

"Gross premiums"

12251. Every insurer doing business in this State shall annually pay to the State a tax of $2\frac{6}{10}$ per cent upon the amount of gross premiums, less return premiums, received upon its business done in this State. "Gross premiums" do not include premiums received for reinsurance and for ocean marine insurance.

Real estate tax deduction

12252. There shall be deducted from the tax upon gross premiums the amount of any taxes paid by the insurer on real estate owned by it in this State.

In lieu of other taxes

12253. The tax is in lieu of all other State, county and municipal taxes and licenses upon the insurer or its property, except taxes upon its real estate.

Reciprocal or interinsurance exchange

12254. A reciprocal or interinsurance exchange shall annually pay to the State a tax computed as provided in Section 1530 of the Insurance Code.

Retaliatory provision

12255. When by the laws of any other State or country any taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions are imposed upon insurers of this State doing business in that State or country, or upon their agents therein, in excess of the taxes, fines, penalties, licenses, fees, deposits of money or of securities, or other obligations or prohibitions imposed upon insurers of that State or country, or upon their agents therein, so long as the laws continue in force, the same obligations and prohibitions of whatsoever kind are imposed upon insurers of that State or country doing business in this State, or upon their agents herein.

State Compensation Insurance Fund

12256. The State Compensation Insurance Fund shall annually pay the sum of $2\frac{6}{10}$ per cent upon the amount of the gross premiums received by it upon its business done in this State during the preceding calendar year, less the return premiums and reinsurance in insurers authorized to do business in this State, which payment is intended to be the equivalent to the taxes imposed upon private insurers.

Article 2. Filing of Statements with Insurance Commissioner

Date and content.

12276. Annually, on or before April 1st, every insurer engaged in the business of insurance in this State in the preceding calendar year shall file with the Insurance Commissioner the statements, in addition to or in modification of the statements required by Article 10, Chapter 1, Part 2, Division 1 of the Insurance Code, deemed necessary by the Insurance Commissioner to enable him to prepare his annual report to the board.

Verification

12277. Statements shall be verified in the manner provided in Article 10, Chapter 1, Part 2, Division 1 of the Insurance Code for the verification of other statements by insurers. Statements filed by foreign insurers may be verified by the oath of their managers residing within this State, notwithstanding provisions to the contrary in the Insurance Code.

CHAPTER 4. ASSESSMENT AND LEVY

Article 1. Filing of Report by Insurance Commissioner

"Preceding year"

12401. As used in this article, "preceding year" means the calendar year immediately preceding the calendar year in which the Insurance Commissioner makes and files his report.

Ocean marine insurance

12402. Annually, on or before June 1st, the Insurance Commissioner shall make and file with the board a report showing the amount of tax computed by him as payable by each insurer transacting the business of ocean marine insurance in this State.

Date and contents

12403. Annually, on or before June 1st, the Insurance Commissioner shall make and file with the board a report showing:

(a) All domestic and foreign insurers engaged in the business of insurance in this State within the preceding year.

(b) The total amount of the gross premiums, other than premiums for reinsurance and for ocean marine insurance, received from its business in this State by each of the insurers during the preceding year.

(c) The amount of return premiums paid during the preceding year on business done in this State by each of the insurers.

(d) The amount of taxes paid during the preceding year by the insurers on real estate owned by them in this State, and where the real estate is located.

Retaliatory provision applied

12404. In his report pursuant to Section 12403, the Insurance Commissioner shall list separately all insurers which are subject to a tax at a rate higher than $2\frac{1}{2}$ per cent on their

gross premiums, or to any additional tax or burden, under the retaliatory provision in Section 14¾ of Article XIII of the Constitution and under Section 12255. He shall indicate in each case the amount and character of the tax or burden.

Insurer failing to file report

12405. If an insurer does not file with the Insurance Commissioner within the time prescribed the statements required by Article 2 of Chapter 3 of this part, the Insurance Commissioner shall note such fact in the report filed by him with the board. He shall estimate the business done by the insurer and such other pertinent matters as will enable the board to assess the insurer.

Article 2. Assessment

Date

12431. Annually, on or before July 1st, the board shall assess and levy the taxes upon insurers as provided in Article XIII of the Constitution and in this part.

Underwriting profits tax

12432. In the case of a tax measured by underwriting profits, the board shall assess and levy the tax as computed by the Insurance Commissioner.

Gross premiums tax

12433. In the case of a gross premiums tax, the board shall give consideration to the information contained in the Insurance Commissioner's annual reports.

Insurer failing to file report

12434. If an insurer has not filed within the time prescribed the statements required by Article 2 of Chapter 3 of this part, the board shall note such fact and shall assess the insurer upon the basis of the Insurance Commissioner's estimate and other available information. The board shall add to the tax a penalty of 5 per cent.

Penalty

Notice of assessment

12435. Immediately after making the assessment and levy, the board shall mail to each insurer against which a tax has been assessed a notice of assessment showing:

(a) The amount of tax assessed against the insurer.

(b) Any penalty thereon.

(c) Other information necessary or advisable for effective collection.

Errors in notice

12436. The failure of the board to mail a notice of assessment, the furnishing of an erroneous notice or the failure of the assessed insurer to receive the notice does not relieve the insurer from the obligation to pay the tax within the time and in the manner required by this part. This section also applies to revised notices of assessment.

Revised notices

Record

12437. Annually, the board shall prepare a "Record of Assessments of Insurance Companies" in which shall be entered each assessment made by the board.

Delivery of record to Controller

12438. On or before September 20th, the board shall deliver the Record of Assessments of Insurance Companies to the Controller.

Clerical errors

12439. Clerical errors, not affecting the substantial rights of the taxpayer, occurring or appearing in the name of an insurer subject to a tax assessed by the board, or in the making or extension of an assessment upon the records of the board, do not invalidate the assessment.

Article 3. Correction of Current Assessments

"Assessment"

12461. As used in this article, "assessment" means the assessment made by the board on or before July 1st in the same calendar year.

Application —date

12462. On or before August 1st, any insurer dissatisfied with the assessment may apply to the board to have the assessment corrected in any particular.

—contents

12463. The application shall state the grounds of the objection to the assessment and the correction sought by the applicant.

Corrections

12464. On or before September 15th, the board may increase or decrease any assessment in the Record of Assessments, as well as correct the assessment of a complaining insurer, if in the board's judgment evidence presented or obtained warrants this action.

Revised notice of assessment

12465. A notice of assessment revised in accordance with the action of the board shall be mailed to each insurer whose assessment is modified.

Article 4. Effect of Tax

Lien and judgment

12491. Every tax levied upon an insurer under the provisions of Article XIII of the Constitution and of this part is a lien upon all property and franchises of every kind and nature belonging to the insurer, and has the effect of a judgment against the insurer.

Date lien attaches

12492. Every lien attaches on the first Monday in March of the calendar year in which the tax is levied.

Effect of execution

12493. Every lien has the effect of an execution duly levied against all property of a delinquent insurer.

Satisfaction and removal of lien

12494. No judgment is satisfied nor lien removed until either:

(a) The taxes, penalties, and costs are paid.

(b) The insurer's property is sold for the payment thereof.

12495. No court shall make and enter a final discharge in bankruptcy or decree of dissolution, nor shall any county clerk or the Secretary of State file a discharge, decree, or any other document by which the term of existence of a corporation is reduced or terminated until all taxes, penalties, and costs are paid and discharged. Discharge in bankruptcy, etc

CHAPTER 5. PAYMENT AND COLLECTION

Article 1. Generally

12621. As used in this chapter, "taxes" means the taxes assessed and levied upon insurers under the provisions of Article XIII of the Constitution and of this part. "Taxes"

12622. Taxes are due and payable on July 1st of the year in which they are levied. Due date

12623. Taxes are delinquent after October 15th Unless paid on or before October 15th, 10 per cent of the amount of the tax shall be added thereto. Delinquent date

12624. Taxes shall be paid to the Controller, who shall transmit the payments to the State Treasurer to be deposited in the State Treasury to the credit of the General Fund. Payment

12625. The Controller shall mark the date of payment of a tax on the Record of Assessments of Insurance Companies and, upon request, shall give a receipt for any amount of tax paid. Record Receipts

12626. On or before the first Monday in July, the State Compensation Insurance Fund shall pay into the State Treasury to the credit of the General Fund the percentage upon the amount of its gross premiums intended to be the equivalent to taxes. State Compensation Insurance Fund

Article 2. Suits for Taxes

12676. On or before April 30th of the year following the calendar year in which the taxes became delinquent, the Controller may bring an action in the name of the State in a court of competent jurisdiction in the County of Sacramento to collect the delinquent taxes, together with any penalties, which have not been paid and which appear delinquent upon the Record of Assessment of Insurance Companies. Date County of Sacramento

12677. The provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to an action brought pursuant to this article Procedure

12678. The Attorney General shall prosecute the action. Attorney General

Service of summons

12679. If an insurer's right to do business has been forfeited or its corporate powers suspended, service of summons may be made upon the persons designated by law to be served as agents or officers of the insurer, and these persons are the agents of the insurer for all purposes necessary in order to prosecute the action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors may defend the action.

Defense of action

Venue

12680. The action shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General, orders a change of place of trial.

Attachment

12681. A writ of attachment may be issued in the action, and no bond or affidavit previous to the issuing of the attachment is required.

Prima facie evidence

12682. In the action, the Record of Assessments of Insurance Companies or a copy of that part applicable in the action, duly certified by the Controller or by the secretary of the board, showing unpaid taxes against an insurer is prima facie evidence of:

(a) The assessment of the taxes.

(b) The delinquency.

(c) The amount of the taxes and penalties due and unpaid to the State.

(d) That the insurer is indebted to the State in the amount of taxes and penalties appearing unpaid.

(e) That there has been compliance with all the requirements of law in relation to the assessment and levy of the taxes.

Payment

12683. Payment of the amount of the judgment recovered in the action shall be made to the Controller.

CHAPTER 6. SUSPENSION OF RIGHTS OF DELINQUENT INSURERS

Article 1. Revocation of Certificate of Authority

Statement of Controller

12801. Annually, between November 10th and 15th, the Controller shall transmit to the Insurance Commissioner a statement showing the names of all insurers that failed to pay on or before November 10th the whole or any portion of the tax that became delinquent in the preceding October, or the whole or any part of the penalties due with respect to the tax. The statement shall show the amount of the tax and penalties due from each insurer.

Notice

Hearing

12802. The Insurance Commissioner shall give at least 10 days' notice in writing to each insurer of the time and place of a hearing to show cause why its certificate of authority shall not be revoked. Upon hearing, the commissioner shall

revoke the certificate of authority of each insurer which does not establish to his satisfaction at or before the hearing that the tax and penalties due from it have been paid.

Restoration of certificate

12803. An insurer whose certificate of authority has been revoked pursuant to this article may have the certificate restored by the Insurance Commissioner during the period for which it was issued upon the payment by the insurer of all taxes and penalties due from it and the payment to the commissioner of a fee of ten dollars ($10).

Fee

Article 2. Suspended Corporate Insurers

Exercise of powers

12831. Except as provided in this section, the corporate rights, privileges and powers of a domestic insurer which have been suspended prior to June 19, 1939, for failure to pay taxes are incapable of being exercised for any purpose or in any manner until they are restored. The corporate rights, privileges and powers may be exercised to defend any action brought in any court against the insurer.

Defense of action

Every contract made in violation of this section is void.

Contracts

Penalty

12832. Every person who attempts or purports to exercise any of the rights, privileges or powers of a suspended domestic insurer or attempts to transact any intrastate business in this State in behalf of a forfeited foreign insurer is guilty of a misdemeanor. Upon conviction he shall be punished by a fine of not less than two hundred fifty dollars ($250) and not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail for not less than 50 days nor more than 500 days, or by both such fine and imprisonment.

Venue

12833. The county in which occurs any part of the attempted exercise of the powers or any part of the transaction of business has jurisdiction of the offense.

Prima facie evidence

12834. The certified copies of lists of corporations which have failed to pay the taxes imposed upon insurers transmitted by the Controller to county clerks and county recorders for filing in their respective offices, or a copy of these lists certified by the Controller, are receivable in evidence in any court in lieu of the original record of suspension or forfeiture on file with the Controller, and are prima facie evidence of the truth of all statements contained.

Chapter 7. Corrections

Article 1. Generally

"Taxes"

12951. As used in this chapter, "taxes" means the taxes assessed and levied, or which may be assessed and levied, upon insurers under the provisions of Article XIII of the Constitution and of this part.

Cancellations

12952. If the assessment of an insurer is duplicated upon the Record of Assessments of Insurance Companies, or if there appears on the record the assessment of an insurer which, for any reason, could not be legally assessed, the Board of Equalization or the Controller shall certify that fact to the Board of Control. The Board of Control shall authorize the cancellation of the assessment.

Article 2. Credit for Collected Taxes

Application

12976. This article applies to taxes and penalties heretofore or hereafter collected and paid to the State which:

(a) Have been paid more than once.

(b) Have been erroneously or illegally collected.

(c) Have been collected and paid pursuant to law upon a computation erroneously made by reason of clerical mistake of the officers or employees of the Board of Equalization.

(d) Have been computed in a manner contrary to law.

Credit of excess taxes

12977. The Board of Equalization shall certify to the Board of Control the amount of the taxes or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid. If approved by the Board of Control, the excess shall be credited to the insurer to whom it rightfully belongs at the time of the next payment of taxes following the approval, and at the time of such future payments as is necessary to completely credit the excess.

Time for presentation

12978. No claim for a credit shall be audited, approved or allowed unless presented within three years after July 1st of the year in which the tax was assessed.

Article 3. Other Adjustments of Assessments

Application

12996. This article applies to taxes, otherwise properly assessable and collectible, heretofore or hereafter not assessed on premiums otherwise subject to assessment and tax, and to taxes heretofore or hereafter overassessed, by reason of:

(a) Error or omission on the part of an insurer.

(b) Failure of an insurer to properly file or execute the statements required in Article 2 of Chapter 3 of this part.

(c) Clerical mistake of officers or employees of the board, of the Insurance Commissioner, or of persons in his office.

(d) Computation in a manner contrary to law.

Statement of under-assessed or over-assessed taxes

12997. The Insurance Commissioner, after discovery of the failure to properly assess and after determination of the amount involved, shall include in his next annual report to the board pursuant to Section 12403 a statement of the amount of premium and tax subject to assessment which was not assessed or was overassessed

Additions or reductions of taxes

12998. At the time of the next assessment following the discovery of the failure to properly assess, the board may assess and levy the tax or credit the overassessment of tax and include the amount thereof by way of addition or reduction in the amount otherwise assessed and levied pursuant to Article 2 of Chapter 4.

Time limit for adjustments

12999. The assessment and levy of an additional tax or the allowance of credit for an overpayment of tax may be made by the board only within the later of the following:

(a) Three years after July 1st of the year in which the assessment being corrected was made.

(b) One year after July 1st next succeeding the date when a judgment determining a failure to assess, overassessment, overpayment, or miscomputation becomes final.

CHAPTER 8. TAXPAYERS' SUITS

"Taxes"

13101. As used in this chapter, "taxes" means the taxes assessed and levied upon insurers under the provisions of Article XIII of the Constitution and of this part.

Compliance required

13102. Upon complying with this article, any insurer claiming that the assessment made against it by the board is void in whole or in part may bring an action against the board for the recovery of the whole or any part of the tax, penalties or costs paid on the assessment.

Time limit

13103. No action may be brought later than April 1st of the calendar year following the year in which the taxes are due. A failure to begin the action within this time is a bar to the recovery of the taxes, penalties, or costs.

Written protest

13104. No action may be brought unless the insurer has filed with the Controller at the time of payment of the taxes a written protest stating whether the whole assessment is claimed to be void, or if a part only, what part, and the grounds upon which the claim is founded.

Copy of protest

13105. At the time the protest is filed the taxpayer shall file a copy of the protest with the board.

Payment under protest

13106. A payment made under protest may in no case be regarded as voluntary.

Grounds of protest

13107. An action may be brought only upon the grounds stated in the protest.

Service of complaint

13108. When an action is commenced against the board, a copy of the complaint and of the summons shall be served upon the chairman or secretary of the board.

Venue 13109. At the time the board demurs or answers, it may demand that the action be tried in the Superior Court of the County of Sacramento. This demand shall be granted.

Attorney General 13110. The Attorney General shall defend the action.

Procedure 13111. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals are applicable to an action brought pursuant to this chapter.

Judgment 13112. The court may render judgment for the plaintiff for any part or portion of the tax, penalties or costs found to be void and paid by plaintiff upon the assessment.

Assignments 13113. A judgment shall not be rendered in favor of the plaintiff when the action is brought by or in the name of an assignee of the insurer paying the tax, or by any person other than the insurer that has paid the tax.

New section SEC. 2. Section 50013 is hereby added to the Revenue and Taxation Code, to read as follows:

Repeals 50013. The following acts and sections, together with all acts amendatory thereof or supplementary thereto, are hereby repealed:

GENERAL LAWS

Year	Chapter	Page
1917 Section 51	586	831
1939 Section 13	510	1891

POLITICAL CODE

3664b	3668
3664b-1	3668a
3664b-2	3668b
3664b-3	3668c
3664b-4	3669
3666a	3669a
3667a	3669bb

Effective date SEC. 3. The provisions of this act shall take effect on July 1, 1943.

CHAPTER 114

An act to amend Section 545 of the Agricultural Code, relating to cheese.

Stats 1933, p 60, amended

[Approved by Governor April 15, 1941 Filed with Secretary of State April 15, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 545 of the Agricultural Code is amended to read as follows:

Stats 1941, p 499
See also Stats 1941, p 1399

545. Established varieties of cheese are as follows:

Cheddar

(a) All varieties of cheese made by the so-called cheddar process which consists, in part, of subjecting the curd to a matting and milling process and molded under pressure, into characteristic forms approved by the director, with or without bandage, are classified as cheddar cheese. Cheddar cheese shall contain not more than 39 per cent of moisture.

Granular

(b) Granular cheese is made by the so-called stirred curd or granular process and molded, under pressure, into characteristic forms similar to those for cheddar cheese, and containing not more than 42 per cent of moisture. Except as provided in the rules and regulations promulgated by the director, granular cheese shall have a red bandage or a red coating.

Monterey

(c) Monterey cheese is made by the so-called stirred curd or granular process, without added color, and molded, under pressure, into characteristic forms, and containing not more than 44 per cent of moisture.

Jack

(d) High moisture jack cheese is made by the so-called stirred curd or granular process, without added coloring, and molded in bags under pressure into a characteristic form or shape, and containing not more than 50 per cent of moisture.

It shall be labeled on both flat surfaces with the name, the grade, whether whole milk, part skim milk or skim milk, and the factory number in letters not less than one inch in height nor less than one-fourth inch in width.

Cream

(e) Cream cheese is an unripened cheese made by the neufchatel process or variations thereof, from cream, milk or skim milk enriched with cream or milk fat sufficient so that the resultant cheese shall contain in its water-free substance not less than 65 per cent of pure milk fat. It shall contain not more than 56 per cent of moisture. All manufacturers of cheese who manufacture cream cheese from butter shall first secure from the department a permit to do so. Said permit shall be issued subject to the rules and regulations of the director, and may be revoked for violation thereof, after hearing.

Uncreamed cottage

(f) Uncreamed cottage cheese shall be made from pure, fresh milk or skim milk which has been pasteurized, with or

without harmless coloring matter, and sold fresh without molding into forms.

Creamed cottage

(g) Creamed cottage cheese is uncreamed cottage cheese to which a sufficient quantity of pure, fresh, pasteurized sweet cream is added so that the finished product contains not less than 4 per cent of pure milk fat. The addition of cream, milk or other fluids to uncreamed cottage cheese shall take place only in dairy products plants licensed under the provisions of Section 671 of the Agricultural Code.

CHAPTER 115

Stats 1933, p. 394, amended

An act to amend Section 610 of the Fish and Game Code, relating to trout season and bag limits.

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

Stats 1933, p 450

SECTION 1. Section 610 of the Fish and Game Code is hereby amended to read as follows:

General season and bag limit

610. Unless otherwise provided in this article, all varieties of trout and whitefish, except golden trout, may be taken in all districts, from May 1st to October 31st. In all districts, unless otherwise provided in this article, not more than 25 trout but in any event not more than 10 pounds of trout and one trout may be taken in any day. Not more than one daily bag limit of trout may be possessed by any person during one day.

CHAPTER 116

Stats 1935, p 496, amended

An act to add Section 383.5 to the Insurance Code, relating to insurance.

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

New section

SECTION 1. Section 383.5 is hereby added to the Insurance Code, to read as follows:

Motor vehicle insurance

383.5. "Document," as used in this section, means a policy or a certificate evidencing insurance under a master policy. Such policy or certificate shall conform to Section 381 and shall segregate the premiums charged for each risk insured against. Such a certificate, in lieu of specifying the risks insured against, may designate them by name or by description.

"Owner" as used in this section means any person who is named as an insured in such contract of insurance or document, or in a loss payable clause therein, and, whether or not he is named therein, the vendee, pledgor, or chattel mortgagor of a motor vehicle where insurance contracts subject to this section are procured with respect to the motor vehicle by or on behalf of either party to the purchase, pledge, or mortgage.

Every contract of insurance against hazards incident to ownership, maintenance, operation and use of motor vehicles shall be embodied in a document.

The original or a true copy of such document shall be delivered to each owner. Where it is executed by an insurer, the insurer shall deliver the original or a true copy:

(a) To the agent or broker who negotiated the insurance, for delivery to each owner of the motor vehicle, or

(b) To each owner of the motor vehicle.

The agent or broker receiving such original or copy shall deliver one to each owner. Where coverage subject to this section is evidenced by a document executed by an agent licensed under Article 1, Chapter 5, Part 2, of this division, and not by an insurer, the agent and not the insurer is responsible for delivery of the original or a true copy to each owner.

The licenses of any agent or broker or the certificate of authority of any insurer found by the commissioner after hearing to have violated this section may be suspended or revoked.

The purpose of this section is to prevent fraud or mistake in connection with the transaction of insurance covering motor vehicles and in furtherance of that purpose the commissioner may make reasonable rules and regulations therefor

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CHAPTER 117

An act to amend Sections 5050.5, 5057, 5058, 5090, 7031, 7088 and 9031 of, and to add Section 5090.2 to, the Insurance Code, relating to insurance.

Stats 1935, p 496, amended

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5050.5 of the Insurance Code is hereby amended to read as follows:

Stats 1939, p 2629

5050.5. Any county mutual fire insurer heretofore or hereafter incorporated and doing business under the provisions of this chapter may, if it has issued an insurance policy against fire, and as long as it maintains an excess of admitted assets over liabilities of at least fifty thousand dollars ($50,000), indorse such policy to extend the coverage thereof to include

Extension of fire policy to cover windstorm, etc

loss or damage caused by windstorm, cyclone, tornado and hail, explosion, riot, riot attending a strike, aircraft, vehicles, and smoke, and to include waiver of the fallen building clause.

Definitions

As used in this section "explosion" does not include explosions (a) of any boiler, heater or other fired pressure vessel caused by pressure of contents, (b) of any unfired pressure vessel or of any piping caused by pressure of contents or vacuum, (c) of any engine, turbine, compressor, pump or wheel, (d) of any electrical apparatus, or (e) of any other machine having moving or rotating parts. This restricted definition of "explosion" does not exclude loss or damage by fire only where fire ensues. As used in this paragraph, the terms "boiler," "heater," and "pressure vessel," do not include hot water heaters used solely to provide hot water for delivery to faucets for domestic purposes and having a storage capacity of not more than 50 gallons.

Stats 1935, p 615

SEC. 2. Section 5057 of the Insurance Code is hereby amended to read as follows:

Annual meeting

5057. The annual meeting of the members of the insurer shall be held on the second Monday of February of each year, unless its board of directors fixes the time for the annual meeting in which event the board may select any day between the second and third Mondays of February.

Stats 1935, p. 615

SEC. 3. Section 5058 of the Insurance Code is hereby amended to read as follows:

Votes of members

5058. In the election of the first board of directors each member shall be entitled to one vote. At every subsequent election each member shall be entitled to as many votes as there are directors to be elected.

Stats 1937, p 1947

SEC. 4. Section 5090 of the Insurance Code is hereby amended to read as follows:

Entry into membership

5090. Any person having an insurable interest in property in the county in which any such insurer is formed or any person having such an interest in property in any adjoining county may become a member by insuring therein. Every member shall be entitled to all the rights and privileges appertaining to membership, except that at least a majority of the directors shall reside in the county in which the insurer is formed and not more than one member from each of the adjoining counties in which it transacts insurance may

Corporations

become one of its directors. Whenever any public or private corporation, board or association in this State has entered into an agreement for and holds a policy in any county mutual insurer operating under this chapter, any officer, stockholder or trustee of any such corporation, board or association may be recognized as acting for or on its behalf for the purpose of

such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this State to participate as a member of such county mutual insurer is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

SEC. 5. Section 5090.2 is hereby added to the Insurance Code, to read as follows: New section

5090.2. Not more than one person licensed as an insurance agent, broker or solicitor, or who is a member of an association or partnership or a stockholder or employee of a corporation which is so licensed is eligible to be a director of a county mutual insurer. If a director of the board is licensed as an insurance agent, broker or solicitor, or is a member of an association or partnership or a stockholder or employee of a corporation which is so licensed, neither he nor the association, partnership or corporation shall transact insurance with or for a county mutual insurer as an agent, broker or solicitor, or receive any commission from a county mutual insurer. Directors

The secretary or other person who passes upon the risks and upon whose decisions or recommendations the application for insurance is accepted or rejected by the insurer, shall not receive, as any part of his compensation, a commission upon the premiums. His compensation shall be determined by the directors. Secretary's compensation

SEC. 6. Section 7031 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 627

7031. The president and secretary shall, on or before the first day of March of each year, prepare, under oath, and transmit to the commissioner a statement of the condition of the insurer as of the thirty-first day of December then next preceding. Statement to commissioner

SEC. 7. Section 7088 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 628

7088. The annual meeting of the members of the reinsurer shall be held on the third Monday in February of each year. Annual meeting

SEC. 8. Section 9031 of the Insurance Code is hereby amended to read as follows: Stats. 1935, p. 632

9031. The president and secretary shall, on or before the first day of March of each year, prepare under oath, and transmit to the commissioner, a statement of the condition of the insurer as of the thirty-first day of December then next preceding. Statement to commissioner

CHAPTER 118

Stats 1935, p 496, amended

An act to amend Section 10270 of the Insurance Code, relating to insurance.

In effect September 13, 1941

[Approved by Governor April 15, 1941. Filed with Secretary of State April 15, 1941.]

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

Stats. 1939, p 1547

SECTION 1. Section 10270 of the Insurance Code is hereby amended to read as follows:

Scope of chapter

10270. This chapter shall not affect workmen's compensation insurance, nor shall it apply to a blanket policy issued to a volunteer fire company providing benefits to members only in event of accident incurred while performing actions incident to such membership, nor to a blanket policy issued to a college, school, or other institution of learning or to the head or principal thereof agreeing to indemnify for loss of tuition by reason of disability of students enrolled therein. Such policies, however, shall not be issued until approved as to substance and form by the commissioner. The commissioner may after notice and hearing promulgate general rules as to provisions reasonably required in such blanket policies.

CHAPTER 119

Stats 1935, p 248, amended

An act to amend Sections 820, 822 and 823 of, and to add Section 820.5 to, the Streets and Highways Code, relating to cooperation with the United States, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor April 16, 1941. Filed with Secretary of State April 16, 1941.]

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

Stats 1935, p 1293

SECTION 1. Section 820 of the Streets and Highways Code is hereby amended to read as follows:

Assent to provisions of Federal Highway Act

820. The State of California assents to the provisions of the Federal Highway Act, as amended and supplemented. All work done under the provisions of said act or other acts of Congress relative to Federal aid, or other cooperative highway work, or to emergency construction of public highways with funds apportioned by the Government of the United States, shall be performed as required under acts of Congress, and the rules and regulations promulgated thereunder. Laws of this State inconsistent with such laws, or rules and regulations of the United States, shall not apply to such work, to the extent of such inconsistency. The reenactment of this section is for

the purpose of bringing the assent of the State of California to the provisions of the applicable Federal statutes up to the effective date of this amendment.

SEC. 2. Section 820.5 is hereby added to the Streets and Highways Code, to read as follows: New section

820.5. The department may enter into agreements with the authorized officials of the United States for the performance of such street or highway construction or improvement projects, including the acquisition of necessary rights of way therefor, for military streets or highways, including but not restricted to access and tactical highways, regardless of whether or not such military highways are within the State Highway System. As to any project not on the State Highway System, such agreement must provide for complete reimbursement to the department, except for general administrative and administrative engineering expenses. Military highways. Agreement with U S

As to any such military street or highway, the department and the California Highway Commission are, and each of them is, authorized to do any and all things in connection therewith as may be done with reference to the State highways. The commission may adopt resolutions authorizing condemnation of property necessary for such highways with like effect as it may with reference to State highways. All provisions of this article shall apply to any work done by the department under any such agreement. Powers of department

In the event any act of Congress so provides, the department may acquire title to any property necessary for such military highway in the name of the United States, and on behalf of the United States may commence and prosecute eminent domain proceedings in the appropriate Federal courts. Title to property

If desired by the United States, title to any real property or interest therein acquired by the department in connection with any military street or highway which is not a part of the State Highway System may be transferred to the United States or any agency thereof by a conveyance executed on behalf of the State of California by the Director of Public Works. Such conveyance shall only be made in the event the State has been fully reimbursed for any expenditures made in connection with the acquisition of such property or interest therein. Upon completion of the construction of any military highway which is not a State highway, it shall forthwith be turned over to the United States for maintenance and control, if the United States will accept the same. If the United States will not accept the maintenance and control thereof, such highway shall become a city street or county highway, as the case may be, upon the passage by the commission of a resolution to that effect.

Stats. 1935, p. 1294

SEC. 3. Section 822 of the Streets and Highways Code is hereby amended to read as follows:

Powers of department

822. The department is authorized to do any and all acts and things with reference to any military or public street or highway in, or to be constructed in, this State necessary to the performance of any such agreement, including but not limited to the construction or improvement of streets, highways or roads which are not a part of the State Highway System.

Stats 1935, p. 1294

SEC. 4. Section 823 of the Streets and Highways Code is hereby amended to read as follows:

Appropriation Construction or improvement projects

823. In addition to the purposes for which the moneys in, and to be received in, the State Highway Fund and the State Highway General Fund have been appropriated, all of said moneys, or so much thereof as may be necessary, is hereby appropriated to, and may be expended by the department for, the performance of such street or highway construction or improvement projects as are agreed upon with the properly authorized officers of the United States, including projects on public or military highways in the State of California which are not a part of the State Highway System. As to such projects on streets or highways which are not a part of the State Highway System, such expenditures shall be limited to those items for which the Government of the United States has agreed, and is obligated, to reimburse the State in full, except that the general administrative and administrative engineering expense for which the Federal Government will not repay the State is properly chargeable to the general administration of the Division of Highways.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution. The facts constituting such urgency are as follows:

This Nation is at this time engaged in a large Program of National Defense. Included in such program are many projects of a military nature within the State of California and it is necessary that adequate highway facilities be immediately constructed to serve such projects and to facilitate the movement of personnel and supplies throughout the State of California. The United States has indicated that a large share of the actual acquisition and construction of such highways should be done by the State highway departments in the various States and it is therefore necessary that this act take immediate effect to assure that adequate highway facilities can be made available as soon as possible to meet the defense needs

CHAPTER 120

An act to amend Section 2246 of the Business and Professions Code, relating to instruction in chiropody.

Stats 1937, p 1229, amended

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2246 of the Business and Professions Code is hereby amended to read as follows:

Stats 1937, p 1265

2246. Each applicant shall show by evidence satisfactory to the board that he has attended three resident courses of professional instruction in a school approved by the board covering at least 3,360 hours.

Professional instruction

Each hour does not include the time consumed by examinations or tests and shall not be less than 50 consecutive minutes. Not more than eight hours work is to be credited to any student in any one day of 24 hours. Each course shall not be of less than 32 weeks duration. At least 11 months shall intervene between the beginning of any course and the beginning of the preceding course, but these courses need not necessarily have been pursued continuously or consecutively.

This instruction shall be in accordance with the following schedule:

Group 1.			
Anatomy, including embryology and histology	11	to 13	per cent
Group 2.			
Physiology and bio-chemistry	8	to 10	per cent
Group 3.			
Bacteriology, pathology and immunology	9	to 10	per cent
Group 4.			
Pharmacology, including materia medica, and toxicology	5	to 6	per cent
Group 5.			
Preventive medicine and hygiene	2	to 3	per cent
Group 6.			
Shoe therapy, physical therapy, foot orthopedics, and didactic chiropody	21	to 24	per cent
Group 7.			
Chiropodic medicine, physical and laboratory diagnosis, neurology, psychology, dermatology and syphilology	18	to 20	per cent
Group 8.			
Chiropodic surgery, orthopedic surgery, and roentgenology	10	to 14	per cent
Total	84	to 100	per cent
Electives	16	to 0	per cent
Total number of hours required	3,360		

CHAPTER 121

Stats 1937, p 1229, amended

An act to add Section 2410 to the Business and Professions Code, relating to the advertising of chiropodical services.

In effect September 13, 1941

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

New section

SECTION 1. Section 2410 is hereby added to the Business and Professions Code, to read as follows:

Unprofessional conduct Price advertising

2410. It constitutes unprofessional conduct within the meaning of this chapter for any person holding a certificate to practice chiropody, to advertise the rendition of chiropodical services at a stipulated price, or at any variation of such a price, or as being free.

CHAPTER 122

An act to amend School Code Sections 2.981 and 6.190, relating to the powers of governing boards of school districts, declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

Sch. C 1929, p 82

SECTION 1. School Code Section 2.981 is hereby amended to read as follows:

Renting of Administrative offices

2.981. Boards of school trustees and city boards of education shall have power to rent suitable quarters for administrative offices for a period of not to exceed 22 years.

Sch. C. 1929, p 275

SEC. 2. School Code Section 6.190 is hereby amended to read as follows:

Sale or lease of real property

6.190. The governing body of any school district of any kind or class, or of any high school district of any kind or class, or of any junior college district of any kind or class, is hereby authorized to sell or to lease for a term not exceeding 99 years, without a vote of the electors of such district first being taken, any real property belonging to their respective school districts, high school districts, or junior college districts and which is not or will not at the time of delivery of title or possession be needed for school classroom buildings by the district owning the same.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public

peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

Owing to the large increase in population in this State in the past few years, it has been necessary for many school boards to rent suitable quarters. These quarters have been leased for periods not exceeding five years, and the leases are about to expire. If new leases can be made for periods of 22 years, new facilities can be obtained at a great saving to the districts.

CHAPTER 123

An act to amend Sections 2604 and 2617 of the Elections Code, relating to nominations and sponsors' certificates.

Stats 1939, p 49, amended

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2604 of the Elections Code is hereby amended to read as follows:

Stats 1939, p 128

2604. Sponsors, other than those who sign declarations of candidacy by sponsors, shall certify to the qualification of the candidate as follows:

Form of sponsor's certificate

SPONSOR'S CERTIFICATE

I, the undersigned sponsor for_____for the_____ Party nomination to the office of_____, to be voted for at the primary election to be held on the _____day of_____, 19___, hereby assert as follows:

My knowledge of_____is sufficient to warrant my urging his election to the office of_____and in my opinion he is fully qualified, mentally, morally, and physically for the office and should be elected to fill it. I am a qualified voter of _____County and I am registered as affiliated with the _____Party and am not at this time a signer of any other certificate nominating any other candidate for the above-named office, or in case there are several places to be filled in the above-named office, I have not signed more certificates than there are places to be filled in the above-named office. My residence is correctly set forth after my signature hereto:

Name	Residence
_____	_____
_____	_____

Verification deputy's affidavit

VERIFICATION DEPUTY'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed according to the provisions of Sections 2612 and 2615 of the Elections Code, as a verification deputy to secure signatures of sponsors in the County of _____to the nomination paper of_____as a candidate for the nomination of the _____Party for the office of_____; that all the signatures on this section of the nomination paper, were made in my presence, and that, to the best of my knowledge and belief, each signature is the genuine signature of the person whose name it purports to be.

(Signed) _____
Verification deputy

Subscribed and sworn to before me this_____day of _____, 19___.

(SEAL) _____
Notary public (or other official)

Examined and certified by me this_____day of_____, 19___.

_____
Registrar of voters—county clerk

Stats 1939, p 132

SEC. 2. Section 2617 of the Elections Code is hereby amended to read as follows:

Form of sponsor's declaration of candidacy

2617. The declaration of candidacy made by sponsors shall be substantially as follows:

DECLARATION OF CANDIDACY BY SPONSORS

I, the undersigned, am a voter of the County of_____, State of California, I am registered as affiliated with the _____Party, and I do hereby sponsor, propose and nominate_____who resides at No._____Street in the City of (or in the Town of)_____, County of_____, State of California, as a party candidate for the nomination of that party for the office of_____, to be voted for at the primary election to be held on the_____day of_____, 19___, and I hereby assert as follows:

My knowledge of the said_____is sufficient to warrant my urging his election to the office of_____and in my opinion he is fully qualified mentally, morally and physically for the office and should be elected to fill it. I am not at this time a signer of any other declaration of candidacy, nominating, proposing or sponsoring any other candidate for the above-named office, or in case there are several places to be filled in the above-named office, I have not signed more declarations of

candidacies than there are places to be filled in the above-named office. My residence is correctly set forth after my signature hereto:

Name	Residence
_____	_____
_____	_____
_____	_____

VERIFICATION DEPUTY'S AFFIDAVIT

Verification. Deputy's affidavit

I, _____, solemnly swear (or affirm) that I have been appointed as a verification deputy to secure signatures of sponsors in the County of_____to the nomination paper of _____as a candidate for the nomination of the_____ Party for the office of_____; that all the signatures on this section of said nomination paper, were made in my presence, and that, to the best of my knowledge and belief, each signature is the genuine signature of the person whose name it purports to be.

(Signed) _____
Verification deputy

Subscribed and sworn to before me this_____day of _____, 19___.

(SEAL) _____
Notary public (or other official)

Examined and certified by me this_____day of_____, 19___.

_____
Registrar of voters—county clerk

CHAPTER 124

An act to amend Section 103 of, to renumber Section 103e to be Section 103k of, and to add Sections 103g, 103h, 103i and 103j to, the Code of Civil Procedure, relating to justices of the peace and justices' clerks and assistant clerks in cities of the second class.

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 103 of the Code of Civil Procedure is amended to read as follows:

Stats. 1939, p. 1974. See also Stats. 1911, p. 1780

103. (a) There shall be at least one justice's court in each of the townships of the State, for which one justice of the peace must be elected by the qualified electors of the township, at the general State election next preceding the expiration of the term of office of his predecessor. In any county where, in the

Justices' courts and justices

opinion of the board of supervisors, the public convenience requires it, the said board may, by order, provide that two justices' courts may be established in any township, designating the same in such order; and in such case one justice of the peace must be elected, in the manner herein provided, for each of said courts; provided, however, that in every township containing a population of over 200,000 and less than 400,000 in counties containing a population of over 400,000 and less than 600,000 and in which no municipal court has been established pursuant to the provisions of Section 11 of Article VI of the Constitution, whenever in the opinion of the justice of the peace of such township, the public interests so justify or require, one or more sessions of said justice court, to be known as extra sessions thereof, may be held in addition to and at the same time as the sessions held by the justice of the peace of such township, which extra sessions shall have all of the powers and jurisdiction prescribed and conferred by law upon justices of the peace.

Extra sessions

(b) The justice of the peace of a township containing a population of over 200,000 and less than 400,000 in such counties, may request any other qualified justice of the peace, or judge of any city court in such county, to hold court in such township, and while so holding court, or acting as a justice of the peace therein, he shall receive for his services the same compensation as the justice of the peace of the township in which he is requested to act, together with actual traveling expenses at the rate of twenty-five cents ($0.25) per mile, while traveling from his residence to the court and return therefrom. The extra compensation of the justice of the peace, or judge sitting in said court pursuant to such request shall be paid by the county which, by law is charged with the payments of the compensation of the justice of the peace making the request. The board of supervisors of such county shall provide a suitable place for the holding of extra sessions of said justice's court.

Request to hold court

(c) In counties containing a population of more than 400,000 and less than 600,000, justices of the peace shall each receive the following salaries to be paid by warrants drawn each month upon the salary fund, or, if there be no salary fund, then upon the general fund of the county, such warrants to be audited and paid as the salary of any county or township officer, and which salaries shall be in full for all services rendered by such justices of the peace; in townships having a population of more than 200,000, six thousand dollars ($6,000) per annum; in townships having a population of 100,000 and less than 200,000, four thousand six hundred dollars ($4,600) per annum; in townships having a population of 35,000 and less than 50,000, three thousand three hundred dollars ($3,300) per annum; in townships having a population of 30,000 and less than 35,000, three thousand

Alameda County

Salaries

three hundred dollars ($3,300) per annum; in townships having a population of less than 30,000, two thousand seven hundred dollars ($2,700) per annum; provided, however, that no justice of the peace receiving a salary of six thousand dollars ($6,000) or more.

Fresno County

(d) In every township containing a population of over 30,000 in counties containing a population of over 144,000 and less than 145,000, as determined by the Federal census taken in the year anno Domini 1930, in which no municipal court has been established, pursuant to the provisions of Section 11, Article VI of the Constitution, there shall be a justice's court composed of two justices of the peace which shall have all the powers and jurisdiction prescribed and conferred by law upon justices of the peace. Any of said justices may hold court and there may be as many sessions of said court at the same time as there are justices thereof. The board of supervisors shall provide in a convenient locality a suitable office for the justices, justices' clerks and rooms suitable for holding sessions of said court separate from each other for each of said justices of the peace.

Salaries

(e) The salary of each of said justices of the peace shall be three thousand dollars ($3,000) a year and shall be paid by warrant drawn each month upon the salary fund, or if there be no salary fund, then upon the general fund of the county, such warrants to be audited and paid as salary of any county or township officer.

City justices' courts

(f) In every city of the second and one-fourth, second and one-half, second and three-fourths, third and fourth classes, save and except cities of the second and three-fourths class lying within a township wherein two township justice courts have been created and are in existence on September 15, 1931, there must be one justice of the peace, to be elected in like manner, by the electors of such cities or towns, respectively; and such justices of the peace of cities shall have the same jurisdiction, civil and criminal, as justices of the peace of townships and township justice's courts. Said justices of the peace of cities and justice's courts of cities shall also have jurisdiction of all proceedings for the violation of any ordinance of any city in which courts are established both civil and criminal and of all actions for the collection of any license required by any ordinance of any such city, and generally exercise all powers, duties and jurisdiction, civil and criminal, of police judges, judges of police courts, recorder's courts or mayor's courts, within such city.

Jurisdiction

Qualifications of justices

(g) No person is eligible to the office of justice of the peace in any city of the second and one-fourth, second and one-half, second and three-fourths or third class, who has not been admitted to practice law in this State; and no justice of the peace shall be permitted to practice law before another justice of the peace in the city, town or county in which he resides, or to have a partner engaged in the practice of law in any justice's court in any such city, town or county.

Salaries (h) Every city justice of the peace in any city of the second and one-fourth class shall receive a salary of three thousand dollars ($3,000) per annum. Every city justice of the peace in any city of the second and one-half class shall receive a salary of four thousand six hundred dollars ($4,600) per annum. Every city justice of the peace in any city of the second and three-fourths class shall receive a salary of two thousand four hundred dollars ($2,400) per annum. Every city justice of the peace in any city of the third class shall receive a salary of three thousand three hundred dollars ($3,300) per annum. Every city justice of the peace in any city of the fourth class shall receive a salary of one thousand five hundred dollars ($1,500) per annum.

Offices (i) Each of said justices of the peace shall be provided by the city authorities, or by the board of supervisors, in counties where the salary of the city justice of the peace is paid by the county, with a suitable office in which to hold his court. The compensation of the justice of the peace of any city shall be paid by warrants drawn each month upon the salary fund, or if there be no salary fund, then upon the general fund of such city or county as the case may be; such warrants to be audited and paid as salaries of any other city or county officials.

Fees (j) All fees which are chargeable by law for services rendered by such city justice of the peace in cities aforesaid shall be by them respectively collected and on the first Monday of each month, every such city justice, or his clerk, shall make a report under oath, to the city or county treasurer, as the case may be, of the amount of fees so by him collected, and pay the amount so collected into the city or county treasury, as the case may be, to the credit of the general fund thereof. Said salaries shall be the sole compensation of said city justice.

Vacancies (k) Where the number of city justices herein fixed for any city exceeds the number elected at the last general election, the board of supervisors of the county in which such city is situated shall, as soon as is practicable after this amendment takes effect, make appointments in the manner provided by law, to fill such vacancies.

Stats 1939, p 1977 See also Stats 1941, p 1256

SEC. 2. Section 103c of said code is hereby renumbered to be Section 103k of said code, to read as follows:

Justices' clerks in cities of second class (Oakland)

103k. In every city or town of the second class each justice of the peace of said city shall have a clerk who shall be appointed by each justice of the peace and who shall hold office during the pleasure of said justice. Said clerks shall be appointed immediately upon this act taking effect and shall take the oath of office prescribed for county officers, and each one shall give a bond in the sum of one thousand dollars ($1,000) conditioned for the faithful discharge of the duties of the office, which bond shall be approved and filed in the same manner as are bonds of county officers.

Each of said justice's clerks shall be authorized to administer oaths, take and certify affidavits, and shall be authorized to issue, and sign writs, summonses and all other processes in any action or proceeding in the justice's court of the city for which they are appointed or pending before any justice of the peace in said city in the name of the justice before whom the same is pending or out of whose court the same is issued which shall be in substantially the following form: Powers and duties

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Justice of the Peace

By---

Clerk

All legal papers of every kind in actions or proceedings in the justice's court shall be issued by each of said clerks in the manner and form hereinabove set out. The said justices' clerks shall issue, sign or certify to any and all papers, transcripts or records which are required to be issued, signed or certified by the said justices of the peace. All complaints, answers, and all other pleadings and papers required to be filed in said justice's court shall be filed with either one of the clerks of said court who shall keep a permanent record of all such actions and proceedings in the justice's docket, now provided by law to be kept by the justice. The said clerks shall keep a record of the proceedings of said court and shall have the custody of all records and papers of the same. All fees for the issuance of all processes, or other fees, which are by law allowed for any official service of the justice of the peace shall be exacted and paid in advance into the hands of the clerk of said justice's court, which, together with all fees, fines, forfeitures or penalties received in said justice's court shall be paid into the city treasury. Each of the said clerks shall render each month to the city council an exact and detailed account under oath, of all fines, forfeitures, penalties or fees received.

Each justice's clerk shall also act as a clerk of the police court of said city and the compensation provided for the clerk of said police court shall be in full compensation for all services rendered as clerk of the justice's court Each justice's clerk shall be in attendance at his office in the discharge of official business daily from 9 a.m. until 5 p.m. Clerk of police court

Each justice of the peace shall have the power, and if there be more than one justice of the peace then all of the justices of the peace shall have the power, to appoint an assistant clerk and such additional assistant clerks as the legislative body of such city shall provide. Assistants

The assistant clerk or assistant clerks shall receive such salary as may be fixed by the legislative body of such city. Salary

Powers and duties

All the provisions hereinbefore set forth in this section applying to a clerk shall apply with full force and effect to an assistant clerk, and each such assistant clerk shall have all the powers and duties and authority herein conferred upon a clerk.

New section

SEC. 3. Section 103g is hereby added to said code, to read as follows:

Qualifications of justices in city of second class (Oakland)

103g. In every city of the second class there shall be two justices of the peace, to be elected by the electors of the city in the same manner as are justices of the peace specified in subdivision (f) of Section 103. No person is eligible to the office of justice of the peace in any city of the second class unless he has been admitted to practice before the Supreme Court of the State of California for a period of five years immediately preceding his election or appointment to such office and he has been a resident of the city for five years immediately preceding his election or appointment. No justice of the peace shall be permitted to practice law before another justice of the peace in the city, town, or county in which he resides, or to have a partner engaged in the practice of the law in any justice's court in any such city, town, or county. No justice of the peace elected or appointed after September 19, 1939, shall practice law in or out of court during his continuance in office.

New section

SEC. 4. Section 103h is hereby added to said code, to read as follows:

Salaries of justices in city of second class

103h. Every city justice of the peace in any city of the second class shall receive a salary of four thousand six hundred dollars ($4,600) per annum, except that a justice elected after September 19, 1939, shall receive a salary of seven thousand five hundred dollars ($7,500) per annum. The compensation of the justice shall be paid by warrants drawn each month upon the salary fund, or if there is no salary fund, then upon the general fund of the city, or in counties where the salary of the city justice of the peace is paid by the county, of the county. The warrants shall be audited and paid as are the salaries of any other city or county officials. The salary shall be the sole compensation of the city justice.

New section

SEC. 5. Section 103i is hereby added to said code, to read as follows:

Office

103i. Every city justice of the peace in a city of the second class shall be provided by the city authorities, or by the board of supervisors, in counties where the salary of the city justice of the peace is paid by the county, with a suitable office in which to hold his court.

SEC. 6. Section 103j is hereby added to said code, to read as follows: New section

103j. All fees which are chargeable by law for services rendered by the city justice of the peace in a city of the second class shall be collected by him. On the first Monday of each month the justice or his clerk shall make a report under oath to the city or county treasurer, as the case may be, of the amount of fees collected and pay the amount collected into the city or county treasury, as the case may be, to the credit of the general fund thereof. Fees

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CHAPTER 125

An act to amend Section 764 of the Probate Code, relating to sales of real and personal property in probate. Stats 1931, p 587, amended

[Approved by Governor April 17, 1941 Filed with Secretary of State April 17, 1941.] In effect September 13, 1941

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

SECTION 1. Section 764 of the Probate Code is hereby amended to read as follows: Stats 1935, p 479

764. At any sale of real or personal property upon which there is a mortgage, deed of trust, or lien, the holder thereof may become the purchaser, even though no claim thereon has been, or could have been, presented or allowed. If no claim thereon has been presented or allowed the court, at the hearing of the petition for confirmation of the sale, may examine into the validity and enforceability of the lien or charge and the amount due thereunder and secured thereby and may authorize the executor or administrator to accept his receipt for the amount due thereunder and secured thereby as payment pro tanto. If such mortgage, deed of trust or other lien is a valid claim against the estate and has been allowed the receipt of such purchaser for the amount due him from the proceeds of the sale is a payment pro tanto. If the amount for which the property is purchased, whether or not such claim was presented or allowed, is insufficient to defray the expenses and discharge his mortgage, deed of trust, or other lien, the purchaser must pay the clerk of the court an amount sufficient to pay such expenses. Nothing permitted under the terms of this section shall be deemed to be an allowance of a claim based upon such mortgage, deed of trust, or other lien Purchase of property by holder

CHAPTER 126

Stats. 1897, p. 254, amended

An act to amend Section 21 of the California Irrigation District Act, relating to irrigation district elections.

In effect September 13, 1941

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

Stats 1921, p 860

SECTION 1. Section 21 of the act cited in the title hereof is hereby amended to read as follows:

Notice of election

Sec. 21. Not less than 30 nor more than 40 days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notice to be commenced to be published once a week for two successive weeks in a newspaper of general circulation published in the district or if no newspaper of general circulation is published in the district, shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and in either case shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying

Election officers

the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector, two judges and two clerks, or at their option one inspector, one judge and one clerk, who shall in either case constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour, may appoint the board, or supply the place of an absent member thereof. The board of directors, must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held.

CHAPTER 127

An act to add Article 4 to Chapter 6 of Part 2 of Division 6 of the School Code, relating to the providing of educational facilities for pupils in the public schools.

In effect September 13, 1941

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

New article

SECTION 1. Article 4 is hereby added to Chapter 6 of Part 2 of Division 6 of the School Code, to read as follows:

Article 4. Audio-Visual Materials

Audio-visual curriculum materials

6.495. The county superintendent of schools may, with the approval of the county board of education, establish,

conduct, and maintain facilities for the use in the elementary schools of the school districts under his jurisdiction of audial and visual curriculum materials, including the necessary salaries, supplies, materials, apparatus, and equipment, and other necessary expenses. The cost of such facilities may be paid out of the county unapportioned elementary school fund.

The county superintendent of schools may, with the approval of the county board of education, establish, conduct, and maintain facilities for the use in the high schools of the school districts under his supervision of audial and visual curriculum materials, including the necessary salaries, supplies, materials, apparatus, and equipment, and other necessary expenses. The cost of such facilities may be paid out of the county unapportioned high school fund.

Agreements with State, etc.

6.496. The county superintendent of schools may enter into an agreement with the State, or any political subdivision thereof, or any agency of the State, or of any political subdivision thereof, to conduct and maintain distribution among schools of districts under the jurisdiction of the county superintendent of schools, under such conditions as may be agreed upon, of audial and visual instruction materials and apparatus approved by the constituted educational authorities. The State and any political subdivision thereof, or any agency of the State, or of any political subdivision thereof, is hereby authorized to enter into any agreement with a county superintendent of schools authorized by this article.

Such agreement may, among other matters, provide for the payment by the county superintendent of schools to the State, political subdivision, or agency, from the county unapportioned elementary school fund for the distribution of such materials and apparatus among elementary schools, and from the unapportioned county high school fund for the distribution of such materials and apparatus among high schools, of such moneys at such times as may be agreed upon, all moneys so transferred to be used by the authorities of the State, political subdivision, or agency, solely for the acquisition of audial and visual materials and apparatus as may have been designated by the constituted educational authorities and for the care and distribution to schools of the county of such materials and apparatus.

Acquisition of materials

6.497. The county superintendent of schools and the State, or any political subdivision thereof, or any agency of the State, or of any political subdivision thereof, may acquire such materials and apparatus for distribution as authorized by this article, by purchase, rental, lease, loan or donation, provided such materials and apparatus have been adopted.

School district contracts

6.498. The governing board of any school district may contract with the county superintendent of schools having jurisdiction over such district, or with the State, or any political

subdivision thereof, or any agency referred to herein for the rendering to the schools of the district of any service authorized by this article to be rendered to the district, and may pay for such service out of any funds of the district.

Funds All funds paid by a school district to a county superintendent of schools for services rendered to the elementary schools of the district shall be placed in the county unapportioned elementary school fund, and all funds paid by a school district for services rendered to the high schools of the district shall be placed in the county unapportioned high school fund.

CHAPTER 128

Stats 1939, p 49, amended *An act to amend Section 2672 of the Elections Code, relating to a filing fee for a declaration of candidacy for an office to be voted for wholly within one county with certain exceptions.*

In effect September 13, 1941 [Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

Stats 1939, p 137 SECTION 1. Section 2672 of the Elections Code is hereby amended to read as follows:

Filing fees—To county clerk 2672. A filing fee of ten dollars ($10) shall be paid to the county clerk for filing a declaration of candidacy for an office to be voted for wholly within one county with the following exceptions:

(a) No filing fee is required from any person to be voted for at the presidential primary.

(b) No filing fee is required from any candidate for an office to the holder of which no fixed compensation is payable.

(c) No filing fee is required for township offices the compensation to the holder of which does not exceed the sum of six hundred dollars ($600) per annum.

(d) A filing fee of 1 per cent of the annual salary of the office shall be paid to the county clerk by each candidate for the office of judge of the superior court.

(e) The filing fee to be paid to the county clerk by each candidate for a county, township or judicial office other than the office of judge of the superior court shall be the same percentage of the annual salary of the office as that provided for in subdivision (a) of Section 2671 of this code, provided that this subdivision (e) shall not apply to any candidate for any such office which has an annual salary of two thousand five hundred dollars ($2,500) or less.

CHAPTER 129

An act to amend Section 103c of the Code of Civil Procedure, providing for justice's clerks and deputy clerks.

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.] In effect September 13, 1941

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

SECTION 1. Section 103c of the Code of Civil Procedure is hereby amended to read as follows: Stats 1931, p 2304

103c. In counties containing a population of more than 400,000 and less than 600,000, as said population was determined by the Federal census taken in the year anno Domini 1930, in townships having a population of more than 200,000 there shall be one justice's clerk and eight justice's deputy clerks, all of whom shall be appointed by the justice of the peace of such township and who shall hold office at the pleasure of such justice of the peace. Said clerk and deputy clerks shall be appointed immediately upon this act taking effect and shall take the oath of office prescribed for county officers. Such clerk and deputy clerks shall perform the duties required of them by law and such duties as may be required by the justice of said court. The board of supervisors shall provide in a convenient locality suitable offices for said clerk and said deputy clerks. The said clerk and deputy clerks shall be in attendance at the court and in the discharge of official business daily from 9 a.m. until 5 p.m. Counties of third class, justice's clerk (Alameda)

Such clerk and deputy clerks are authorized to administer oaths, take and certify affidavits, to issue and sign all writs, summons and all other process in any action or proceeding in said justice's court of the township for which they are appointed or pending before any justice of the peace of said township in the name of the justice before whom the same is pending or out of whose court the same is issued, which shall be in substantially the following form: Form of signature by deputies

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Justice of the Peace

Justice's Clerk

By ---

Justice's Deputy Clerk

All legal papers of every kind in actions or proceedings in such justices court shall be issued by the said clerk in the manner and form hereinabove set out. The said clerk shall issue, sign and certify to any and all papers, transcripts or records which are required to be issued, signed, or certified by the said justice of the peace. All complaints, answers and other pleadings and papers required to be filed in said justice's court shall be filed with such justice's clerk, who shall keep a permanent record of all such actions and proceedings in the justices docket or register of actions now provided by law to be kept by the justice. The said clerk shall keep a record of Record

the proceedings of said court and shall have the custody of all records and papers of the same.

Fees All fees which are by law allowed for any official service of the justice of the peace shall be exacted and paid in advance into the hands of such justice's clerk, which, together with all fees, fines, forfeitures, or penalties received in such justice's court, shall be paid into the county treasury as required by law.

Report Said justice's clerk shall render each month to the county auditor and county treasurer an exact account under oath of all fines, forfeitures, penalties and fees received by him or

Salary collected by said court. Said justice's clerk shall receive a salary of three thousand dollars ($3,000) per annum and said deputy clerks shall each receive a salary of two thousand one hundred sixty dollars ($2,160) per annum; which shall be payable in like manner and out of the same funds and at like times as county officers are paid.

In townships in such counties containing 100,000 population and less than 200,000 population, there shall be one justice's clerk, whose salary is hereby fixed at the sum of two thousand seven hundred dollars ($2,700) per annum, and one justice's deputy clerk, whose salary is hereby fixed at the sum of two thousand one hundred sixty dollars ($2,160) each per annum. Said clerk and deputy clerks shall be appointed by the justice of the peace or justices, if more than one, of such township and shall hold office at the pleasure of such justice of the peace, or justices of the peace and shall perform such duties as are required of them by law for the justice of said township. The salaries of said clerk and deputy clerks shall be payable in equal monthly installments out of the same fund and in the same manner and at the same time as the salary of the justices of the peace is paid.

In townships having a population of more than 35,000 and less than 50,000 each justice of the peace shall appoint one justice's clerk and one justice's deputy clerk who shall perform such duties as are required of them by law and such justice of the peace making the appointment. The salary of said justice's clerk is hereby fixed at one thousand eight hundred dollars ($1,800) per annum payable in equal monthly installments out of the same fund and in the same manner and at the same time as the salary of the justice of the peace is paid, and said justice's deputy clerk shall receive no pay or compensation whatever from the said county or body politic.

In townships having a population of more than 30,000 and less than 35,000 each justice of the peace shall appoint one justice's clerk who shall perform such duties as are required of him by law and such justice of the peace making the appointment. The salary of such justice's clerk is hereby fixed at one thousand eight hundred dollars ($1,800) per annum, payable in equal monthly installments out of the same fund and in the same manner and at the same time as the salary of the justices of the peace are paid.

CHAPTER 130

An act to amend Section 855 of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, relating to the compensation of city clerks and city treasurers.

Stats 1883, p 93, amended

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 855 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p 1322

Sec. 855. The members of the city council shall receive no compensation whatever; provided, that in all such cities the question of whether the members of such city council or any of them shall receive any compensation for his services as such members and the amounts thereof, may be submitted to the qualified electors of such cities at any general election and if a majority of such electors voting at such election shall vote in favor thereof, then such councilman or councilmen shall receive the compensation specified in the call submitting such question at such election; such compensation to begin at the beginning of the term of office of all members of the city council who take office subsequent to the canvass of the return of such election and the amount so fixed shall from such time be regularly charged against such city, payable as other salaries are paid. The compensation of any member of the city council appointed or elected to fill a vacancy shall be the same as that payable to such member whose office was vacated. No change in compensation shall apply to any member of the city council during his term of office. Such compensation may be increased or diminished at any general election thereafter, by submission of such question in the same manner and by the same vote as herein provided for the original creation of such compensation.

Council Compensation

The city clerk and the city treasurer shall severally receive, at stated times, a compensation to be fixed by ordinance adopted by the city council, which compensation shall not be increased or diminished after their election or during their respective terms of office. Nothing herein contained shall be construed to prevent the city council from fixing such several amounts of compensation in the first instance upon the incorporation of the city, during the term of office of any such officer after his election.

Officers Compensation

CHAPTER 131

Stats 1939, p 49, amended

An act to amend Sections 7921 and 7961 of the Elections Code, relating to the canvass of returns by the registrar of voters.

In effect September 13, 1941

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

Stats 1939, p 255

SECTION 1. Section 7921 of the Elections Code shall be and hereby is amended to read as follows:

Meeting of election board

7921. The election board of each county shall meet, at its usual place of meeting, on the first Monday after each election.

If, at the time of the meeting, the returns from each precinct in the county in which polls were opened have been received, it shall then and there do one of the following:

Action

(a) Canvass the returns.

(b) By resolution duly adopted and entered on its minutes, order the canvass made immediately by the county clerk.

In any county having a registrar of voters, except a city and county, the canvass of the returns shall be made by the registrar of voters and it shall be unnecessary for the election board to meet as hereinabove provided. The registrar of voters shall perform the duties of the election board or board of supervisors as provided in this article.

Stats 1939, p 257

SEC. 2. Section 7961 of the Elections Code shall be and hereby is amended to read as folllows:

Date of canvass

7961. The board of supervisors of each county, or in the case of a city or municipal primary election, the officers charged by law with the duty of canvassing the vote therein, shall meet to canvass the returns at the usual place of meeting, or at any other place permitted by law, at 1 o'clock in the afternoon of the first Thursday after each primary election, or as soon thereafter as all the returns are in.

In any county having a registrar of voters, except a city and county, the canvass of the returns shall be made by the registrar of voters and it shall be unnecessary for the election board or board of supervisors to meet as hereinabove provided. The registrar of voters shall perform the duties of the election board or board of supervisors as provided in this article.

CHAPTER 132

An act to add a new section to the Elections Code, to be numbered 7803.1, relating to the canvass of absent voter ballots.

Stats 1939, p 49, amended

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 7803.1 shall be and hereby is added to the Elections Code, to read as follows:

New section

7803.1. Where the special canvassing board consists of more than five voters, five of them shall be designated to pass upon challenges and all questions relating to the marking of the ballots. Special forms of tally books or tally sheets may be prescribed by the election board and the duties of counting and canvassing may be distributed among the members of such special canvassing board by the election board in any manner which in the opinion of such board will assure a true and accurate count; provided, only, that the tally for each office or proposition shall be made by not less than four members, one to read from the ballots, another to keep watch of the vote thereon and to keep a check on any possible illegal vote or on any error or omission on the part of the officer reading or calling the ballot, and two to keep the tally upon the books or sheets provided therefor.

Special canvassing board with more than 5 members

CHAPTER 133

An act to amend Section 7805 of the Elections Code, relating to challenges of absent voters.

Stats. 1939, p 49, amended

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 7805 of the Elections Code shall be and hereby is amended to read as follows:

Stats 1939, p 253

7805. Except as otherwise provided, the canvass of votes and disposition of challenges for any election shall be according to the laws now in force pertaining to that election, except that the challenger shall have the burden of establishing the grounds of the challenge.

Law applicable

CHAPTER 134

Stats 1939, p. 49, amended

An act to add Section 7799 to Article 1 of Chapter 6 of Division 9 of the Elections Code, relating to the counting and canvassing of absent voter ballots by the registrar of voters.

In effect September 13, 1941

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

New section

SECTION 1. Section 7799 is hereby added to Article 1 of Chapter 6 of Division 9 of the Elections Code, to read as follows:

"Election board"

7799. In any county having a registrar of voters, except a city and county, "election board" as used in this chapter means such registrar of voters.

CHAPTER 135

An act to add Section 2924d to the Civil Code, relating to the reinstatement of a deed of trust, mortgage, chattel mortgage or contract of purchase upon which the payments have been extended, the sale postponed, the right of redemption extended or a forfeiture or termination postponed under moratorium acts; providing that this act shall take effect immediately and declaring the urgency thereof.

In effect immediately

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

New section

SECTION 1. A new section, numbered 2924d, is hereby added to the Civil Code, to read as follows:

Reinstatement of deed of trust or mortgage

Expiration of order extending time

2924d. In any case where an order has been entered under or pursuant to Chapter 7 or Chapter 348, Statutes of 1935, or Chapter 5, Statutes of 1937, or Chapter 167, Statutes of 1937, or Chapter 86, Statutes of 1939, extending payments, postponing sale, extending the right of redemption or postponing a forfeiture or termination under a chattel mortgage, mortgage, deed of trust, contract of purchase of real property or contract of purchase of chattels attached to real property, and the term of such postponement or extension expires or is terminated by the terms of such order or any modification or alteration thereof, or by operation of law, the trustor, mortgagor or contract purchaser or the successor in interest of them in the property may, prior to the expiration or termination date of such order, pay to the party entitled thereto the entire

amount then due under the terms of such deed of trust, mortgage, chattel mortgage or contract to purchase, and the obligation secured thereby, including costs and expenses actually incurred in the enforcement thereof and trustee's and attorney's fees actually incurred under the terms thereof, other than such portion of principal or purchase price as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and the deed of trust, mortgage, chattel mortgage or contract of purchase shall be reinstated and shall be and remain in force and effect, the same as if no acceleration had occurred, except as otherwise provided in the statutes hereinbefore cited.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution, and shall therefore take effect immediately.

The facts constituting the necessity are as follows:

The severe economic depression which has long existed throughout the State, and which inspired the enactment of the statutes cited in Section 1 of this act, still continues and many citizens have not yet reached normal earning powers and are still unable to pay the principal sum of their debts. As a result of the expiration of the time limits fixed in the orders mentioned in Section 1 of this act they are being called upon to pay off the principal sums on their obligations, accelerated by the defaults occurring prior to the entry of such orders. Being unable to meet such payments they are being deprived of their properties through foreclosures, forfeitures and terminations. The dangers in the situation are such as to threaten the maintenance of law and order, and to lead to the pauperization of many persons who have hitherto constituted an important part of the self-supporting and economically independent people of the State. This act will enable them to reinstate their obligations and thus the dangers mentioned will be avoided.

CHAPTER 136

Stats 1933, p 394, amended

An act to amend Section 421 of the Fish and Game Code, relating to sale of fish taken under sporting fishing licenses.

In effect September 13, 1941

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

Stats 1937, p 1388

SECTION 1. Section 421 of the Fish and Game Code is hereby amended to read as follows:

Sporting fishing license

421. Sporting fishing licenses are required for the taking of the following fish and mollusks only:

Tuna, yellowtail, marlin swordfish, broadbill swordfish, jewfish or black sea bass, albacore, barracuda, white sea bass, bonito, rock bass, kelp bass, California whiting (also known as corbina and surf fish), yellowfin, croaker, spotfin croaker, salmon, steelhead and other trout, charr, whitefish (fresh water), striped bass, black bass, perch (fresh water), crappie, calico bass, pismo clams, cockle clams, abalones, scallops, jackknife clams, and all varieties of sun fishes. It is unlawful for the holder of a sporting fishing license to sell any fish, mollusk, or crustacean taken by him under such license.

CHAPTER 137

Stats. 1897, p 254, amended

An act to add Section 52.5 to the California Irrigation District Act, relating to the surrender of obligations to irrigation districts.

In effect September 13, 1941

[Approved by Governor April 17, 1941 Filed with Secretary of State April 17, 1941.]

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

New section

SECTION 1. Section 52.5 is hereby added to the act cited in the title hereof, to read as follows:

Cancellation of warrants

Sec. 52.5. Any owner of any bonds or warrants of an irrigation district may surrender them to the district by giving the bonds or warrants to the secretary for cancellation. The board shall then order the bonds or warrants canceled. Upon the making of the order, the bonds or warrants shall cease to be an obligation of the district as of the time of their presentation to the secretary. This section does not restrict any other method of releasing obligations of an irrigation district to it.

CHAPTER 138

An act to amend Section 1530 of the Water Code or Section 23b of the Water Commission Act, relating to fees for applications or permits to appropriate water.

Stats 1913, p 1012, amended

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1530 of the Water Code is hereby amended to read as follows:

See Sec 3

1530. No fee shall be required from the United States on applications or permits to appropriate water to be used in furtherance of projects under the supervision of the United States Bureau of Reclamation, nor shall any fee be required from any person exempt by any law of the State from the payment of such fee.

SEC. 2. Section 23b of the Water Commission Act is hereby amended to read as follows:

Stats 1939, p. 1428

Sec. 23b. All fees paid under the provisions of Sections 23 and 23a of this act shall forthwith be paid into the State Treasury by the State Water Commission. No fee shall be required from the United States on applications or permits to appropriate water to be used in furtherance of projects under the supervision of the United States Bureau of Reclamation, nor shall any fee be required from any person, firm, association, or corporation exempt by any law of the State of California from the payment of such fee.

Payment of fees

SEC. 3. Section 1 of this act shall take effect only if Division 2 of the Water Code is enacted by the Legislature at its Fifty-fourth Session, and, in such case, at the same time said Division 2 takes effect, at which time Section 23b of the Water Commission Act is hereby repealed.

Effect (Water Code not enacted)

CHAPTER 139

An act to amend an act entitled "An Act creating the Colorado River Board of California and the office of Colorado River Commissioner of California, prescribing the powers and the duties of said board and commissioner," approved July 1, 1937, as amended, by repealing Section 8, relating to refund of contributions, declaring the urgency of this act and providing that it shall take effect immediately.

Stats 1937, p 2350, amended

[Approved by Governor April 17, 1941 Filed with Secretary of State April 17, 1941.]

In effect immediately

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

SECTION 1. Section 8 of the act cited in the title hereof is hereby repealed.

Stats 1937, p 2352

Urgency

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall take effect immediately. The facts constituting such necessity are as follows:

Said Section 8 provides for refund on July 1, 1941, of any funds contributed to the Colorado River Fund for the support of the Colorado River Board of California. Unless this act takes effect immediately, it would not become effective prior to July 1, 1941. The work of said board will not be completed until after July 1, 1941, and said Section 8 should, therefore, be immediately repealed in order to permit said board to continue to carry out its important State functions.

CHAPTER 140

Stats 1897, p 254, amended

An act to amend Section 43 of the California Irrigation District Act, relating to irrigation district assessments.

In effect September 13, 1941

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

Stats 1933, p 1629

SECTION 1. Section 43 of the act cited in the title hereof is hereby amended to read as follows:

Sale of property for delinquent assessments

Sec. 43. Upon the assessment, if not payable in installments, or the second installment of it, if payable in installments, becoming delinquent, the collector must collect, in addition to the assessments due on the delinquent list, and the penalty or penalties added for delinquency, costs in the sum of fifty cents ($0.50) on each lot, piece or tract of land separately assessed. The collector may postpone the day of the sale from day to day, but the sale must be made within three weeks from the day fixed in the notice so published; provided, that if any sale is stayed by legal proceedings the time during which such sale is so stayed shall not be deemed a part of the time limited for making such sale. On the day fixed for the sale in the published notice thereof, or some subsequent day to which the collector may have postponed it, the whole amount of the property upon which the assessment remains unpaid shall, by the collector, be sold to the irrigation district within which such lands are situated, as the purchaser, and the collector shall make an entry "sold to the district" and shall be credited with the amount thereof in his settlement.

CHAPTER 141

An act to amend Section 39e of the California Irrigation District Act, relating to irrigation district assessments. Stats 1897, p 254, amended

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.] In effect September 13, 1941

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

SECTION 1. Section 39e of the act cited in the title hereof is hereby amended to read as follows: Stats 1917, p 767

Sec. 39e. In the event any land within said district subject to assessment for the purposes of the district has not been assessed by the county assessor or does not appear upon the county assessment roll adopted by said board of supervisors as the basis of assessment for the district, the land so omitted belonging to any person, association, corporation, or municipality shall be forthwith assessed by the county assessor upon an order of the board of supervisors and a description of the property so omitted shall be written in the roll prepared for the purpose of district assessments. In such case, before any assessment is levied, the board of supervisors must meet and equalize said assessment with that of the assessment of other lands in said district. The same notice shall be given by the board of supervisors of such meeting for the purpose of equalizing the assessment to be made as herein directed as is provided in this act to be given by the board of directors of an irrigation district when the said board is to meet for the purpose of equalizing assessments. Assessment of land omitted

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CHAPTER 142

An act to amend Sections 345, 466 and 612 of the Streets and Highways Code, relating to descriptions of certain State highways. Stats 1935, p 248, amended

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.] In effect September 13, 1941

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

SECTION 1. Section 345 of the Streets and Highways Code is amended to read as follows: Stats 1935, p. 278

345. Route 45 is from Route 3 near Biggs to Route 7 at Willows. Route 45

SEC. 2. Section 466 of the Streets and Highways Code is amended to read as follows: Stats 1935, p. 286

466. Route 166 is from Route 172, at the intersection of Downey Road to Route 174, near Norwalk. Route 166

Stats 1939, p 1821

SEC. 3. Section 612 of the Streets and Highways Code is amended to read as follows:

Route 207

612. Route 207 is from Route 190, near Highland northeasterly to Route 43.

CHAPTER 143

Stats. 1935, p 93 amended

An act to amend Section 465 of the Vehicle Code, relating to signs, signals and traffic control devices.

In effect September 13, 1941

[Approved by Governor April 17, 1941. Filed with Secretary of State April 17, 1941.]

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

Stats 1935, p 165

SECTION 1. Section 465 of the Vehicle Code is hereby amended to read as follows:

Traffic signs and signals

465. Official Traffic Control Devices. (a) The State Department of Public Works, Division of Highways, shall place and maintain, or cause to be placed and maintained, with respect to highways under its jurisdiction, appropriate signs and signals as required hereunder, and may respectively place and maintain, or cause to be placed and maintained, such appropriate signs and signals as may be authorized hereunder, or as may be necessary properly to indicate and to carry out the provisions of this code, or to direct or warn traffic upon the highways.

(b) Local authorities in their respective jurisdictions shall place and maintain or cause to be placed and maintained such traffic signs and, subject to the provisions of Section 466, such stop signs, semaphores and control devices upon streets and highways as may be necessary to indicate and to carry out the provisions of this code or local traffic ordinances or to regulate, warn or guide traffic.

(c) All signs and signals erected in accordance with the provisions of this code shall be deemed official traffic signs and signals.

(d) The provisions of this or any other section of this division shall not modify, limit or prohibit the Railroad Commission from erecting and maintaining or causing to be erected and maintained signs and signals as authorized by law and all signs and signals so erected shall likewise be deemed official traffic control devices.

CHAPTER 144

An act to add Section 6141.1 to the Business and Professions Code, relating to waiver of fees of members of the State Bar of California, declaring the urgency thereof, to take effect immediately.

Stats 1937, p 1229, amended

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

In effect immediately

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

SECTION 1. Section 6141.1 is hereby added to the Business and Professions Code, to read as follows:

New section

6141.1. The board, for good cause, may waive the payment of the annual membership fee by any member upon the affirmative vote of 12 members of the board.

Waiver of membership fee

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution, and shall therefore take effect immediately. The facts constituting the necessity are as follows: Due to the present world-wide emergency the Congress of the United States has enacted the Selective Training Service Act of 1940 under the provisions of which act and other Federal acts many attorneys are being and will be called into active military service. The mandatory provisions of the State Bar Act requiring payment of dues under penalty of suspension from practice by the Supreme Court, will work a hardship on such attorneys unless the Board of Governors of the State Bar is immediately given the power to waive the payment as herein provided, so that it may be exercised effectively for the year 1941.

Urgency

CHAPTER 145

An act to add Sections 3480g and 3480h to the Political Code, relating to reclamation districts.

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 3480g is hereby added to the Political Code, to read as follows:

New section

3480g. No action or proceeding to contest the validity of any credit on or payment of all or any portion of an assessment levied by a reclamation district which has heretofore been made pursuant to the provisions contained in Section 3480 of this code at the date of such credit or payment, may be commenced unless commenced within six months from the

Time for contesting credit

effective date of this section or the date of such credit or payment, whichever is the later date.

New section SEC. 2. Section 3480h is hereby added to the Political Code, to read as follows:

Time for contesting call of assessment 3480h. No action or proceeding wherein the validity of any call of an installment of an assessment levied by a reclamation district heretofore or hereafter made, pursuant to the provisions contained in Section 3480 of this code at the date of the call, is contested may be commenced, unless commenced within six months from the effective date of this section or the date of the call, whichever is the later date.

CHAPTER 146

Stats 1897, p 254, amended *An act to add Section 46 to the California Irrigation District Act, relating to property sold for delinquent irrigation district assessments.*

In effect September 13, 1941 [Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

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

New section SECTION 1. Section 46 is hereby added to the act cited in the title hereof, to read as follows:

"Land" Sec. 46. When property sold to an irrigation district for delinquent assessments is referred to as "land" in this act, "land" used in that sense means "property."

Declaration of intent SEC. 2. The addition of Section 46 to the act cited in the title hereof is not a change in, but is declaratory of, the pre-existing law.

CHAPTER 147

Stats 1923, p 449, amended *An act to amend Section 1 of "An act granting to irrigation districts of the State of California the right to construct, operate and maintain electric light and power lines along or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume," approved May 25, 1923, relating to right of ways for electric power lines.*

In effect September 13, 1941 [Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

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

Stats 1923, p 449 SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Rights of way for electric light and power lines Section 1. There is granted to every irrigation district of the State of California the right to construct, operate and

maintain electric light and electric power lines along, over, under, or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume which the route of such work intersects, crosses or runs along in such manner as to afford security for life and property, but the irrigation district shall restore the road, street, alley, avenue, highway, railway, canal, ditch or flume thus intersected to its former state of usefulness as near as may be; provided, however, that such irrigation district may not use any street, alley, avenue or highway within any city for such purpose, unless the right so to use the same is granted by a vote of the governing body of such city which shall have the right to impose reasonable conditions upon such use; provided, also, that such grant of authority shall not be necessary in any case where the street, alley, avenue or highway, or a portion thereof, proposed to be used for the purpose of constructing, operating or maintaining any such works, or any part thereof, is a necessary or convenient part of the route of such works and at the time construction thereof was commenced, or the plans adopted therefor, was located in territory not then within an organized city.

CHAPTER 148

An act to amend Section 19c of the California Irrigation District Act, relating to the selection of the officers of irrigation districts.

Stats 1897, p 254, amended

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 19c of the act cited in the title hereof is hereby amended to read as follows:

Stats 1929, p 257

Sec. 19c. Whenever a verified petition, signed by the owners of a majority of the land in an irrigation district shall be filed with the board of supervisors of any county in which such irrigation district or the greater part thereof is situated, showing that no more than five owners of land in the district are residents and electors thereof, and that no general irrigation district election was held in the district at the last date fixed for such election by Section 19 of this act and that no special election has been held in its place, said board of supervisors shall set a date for the hearing of such petition, which date shall be not less than 10 days nor more than 30 days from the presentation thereof to said board, and shall give notice of said hearing by publication in at least two issues of a newspaper published in the county in which said board of supervisors has its office. At said hearing, if the facts alleged in said petition be established to the satisfaction

Appointment of officers

of said board of supervisors, said board shall so find by resolution and shall then appoint for said district a board of directors to consist of three members each of whom shall be an owner of land within the district, but need not be a resident of the district. The directors so appointed shall take office as soon as they shall have qualified in accordance with the provisions of this act, and shall hold office for a period of four years and thereafter until their successors are elected or appointed and qualified.

Upon its organization as a board, the board so appointed shall fill by appointment the offices of treasurer, collector and assessor, and none of the persons so appointed need be residents or landowners within the district.

Return to elective basis

Not more than 60 nor less than 30 days before the first Wednesday in February of any odd numbered year a majority of the electors in a district then having a board of directors appointed pursuant to this section, may petition the board of directors that an election be held, and showing in such petition that there are persons who could qualify under Section 26 of this act as directors representing each division in the district, that there are more than five owners of land in the district who are residents and electors thereof, and that there are sufficient electors in the district to conduct an election. If the board of directors finds the facts alleged in the petition to be true it shall order that a general election be held, as provided in this act, at which election a director for each division and all other elective officers shall be elected. The directors elected shall at their first meeting classify themselves into two groups in the same manner and with the same effect as is provided in Section 13 of this act.

CHAPTER 149

Stats. 1903, p. 3, amended

An act to repeal Section 2½ of an act entitled "An act to provide for the dissolution of irrigation districts, the ascertainment and discharge of their indebtedness, and the distribution of their property," approved February 10, 1903, relating to the dissolution of irrigation districts having no indebtedness not barred by the statute of limitations.

In effect September 13, 1941

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

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

First Ex. Sess 1911, p. 118

SECTION 1. Section 2½ of the act cited in the title hereof is hereby repealed.

CHAPTER 150

An act to repeal Sections 62 and 63 of the California Irrigation District Act, relating to apportionment of water by water commissioners and flow of water through irrigation district ditches in times of high water.

Stats 1897, p 254, amended

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

In effect September 13, 1941

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

SECTION 1. Sections 62 and 63 of the act cited in the title hereof are hereby repealed.

Repeals

CHAPTER 151

An act to add Section 1.5 to the California Irrigation District Act, relating to publication of notices pursuant to laws relating to irrigation districts.

Stats. 1897, p. 254, amended

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1.5 is hereby added to the California Irrigation District Act, to read as follows:

New section

Sec. 1.5. Whenever by this act, the Irrigation District Improvement Act, "An act to provide for the dissolution of irrigation districts, the ascertainment and discharge of their indebtedness, and the distribution of their property," approved February 10, 1903, or "An act declaring the conditions upon which an irrigation district may be dissolved, prescribing the procedure therefor, and the winding up of the affairs of the district when dissolved," approved May 18, 1919, a notice is required to be published for a designated number of weeks or once a week for a designated number of weeks, the notice need be published on only one day of each week and for only the same number of times as the number of weeks designated.

Publication of notice

Stats 1927, p 1415; Stats 1903, p 3

Stats 1919, p 751

CHAPTER 152

Stats 1937, p. 2035, amended

An act to amend Section 57 of an act entitled "An act relating to the State civil service, including the adaptation thereof to Article XXIV of the State Constitution," approved July 1, 1937, relating to employees of the Attorney General's office.

In effect September 13, 1941

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

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

Stats 1937, p. 2092

SECTION 1. Section 57 of the State Civil Service Act is hereby amended to read as follows:

Application of term "State civil service"

Sec. 57. The provisions of Article XXIV of the State Constitution and of this act shall apply to, and the term "State civil service" shall include, State officers and employees directly appointed or employed by the Attorney General, except deputies, a confidential secretary to be designated by the Attorney General, special counsel, agents, investigators and law clerks; provided, however, that no person appointed as a law clerk hereunder shall hold such position exempt from the State civil service laws for a longer total period than 18 months; and provided further, that this amendment shall not affect, adversely or otherwise, the civil service status of any officer or employee directly appointed or employed by the Attorney General who now has civil service status.

CHAPTER 153

An act to add Section 369h to the Penal Code, relating to the erection and maintenance of lights and signs which interfere with the operation of railroad trains and declaring such lights and signs a public nuisance.

In effect September 13, 1941

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

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

New section

SECTION 1. Section 369h is hereby added to the Penal Code, to read as follows:

Signs and lights along railroad track

369h. Any person, partnership, firm or corporation installing, setting up, maintaining or operating upon public or private property, any sign or light in line of vision along any main line track of any railroad in this State of such type or in such form or manner that it may be mistaken for any fixed or standard railroad signal when viewed from an approaching locomotive cab, railway car, or train, by the operators or employees upon such locomotive cab, railway car or train,

so as to hinder the safe and efficient operation of such locomotive, railway car or train, and endanger the safety of persons or property upon such locomotive, railway car, or train, shall be guilty of maintaining a public nuisance. No sign, signal, flare or light placed within the right of way of any street or highway by public authorities in charge thereof, considered necessary by them to direct or warn highway traffic, shall be deemed to violate this section.

CHAPTER 154

An act to amend Section 205 of the Revenue and Taxation Code, relating to exemption of property of veterans from taxation.

Stats 1939, p 1274, amended

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 205 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1281

205. The veterans' exemption is as specified in Section 1¼ of Article XIII of the Constitution.

Veterans

The following are wars under Section 1¼ of Article XIII of the Constitution:

Wars

(a) Revolutionary War, April 19, 1775-January 14, 1784.

(b) Second war with England, June 18, 1812-February 17, 1815.

(c) Black Hawk War, April 6, 1832-August 2, 1832.

(d) War with Mexico, April 24, 1846-May 30, 1848.

(e) Civil War, April 18, 1861-August 20, 1866.

(f) War with Spain, April 21, 1898-April 11, 1899.

(g) War in Philippines, April 11, 1899-July 4, 1902.

(h) Chinese Relief Expedition, June 20, 1900-May 15, 1901.

(i) Campaign against the Rogue River, Yakima, Nez Perce, and Snake Indians in Oregon and Washington, 1855-1856.

(j) Campaign against the Indians in southern Oregon and Idaho and northern California and Nevada, 1865-1868.

(k) Campaign against the Cheyennes, Arapahoes, Kiowas, and Comanches in Kansas, Colorado, and Indian Territory, 1867-1869.

(*l*) Modoc War, 1872-1873.

(m) Campaign against the Apaches of Arizona, 1873.

(n) Campaign against the Kiowas, Comanches, and Cheyennes in Kansas, Colorado, Texas, Indian Territory, and New Mexico, 1874-1875.

(o) Campaign against the Northern Cheyennes and Sioux, 1876-1877.

(p) Nez Perce War, 1877.

(q) Bannock War, 1878.

(r) Campaign against the Northern Cheyennes, 1878-1879.

(s) Campaign against the Ute Indians in Colorado and Utah, September, 1879-November, 1880.

(t) Campaign against the Apache Indians in Arizona, 1885-1886.

(u) Campaign against the Sioux Indians in South Dakota, November, 1890-January, 1891.

(v) War with Germany-Austria, April 6, 1917-November 11, 1918.

(w) Campaign against the Apache Indians in Arizona, 1895-1896.

CHAPTER 155

An act to amend Section 3700 of the Political Code, relating to the salaries of the members of the State Board of Equalization.

In effect September 13, 1941

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

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

Stats 1937, p 2555

SECTION 1. Section 3700 of the Political Code is hereby amended to read as follows:

Salaries of members

3700. The annual salary of each member of the State Board of Equalization, representing one of the equalization districts of the State, is seven thousand two hundred dollars ($7,200). Each of said members shall devote his entire time to the services of the State in performing the duties imposed upon said board and the members thereof by the Constitution and Statutes of this State.

CHAPTER 156

Stats 1883, p 93, amended

An act to amend Section 853 of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, relating to bonds of city clerks and city treasurers.

In effect September 13, 1941

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

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

Stats. 1933, p 1322

SECTION 1. Section 853 of the act cited in the title hereof is hereby amended to read as follows:

Official bonds

Sec. 853. The city clerk and the city treasurer shall respectively before entering upon the duties of their respective offices, each execute a bond to the city which bond shall in all particulars not otherwise provided for herein conform with

the requirements of the provisions of the Political Code relating to bonds of public officers. The penal sum of such bond shall be such amount as may be fixed by the city council by ordinance adopted not less than 30 days prior to the election of such officials but the amount of such bond shall not, in the case of the city treasurer, in any event be less than one-fourth of the amount of the general taxes levied for such city in the year last expiring previous to the election of such city treasurer. The bond of the city treasurer shall cover the faithful performance by the city treasurer of the duties of his office and of his duties with respect to all moneys coming into his hands as such city treasurer under this act, or under the ordinances of said city, or under any law of the State of California. The city council shall have power to require bonds of any other officer or employee of the city in addition to those herein specified. All bonds when approved, shall be filed with the city clerk except the bond of the clerk, which shall be filed with the mayor. Premiums upon said bonds, if executed by a surety company authorized to do business in the State of California, shall be paid by the city out of its general fund. All bonds shall be approved by the city council. All the provisions of any law of this State relating to the official bonds of officers shall apply to any bonds herein required or authorized, except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the city clerk the oath of office required by the Constitution and the laws of the State.

CHAPTER 157

An act to add Section 2700.5 to, and to amend Sections 2701, 2702 and 2843 of the Elections Code, relating to primary elections and county central committees.

Stats 1939, p 49, amended

[Approved by Governor April 18, 1941. Filed with Secretary of State April 18, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2700.5 is hereby added to the Elections Code, to read as follows:

New section

2700.5. The Secretary of State shall also at the same time inform the county clerk of the addresses of each candidate.

Address of candidate

SEC. 2. Section 2701 of the Elections Code is hereby amended to read as follows:

Stats 1939, p 138

2701. The certified list of candidates sent to each county clerk by the Secretary of State shall show:

Contents of list

(a) The name of each candidate.

(b) The office for which each person is a candidate.

(c) The party each person represents, unless the office is nonpartisan.

Stats. 1939, p. 139

SEC. 3. Section 2702 of the Elections Code is hereby amended to read as follows:

Form of certified list of candidates

2702. The certified list of candidates sent to each county clerk by the Secretary of State shall be in substantially the following form:

CERTIFIED LIST OF CANDIDATES FOR NOMINATION

Department of State

To the County Clerk of_____County:

I, _____, Secretary of State, do hereby certify that the following list contains the name of each person for whom nomination papers have been filed in my office and who is entitled to be voted for in the above-named county at the direct primary election to be held on Tuesday, the _____ day of August, 19____, the designation of the office for which each person is a candidate, his name being stated under the name of the party he represents, except in the case of a nonpartisan office.

_____PARTY

STATE (AND DISTRICT) OFFICES

(Title of office)	(Name of candidate)
_____	_____
_____	_____
_____	_____

_____District

CONGRESSIONAL OFFICES
(Including United States Senator, if any)

_____	_____
_____	_____

_____District

LEGISLATIVE OFFICES

_____	_____
_____	_____

_____District
_____District

_____PARTY

STATE (AND DISTRICT) OFFICES

I further certify that the following list contains the name of each person for whom nomination papers have been filed in my office, together with a designation of the office for which

each person is a candidate, and that such person is entitled to be voted for in your county and that election by any registered qualified elector of your county whether registered as intending to affiliate with any political party or not.

NONPARTISAN OFFICES

JUDICIAL OFFICES

(Title of office)	(Name of candidate)
----------	----------
----------	----------
----------	----------

----------District

SCHOOL OFFICES

----------	----------
----------	----------

Dated at Sacramento, California, this----------day of ----------, 19---.

Secretary of State

SEC. 4. Section 2843 of the Elections Code is hereby amended to read as follows: Stats 1939, p 157

2843. The county clerk shall forthwith after the second Tuesday in September following the direct primary, ascertain who is the duly elected chairman of each county central committee and shall mail a certificate to that effect to the Secretary of State. Chairman

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CHAPTER 158

An act to amend Section 1 of an act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of the State and to repeal all acts or parts of acts in conflict with this act," approved April 12, 1923, relating to deposits of money belonging to or in the custody of the State, declaring the urgency hereof, to take effect immediately. Stats 1923, p 21, amended

[Approved by Governor April 19, 1941. Filed with Secretary of State April 19, 1941.] In effect immediately

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

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p 446

Section 1. All moneys under the control of the State Treasurer belonging to or in the custody of the State, shall, Deposit of State funds in approved banks

so far as possible, be deposited by the State Treasurer to the credit of the State in such State or National bank or banks in the State as the Treasurer, with the approval of the Governor and State Controller, shall select for the safe-keeping of such deposits; and any sum so deposited shall be deemed to be in the State Treasury; provided, that the bank or banks in which such money is deposited shall furnish security as hereinafter provided; and provided further, that such deposits shall not exceed the paid-up capital exclusive of surplus of any depositary bank; provided, however, during unusual periods of revenue receipts the State Treasurer may deposit money in active accounts in excess of the capital of any bank but not in excess of its capital and surplus. However, the State Treasurer shall first deposit such moneys in the amount of the paid-up capital of any bank making application for all or any part thereof and shall only deposit in excess thereof as herein provided, when such applications have been satisfied. Such depositary shall handle, collect and pay all checks, drafts and other exchange in the same manner and under the same conditions as checks, drafts, and other exchange of other depositors are handled, collected, and paid. The Treasurer is hereby authorized, under such conditions as he with the approval of the Governor, may fix, to deposit moneys in any bank or banks outside this State, necessary for the payment of the principal or interest of bonds, made payable outside of this State, at the place or places at which the same are payable. Anything in this act to the contrary, notwithstanding, no security shall be required in case of such part of such deposits as are insured under the provisions of any law of the United States.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

The present time is a period during which unusually high revenues are being received by the State of California. Under the provisions of the act cited in the title hereof, the State Treasurer may not deposit State funds in banks in excess of the paid-up capital exclusive of surplus of any depositary bank. Large banks throughout the State already have deposits of State funds up to the amount of their capital, and in consequence large sums of State money remain undeposited. By the adoption of this act, the State Treasurer would be permitted to increase these deposits in active accounts in excess of the paid-up capital, but not in excess of the capital and surplus of depositary banks. It is, therefore, necessary that this act take immediate effect in order that large sums of money may be so deposited.

CHAPTER 159

An act to add Section 86.2 to the State Civil Service Act, relating to an oath for civil service employees, and declaring the urgency hereof, to take effect immediately.

Stats. 1937, p. 2085, amended

[Approved by Governor April 19, 1941. Filed with Secretary of State April 19, 1941.]

In effect immediately

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

SECTION 1. A new section is hereby added to the State Civil Service Act, to be numbered 86.2 and to read as follows:

New section

Sec. 86.2. Every person shall within 30 days of the date of his appointment to a permanent position in the State civil service take and subscribe the following oath:

Oath for civil service employees

"I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of_____ (insert classification title), according to the best of my ability."

Every person appointed to a permanent position in the State civil service, prior to the effective date hereof and who is performing the duties of such position, shall within 30 days of said date take and subscribe the oath hereinabove provided. All such persons who take, subscribe and file such oath within the time herein provided shall be conclusively presumed to have been and to be legally holding their positions as far as this or any other law is concerned requiring that such person take and/or subscribe and/or file an oath.

Time of taking oath

The failure of any person, required to take and subscribe said oath within the times provided in this section, shall be a cause for dismissal by the board in accordance with the procedure provided in Section 173.

Every appointing power shall immediately, after the effective date of this act, notify all the employees under his jurisdiction of the provisions of this act, and shall also notify every new employee immediately following his appointment of said provisions.

The oath herein required shall be filed with the board within 30 days of the date when such oath is taken and subscribed. The board shall prepare and furnish printed forms of said oath.

Penalty

The oath herein required may be taken by any employee before his appointing power or before any person authorized in writing by such appointing power, which authorization shall be filed with the board, or may be taken before any other person authorized by law to administer oaths. No fee shall be charged by any person before whom the oath herein provided may be taken and subscribed.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the

Urgency

public peace, health and safety within the meaning of Section 1 of Article IV of the State Constitution and shall therefor go into immediate effect. The statement of the facts constituting such necessity is as follows:

The law has not heretofore required, and it has not been the practice of, State civil service employees to take the customary and time honored oath to support the Constitution of the United States and of the State of California. Such an oath should be taken by all State employees regardless of civil service, and especially at the present time when every effort should be made to expose and eliminate any State employee, if there be any, who would not swear or affirm to uphold the Constitution of this country and State. With this country engaged at this moment in a gigantic National Defense Program, it becomes important that the responsibility of public employees be recorded. It is necessary accordingly that the provisions of this act take effect at once.

CHAPTER 160

Stats 1931, p 1442, amended

An act to amend Sections 79 and 83a of the State Employees' Retirement Act, relating to the retirement of members of the California Highway Patrol.

In effect September 13, 1941

[Approved by Governor April 21, 1941. Filed with Secretary of State April 21, 1941.]

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

Stats 1939, p 2617

SECTION 1. Section 79 of the State Employees' Retirement Act is hereby amended to read as follows:

Twenty years' service

Sec. 79. Upon attaining the age of 60 or more years and completing 20 years of continuous State service credited under this act, among which must be included one year of service after becoming a member of the retirement system, any member, who is not a member of the California Highway Patrol, city fireman or city policeman, shall be retired upon his written application to the board.

A member who is also a member of the California Highway Patrol and who has completed 20 years of continuous State Highway Patrol service credited under this act and attained the age of 50 or more years shall be retired upon his written application to the board.

A city fireman or city policeman who has completed at least 20 years of continuous State service credited under this act, and who has attained at least the minimum optional retirement age, which shall be not less than 55 years or more than 60 years, specified in the contract provided by Section 38c, in lieu of 60 years required of other members, shall be retired upon his written application to the board.

SEC. 2. Section 83a of the State Employees' Retirement Act is hereby amended to read as follows: Stats 1937, p 2394

Sec. 83a. An additional pension for members who are also members of the California Highway Patrol, purchased by contributions of the State. Such additional pension shall be the same percentage of his final compensation, regardless of his age at retirement, for each year of highway patrol service rendered by him prior to January 1, 1932, as the contributions of the member and the State are calculated to provide upon retirement for service at 60 years of age or upon completion of 20 years of service at an age higher than 60 years or upon retirement with less than 20 years of service at age 65, for each year of such service after said date. Additional pension Highway Patrol

If a member retires before attaining the age of 60 years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this section as deferred to age 60 will purchase at the actual age of retirement.

CHAPTER 161

An act to amend Sections 3101, 3105 and 3110 of the Revenue and Taxation Code, relating to property taxation and to the registration of vessels to enforce the payment of property taxes, to take effect immediately. Stats 1939, p 1274, amended

[Approved by Governor April 21, 1941. Filed with Secretary of State April 21, 1941.] In effect immediately

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

SECTION 1. Section 3101 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1319

3101. As used in this article, "boat" means every vessel taxable for other than State purposes. "Boat"

SEC. 2. Section 3105 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1319

3105. During the month of January, annually, every owner of boats operated within the inland or territorial waters of this State shall file with the assessor a statement containing: Statement

(a) His name.
(b) His residence.
(c) His post-office address.
(d) Any other information pertaining to his boats required by the assessor.

SEC. 3. Section 3110 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1320

3110. A boat may not be registered, nor its certificate of registration transferred, unless the application for registration or transfer shows by appropriate notation that all county Tax clearance

and city taxes on the boat have been either paid in full or entered on the secured roll.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV, of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

The complex procedure for the taxation of property unfolds from the first Monday in March, on which date taxes become a lien on property for the ensuing fiscal year. Also, the Revenue and Taxation Code, which consolidates and revises the law relating to taxation and the raising of revenue, became effective on February 1, 1941. It is imperative that this act take effect immediately in order that the orderly process of property taxation may not be obstructed by this act's going into effect long after the lien date. Also, it is essential that the provisions of this act take effect as soon after the effective date of the Revenue and Taxation Code as is possible in order that the transition from operating under the existing provisions of law to acting under the Revenue and Taxation Code may be accomplished with a minimum of confusion and with the greatest possible continuity of action. For this act not to go into effect immediately would result in needless uncertainty and unnecessary litigation possibly terminating in the loss or delayed collection of large amounts of property taxes.

CHAPTER 162

Stats 1937, p 621, and Stats 1939, p 1274, amended

An act to amend Section 2 of the Private Car Tax Act of 1937 and Section 11203 of the Revenue and Taxation Code, relating to the meaning of words, terms and phrases and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor April 21, 1941. Filed with Secretary of State April 21, 1941.]

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

Stats 1937, p 621

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Definitions

Sec. 2. The following words, terms and phrases when used in this act, have the meanings ascribed to them in this section, except where the context indicates a different meaning:

(a) "Private car" shall mean and include a passenger car, sleeping car, dining car, express car, refrigerator car, oil or tank car, horse or stock car, fruit car, or car designed for the

carrying of a special commodity, operated upon the railroads in this State, whether such car be owned by a sleeping car, dining car, drawing room car or palace car company, refrigerator, oil, stock or other car loaning, or other car company, or by a person engaged in manufacturing, commercial or other business, or by any other person, but does not include freight train cars and passenger train cars owned by railroad companies used or subject to use under the ordinary per diem agreement common to all railroads, or freight train or passenger cars handled under mileage or through line contract arrangements between railroad companies, or cars owned by or leased to any railroad company operating in this State or by any railroad company operated as a part of the same railroad system as the company operating in this State, and used by such railroad company in the operation, maintenance, construction or reconstruction of its property and assessed and taxed in this State as a part of the property of a railroad company operating in this State.

(b) "Person" shall mean and include any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit, and the plural as well as the singular in number.

(c) "Board" shall mean the State Board of Equalization.

(d) "In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within such limits owned by or ceded to the United States of America.

Declaration of intent

SEC. 2. Nothing contained in this act shall be construed as changing the meaning of any words, terms and phrases used in the act cited in the title hereof but Section 1 of this act is hereby declared to be a positive expression of a continuing legislative intent with respect to the meaning of such words, terms and phrases.

Stats 1941, p 610

SEC. 3. Section 11203 of the Revenue and Taxation Code is hereby amended to read as follows:

"Private car"

11203. "Private car" includes a passenger car, sleeping car, dining car, express car, refrigerator car, oil or tank car, horse or stock car, fruit car, or car designed for the carrying of a special commodity, operated upon the railroads in this State, which car is owned by any of the following:

(a) A sleeping car, dining car, drawing room or palace car company, refrigerator, oil, stock, or other car loaning, or other car company.

(b) By a person engaged in manufacturing, commerce, or other business.

(c) By any other person.

"Private car" does not include:

(a) Freight train or passenger train cars owned by railroad companies which are used or subject to use under the ordinary per diem agreement common to all railroads.

(b) Freight train or passenger cars handled under mileage or through line contract arrangements between railroad companies.

(c) Cars owned by or leased to any railroad company operating in this State, or by any railroad company operated as a part of the same railroad system as the company operating in this State, and used by the railroad company in the operation, maintenance, construction, or reconstruction of its property and assessed and taxed in this State as a part of the property of a railroad company operating in this State.

Effect. Stats 1941, p 610

SEC. 4. Section 3 of this act becomes operative only if Part 6 of Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fourth Session, and, in such case, at the same time as said Part 6 takes effect; at which time Section 2 of the Private Car Tax Act of 1937 amended by this act is hereby repealed.

Tax levy

SEC. 5. This act, inasmuch as it provides for tax levies for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 163

Stats 1933, p. 2175, amended

An act to amend Section 4 of an act entitled "An act to provide for the issuance of duplicates of bonds, warrants, and other evidences of indebtedness of counties and municipal and other public corporations," approved June 10, 1933, relating to duplicate bonds, warrants and other evidences of indebtedness, including the filing thereof.

In effect September 13, 1941

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

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

Stats. 1933, p. 2176

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Security

Sec 4. The security required by this act, duly indorsed as approved, shall be filed in the office of the clerk or the treasurer of the issuing body, as the governing body thereof may direct.

CHAPTER 164

An act to amend the Probate Code, by adding Section 684 thereto, relating to the stay of payment of family allowances.

Stats 1931, p 587, amended

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 684 is hereby added to the Probate Code, to read as follows:

New section

684. No stay shall be had of payment of any family allowance, or of any installment thereof, pending appeal from an order relating thereto, even though the court, acting under the provisions of Section 946 of the Code of Civil Procedure, shall dispense with or limit the security required of an appellant, if the person in whose favor the allowance is made shall, at any time before the making of such payment, execute and file a good and sufficient written undertaking, with two or more sureties, to the effect that they are bound in double the amount of such payment or payments, and that if the judgment or order appealed from, or any part thereof, be so modified or reversed that such payment, or any part thereof, proves to be unwarranted, the same shall, unless deducted from any final or partial distribution ordered in favor of the widow or minor child for whom such allowance was awarded, be repaid and refunded into said estate, and, if not so repaid and refunded within 30 days after the trial court shall so order following such modification or reversal, judgment may be entered therefor, on motion of the personal representative of said estate, in favor of the said personal representative and against the principal and sureties on such undertaking, for such amount, together with interest and costs, not exceeding the amount of such undertaking.

Payment of family allowance pending appeal

CHAPTER 165

Stats 1939, p 1067, amended

An act to amend Section 5440 of the Public Resources Code and to add Sections 5455 to 5458, both inclusive, thereto, relating to county recreation districts, authorizing the borrowing of money for improvements and equipment and providing for the annexation of territory thereto, and, in addition, to validate the organization, boundaries, trustees, acts, proceedings and bonds of such districts.

In effect September 13, 1941

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

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

Stats 1939, p 1184

SECTION 1. Section 5440 of the Public Resources Code is hereby amended to read as follows:

District bonds

5440. Bonds may be issued by a district for the erection of one or more dams across a stream or river for the purpose of constructing a swimming pool in the district, or for the erection of any other structure or the carrying on of any work or project authorized by this article, or for the making of improvements or the purchase of equipment, or for liquidating any indebtedness incurred for such purpose, or for refunding any outstanding valid indebtedness of the district.

New section

SEC. 2. Section 5455 is hereby added to said code, to read as follows:

Annexation

5455. If at any time after the establishment of any district its trustees determine that certain territory should be annexed to the district, the trustees shall apply to the county board of supervisors, furnishing a map with the names of property owners in the territory proposed to be annexed, and the board of supervisors shall fix a time and place for hearing the matter of the annexation.

Publication of notice

It shall publish a notice once a week for two successive weeks in a newspaper circulated in the territory which it is proposed to annex to the district. The newspaper shall be one which the trustees deem most likely to give notice to the inhabitants of the territory.

New section

SEC. 3. Section 5456 is hereby added to said code, to read as follows:

Contents

5456. The notice shall be headed "Notice of the proposed annexation of territory to the_____Public Recreation District in_____County," stating the name of the district to which it is proposed to annex territory. The notice shall contain a statement of the time fixed by the supervisors for a hearing on the matter. The notice shall also designate the territory proposed to be annexed.

SEC. 4. Section 5457 is hereby added to said code, to read as follows: New section

5457. At the time and place fixed for the hearing of the matter of annexation, or at any time to which the hearing may be continued, the supervisors shall hear any person objecting to the annexation of the territory or any portion of the territory. At the conclusion of the hearing the supervisors may refuse to annex any territory, or it may include all or a portion of the territory proposed to be annexed to the district. Hearing

SEC. 5. Section 5458 is hereby added to said code, to read as follows: New section

5458. Money may be borrowed by the trustees of a district for the purpose of erecting a structure or the carrying on of any work or project authorized by this article or for the making of improvements or the purchase of equipment, or for the maintenance thereof. The amount of money to be borrowed shall not exceed an amount equal to 25 per cent of the total amount of taxes paid to a district for the preceding year. Borrowing money

SEC. 7. (a) All county recreation districts heretofore organized and functioning under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such. Every such district shall have all the rights, powers, and privileges, and be subject to all the duties and obligations of such a district regularly formed pursuant to law. Validation

(b) The boundaries of every county recreation district as heretofore established, defined, or recorded are hereby confirmed, validated, and declared legally established.

(c) The trustees of every recreation district heretofore appointed and acting as such, are hereby declared the legally appointed trustees of such district.

(d) All acts or proceedings of any nature heretofore taken or performed by any such trustees are hereby confirmed, validated, and declared legally effective.

(e) All acts and proceedings heretofore taken by any county recreation district under any law, or under color of any law, for the issuance, sale, or exchange of bonds of any such district for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the trustees heretofore done or taken in connection, with any election upon the question of the issuance, sale, or exchange of such bonds.

All such bonds heretofore issued, or heretofore authorized to be issued when hereafter issued in substantially the form contemplated in such authorization, shall be, in the form and

manner in which issued and delivered, the legal, valid and binding obligations of the district.

(f) Nothing contained in this act shall be construed to render the creation of any county recreation district, or any change in the boundaries of any county recreation district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Section 3720 of the Political Code, is filed in the manner and within the time required by that section.

CHAPTER 166

An act providing for the establishment and administration of industrial farms and houses of correction in cities of the first and one-half class; the commitment of persons thereto; the discipline of persons committed thereto; and providing for the working of persons committed to such industrial farms and houses of correction and to city jails in cities of the first and one-half class.

In effect September 13, 1941

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

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

Industrial farm and house of correction

SECTION 1. Each city of the first and one-half class of the State of California is hereby authorized to establish and maintain, either within or outside its territorial limits, an industrial farm and house of correction.

Supervision

SEC. 2. The direction and control of said industrial farm and house of correction shall be under the direct supervision of the board of police commissioners, or other board or authority having supervision over the police department of such city. Such board or authority shall appoint in the manner provided for the appointment of civil service employees of such city a superintendent and enough guards and other employees to properly conduct and manage said industrial farm and house of correction.

Superintendent

SEC. 3. The superintendent of said industrial farm and house of correction shall, subject to reasonable rules and regulations adopted by the board or authority having supervision thereof, conduct and manage such institution and supervise the guards and other employees thereof; supervise the conduct and employment of the persons confined in such institution; and furnish to the said board or other authority having supervision thereof such reports as may be required by the rules or regulations of such board or authority or by ordinance of such city. The superintendent, guards and other employees may be, but need not be, members of the police department of such city.

Labor by convicts

SEC. 4. Each person convicted of a criminal offense and by reason thereof committed to the city jail of such city, or

confined at such industrial farm and house of correction, either as punishment for such offense, in satisfaction of any fine unpaid, or upon an order of probation, shall be deemed to have been sentenced or committed to labor. Such labor of not more than forty (40) hours in any week may be performed by such person upon the public streets, parks, or other public places in such city, or upon or in any industrial farm and house of correction established under the provisions of this act, any provision of the laws of the State to the contrary notwithstanding.

Transfer from city jail to industrial farm

SEC. 5. Except as otherwise provided herein, whenever it appears to the chief of police or other officer at the head of the police department of such city that the best interest of a person confined to the city jail upon an order of commitment as provided in Section 4 hereof will be best served by causing his period of confinement to be served at such industrial farm and house of correction, the said chief of police shall order that said prisoner be transferred from the city jail to said industrial farm and house of correction, and the confinement of such person on such industrial farm and house of correction shall be a proper method of executing any order of court directing that the person named in a commitment be confined in the city jail of such city; provided, however, that the person having authority to transfer prisoners to said industrial farm and house of correction shall at no time cause to be transferred thereto a greater number of persons than can be reasonably accommodated thereon and furnished with constructive employment at such place of confinement.

Return to city jail

SEC. 6. Whenever the superintendent of such industrial farm and house of correction, shall find that any person committed thereto by transfer from the city jail will not perform labor at or upon such farm, or is not amenable to the rules and regulations governing the conduct of persons confined thereon, or is not a fit and proper person to be confined with other persons confined thereon he shall forthwith report that fact to the chief of police of such city, and said chief of police shall forthwith cause such person to be immediately returned to the city jail of such city, there to remain for the unexpired portion of his term of confinement, unless sooner discharged in the manner provided by law.

Commitment to industrial farm

SEC. 7. Whenever, under any law of the State of California, any court having jurisdiction to impose punishment for violation of the law amounting to a misdemeanor only is authorized to commit a person to the city jail of such city upon a sentence of imprisonment for violation of a penal law, in satisfaction of fine imposed upon such conviction, or as a condition of probation, such court may order that the confinement so ordered be at such industrial farm and house of correction. When so confined all provisions of law and rules of conduct applicable to persons transferred to such institution from the city jail shall be applicable, except such person may

not be transferred from such institution to the city jail otherwise than upon order of such court. Such court shall have and retain jurisdiction to change the place of confinement of any person ordered by it to be confined at such institution to any other place of confinement authorized by law for the confinement of misdemeanants. Persons confined to such institutions upon order of probation are subject to all the obligations and entitled to all the rights of persons confined in city or county jails upon order of probation.

Products of farm

SEC. 8. Any products of said industrial farm and house of correction, which can be used by the city for the purpose of maintaining any city institution with supplies, articles and food necessary for the maintenance and operation of such institution, may be used by the city for that purpose, but no product of said industrial farm and house of correction shall be sold or otherwise allowed to enter into the channels of commerce, nor shall any work be performed for the benefit or profit of any corporation or person other than such city. No persons, other than prisoners, shall be employed at such industrial farm or house of correction except as guards, in a supervisory capacity or in the maintenance of such institution.

Limitations on inmates

SEC. 9. No person shall be transferred or committed to such industrial farm and house of correction whose maximum period of confinement under the order of court by which he is sentenced is less than twenty (20) days, or who is afflicted with any infectious or communicable disease.

CHAPTER 167

Stats 1935, p 1338, amended

An act to amend Sections 894 and 895 of the Military and Veterans Code, relating to veterans' dependents.

In effect September 13, 1941

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

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

Stats 1935, p. 1396

SECTION 1. Section 894 of the Military and Veterans Code is hereby amended to read as follows:

Limit of expenditure

894. For students of collegiate, junior college, business, and trade school rank the amount expended by the board shall not exceed twenty-five dollars ($25) per month. For students of high school rank the amount shall not exceed fifteen dollars ($15) per month, during the time the student is in actual attendance at a day school. Absence during the month on account of illness shall be included as part of such attendance.

Stats 1935, p 1396

SEC. 2. Section 895 of the Military and Veterans Code is hereby amended to read as follows:

Same

895. The amount expended on account of any one applicant of collegiate, junior college, business, and trade school

rank under the provisions of this article shall not exceed two hundred fifty dollars ($250) for any one year, and for students of high school rank the sum shall not exceed one hundred thirty-five dollars ($135) for any one year.

CHAPTER 168

An act to amend Sections 43 and 44 of the Alcoholic Beverage Control Act, relating to hearings on complaints against licensees.

Stats 1935, p 1123, amended

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 43 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Stats 1935, p 1146

Sec. 43. Within 10 days after the hearing the representative of the board shall certify to the board his findings of ultimate fact whether the protest, complaint or petition is true or not, and in the case of hearings on complaints the representative may make recommendations in respect to the suspending or revoking of licenses. A copy of the findings of fact and recommendation shall be mailed to the protestant, complainant, petitioner, and licensee. Within five days thereafter the protestant, complainant, petitioner, and licensee may file with the board at Sacramento, written objections to the findings of fact. If written objections to the findings of fact are so filed, the board is authorized to hold such further hearing as it deems necessary, after five days' notice to the protestant, complainant, petitioner, and licensee of the time and place of hearing.

Findings at hearing

SEC. 2. Section 44 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Stats 1935, p 1146

Sec. 44. The board shall consider the findings of fact of its representative, and written objections duly filed thereto, and such additional evidence as may have been taken pursuant to Section 43 of this act, and shall make its decision upon the petition, protest or complaint. After decision, the findings of fact, and written objections thereto, shall be open to public inspection. Notice of the decision shall be served upon the protestant, complainant, petitioner and licensee. Within 10 days after the service of the notice, the petitioner, protestant, complainant or licensee may petition the board for a reconsideration of the cause. Such petitions shall be verified unless filed by a public officer acting in his official capacity.

Decision of board

Reconsideration

CHAPTER 169

Stats 1939, p 1274, amended

An act to amend Section 611 of the Revenue and Taxation Code, relating to property taxation and the assessment of property, to take effect immediately.

In effect immediately

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

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

Stats. 1939, p 1293

SECTION 1. Section 611 of the Revenue and Taxation Code is hereby amended to read as follows:

Unknown owners

611. If the name of an absent owner is known to the assessor, or in the case of real property, if it appears of record in the office of the county recorder, the property shall be assessed to such owner; otherwise, the property shall be assessed to unknown owners.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV, of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

The complex procedure for the taxation of property unfolds from the first Monday in March, on which date taxes become a lien on property for the ensuing fiscal year. Also, the Revenue and Taxation Code, which consolidates and revises the law relating to taxation and the raising of revenue, became effective on February 1, 1941. It is imperative that this act take effect immediately in order that the orderly process of property taxation may not be obstructed by this act's going into effect long after the lien date. Also, it is essential that the provisions of this act take effect as soon after the effective date of the Revenue and Taxation Code as is possible in order that the transition from operating under the existing provisions of law to acting under the Revenue and Taxation Code may be accomplished with a minimum of confusion and with the greatest possible continuity of action. For this act not to go into effect immediately would result in needless uncertainty and unnecessary litigation possibly terminating in the loss or delayed collection of large amounts of property taxes.

CHAPTER 170

An act to amend Sections 447 and 1060 of the Revenue and Taxation Code, relating to property taxation and the assessment of property, including matters shown on the property statement and on supplemental statements thereto, to take effect immediately.

Stats 1939, p 1274, amended

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

In effect immediately

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

SECTION 1. Section 447 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1287

447. The property statement shall also show the amount of debts which the debtor asks to have deducted from solvent credits.

Debts

SEC. 2. Section 1060 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1298

1060. A deduction of debts shall be made from the assessed value of solvent credits if a statement under oath showing the amount of the debts in the detail required by the assessor or, if the solvent credits are State assessed property, by the board is filed with the property statement.

Deduction of debts

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV, of the Constitution of the State of California, and shall take effect immediately.

Urgency

The following is a statement of facts constituting such necessity:

The complex procedure for the taxation of property unfolds from the first Monday in March, on which date taxes become a lien on property for the ensuing fiscal year. Also, the Revenue and Taxation Code, which consolidates and revises the law relating to taxation and the raising of revenue, became effective on February 1, 1941. It is imperative that this act take effect immediately in order that the orderly process of property taxation may not be obstructed by this act's going into effect long after the lien date. Also, it is essential that the provisions of this act take effect as soon after the effective date of the Revenue and Taxation Code as is possible in order that the transition from operating under the existing provisions of law to acting under the Revenue and Taxation Code may be accomplished with a minimum of confusion and with the greatest possible continuity of action. For this act not to go into effect immediately would result in needless uncertainty and unnecessary litigation possibly terminating in the loss or delayed collection of large amounts of property taxes.

CHAPTER 171

Stats 1939, p 1274, amended

An act to amend Section 114 of the Revenue and Taxation Code, relating to property taxation and the definition of "debts" as appertaining thereto, to take effect immediately.

In effect immediately

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

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

Stats 1939, p 1278

SECTION 1. Section 114 of the Revenue and Taxation Code is hereby amended to read as follows:

"Debts"

114. "Debts" means unsecured liabilities of the same class as is subject to taxation owing by the assessee to bona fide residents of this State, or to persons doing business in this State.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV, of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

The complex procedure for the taxation of property unfolds from the first Monday in March, on which date taxes become a lien on property for the ensuing fiscal year. Also, the Revenue and Taxation Code, which consolidates and revises the law relating to taxation and the raising of revenue, became effective on February 1, 1941. It is imperative that this act take effect immediately in order that the orderly process of property taxation may not be obstructed by this act's going into effect long after the lien date. Also, it is essential that the provisions of this act take effect as soon after the effective date of the Revenue and Taxation Code as is possible in order that the transition from operating under the existing provisions of law to acting under the Revenue and Taxation Code may be accomplished with a minimum of confusion and with the greatest possible continuity of action. For this act not to go into effect immediately would result in needless uncertainty and unnecessary litigation possibly terminating in the loss or delayed collection of large amounts of property taxes.

CHAPTER 172

An act to amend Section 1 of an act entitled "An act to regulate boats of less than 15 gross tons capacity operating in California waters and used for carrying passengers for hire, or for carrying persons when let for hire or chartered," approved June 19, 1931, relating to boats.

Stats 1931, p 2284, amended

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1939, p 3041

Section 1. Before any boat of 15 tons or less gross capacity used for carrying passengers for hire, or for carrying persons when let for hire or chartered, may be operated within the limits of the State of California, a permit shall be obtained by the owner from the Industrial Accident Commission of the State of California. Before the issuance of such permit, and at least annually thereafter, the Industrial Accident Commission of the State of California shall make or cause to be made an inspection of the hull, machinery and equipment and shall satisfy itself that the boat is of a structure and so equipped as to be suitable for the service in which it is to be employed; has suitable accommodations for the carriage of persons; and is in a condition to warrant the belief that it may be used in navigation with safety to life. The permit shall be posted in such place and manner as the Industrial Accident Commission of the State of California may order.

Permit

Inspection

The permit shall specify:

(1) The number of persons that may be carried in the boat;

(2) The seating capacity per passenger;

(3) The deck space for each passenger when the boat is operated:

(a) On inland water;

(b) On exposed water;

(c) For fishing.

Contents of permit

The Industrial Accident Commission of the State of California shall make such regulation as to strength and ventilation of fuel tanks, pumping of the bilge, requirements as to electrical insulation, and such further rules as it shall deem necessary for safety of all persons carried, including the crew. The Industrial Accident Commission shall fix and collect fees for the inspection of boats subject to the provisions of this act. Such fees shall not exceed five dollars ($5) and only one fee shall be collected for the inspection of any one boat during the year.

Regulations

Fees

Inspection and fees with respect to any boat shall be dispensed with if such boat is subject to inspection by any Federal agency.

Exceptions

Equipment

The Industrial Accident Commission shall not require that boats to be used on inland water with outboard motors shall be equipped with fire extinguishers. Where the boat to be used on inland water is equipped with an outboard motor weighing not to exceed 50 pounds, the Industrial Accident Commission shall not by rule reduce the number of passengers which the boat may carry as a normal load, when not equipped with an outboard motor.

CHAPTER 173

An act authorizing the appointment and prescribing the powers and duties of special policemen for the protection and preservation of public property, to take effect immediately.

In effect immediately

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

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

Appointment of special police

SECTION 1. Upon the application of the Governor of any State owning or having an interest in, or any of whose political subdivisions, departments, agencies, or districts, owns or has an interest in any property situated wholly or partly in this State, the Governor of this State or any officer, council, or agency to whom or which he may delegate his powers and duties under this act, hereinafter referred to as the appointing authority, may appoint and deputize as special policemen, with the powers and duties hereinafter prescribed, such number of persons designated in the application as may be deemed necessary for the additional protection of such property.

Applications

SEC. 2. Applications under this act shall be made in writing upon forms prescribed by the appointing authority and shall contain the name, age, nationality and residence address of each person for whom an appointment as special policeman is sought and such other information concerning such person as the appointing authority may require.

Certificate of appointment

SEC. 3. The appointing authority shall issue a certificate of appointment to each person appointed hereunder in such form as it may prescribe. Such certificate shall constitute the appointee's authority for exercising the powers and carrying out the duties conferred and imposed upon him by this act.

Oath of office

SEC. 4. Each person appointed under this act shall, within 15 days after his certificate of appointment has been issued, and before entering upon the duties of his office, take and subscribe the Constitutional oath of office, and file it in the office of the appointing authority. No person shall be appointed a special policeman under this act unless he is a citizen of the United States, of good moral character, and has not previously been convicted of a felony.

Powers and duties

SEC. 5. Each person appointed as a special policeman under this act shall be charged with the duty of protecting and preserving the property described in the application for his appointment. He shall have power to arrest all persons trespassing or committing offenses or crimes thereon. He shall have and may exercise the powers of a peace officer, but only upon the property or in connection with the property described in the application for his appointment. When on duty he shall wear an appropriate metallic badge upon which shall be inscribed the words "special policeman." He shall have power to possess and carry such firearms and other weapons while on duty as may be prescribed by the appointing authority. Whenever he shall change his residence address, he shall forthwith give notice of his new address to the appointing authority.

Employer

SEC. 6. Each person appointed as special policeman under this act shall for all purposes be, and be deemed to be, the employee of the State, political subdivision, department, agency or district requesting his appointment. His compensation shall be fixed in such amount as may be agreed upon between him and such State, political subdivision, department, agency, or district, as the case may be, and the latter shall be liable for the payment thereof.

Liability for acts

SEC. 7. Neither this State nor any political subdivision of this State, nor any department, officer, board, bureau or other agency of either the State or any political subdivision thereof shall be liable or accountable in any way for or on account of the appointment of any such special policeman or for or on account of any act or omission on his part in connection with his powers and duties under this act.

Termination of authority

SEC. 8. The appointment of any special policeman under this act shall terminate, and his authority thereunder shall cease, whenever the Governor of the State requesting his appointment shall file a notice in the office of the appointing authority in such form as the latter may prescribe to the effect that his services are no longer required. The appointing authority shall also have power on its own motion and at any time, for any reason or cause deemed by it sufficient, to revoke the appointment of any such special policeman by filing a revocation thereof in its office and mailing a notice of such filing to the Governor of the State requesting his appointment, and also to the person whose appointment is revoked, at his residence address as the same appears in the application for appointment or the latest statement thereof on file. If such person thereafter, knowing of such revocation or having in any manner received notice thereof, exercises or attempts to exercise any of the powers of a special policeman under this act, he shall be guilty of a misdemeanor; and the filing and mailing of such notice, as above provided, shall be presumptive evidence that such person knew of the revocation.

Supervision and control

SEC. 9. Every special policeman appointed under this act shall at all times be subject to the rules and regulations of

the appointing authority and to the supervision and control of such person or persons as the Governor of this State may from time to time designate.

Protection of out-of-state property

SEC. 10. The Governor of this State is hereby authorized, in his discretion, to make application to the Governor of any other State for the appointment of special policemen for the additional protection of any property situated wholly or partly in such other State, owned by this State, or any political subdivision thereof, or by any department or agency of either, or any tax or special district therein, or in which any of the foregoing has any interest. The State, political subdivision, department, agency or district owning or having an interest in the property for the protection of which any such special policeman is appointed shall be liable for the compensation and expenses of such policeman and shall have full power and authority to provide or otherwise arrange for the payment of such compensation and expenses. Nothing contained in this section shall be construed to relieve the State or the political subdivision thereof in which such property or any part thereof is situated from its duty to furnish for such property or part thereof such normal police protection as it ordinarily and customarily provides for other property situated therein.

Constitutionality

SEC. 11. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Urgency

SEC. 12. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

An emergency exists in the United States and the State of California in providing adequate armies and facilities of defense. There is need to protect all public property of the State and of all the other States in the Nation whether such property is within the State owning it or within the boundaries of other States. Any injury to or damage to such public property would seriously affect the security of the United States and the State of California, and it is therefore necessary that this act take effect immediately.

CHAPTER 174

An act to add Section 72.5 to the California Irrigation District Act, relating to court proceedings brought by and against irrigation districts.

Stats 1897, p 254, amended

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 72.5 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 72.5. Sections 70 and 71 apply only in proceedings brought pursuant to Sections 68 or 69.

Scope of Sections 70 and 71

CHAPTER 175

An act to add Section 4a to the act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of any county, city and county, city, town, municipality or other public or municipal corporation within this State, and to repeal all acts or parts of acts in conflict with this act," approved April 28, 1933, relating to deposit of public moneys, to declare the urgency thereof, and to provide that this act shall take effect immediately.

Stats 1933, p 612, amended

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

In effect immediately

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

SECTION 1. Section 4a is hereby added to the act referred to in the title hereof, to read as follows:

New section

Sec. 4a. Such treasurer may, when local conditions in his discretion so warrant, waive the requiring of security for such portion of any active or inactive deposits as are insured under the provisions of any law of the United States, notwithstanding the provisions of Section 4 hereof.

Waiver of security

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution, and shall, therefore, go into immediate effect. The facts constituting such necessity are as follows:

Urgency

During the past six months in several areas of the State the treasurers of small public agencies have been unable to effect deposits of funds in their possession in compliance with the terms of the present law because of the refusal of banks in their respective areas to deposit with such treasurers security in the amount and manner provided by the present law. As a

result such treasurers have been compelled to maintain such currency in their offices in safes which are inadequate to properly safeguard such moneys. By the passage of this act the treasurers of such agencies will be authorized to deposit such funds without requiring the banks to deposit securities therefor, only to the extent, however, that such funds are insured by a Federal deposit insurance agency. In this manner these funds, many of which are necessary for the preservation of public peace, health and safety, will be adequately safeguarded and insured.

CHAPTER 176

Stats 1939, p 782, amended

An act to add Section 8733.5 to the Health and Safety Code, relating to perpetual care funds of cemeteries.

In effect September 13, 1941

[Approved by Governor April 22, 1941. Filed with Secretary of State April 22, 1941.]

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

New section

Section 8733.5 is hereby added to the Health and Safety Code and to read as follows:

Appointment of trustee

8733.5. In lieu of the appointment of a board of trustees of its perpetual care fund, any cemetery authority may appoint as sole trustee of its perpetual care fund any bank or trust company qualified under the provisions of the Bank Act of the State of California to engage in the trust business.

CHAPTER 177

Stats 1935, p 1266, amended

An act to amend Section 2 of the Inheritance Tax Act of 1935, relating to inheritance taxation, to take effect immediately.

In effect immediately

[Approved by Governor April 23, 1941. Filed with Secretary of State April 23, 1941.]

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

Stats 1935, p 1268

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Tax on transfers

Sec. 2. A tax shall be and is hereby imposed upon the transfer of any property, real or personal, or of any interest therein or income therefrom, in trust or otherwise, to persons, institutions or corporations, not hereinafter exempted, to be paid to the treasurer of the proper county, as hereinafter directed, for the use of the State, said taxes to be upon the market value of such property at the date of death of the decedent and at the rates hereinafter prescribed and only

upon the excess over the exemptions hereinafter granted in the following cases:

By will or succession, etc., residents

(1) When the transfer is by will or by the intestate or homestead laws of this State, from any person dying seized or possessed of the property while a resident of the State, or by any order of court setting apart property and/or making and granting extra or family allowances pursuant to the provisions of the Probate Code.

Nonresidents

(2) When the transfer is by will or intestate or homestead laws of property within this State and the decedent was a nonresident of the State at the time of his death, or by any order of court setting apart property and/or making and granting extra or family allowances pursuant to the provisions of the Probate Code.

Property within State

(3) When the transfer is of property made by a resident or by a nonresident, when such nonresident's property is within this State, by deed, grant, bargain, sale, assignment or gift, made without valuable and adequate consideration (i.e., a consideration equal in money or in money's worth to the full value of the property transferred):

(a) In contemplation of the death of the grantor, vendor, assignor or donor, or,

(b) Intended to take effect in possession or enjoyment at or after such death, or in which a life income or interest is reserved by the grantor, either expressly or impliedly, or by the grantee promising to make payments to or care for the grantor.

(c) As an advancement.

(d) By a revocable trust created before or after the taking effect of this act.

When such person, institution or corporation becomes beneficially entitled in possession or expectancy to any property or the income therefrom by any such transfer, whether made before or after the passage of this act.

In all transfers inter vivos the value of the property transferred shall be taken as of the date of death of the transferor and with the rates and exemptions then in effect.

Contemplation of death

(4) The words "contemplation of death," as used in this act, shall be taken to include that expectancy of death which actuates the mind of a person on the execution of his will, and in nowise shall said words be limited and restricted to that expectancy of death which actuates the mind of a person making a gift causa mortis; and it is hereby declared to be the intent and purpose of this act to tax any and all transfers which are made in lieu of or to avoid the passing of property transferred by testate or intestate laws.

Property held in joint names

(5) Whenever property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons, the right of the surviving

joint tenant or joint tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this act in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed to the surviving joint tenant or joint tenants, person or persons, by such deceased joint tenant or joint depositor by will, excepting therefrom such part thereof as may be proved by the surviving joint tenant or joint tenants to have originally belonged to him or them and never to have belonged to the decedent.

Charitable beneficiary

(6) As used in this subdivision, "charitable beneficiary" means a transferee to whom a transfer is exempt from tax pursuant to the provisions of subsection (b) of Subdivision (1) of Section 6 of this act.

Power of appointment

Whenever any person or corporation shall be given a general or limited power of appointment by virtue of any disposition of property made before or after 5 p.m. of June 25, 1935, such gift of power of appointment shall, under the provisions of this act, including Subdivision (10) of this section, be deemed a taxable transfer made from the donor of said power to the donee thereof at the date of the donor's death, except that:

(a) Where the donor of a power of appointment died prior to 5 p.m. of June 25, 1935, and the power is exercised thereafter, the exercise of said power of appointment shall be deemed a transfer taxable as provided in Subdivision (6) of Section 2 of the Inheritance Tax Act of 1921, as amended in 1929.

Stats 1929, p 1836

(b) If at the date of the donor's death a power of appointment is irrevocably limited, in whole or in part, to be exercised in favor of a charitable beneficiary, then to the extent that it is so limited the gift thereof shall not be deemed to be a taxable transfer from the donor to the donee thereof.

(c) In the case of a gift of a general or limited power of appointment, if before the tax on the transfer of the power has been finally determined the donee irrevocably exercises, or obligates himself to exercise, the power, in whole or in part, in favor of a charitable beneficiary, then to the extent that the power is so exercised, or obliged to be exercised, the gift of the power shall not be deemed to be a taxable transfer from the donor to the donee thereof.

(d) If a gift of a general or limited power of appointment is taxed under this subdivision as a transfer from the donor to the donee, and thereafter the donee irrevocably exercises, or obligates himself to exercise, the power, in whole or in part, in favor of a charitable beneficiary, then to the extent that the power is so exercised, or obliged to be exercised, the court which originally fixed the tax, on satisfactory proof to

it, pursuant to an application after notice to the State Controller made within six months after execution of the document exercising the power, or obligating the donee to exercise the power, in favor of the charitable beneficiary, shall modify its original order fixing the tax by a new order which shall eliminate as a taxable transfer the gift of the power to the extent that the power is exercised, or obliged to be exercised, in favor of a charitable beneficiary. After the making of such order a refund shall be allowable as prescribed in Subdivision (3) of Section 11, within the time limitations therein specified.

(e) If a gift of a general or limited power of appointment is taxed under this subdivision as a transfer from the donor to the donee, and thereafter, as the result of the nonexercise of the power, in whole or in part, the whole or any part of the property subject to the power passes to a charitable beneficiary, the court which originally fixed the tax, on satisfactory proof to it, pursuant to an application after notice to the State Controller made within six months after the passing of the property to the charitable beneficiary, shall modify its original order fixing tax by a new order which shall eliminate as a taxable transfer the gift of the power to the extent the property subject thereto passes to the charitable beneficiary on the nonexercise of the power. After the making of such order a refund shall be allowable as prescribed in Subdivision (3) of Section 11, within the time limitations therein specified.

(f) If prior to the death of the donor of a power of appointment, (1) the donee thereof shall have died or shall have irrevocably waived and relinquished the power, or (2) the donor shall have revoked the power, the gift of the power shall not be deemed to be a taxable transfer from the donor to the donee thereof.

Bequests or devises to executors or trustees

(7) Whenever a decedent appoints or names one or more executors or trustees, and makes a bequest or devise of property to them in lieu of commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees or devisees, and said bequest, devise or residuary legacies or devises exceeds the executor's commission provided in Section 901 of the Probate Code, or a reasonable compensation to be fixed by the court for the trustee, such excess over and above the exemptions herein provided for shall be liable to said tax.

Insurance policies

(9) The proceeds of all life or accident insurance policies payable on account of the death of the insured shall be subject to the tax herein imposed, as follows:

(a) The proceeds of all of such policies now in force or hereafter issued payable to the estate, executor or administrator or personal representative of the insured.

(b) The proceeds of all such policies hereafter issued payable to named beneficiaries.

(c) The proceeds of all such policies now in force payable to named beneficiaries in which the insured has the right to

change the beneficiary or under which he has cash surrender right.

(d) The aggregate proceeds of all policies designated in paragraphs (b) and (c) of this subdivision, up to and including a total of fifty thousand dollars ($50,000), shall not be subject to the provisions of this act. Said fifty thousand dollar ($50,000) exemption shall be prorated among all beneficiaries under such policies in proportion to the amount of such insurance payable to each of them, and shall be in addition to all other exemptions provided for in this act.

Tax on aggregate market value

(10) When more than one transfer within the meaning of any of the preceding subdivisions of this section has been made, either before or after the passage of this act, by a decedent to one person, the tax shall be imposed upon the aggregate market value of all of the property so transferred to such person in the same manner and to the same extent as if all of the property so transferred were actually transferred by one transfer made at the date of the transferor's death and with the value, rates and exemptions as of that date.

Deductions from appraised value

(11) In determining the market value of the property transferred, the following deductions, if obligations of the decedent or his estate, except as otherwise indicated in this subsection, and paid by the estate or transferee, and no others, shall be made from the appraised value thereof:

(a) Debts of decedent owing at the date of death;

(b) Expenses of funeral and last illness, including the funeral and last illness expenses of a deceased wife whether or not she is survived by a husband financially well able to pay such expenses;

(c) All State, county, and municipal taxes and assessments which are a lien against said property at the date of death;

(d) The ordinary expenses of administration, including the ordinary fees allowed executors and administrators and the ordinary fees of their attorneys under the provisions of Sections 901 and 910 of the Probate Code of California, computed on the value of the estate at the date of decedent's death;

(e) The amount due or paid the Government of the United States as a Federal inheritance or estate tax; provided, however, that the amount of such tax allowable herein as a deduction shall be limited to a computation thereof (commencing at the primary rates) made by the acting State Inheritance Tax Appraiser upon his own valuations of that portion of such property only, the transfer of which is taxable under the provisions of this act, by applying to such valuations the exemptions and rates of the Federal inheritance or estate tax in force at the date of decedent's death;

Limitation

(f) This subdivision (11) is intended as a limitation on deductions, and it is not its purpose to allow as a deduction anything that does not actually reduce the amount of the inheritance or transfer.

(12) Where the tax imposed by this act is of a lesser amount than the maximum credit of the Federal estate tax allowed by the Federal Estate Tax Law because of said tax herein imposed, then the tax provided for by this act shall be increased so that the amount of tax due this State shall be the maximum amount of the credit allowed under said Federal Estate Tax Law. Said additional tax shall be paid out of the same funds as any other ordinary charge against the estate. Additional tax

Where no tax is imposed by this act because of the exemptions herein, or for any other reason, and a tax is due the United States under the Federal Estate Tax Law, then a tax shall be due this State equal to the maximum amount of the credit allowed under said Federal Estate Tax Law.

Should the amount of tax in this act increased by this section be afterwards found to be more than the maximum credit allowed under the Federal Estate Tax Law, then any excess over and above the said maximum credit shall be refunded as is provided in Subdivision 4 of Section 11 of this act. Said application for refund must be made within six months after said maximum credit has been determined by the Federal Government.

SEC. 2. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Tax levy

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CHAPTER 178

An act providing for the creation of county treasurers' cash difference funds and overage funds in the counties of the State.

[Approved by Governor April 23, 1941. Filed with Secretary of State April 23, 1941.] In effect September 13, 1941

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

SECTION 1. The board of supervisors of any county desiring to establish a county treasurer's cash difference fund for the use of the treasurer of the county may do so by adopting a resolution setting forth the amount of such fund. Certified copies of such resolution shall be transmitted to the county auditor and county treasurer. In the event the board of supervisors of any county elects to establish such a fund, said board of supervisors shall by said resolution also establish a county fund to be known as an overage fund. County treasurer's cash difference fund

SEC. 2. Upon the adoption of such resolution it shall be the duty of the county auditor to draw his warrant in favor of the county treasurer in the amount set forth in said resolution, and the county treasurer shall cash said warrant. The county treasurer so entrusted with such a cash difference fund Drawing of warrant

shall not be authorized to expend any portion thereof except for cash deficits reported in the manner hereinafter set forth.

Report to treasurer

SEC. 3. Each cashier, teller, or person similarly receiving and disbursing the county moneys and all other money placed in his custody as directed by law or by official authority, in the office of such county treasurer, shall, at the close of each business day render a written report, setting forth the exact sum constituting any cash deficit or overage in his account for that day, to said county treasurer. A failure to so report any cash deficit or overage at the close of the business day in which it occurred shall be a violation of this act.

Reimbursement of deficit

SEC. 4. Immediately upon the county treasurer receiving such a written report setting forth the sum constituting a cash deficit, he shall reimburse the cash charged to such person in the amount of such cash deficit, provided such reimbursement can not exceed the amount in the cash difference fund unless said fund is replenished by the board of supervisors in the manner hereinafter provided, and then only in an amount not exceeding the sum so appropriated by said board of supervisors. Upon his receiving such a written report setting forth the sum constituting an overage, he shall immediately deposit such overage in the overage fund in the county treasury.

Deposit of overage

Account of fund

SEC. 5. The county treasurer entrusted with such a cash difference fund shall upon demand of the auditor or board of supervisors give account of said fund.

Replenishment of fund

SEC. 6. If at any time such cash difference fund becomes exhausted, the county treasurer may make a written application to the board of supervisors to have said fund replenished and shall itemize in such application each and every cash deficit as to amount, date of occurrence, and the name of the cashier, teller or person, whose account was reimbursed from said cash difference fund in the manner hereinabove set forth. The board of supervisors may then in its discretion replenish such a cash difference fund by resolution directing the county auditor to draw his special warrant therefor on the county general fund, and the county treasurer shall cash said warrant and be entrusted with any such sum in accordance with, and in conformity to, the provisions of this act relating to such a cash difference fund.

Discontinuance of fund

SEC. 7. The board of supervisors may at any time discontinue such a cash difference fund. If such a cash difference fund is discontinued, the county treasurer shall immediately give account thereof and deposit any balance remaining therein in the county general fund.

Transfer to general fund

SEC. 8. Any money in an overage fund, shall at the end of the fiscal year, be transferred by the board of supervisors to the county general fund.

Penalty

SEC. 9. Any person violating any of the provisions of this act is guilty of a misdemeanor.

CHAPTER 179

An act to amend Sections 500, 502, 503, 505 and 513 of, to add Sections 502.1, 502.2 and 516.1 to the Military and Veterans Code, all relating to high school cadets.

Stats 1935, p 1348, amended

[Approved by Governor April 23, 1941 Filed with Secretary of State April 23, 1941]

In effect September 13, 1941

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

SECTION 1. Section 500 of the Military and Veterans Code is hereby amended to read as follows:

Stats 1935, p 1373

500. The male students of any high school in this State, having 100 or more such students, 14 years of age or over, may be organized into a high school cadet company or companies under such rules and regulations as the governing body of the schools and The Adjutant General of the State of California may prescribe. Said companies shall be of such strengths as may be prescribed by The Adjutant General.

Organization

SEC. 2. Section 502 of the Military and Veterans Code is hereby amended to read as follows:

Stats 1935, p 1373

502. Upon recommendation of the school board having jurisdiction over the school and with the approval of The Adjutant General the Governor may commission commandants, assistant commandants, and assistant commandants (junior grade) of cadets for duty in each school having one or more cadet companies. Commandant corresponds to the rank of major of the National Guard; assistant commandant corresponds to the rank of captain of the National Guard; and assistant commandant (junior grade) corresponds to the rank of first lieutenant of the National Guard. Said officers shall be commissioned in the same manner that National Guard officers are commissioned. Each such officer shall hold office at the pleasure of the Governor, or until his successor has been appointed and qualified or his connection with the cadets is severed. Said officers shall be entitled to the same privileges and exemptions accorded National Guard officers, of corresponding rank, as above stated except that pay and expenses on special detail shall be taken from the moneys appropriated for the maintenance of the California High School Cadets.

Commandant

SEC. 3. Section 503 of the Military and Veterans Code is hereby amended to read as follows:

Stats 1935, p 1373

503. Cadet companies shall each have such commissioned officers and noncommissioned officers as shall be prescribed from time to time by The Adjutant General, and as shall conform generally to the number of commissioned and noncommissioned officers of similar companies of the California

Company organization

National Guard. Said commissioned officers shall be commissioned by The Adjutant General upon the recommendation of the ranking officer at the school, commandant, assistant commandant, or assistant commandant (junior grade), and with the approval of the principal. The noncommissioned officers shall be appointed and warranted by the ranking officer at the school, commandant, assistant commandant, or assistant commandant (junior grade), with the approval of the principal.

Stats 1935, p 1374

SEC. 4. Section 505 of the Military and Veterans Code is hereby amended to read as follows:

Regimental organization

505. The Adjutant General may in his discretion organize companies of high school cadets into battalions and regiments and each such battalion and regiment so organized shall have a staff to consist of such commissioned officers and noncommissioned officers as may be prescribed by The Adjutant General.

New section

SEC. 5. Section 502.1 is hereby added to the Military and Veterans Code, to read as follows:

Appointments

502.1. Original appointments shall be as assistant commandant (junior grade), and shall be made without examination; provided, that a candidate who has previously been a commissioned officer of and honorably discharged from the United States Army, Marine Corps, National Guard, or Reserve Corps, of the rank of captain may be appointed assistant commandant; or of the rank of major or higher, may be appointed commandant. Promotion shall be by examination; but no officer shall be eligible for promotion from assistant commandant (junior grade) to assistant commandant until he shall have served not less than one year as assistant commandant (junior grade) nor for promotion from assistant commandant to commandant until he shall have served at least two years as assistant commandant. Every officer having served as commandant for one year or more immediately prior to the effective date of this act shall continue to hold the rank of commandant regardless of any other provision of this section.

New section

SEC. 6. Section 502.2 is hereby added to the Military and Veterans Code, to read as follows:

Uniform

502.2. An assistant commandant (junior grade) shall wear the same uniform and shoulder straps as a first lieutenant of infantry in the National Guard; an assistant commandant shall wear the same uniform and shoulder straps as a captain of infantry in the National Guard; and a commandant shall wear the same uniform and shoulder straps as a major of infantry in the National Guard. All such officers shall wear cap and collar ornaments designating the California High School Cadets.

SEC. 7. Section 513 of the Military and Veterans Code is hereby amended to read as follows: Stats 1935, p 1375

513. The Adjutant General may detail from the organizations of the National Guard or Naval Militia some competent member thereof having the rank of major in the National Guard, or corresponding rank in the Naval Militia, or higher, who shall act as drill and rifle practice instructor for high school cadets. The Adjutant General may provide for compensating the persons detailed by him to instruct the cadets in drill and target practice. Drill and rifle practice instructor

SEC. 8. Section 516.1 is hereby added to the Military and Veterans Code, to read as follows: New section

516.1. Annually an encampment or encampments may be held by the California High School Cadets, to be of such duration and attended by such proportion of the strength of the corps as may be prescribed by The Adjutant General. The expenses of said encampments may be paid out of the moneys appropriated for the maintenance of the California High School Cadets. Annual encampment

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CHAPTER 180

An act to add Section 10253.7 to the Health and Safety Code, relating to birth certificates of children born in California and adopted elsewhere. Stats 1939, p 482, amended

[Approved by Governor April 23, 1941. Filed with Secretary of State April 23, 1941.] In effect September 13, 1941

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

SECTION 1. Section 10253.7 is hereby added to the Health and Safety Code, to read as follows: New section

10253.7. A new certificate of birth may be issued by the State Registrar in accordance with this article in the case of a child born in the State, but adopted by a legal proceeding in another State, in the District of Columbia, or in any Territory of the United States which has jurisdiction of the child, upon the filing with the State Registrar of a copy of the decree or judgment of adoption certified by the judge who entered it or the person having the legal custodianship of the records in the proceeding. When any such certificate is issued, it shall be treated in all respects the same as, and governed by all the provisions of this article pertaining to, a certificate issued in the case of a child adopted in this State. Birth certificates of children adopted outside State

CHAPTER 181

Stats 1939, p 482, amended

An act to amend Sections 7055, 7350, 7355, 7402, 7406, 7407, 7501 and repeal Sections 7408, 7409, 7550, 7551, 7552, 7553, 7554, 7555, 7556, 7557, 7558 and 7559 of the Health and Safety Code, relating to dead human remains and permits concerning them.

In effect September 13, 1941

[Approved by Governor April 23, 1941. Filed with Secretary of State April 23, 1941.]

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

Stats 1939, p 673

SECTION 1. Section 7055 of the Health and Safety Code is hereby amended to read as follows:

Unlawful interment or removal

7055. Every person, who for himself or for another person, inters or incinerates a body or permits the same to be done, or removes any remains, from the primary registration district in which the death or incineration occurred or the body was found, except a removal by a funeral director in a funeral director's conveyance from that registration district to another registration district in the same or another county, without the authority of a burial or removal permit issued by the local registrar of the district in which the death occurred or in which the body was found; or removes interred human remains from the cemetery in which the interment occurred; or removes cremated remains from the premises on which the cremation occurred without the authority of a removal permit is guilty of a misdemeanor and punishable as follows: (a) for the first offense by a fine of not less than ten dollars ($10) nor more than five hundred dollars ($500), (b) for each subsequent offense by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or imprisonment in the county jail for not more than 60 days, or by both.

Stats. 1939, p 679

SEC. 2. Section 7350 of the Health and Safety Code is hereby amended to read as follows:

Prohibition when body not prepared by licensed embalmer

7350. It is unlawful for any common carrier, to receive for transportation any dead human body, unless the body has been prepared by a regularly licensed embalmer in accordance with the rules prescribed by the State department, and is accompanied by a yellow paster in a form approved by it.

Stats 1939, p 681

SEC. 3. Section 7355 of the Health and Safety Code is hereby amended to read as follows:

Death from other causes

7355. The bodies of persons who have died from any cause not stated in nor covered by other provisions of this article, shall not be received for transportation by a common carrier unless the body has been embalmed and prepared by a licensed

embalmer, and placed in a sound casket and inclosed in a wooden transportation case.

SEC. 4. Section 7402 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 682

7402. This chapter does not prevent a funeral director from removing a body from the registration district where the death occurred or the body was found to another registration district in the same or another county in a funeral director's conveyance for the purpose of preparing the body for interment or shipment. Exemption

SEC. 5. Section 7406 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 682

7406. No person shall inter in any cemetery any human body unless (a) there has been obtained and filed with the local registrar of the city or county where the death occurred, a certificate, signed by a physician, or a coroner, setting forth as near as possible, the name, age, color, sex, place of birth, occupation, date, locality and the cause of death of the decedent, and (b) he has obtained from the local registrar a burial permit. Conditions for cemetery interment

SEC. 6. Section 7407 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 683

7407. A burial permit issued in one county or city is valid and sufficient in any county it specifies as the place of interment and shall be issued in duplicate. Further permit for interment shall not be required, but any county interment fees required by law or ordinance shall be paid. Burial permit Validity outside county of issuance, etc

SEC. 7. Section 7501 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 684

7501. A cemetery authority shall not remove or permit the removal of any interred remains, unless a permit for the removal has been issued by the local registrar of the district in which the premises are located, and delivered to the cemetery authority. Any person entitled by law to remove any remains may apply to the local registrar for a permit to remove them. The local registrar shall issue a permit, which in all cases shall specify the name of a cemetery where the remains shall be interred, and shall retain a copy, for which permit he shall receive a fee of fifty cents ($0.50) to be paid him by the applicant for the permit. Removal: Permit

SEC. 8. Sections 7408, 7409, 7550, 7551, 7552, 7553, 7554, 7555, 7556, 7557, 7558, 7559 of the Health and Safety Code are hereby repealed. Repeals

CHAPTER 182

Stats 1939, p 482, amended

An act to amend Sections 10008, 10118, 10200, 10325, 10327, 10328, 10330, 10375, 10127, 10451 and 10475 and repeal Sections 10001, 10005, 10006, 10007 and 10326, of the Health and Safety Code, relating to vital statistics.

In effect September 13, 1941

[Approved by Governor April 23, 1941. Filed with Secretary of State April 23, 1941.]

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

Repeals

SECTION 1. Sections 10004, 10005, 10006 and 10007 of the Health and Safety Code are hereby repealed.

Stats 1939, p 734

SEC. 2. Section 10008 of the Health and Safety Code is hereby amended to read as follows:

Institution records

10008. Every person in charge of a hospital, almshouse, lying-in or other institution, public or private, to which persons resort for treatment, confinement, or are committed by process of law, shall make a record of the personal and statistical particulars relative to the inmates thereof sufficient and adequate for the completion of a birth or death certificate.

Stats 1939, p 738

SEC. 4. Section 10118 of the Health and Safety Code is hereby amended to read as follows:

Records

10118. He shall make a complete and accurate copy of each birth certificate and each death certificate registered by him and preserve them permanently in his office as the local record.

Stats 1939, p 740

SEC. 5. Section 10200 of the Health and Safety Code is hereby amended to read as follows:

Contents

10200. The certificate of birth shall contain the following items and such other items as the State department may designate:

(1) Full name of child. If the child dies without a name, before the certificate is filed, enter the words "died unnamed." If the living child has not yet been named at the date of filing certificate of birth, the space for "full name of child" shall be left blank.

(2) Place of birth, including State, county, township or town, village or city. If in a city, the street and house number; if in a hospital or other institution, its name shall be given, instead of the street and house number.

(3) Usual residence address of mother, giving city, village, township or town, county, and State of residence, and the street and house number if in a city.

(4) Sex of child.

(5) Whether twin, triplet, or other plural birth. A separate certificate shall be required for each child in case of plural

births. For plural births, the number of each child in order of birth.

(6) Number of months of pregnancy.

(7) Date of birth, including year, month and day.

(8) Full name of father.

(9) Color or race of father.

(10) Age of father at last birthday.

(11) Length of residence of father in State.

(12) Birthplace of father; at least State or foreign country, if known.

(13) Occupation of father. The occupation shall be reported if engaged in any remunerative employment, with the statement of the trade, profession or particular kind of work done.

(14) General industry or business in which work was done.

(15) Full maiden name of mother.

(16) Color or race of mother.

(17) Age of mother at last birthday.

(18) Birthplace of mother; at least State or foreign country, if known.

(19) Occupation of mother. The occupation shall be reported if engaged in any remunerative employment, with the statement of trade, profession or particular kind of work.

(20) General industry or business in which work is done.

(21) Number of children of this mother (a) born alive and now living; (b) born alive but now dead; (c) stillborn.

(22) Mailing address of mother.

(23) The certification of attending physician or midwife as to attendance at birth, including statement of hour of birth. This certification shall be signed by the attending physician or midwife, with address; if there is no physician or midwife in attendance, then by the father or mother of the child, householder, owner of the premises, or manager or superintendent of the public or private institution where the birth occurred, or other competent person whose duty it is to notify the local registrar of the birth.

(24) Exact date of filing in office of local registrar; registered number.

(25) Signature of registrar.

(26) Was a prophylactic or ophthalmia neonatorum used.

(27) Prenatal examination for syphilis, including period of gestation in months or weeks at which examination was made, and if examination was not made, including reason for not making such examination; provided, however, that the result of said examination be not included on said certificate nor made public in any manner.

(28) Crippling congenital deformities.

SEC. 6. Section 10325 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 744

10325 A stillborn child shall be registered upon a certificate of stillbirth as prescribed by the State department, and Registration

shall be filed with the local registrar, in the same manner as that prescribed for a certificate of death.

Stats. 1939, p. 744

SEC. 7. Section 10326 of the Health and Safety Code is hereby repealed.

Stats 1939, p. 744

SEC. 8. Section 10327 of the Health and Safety Code is hereby amended to read as follows:

Certificate not required

10327. A certificate of stillbirth is not required for a child that has not advanced to the fifth month of uterogestation.

Stats 1939, p 744

SEC. 9. Section 10328 of the Health and Safety Code is hereby amended to read as follows:

Medical certificate

10328. The medical certificate of the cause of stillbirth shall be signed by the attending physician, if any, and shall state the cause of the stillbirth if known.

Stats 1939, p 744

SEC. 10. Section 10330 of the Health and Safety Code is hereby amended to read as follows:

Midwives' signature, etc

10330. Midwives shall not sign certificates of stillbirth; but such cases, and stillbirths occurring without attendance of either physician or midwife, shall be treated as deaths without medical attendance.

Stats 1939, p 744

SEC. 11. Section 10375 of the Health and Safety Code is hereby amended to read as follows:

Contents

10375. The certificate of death shall contain the following items, and such other items as the department may designate:

(1) Full name of decedent. If an unnamed child the surname preceded by "Unnamed."

(2a) Place of death, including State, county, and township, village or city. If in a city, the street and house number; if in a hospital or other institution, its name shall be given instead of the street and house number; if in an industrial camp, the name of the camp shall be given.

(2b) Length of residence: (a) in place of death; (b) in California; (c) in the United States if of foreign birth.

(3) Usual residence of deceased, including State, county, and township, village or city, and if a city, the street and house number.

(4) Sex.

(5) Color or race.

(6a) Conjugal condition—as single, married, widowed or divorced.

(6b) Name of husband or wife.

(7) Date of birth, including the year, month, and day.

(8) Age, in years, months and days. If less than one day, the hours and minutes.

(9) Birthplace; at least State or foreign country, if known.

(10) The occupation of any person, male or female, who had any remunerative employment shall be reported, with the statement of trade, profession or particular kind of work.

(11) General industry or business in which work was done.

(12) Full name of father.

(13) Birthplace of father; at least State or foreign country, if known.

(14) Maiden name of mother.

(15) Birthplace of mother; at least State or foreign country, if known.

(16) Name and address of informant.

(17) Whether burial in ground, entombment, cremation or removal; and date of such interment.

(18) Signature and license number of embalmer; signature and address of funeral director, or person acting as such.

(19) Official signature of registrar, with date when certificate was filed; registered number.

(20) Date of death; year, month and day.

(21) Certification as to medical attendance on decedent, fact and time of death, time last seen alive, and the cause of death, with contributory (secondary) cause of complication, if any, and date of onset or duration of each.

(22) Certification as to action of the coroner when compelled to act by law, stating kind of action taken, whether inquest, autopsy or inquiry, and the fact and cause of death.

(23a) If death is due to accidental or violent means, it shall be stated as to whether accident, suicide or homicide; date of injury; place of injury, whether in home, industry or public place; manner and nature of injury.

(23b) Whether or not disease or injury is related to occupation.

(24) Signature and address of attending physician, or the signature of the coroner, with the statement of the county of which he is an officer.

SEC. 12. Section 10427 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p. 718

10427. The coroner or other proper officer whose duty it is to hold an inquest on the body of any deceased person, and to make the certificate of death required for a burial permit, shall: Information

(a) State in his certificate the name of the disease causing death, or if from external causes (1) the means of death; and (2) whether (probably) accidental, suicidal, or homicidal.

(b) Furnish such information as may be required by the State Registrar in order properly to classify the death.

Upon the issuance of the death certificate and burial permit the cemetery authority may proceed with the interment.

Stats 1939, p 748

SEC. 13. Section 10451 of the Health and Safety Code is hereby amended to read as follows:

Particulars

10451. He shall obtain the required personal and statistical particulars from the person best qualified to supply them, and the name and address of his informant.

Stats 1939, p 749

SEC. 14. Section 10475 of the Health and Safety Code is hereby amended to read as follows:

Issuance

10475. If the certificate of death is properly executed and complete, the local registrar shall issue a permit for removal or interment, which in all cases shall specify the name of a cemetery where the remains shall be interred, except that in case the death occurred from a disease declared by the State department to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be issued by the registrar, except under such conditions as may be prescribed by the State department and local boards of health.

CHAPTER 183

"Subversive Organization Registration Act"

An act providing for the registration of certain societies, corporations, associations, camps, groups, bunds, political parties, assemblies and other bodies and organizations.

In effect September 13, 1941

[Approved by Governor April 25, 1941. Filed with Secretary of State April 25, 1941.]

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

Scope of act

SECTION 1. This act shall apply to every corporation, association, society, camp, group, bund, political party, assembly, and to every other body or organization composed of two or more persons or members, which:

(a) Directly or indirectly advocates, advises, teaches, or practices, the duty, necessity or propriety of controlling, conducting, seizing, or overthrowing the Government of the United States, or of this State or of any political subdivision thereof by force or violence; or

(b) Is subject to foreign control as defined in subdivision (d) of Section 2; or

(c) Is both subject to foreign control as defined in subdivision (d) of Section 2 and directly or indirectly advocates, advises, teaches, or practices the duty, necessity, or propriety of controlling, conducting, seizing, or overthrowing the Government of the United States, or of this State or of any political subdivision thereof by force or violence.

Registration

SEC. 2. Every such existing corporation, association, or organization shall within 30 days after this act takes effect,

and every such corporation, association or organization hereafter organized shall within 10 days after its organization, file with the Secretary of State, on such forms and in such detail as he may prescribe, the following information and documents: Information and documents

(a) A complete and detailed statement subscribed, under oath, by all of its officers, showing its name and post-office address, the names and addresses of all its branches, chapters and affiliates, the names, nationalities and residence addresses of its officers and members, and the qualifications required for membership in it, the nature and extent of its existing and proposed aims, purposes and activities, the description and location of the real property and the kind, quantity and quality of the personal property owned by it, the times and places of its meetings, its assets and liabilities, the methods for the financing of its activities, the names and addresses of all persons, organizations and other sources who or which have contributed money, property, literature or other things of value to the organization or any of its branches, chapters or affiliates for any of its purposes, and such other information as the Secretary of State may from time to time require.

(b) A true copy, certified by all of its officers, of its charter, articles of association, constitution, by-laws, rules, regulations, oath, affirmation or pledge of membership, if any, each agreement, resolution and other instrument or document relating to its organization, powers and purposes and the powers and duties of its officers and members, each book, pamphlet, leaflet or other printed, written or illustrated matter directly or indirectly issued or distributed by it or in its behalf, or to or by its members with its knowledge, consent or approval and such other documents as the Secretary of State may from time to time require.

(c) A description of the uniforms, badges, insignia, or other means of identification prescribed by it, and worn or carried by its officers or members, or any of such officers or members.

(d) In case it is subject to foreign control, the manner in which it is so subject. An organization shall be deemed "subject to foreign control" if (1) it solicits or accepts financial contributions, loans or support of any kind, directly or indirectly, from, or is affiliated directly or indirectly with, a foreign government or a political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or political subdivision thereof, or a political party in a foreign country, or an international political organization, or (2) its policies, or any of them, are determined by or at the suggestion of, or in collaboration with, a foreign government or political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or a political subdivision thereof, or a political party in a foreign country, or an international political organization.

Limitations

SEC. 3. Nothing in this act shall be construed as applying to any labor union, religious, fraternal or patriotic organization, society, or association, whose objectives and aims do not contemplate the overthrow of the Government of the United States, or of this State or of any political subdivision thereof by force or violence.

Filing amendments

SEC. 4. Every such corporation, association, or organization shall, within 10 days after any revision or amendment of, or other change with respect to, its charter, articles of association, constitution, by-laws, rules, regulations, oath, affirmation, or pledge of membership, or any part thereof, file with the Secretary of State a true copy certified by all of its officers of such revised, amended, or changed charter, articles of association, constitution, by-laws, rules, regulations, oath, affirmation, or pledge of membership, or part thereof, as the case may be.

Statement of change

SEC. 5. Every such corporation, association, or organization shall, within 10 days after a change has been made in its officers, or in its aims, purposes, activities, property holdings, or methods and sources of financing its activities, file with the Secretary of State a statement subscribed under oath by all of its officers showing such change.

Statement of members

SEC. 6. Every such corporation, association, or organization shall at least once in each period of six months file with the Secretary of State a statement subscribed under oath by all of its officers showing the names and residence addresses of all persons who have been admitted to membership during that period or, if no members have been admitted during that period, a statement to that effect similarly subscribed.

Information of political action

SEC. 7. Every such corporation, association, or organization shall within 10 days after the adoption thereof file with the Secretary of State, on such form and in such detail as he may prescribe, each resolution adopted, or the minutes of any meeting held by it, authorizing or providing for concerted action by its officers, members, or a part of its membership, to promote or prevent the passage of any act of legislation by any local, State or Federal legislative body, or to support or defeat any candidate for public office.

Anonymous communications

SEC. 8. No such corporation, association, or organization shall send, deliver, mail, or transmit or suffer or permit to be sent, delivered, mailed, or transmitted to any person in this State who is not a member of such corporation, association, or organization any anonymous letter, document, leaflet, or other written or printed matter, and all letters, documents, leaflets, or other written or printed matter intended to come to the attention of, a person who is not a member of such corporation, association, or organization, shall bear on the same the name of the corporation, association, or organization and the names and residences of the officers thereof.

Public records

SEC. 9. All statements or documents filed with the Secretary of State under this act shall be public records and open to public examination and inspection at all reasonable hours.

Rules and regulations

SEC. 10. The Secretary of State shall have power to adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this act, and to alter, amend or repeal such rules and regulations.

Penalties

SEC. 11. Any corporation, association, or organization to which this act applies which shall violate any provision of this act shall be guilty of a felony and punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) and for each day, or part thereof, during which such violation continues, it shall be deemed a separate and distinct offense subject to the same punishment.

SEC. 12. Any officer of a corporation, association, or organization to which this act applies and every member of the board of directors, board of trustees, executive committee, or other similar governing body, who violates any provision of this act or permits or acquiesces in the violation of any provision of this act by such corporation, association, or organization shall be guilty of a felony and punishable by a fine of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000) or by imprisonment in the State prison for not less than six months and not more than five years, or by both such fine and imprisonment.

SEC. 13. Any person who becomes a member of any corporation, association, or organization to which this act applies or remains a member thereof, or attends a meeting thereof, with knowledge that such corporation, association, or organization has failed to comply with any provisions of this act, shall be guilty of a misdemeanor and punishable by a fine of not less than ten dollars ($10) and not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not less than 10 days and not more than one year, or by both such fine and imprisonment.

Construction

SEC. 14. This act shall be construed as imposing additional requirements upon corporations, associations, or organizations to which it applies and neither the fact that such a corporation, association, or organization was organized pursuant to law nor that its affairs and activities are in any respect regulated by law shall operate to excuse compliance with this act.

Constitutionality

SEC. 15. If any provision of this act, or the application thereof to any person, corporation, association, or organization, or circumstances, is for any reason held invalid, ineffective, or unconstitutional by a court of competent jurisdiction, the remainder of this act, or the application of such provision to other persons, corporations, associations, organizations, or circumstances, shall not be affected thereby, and the Legislature hereby declares the severability of the several sections and provisions of this act and that it would have enacted this act without the invalid provisions or the invalid applications, as the case may be, had such invalidity been apparent.

Declaration of purpose

SEC. 16. This act is enacted in the exercise of the police power of this State for the protection of the public peace and safety by requiring the registration of subversive organizations which are conceived and exist for the purpose of undermining and eventually destroying the democratic form of government in this State and in the United States.

Short title

SEC. 17. This act may be cited as the Subversive Organization Registration Act.

CHAPTER 184

Sabotage Prevention Act

An act to protect property by making criminal certain unlawful entries on, injuries to and interferences with property, authorizing the closing of streets, and to provide penalties for the violation thereof, to take effect immediately.

In effect immediately

[Approved by Governor April 28, 1941. Filed with Secretary of State April 28, 1941.]

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

Definitions

SECTION 1. As used in this act:

"Highway" includes any private or public street, way or other place used for travel to or from property.

"Highway Commissioners" means any board or other body having authority under then existing law to discontinue the use of the highway which it is desired to restrict or close to public use and travel.

"Public Utility" includes any pipe line, gas, electric, heat, water, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation, communication or other system, by whomsoever owned or operated for public use.

Injury to property

SEC. 2. Whoever intentionally and maliciously destroys, impairs, injures, interferes or tampers with real or personal property with reasonable grounds to believe that such act will hinder, delay or interfere with the preparation of the United States or of any of the States for defense or for war, or with the prosecution of war by the United States, shall be punished by imprisonment for not more than 10 years, or by a fine of not more than ten thousand dollars ($10,000), or both; provided, if such person so acts with the intent to hinder, delay or interfere with the preparation of the United States or of any of the States for defense or for war, or with the prosecution of war by the United States, the minimum punishment shall be imprisonment for not less than one year.

Making defective articles

SEC. 3. Whoever intentionally and maliciously makes or causes to be made or intentionally and maliciously omits to note on inspection any defect in any article or thing with reasonable grounds to believe that such article or thing is intended to be used in connection with the preparation of the United States or any of the States for defense or for war, or for the prosecution of war by the United States, or that such article or thing is one of a number of similar articles or things,

some of which are intended so to be used, shall be punished by imprisonment for not more than 10 years, or a fine of not more than ten thousand dollars ($10,000), or both; provided, if such person so acts or so fails to act with the intent to hinder, delay or interfere with the preparation of the United States or of any of the States for defense or for war, or with the prosecution of war by the United States, the minimum punishment shall be imprisonment for not less than one year.

Attempts and solicitation

SEC. 4. Whoever attempts to commit any of the crimes defined by this act shall be liable to one-half the punishment prescribed for the completed crime. In addition to the acts which constitute an attempt to commit a crime under the law of this State, the solicitation or incitement of another to commit any of the crimes defined by this act not followed by the commission of the crime, the collection or assemblage of any materials with the intent that the same are to be used then or at a later time in the commission of such crime, or the entry, with or without permission, of a building, inclosure or other premises of another with the intent to commit any such crime therein or thereon shall constitute an attempt to commit such crime.

Conspiracy

SEC. 5. If two or more persons conspire to commit any crime defined by this act, each of such persons is guilty of conspiracy and subject to the same punishment as if he had committed the crime which he conspired to commit, whether or not any act be done in furtherance of the conspiracy. It shall not constitute any defense or ground of suspension of judgment, sentence or punishment on behalf of any person prosecuted under this section, that any of his fellow conspirators has been acquitted, has not been arrested or convicted, is not amenable to justice or has been pardoned or otherwise discharged before or after conviction.

Testimony

SEC. 6. No person shall be excused from attending and testifying, or producing any books, papers, or other documents before any court, magistrate, referee or grand jury upon any investigation, proceeding or trial, for or relating to or concerned with a violation of any section of this act or attempt to commit such violation, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him by the State may tend to convict him of a crime or to subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him, upon any criminal investigation, proceeding or trial, except upon a prosecution for perjury or contempt of court based upon the giving or producing of such testimony.

Posting against entry

SEC. 7. Any individual, partnership, association, corporation, municipal corporation or State or any political subdivision thereof engaged in, or preparing to engage in, the

manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the States for defense or for war or in the prosecution of war by the United States, or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock or railway entrance and every one hundred feet of water front a sign reading "No Entry Without Permission." Whoever without permission of such owner shall wilfully enter upon premises so posted shall be punished by imprisonment for not more than 10 days, or a fine of not more than fifty dollars ($50), or both.

Powers of watchman, etc.

SEC. 8. Any peace officer or any person employed as watchman, guard, or in a supervisory capacity on premises posted as provided in Section 7 may stop any person found on any premises to which entry without permission is forbidden by Section 7 and may detain him for the purpose of demanding, and may demand, of him his name, address and business in such place. If said peace officer or employee has reason to believe from the answers of the person so interrogated that such person has no right to be in such place, said peace officer shall forthwith release such person or he may arrest such person without a warrant on the charge of violating the provisions of Section 7; and said employee shall forthwith release such person or turn him over to a peace officer, who may arrest him without a warrant on the charge of violating the provisions of Section 7.

Closing of highways

SEC. 9. Any individual, partnership, association, corporation, municipal corporation or State or any political subdivision thereof engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the States for defense or for war or in the prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility, who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which such property abuts, may petition the highway commissioners of any city, town or county to close to public use and travel or to restrict the use of and travel upon such parts of said abutting highway or highways as lie within a distance of 150 feet or less of said property. Upon receipt of such petition, the highway commissioners shall set a day for hearing and give notice thereof by publication in a newspaper having general circulation in the city, town or county in which such property is located, such notice to be at least seven days prior to the date

set for hearing. If after hearing the highway commissioners determine that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon such parts of said abutting highway or highways as lie within a distance of 150 feet or less of said property and as they deem necessary for the public safety and the safety of the property; provided, the highway commissioners may issue written permits to travel over the highways so closed or restricted to responsible and reputable persons for such term, under such conditions and in such form as said commissioners may prescribe. Appropriate notices in letters at least three inches high shall be posted conspicuously at each end of any highway so closed or restricted by such order. The highway commissioners may at any time revoke or modify any order so made.

Penalties

SEC. 10. Whoever violates any order made under Section 9 shall be punished by imprisonment for not more than 10 days, or a fine of not more than fifty dollars ($50) or both.

Scope of act

SEC. 11. Nothing in this act shall be construed to impair, curtail or destroy the rights of employees and their representatives to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection. Nor shall anything in this act be construed to impair, curtail or destroy the rights of employees, former employees and their representatives to strike.

Constitutionality

SEC. 12. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Short title

SEC. 13. This act may be cited as the Sabotage Prevention Act.

Prosecutions

SEC. 14. If conduct prohibited by this act is also made unlawful by another law or other laws, the offender may be convicted for the violation of this act or of such other law or laws.

Duration of act

SEC. 15. This act and all orders made under it shall be in force until May 15, 1945, and thereafter whenever the United States is at war. Any violation of this act, committed while the act is in force, may be prosecuted and punished thereafter, whether or not this act is in force at the time of such prosecution and punishment.

Urgency

SEC. 16. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and

as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

An emergency exists in the United States and the State of California in providing adequate armies and facilities of defense. There is need of the full capacity of factories, warehouses and transportation in order to effect the rapid rearmament of the Nation, and any injury or damage to these facilities would seriously affect the security of the United States and the State of California, and it is therefore necessary that this act take effect immediately.

CHAPTER 185

An act to add Sections 4026, 4026.1, 4026.2 and 4026.3 to Article 4, Chapter 3, Title 2, Part 4 of the Political Code, relating to county officers, deputies, assistants and employees, and their return to county service, declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor April 28, 1941. Filed with Secretary of State April 28, 1941.]

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

New section

SECTION 1. Section 4026 is hereby added to the article of the Political Code cited in the title hereof, to read as follows:

Return to office.
—County officers

4026. In the event that any member of a board of supervisors or any sheriff, county clerk, district attorney or other county officer for whose election or appointment the Legislature has provided resigns his office in order to serve in the armed forces of the United States he shall have a right to return to and to re-enter upon the office prior to April 1, 1943, and prior to the time at which his term would have ended if he had not resigned on serving a notice to that effect upon any member of the board of supervisors or the county clerk, either personally or by registered mail, within six months of the termination of his active service with the armed forces.

New section

SEC. 2. Section 4026.1 is hereby added to said article of said code, to read as follows:

—County employees

4026.1. In the event that any deputy, assistant, or employee of the county, the qualifications and method of whose appointment the Legislature may prescribe resigns his position in order to serve in the armed forces of the United States, he shall have a right to return to the position prior to April 1, 1943, and prior to the time at which his occupancy of the position would have ended if he had not resigned on serving a notice to that effect upon any member of the board of supervisors or the county clerk or the chief personnel officer of the county, if any, either personally or by registered mail, within

six months of the termination of his active service with the armed forces.

SEC. 3. Section 4026.2 is hereby added to said article of said code, to read as follows: New section

4026.2. If any such officer, deputy, assistant, or employee was required by law to file an oath of office or to execute a bond prior to his original entry upon the duties of the office or employment, he shall file an oath and execute a bond in like manner and form prior to his re-entry upon the duties of the office or employment. Oath of office

SEC. 4. Section 4026.3 is hereby added to said article of said code, to read as follows: New section

4026.3. Upon such return and re-entry or such return to the office or employment he shall have all of the rights and privileges in, connected with or arising out of the office or employment which he would have enjoyed if he had not been absent therefrom. Rights upon return

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

An emergency exists in the United States and the State of California in providing adequate armies and facilities of defense. National Guard units are being called into the Federal service. Reserve officers are being called into active service. Calls for draft are being made under the provisions of the Selective Training and Service Act. The arming of the Nation is resulting in many county officers and employees resigning from their positions and employments to enter the armed forces. To protect these officers and employees in their positions, and to enable them to return to necessary public work at the expiration of the existing National emergency, it is necessary to adopt laws permitting temporary resignations and reinstatements. Unless such laws become effective immediately, many county officers and employees shall have resigned and lost their rights to return to their positions.

CHAPTER 186

Stats 1939, p 182, amended

An act to amend Section 201 and to add Section 211 to the Health and Safety Code, relating to special investigations by, and the reporting of cases of epilepsy to, the State Department of Public Health, and the State Department of Motor Vehicles, as a means of reducing motor vehicle traffic hazards.

In effect immediately

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

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

Stats 1939, p 486

SECTION 1. Section 201 of the Health and Safety Code is hereby amended to read as follows:

Drugs and foods Investigation

201. It shall cause special investigation of the preparation and sale of drugs and food and their adulteration.

New section

SEC. 2. Section 211 is hereby added to the said code, to read as follows:

Sources of mortality: Investigation

211. It shall cause special investigations of the sources of morbidity and mortality and the effects of localities, employments, conditions and circumstances on the public health and it shall perform such other duties as may be required in procuring information for State and Federal agencies regarding the effects of these conditions on the public health.

Epilepsy

a. The board shall define epilepsy for the purposes of the reports hereinafter referred to:

(1) All physicians shall report immediately to the local health officer in writing, the name, age, and address of every person diagnosed as a case of epilepsy or similar disorders characterized by lapses of consciousness.

(2) The local health officer shall report in writing to the State department the name, age, and address, of every person reported to it as a case of epilepsy.

(3) The State department shall report to the State Department of Motor Vehicles the names, ages, and addresses, of all persons reported as cases of epilepsy by the physicians and local health officers.

Reports confidential

(4) Such reports shall be for the information of the State Department of Motor Vehicles in enforcing the provisions of the Vehicle Code of California, and shall be kept confidential and used solely for the purpose of determining the eligibility of any person to operate a motor vehicle on the highways of this State.

CHAPTER 187

An act to amend Sections 6526, 6585, 6586, 6604 and 6618 of the Business and Professions Code, relating to the practice of barbering.

Stats 1937, p 1229, amended

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 6526 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 364

6526. It is unlawful for any person, firm, or corporation to hire, employ, aid or abet any person to engage in the practice of barbering, unless such person holds a valid, unexpired, and unrevoked certificate of registration to practice barbering or a certificate of registration as a registered apprentice, issued by the board.

Persons

SEC. 2. Section 6585 of said code is hereby amended to read as follows:

Stats 1939, p 370

6585. The use of any room or place for barbering which is also used for residential or business purposes (except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, confectionery and such commodities as are used and sold in barber-shops), unless a substantial partition of ceiling height or of such less height as may be approved by the board separates the portion used for residential or business purpose, constitutes a cause for disciplinary action.

Room or place used for barbering

SEC. 3. Section 6604 of said code is hereby amended to read as follows:

Stats 1939, p 370

6604. The use of any room or place for barbering which is also used for residential or business purposes (except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, confectionery and such commodities as are used and sold in barber-shops), unless a substantial partition of ceiling height or of such less height as may be approved by the board separates the portion used for residential or business purpose is unlawful.

Same

SEC. 4. Section 6618 of said code is hereby amended to read as follows:

Stats 1939, p 1231

6618. It is unlawful to use on any patron any razors, shears, scissors, tweezers, combs, rubber disks or parts of vibrators used on another patron, unless they are kept in a closed compartment and immersed in boiling water not less than 20 minutes or in a solution of not less than 5 per cent

Instruments

pherol (United States Pharmacopoeia), or its equivalent, or sterilized by any other method bacteriologically effective approved by the board, immediately before each use.

Stats 1939, p 370

SEC. 5. Section 6586 of said code is hereby amended to read as follows:

Other offenses

6586. The commission of any of the offenses referred to in Section 6550 or in Article 9 constitute a cause for disciplinary action.

CHAPTER 188

Stats 1933, p 394, amended

An act to amend Sections 103.5 and 103.6 of the Fish and Game Code, relating to Fish and Game Districts 103.5 and 103.6.

In effect September 13, 1941

[Approved by Governor April 28, 1941. Filed with Secretary of State April 29, 1941.]

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

Stats 1939, p 1430

SECTION 1. Section 103.5 of the Fish and Game Code is hereby amended to read as follows:

District 103.5

103.5. District 103.5. The following shall constitute Fish and Game District 103.5: The San Lorenzo River and its tributaries above the egg-taking station of the commission in Section 27, Township 10 S., Range 2 W., Mount Diablo Base and Meridian. Except as otherwise provided all provisions relating to District 3 shall apply to District 103.5.

Stats 1939, p 1430

SEC. 2. Section 103.6 of said code is hereby amended to read as follows:

District 103.6

103.6. District 103.6. The following shall constitute Fish and Game District 103.6: The San Lorenzo River exclusive of its tributaries from its mouth to the egg-taking station of the commission in Section 27, Township 10 S., Range 2 W., Mount Diablo Base and Meridian. Except as otherwise provided all provisions relating to District 3 shall apply to District 103.6.

CHAPTER 189

An act to amend Section 643 of the Welfare and Institutions Code, relating to annual report of the probation officer. Stats 1937, p 1005, amended

[Approved by Governor April 28, 1941. Filed with Secretary of State April 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 643 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1937, p 1028

643. Every probation officer, within 15 days after the thirty-first day of December, of each year, shall make in writing and file as a public document a report to the judge of the juvenile court of the county in which such probation officer is appointed, and shall furnish to the board of supervisors of such county and to the State Department of Social Welfare a copy thereof. Such report, without giving names, shall show the exact number of wards of such juvenile court that remain under the care and supervision of the court on such thirty-first day of December, segregating such wards as to sex, the subdivision of Section 700 under which they were adjudged wards and the commitment or disposition order as such existed on said thirty-first day of December. Annual report

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CHAPTER 190

An act to add Section 739.1 to the Vehicle Code, relating to notices to appear in court and to the filing of complaints and amended complaints charging offenses under said code. Stats 1935, p 93, amended

[Approved by Governor April 28, 1941. Filed with Secretary of State April 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 739.1 is hereby added to the Vehicle Code, to read as follows: New section

739.1. Waiver of Filing of Written Complaint. Whenever a written notice to appear in court has been delivered to, and signed by a defendant, as provided in Section 739 hereof, or whenever notice of illegal parking has been given pursuant to the provisions of Section 591 hereof, an exact and legible duplicate copy of said notice shall, as soon as practicable, be filed with the magistrate specified therein and shall, notwithstanding the provisions of Section 1426 of the Penal Code, constitute a complaint to which the defendant may plead "Guilty." Waiver of filing of written complaint

If, however, the defendant shall violate his promise to appear in court or shall fail to deposit bail, as required by

law, or if the defendant shall not plead "Guilty" of the offense charged, an amended complaint shall be filed which shall conform to the provisions of said Section 1426, and thereafter such proceedings shall be had as may be provided by law; provided, that a defendant may, by an agreement in writing subscribed by him and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon the written notice mentioned in Section 739 hereof.

CHAPTER 191

An act to add Sections 3.123, 3.174, 3.302 and 3.372 to the School Code, all relating to the admission of persons to the public schools of this State.

In effect September 13, 1941

[Approved by Governor April 28, 1941. Filed with Secretary of State April 29, 1941.]

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

New section

SECTION 1. Section 3.123 is hereby added to the School Code, to read as follows:

Payment for admission to —Kindergarten

3.123. Any person, otherwise eligible for admission to a kindergarten of a school district of this State, whose parents may or may not be citizens of the United States of America and whose actual and legal residence is in a foreign country adjacent to this State may be admitted to a kindergarten of the district by the governing board of the district. The governing board of the district may, in its discretion, and as a condition precedent to the admission of any such person, require the parents or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost, exclusive of capital outlays, of educating such person and providing him with transportation to and from school, which cost of transportation shall not exceed ten dollars ($10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of such pupil shall not be included in computing the average daily attendance of a kindergarten for the purpose of obtaining apportionment of State funds.

New section

SEC. 2. Section 3.174 is hereby added to the School Code, to read as follows:

—Elementary school

3.174. Any person, otherwise eligible for admission to an elementary school of a school district of this State, whose parents may or may not be citizens of the United States of America and whose actual and legal residence is in a foreign

country adjacent to this State may be admitted to an elementary school of the district by the governing board of the district. The governing board of the district may, in its discretion, and as a condition precedent to the admission of any such person, require the parents or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost, exclusive of capital outlays, of educating such person and providing him with transportation to and from school, which cost of transportation shall not exceed ten dollars ($10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of such pupil shall not be included in computing the average daily attendance of an elementary school for the purpose of obtaining apportionment of State funds.

SEC. 3. Section 3.302 is hereby added to the School Code, to read as follows: New section

3.302. Any person, otherwise eligible for admission to a high school of a school district of this State, whose parents may or may not be citizens of the United States of America and whose actual and legal residence is in a foreign country adjacent to this State may be admitted to a high school of the district by the governing board of the district. The governing board of the district may, in its discretion, and as a condition precedent to the admission of any such person, require the parents or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost, exclusive of capital outlays, of educating such person and providing him with transportation to and from school, which cost of transportation shall not exceed ten dollars ($10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of such pupil shall not be included in computing the average daily attendance of a high school for the purpose of obtaining apportionment of State funds. High school

SEC. 4. Section 3.372 is hereby added to the School Code, to read as follows: New section

3.372. Any person, otherwise eligible for admission to a junior college of a school district of this State, whose parents may or may not be citizens of the United States of America and whose actual and legal residence is in a foreign country adjacent to this State may be admitted to a junior college of the district by the governing board of the district. The governing board of the district may, in its discretion, and as a Junior college

condition precedent to the admission of any such person, require the parents or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost, exclusive of capital outlays, of educating such person and providing him with transportation to and from school, which cost of transportation shall not exceed ten dollars ($10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of such pupil shall not be included in computing the average daily attendance of a junior college for the purpose of obtaining apportionment of State funds.

CHAPTER 192

An act to add Section 335a to the Penal Code, relating to the seizure and destruction of machines or devices prohibited by the lottery and gambling laws.

In effect September 13, 1941

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

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

New section

SECTION 1. Section 335a is hereby added to the Penal Code, to read as follows:

Destruction of gambling devices

335a. In addition to any other remedy provided by law any machine or other device the possession or control of which is penalized by the laws of this State prohibiting lotteries or gambling may be seized by any peace officer, and a notice of intention summarily to destroy such machine or device as provided in this section must be posted in a conspicuous place upon the premises in or upon which such machine or device was seized. Such machine or device shall be held by such officer for 30 days after such posting, and if no action is commenced to recover possession of such machine or device, within such time, the same shall be summarily destroyed by such officer, or if such machine or device shall be held by the court, in any such action, to be in violation of such laws, or any of them, the same shall be summarily destroyed by such officer immediately after the decision of the court has become final.

The superior court shall have jurisdiction of any such actions or proceedings commenced to recover the possession of such machine or device or any money seized in connection therewith.

Any and all money seized in or in connection with such machine or device shall, immediately after such machine or device has been so destroyed, be paid into the treasury of the city or county, as the case may be, where seized, said money to be deposited in the general fund.

CHAPTER 193

An act to amend Section 4041.1 of the Political Code, relating to the powers of supervisors.

[Approved by Governor April 29, 1941 Filed with Secretary of State April 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 4041.1 of the Political Code is hereby amended to read as follows: Stats 1939, p 1514

4041.1. (1) Under such limitations and restrictions as are prescribed by law, and in addition to jurisdiction and powers otherwise conferred, the boards of supervisors, in their respective counties, shall have the jurisdiction and powers to make and enforce such rules and regulations for the government of their body, the preservation of order, and the transaction of business, as may be necessary and the supervisors may attend annual State meetings of the State Supervisors' Association and shall be allowed their actual expenses in going to, attendance upon and returning from any such State association meetings and their actual and necessary traveling expenses when traveling outside their counties on official business. The board of supervisors, when in their judgment the public interest requires, may purchase automobiles for the use of county officers (except members of the board of supervisors) and county employees whose duties require frequent trips on county business and shall by ordinance adopt rules and regulations governing the use of said automobiles or other vehicles and providing further for the imposition of proper penalties upon any person or persons driving, operating or using said automobiles or other vehicles contrary to the rules and regulations of the board of supervisors of a county; and provided further, that anything herein to the contrary notwithstanding, may purchase necessary automobiles and assign the same to county boards and commissions whose duties require frequent and adequate transportation in and about the county on county business. Rules Traveling expenses Automobiles

(2) To adopt a seal of the board, a description and impression of which must be filed in the office of the county clerk and the Secretary of State. Seal

CHAPTER 194

Stats 1901, p 576, amended

An act to add Section 17 to an act entitled "An act to establish courts in cities of the second class, to fix their jurisdiction, and provide for officers of said court, and fix the compensation of certain officers thereof," approved March 23, 1901, relating to extra sessions of such police courts.

In effect September 13, 1941

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

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

New section

SECTION 1. Section 17 is hereby added to the act cited in the title hereof, to read as follows:

Extra session of police court (Oakland)

Sec. 17. Whenever in the opinion of the city justices, while acting as police judge of such city, public interest justifies or requires, one session of the police court of such city, to be known as extra session thereof, may be held in addition to, and at the same time as, the sessions held by the judges of the police court of such city, which extra session shall have all of the powers and jurisdiction prescribed and conferred by law upon police judges of such city.

The judges of the police court of a city of the second class may request any other qualified justice of the peace, or judge of any city court, in the county in which such city of the second class is located, to hold court in such city, and while so holding court, or acting as a judge of the police court therein, such extra sessions judge shall receive for his services the same compensation as the justices of the peace who act as police judges thereof, together with actual traveling expenses at the rate of twenty-five cents ($0.25) per mile, while traveling from his residence to the court and return therefrom. The extra compensation of the justice of the peace, or judge sitting in such police court, pursuant to such request, shall be paid by the city, which by law is charged with the payments of the compensation of the justice of the peace making the request who is the judge of such police court. The city council of such city, shall provide a suitable place for the holding of extra sessions of said police court.

CHAPTER 195

An act to amend Section 6 of "An act to establish police courts in cities of the second class, to fix their jurisdiction, to provide for officers of said court, to fix compensation of certain officers," approved March 23, 1901, relating to police courts in cities of the second class, the term of office of clerk, providing for assistant clerks, and relating to payment of fines, forfeitures, penalties and moneys deposited as bail.

Stats 1901, p. 576, amended

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 6 of the act quoted in the title hereof is hereby amended to read as follows:

Stats 1939, p. 1978

Sec. 6. Said police court shall have a clerk for each of the judges of said court who shall be appointed by the judge of said court presiding in the department thereof in which said clerk is to act, which said clerk shall hold office during the pleasure of the judge making such appointment. Each of said clerks shall give a surety bond in the sum of five thousand dollars ($5,000) conditioned for the faithful discharge of the duties of the office of clerk of said police court and of the duties of his office as clerk of the justice's court of said city, which bond shall be approved and filed in the same manner as are bonds of city officers. Each of said clerks shall receive an annual salary of three thousand three hundred dollars ($3,300) a year, payable in equal monthly installments out of the treasury of said city and shall be in full compensation for all services rendered by him as clerk of the police court and as clerk of the justice court of the said city.

Clerks of police court

Bond

Salary

Each of the said clerks shall keep a record of the proceedings of, and issue all processes ordered by, the said justices, or either of them, or by said police court, and receive all fines imposed, forfeitures, penalties, moneys deposited as bail and other moneys paid into court; provided, however, the legislative body of such city may by ordinance provide that any or all fines, forfeitures, penalties or moneys deposited as bail may be paid to the bailiff of such court or any other municipal officer or employee of said city, which, together with all fines, forfeitures, penalties, moneys deposited as bail, received in said police court, or other moneys paid into said court shall be paid into the city treasury unless otherwise provided by law. Each of the said clerks shall also render each month to the city council an exact and detailed account, under oath, of all fines imposed and collected, and of all fines imposed and uncollected since their last reports. They shall prepare bonds, justify bail when the amount has been fixed by either of said justices, or by said police court in cases not exceeding one hundred dollars ($100) and may administer and certify oaths.

Duties

Said clerks shall remain at the courtrooms of said court during the business hours and during such reasonable time thereafter as may be necessary for a proper performance of their duties. Before receiving any monthly payment of salary each of said clerks shall make and file with the city auditor an affidavit that he has deposited with the city treasurer all moneys that have come into his hands belonging to the city. Any violation of this provision shall be a misdemeanor.

Assistants

Each judge shall have the power, and if there be more than one judge then all of the judges shall have the power, to appoint an assistant clerk and such additional assistant clerks as the legislative body of such city shall provide. The assistant clerk or assistant clerks shall receive such salary as may be fixed by the legislative body of such city and shall hold office during the pleasure of the judge or judges making such appointment.

Salary

Powers and duties

All the provisions hereinbefore set forth in this section applying to a clerk shall apply with full force and effect to an assistant clerk, and each such assistant clerk shall have all the powers and duties and authority herein conferred upon a clerk.

Exception

The provisions of Section 4300e½ of the Political Code shall not apply to police courts in cities of the second class.

CHAPTER 196

An act to amend Section 103k of the Code of Civil Procedure, relating to justices' clerks, assistant clerks and payment of fines, forfeitures, penalties or moneys deposited as bail in justice courts of cities of the second class.

In effect September 13, 1941

[Approved by Governor April 29, 1941 Filed with Secretary of State April 29, 1941]

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

Stats. 1941, p. 1168

SECTION 1. Section 103k of the Code of Civil Procedure is hereby amended to read as follows:

Justices' clerks in cities of second class (Oakland)

103k. In every city of the second class each justice of the peace of said city shall have a clerk who shall be appointed by each justice of the peace and who shall hold office during the pleasure of said justice. Said clerks shall be appointed immediately upon this act taking effect and shall take the oath of office prescribed for city officers, and each one shall give a surety bond in the sum of five thousand dollars ($5,000) conditioned for the faithful discharge of the duties of the office of clerk of said justice's court and of the duties of his office as clerk of the police court of said city, which bond shall be approved and filed in the same manner as are bonds of city officers.

Each of said justice's clerks shall be authorized to administer oaths, take and certify affidavits, and shall be authorized to issue, and sign writs, summonses and all other processes in any action or proceeding in the justice's court of the city for which they are appointed or pending before any justice of the peace in said city in the name of the justice before whom the same is pending or out of whose court the same is issued which shall be in substantially the following form: Powers and duties

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Justice of the peace

By---

Clerk

All legal papers of every kind in actions or proceedings in the justice's court shall be issued by each of said clerks in the manner and form hereinabove set out. The said justices' clerks shall issue, sign or certify to any and all papers, transcripts or records which are required to be issued, signed or certified by the said justices of the peace. All complaints, answers, and all other pleadings and papers required to be filed in said justice's court shall be filed with either one of the clerks of said court who shall keep a permanent record of all such actions and proceedings in the justice's docket, now provided by law to be kept by the justice. The said clerks shall keep a record of the proceedings of said court and shall have the custody of all records and papers of the same. All fees for the issuance of all processes, or other fees, which are by law allowed for any official service of the justice of the peace shall be exacted and paid in advance into the hands of the clerk of said justice's court; provided, however, the legislative body of such city may by ordinance provide that any or all fines, forfeitures, penalties or moneys deposited as bail may be paid to the bailiff of such court or any other municipal officer or employee of said city, which, together with all fees, fines, forfeitures, penalties or moneys deposited as bail, received in said justice's court, shall be paid into the city treasury. Each of the said clerks shall render each month to the city council in exact and detailed account under oath, of all fines, forefeitures, penalties or fees received.

Each justice's clerk shall also act as clerk of the police court of said city and the compensation provided for the clerk of said police court shall be in full compensation for all services rendered as clerk of the justice's court. Each justice's clerk shall be in attendance at his office in the discharge of official business daily from 9 a.m. until 5 p.m. Clerk of police court

Each justice of the peace shall have the power, and if there be more than one justice of the peace then all of the justices of the peace shall have the power, to appoint an assistant clerk and such additional assistant clerks as the legislative body of such city shall provide. Assistants

The assistant clerk or assistant clerks shall receive such salary as may be fixed by the legislative body of such city. Salary

Powers and duties

All the provisions hereinbefore set forth in this section applying to a clerk shall apply with full force and effect to an assistant clerk, and each such assistant clerk shall have all the powers and duties and authority herein conferred upon a clerk.

Exception

The provisions of Section 4300e½ of the Political Code shall not apply to justices' courts in cities of the second class.

CHAPTER 197

An act to add Section 103m to the Code of Civil Procedure, relating to extra sessions of justices courts in cities of the second class.

In effect September 13, 1941

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

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

New section

SECTION 1. Section 103m is hereby added to the Code of Civil Procedure, to read as follows:

Extra session of justice court (Oakland)

103m. In cities of the second class, and in which no municipal court has been established pursuant to the provisions of Section 11 of Article VI of the Constitution, whenever in the opinion of the justices of the peace of such city the public interest so justify or require, one session of the justice court of such city, to be known as extra sessions thereof, may be held in addition to, and at the same time as, the sessions held by the justices of the peace of such city, which extra sessions shall have all of the powers and jurisdiction prescribed and conferred by law upon justices of the peace.

The justices of the peace of a city of the second class in which no municipal court has been established, may request any other qualified justice of the peace, or judge of any city court, in the county in which such city of the second class is located, to hold court in such city, and while so holding court, or acting as a justice of the peace therein, such extra sessions judge shall receive for his services the same compensation as the justice of the peace of the city of the second class in which he is requested to act, together with actual traveling expenses at the rate of twenty-five cents ($0.25) per mile, while traveling from his residence to the court and return therefrom. The extra compensation of the justice of the peace, or judge sitting in said court, pursuant to such request, shall be paid by the city, which by law is charged with the payments of the compensation of the justices of the peace making the request. The city council of such city shall provide a suitable place for the holding of extra sessions of said justice's court.

CHAPTER 198

An act to amend Section 669 of the Welfare and Institutions Code, relating to the establishment and maintenance of public schools in detention homes.

Stats 1937, p 1005, amended

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 669 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1029

669. Whenever such schools have been established in accordance with the provisions of Section 667, the board of supervisors shall provide suitable grounds, buildings, furnishings, supplies and equipment for the school, and shall lease the same on or before July 1st at a nominal rental to the school districts in which such detention home is situated. The board shall make an agreement with the governing bodies of such school districts to transfer from the general fund of the county to the current expense fund of each district one thousand six hundred dollars ($1,600) for each teacher employed in such detention home school for the first school year. The transfer of funds shall be made on or before the first Monday in January.

School grounds, buildings, expenses, etc

CHAPTER 199

An act to add Section 104.8 to the Streets and Highways Code, relating to the custody of evidences of title to property acquired for State highway purposes.

Stats 1935, p 248, amended

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 104.8 is hereby added to the Streets and Highways Code, to read as follows:

New section

104.8. The department may retain in its records all deeds, conveyances, and other evidences of title to or interests in real property acquired by the department under the provisions of this code. The Secretary of State and any other State officer or department having custody of any such documents is authorized and directed to deliver custody of such instruments to the department. The department may furnish on demand to any person paying the cost of preparing the same a certified copy of any such document.

Custody of deeds, etc

CHAPTER 200

Stats 1929, p 1430, amended

An act to add Section 8.8 to the California Toll Bridge Authority Act, relating to the collection of tolls on toll bridges or other toll highway crossings constructed or acquired under the provisions of said act.

In effect September 13, 1941

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

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

New section

SECTION 1. Section 8.8 is hereby added to the California Toll Bridge Authority Act, to read as follows:

Issuance of permit or credit

Sec. 8.8. The Department of Public Works is authorized to issue a permit to any person, firm, association, corporation or municipal or public corporation, to use any toll bridge, or other toll highway crossing acquired or constructed under the terms of this act, on a credit basis; provided, that, except in the case of municipal or other public corporations, Governmental agencies, or corporations having contracts directly with the Authority, a cash deposit or a corporate surety bond, in an amount equal to twice the department's estimate of the toll charges to be incurred under such permit during one month, is furnished to and maintained in force with the department. The department may require the holder of any such permit to increase the amount of cash bond, or to furnish an additional surety bond, or may reduce the same, as the amount of charges incurred and regularity of payment may warrant.

If the department is unable to collect any tolls due to insolvency of the obligor, or if the cost of collection of any tolls would be excessive by reason of the smallness of the amount thereof, the department may apply to the State Board of Control for discharge from accountability for the collection thereof in the manner provided in Section 663b of the Political Code.

CHAPTER 201

Stats 1939, p 482, amended

An act to amend Article 6 of Chapter 3 of Part 2 of Division 12 of the Health and Safety Code of the State of California by adding a new section thereto, to be numbered 13780, and to provide for certain exemptions relating to the spotting and pressing of clothing on certain passenger trains therein defined.

In effect September 13, 1941

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

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

New section

SECTION 1. Article 6 of Chapter 3 of Part 2 of Division 12 of the Health and Safety Code of the State of California is

hereby amended by adding thereto a new section, to be numbered 13780 and to read and provide as follows:

Application to operations on trains

13780. The provisions of Chapters 2 and 3 of Part 2 of Division 12 of this code shall not apply to the spotting or pressing of clothing of persons while carried or employed on passenger trains which are subject in whole or in part to the jurisdiction of the Interstate Commerce Commission or the Railroad Commission of the State of California, nor to such trains in respect of such spotting and pressing; provided, that such spotting or pressing hereby exempted shall be solely as a facility available in connection with and as a part of the operation of such trains and not open or available to members of the public, or to others than the persons carried or employed on the train upon which the spotting or pressing is performed for them.

CHAPTER 202

An act to amend Section 739 of the Vehicle Code, relating to the filing of notices to appear in court, the fixing of bail and the indorsement thereof upon such notices, the deposit of bail and the forfeiture thereof for failure to appear.

Stats 1935, p. 93, amended

[Approved by Governor April 28, 1941. Filed with Secretary of State April 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 739 of the Vehicle Code is hereby amended to read as follows:

Stats 1935, p. 239

Notice to appear in court

739. When Person Arrested to Be Given Notice to Appear in Court. (a) Whenever a person is arrested for any violation of this code, not declared herein to be a felony, and such person is not immediately taken before a magistrate as hereinbefore required or permitted, the arresting officer shall prepare in duplicate a written notice to appear in court containing the name and address of such person, the license number of his vehicle if any, the offense charged and the time and place when and where such person shall appear in court.

(b) The time specified in said notice to appear must be at least five days after such arrest.

(c) The place specified in said notice to appear shall be either:

(1) Before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where said arrest is made; or

(2) Upon demand of the person arrested, before a municipal court judge or other magistrate having jurisdiction of

such offense at the county seat of the county in which such offense is alleged to have been committed or before a magistrate in the township in which the offense is alleged to have been committed.

(3) Before an officer authorized by the city, county, or city and county, to receive a deposit of bail.

(d) Said officer shall deliver one copy of said notice to appear to the arrested person and said arrested person in order to secure release must give his written promise so to appear in court by signing the duplicate notice which shall be retained by said officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.

(e) Said officer shall, as soon as practicable, file said duplicate notice with the magistrate specified therein. Thereupon the magistrate shall fix the amount of bail which in his judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant and shall indorse upon said notice a statement signed by him in the form set forth in Section 815a of the Penal Code. The defendant may, prior to the date upon which he promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the city or county treasury, as the case may be.

(f) No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

CHAPTER 203

Stats 1933, p 60, amended

An act to amend Sections 819, 828.65 and 829.15 of, to add Section 828.76 to, the Agricultural Code, relating to containers for sweet potatoes.

In effect September 13, 1941

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

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

Stats 1933, p 194

SECTION 1. Section 819 of the Agricultural Code is hereby amended to read as follows:

Sweet potatoes

819. Sweet potatoes shall be free from mold, decay, and soft and wet rots; and free from serious damage due to insect

injury, bruises, growth cracks, or other disease, freezing, grass roots, or other causes. Damage to any one sweet potato is not serious unless it causes a waste of 10 per cent, by weight, of the individual potato.

Not more than 10 per cent, by weight, of the sweet potatoes in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause.

All sweet potatoes when in containers which are closed must be in standard containers numbers 27, 47, 48, 48A and 50A. The container requirements of this section shall not apply to sweet potatoes in sacks or containers which are not closed.

SEC. 1.5. Section 828.65 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1485

828.65. 46 Standard cauliflower crate____ $8\frac{1}{2}$ 18 $21\frac{5}{8}$ Cauliflower crate
47 Standard sweet potato crate_____$10\frac{1}{2}$ $9\frac{3}{4}$ $19\frac{1}{2}$ Sweet potato crates
48 Special sweet potato crate_____12 12 16
48A Jumbo sweet potato crate_____14 $11\frac{3}{4}$ $17\frac{1}{2}$

SEC. 2. Section 828.76 is hereby added to the Agricultural Code, to read as follows: New section

828.76. 50A. Standard bushel basket containing 2150.42 cubic inches. Standard bushel basket

SEC. 3. Section 829.45 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p. 1488

829.45. 17. Sweet potatoes, Number 27, 47, 48, 48A and 50A. Sweet potatoes
18. Tomatoes, Number 27. Tomatoes
19. Asparagus, Numbers 51 and 52. Asparagus

CHAPTER 204

An act relating to the relief of debtors and guarantors; permitting postponement of sales under certain chattel mortgages, mortgages, deeds of trust, or contracts of purchase of real property, or chattels attached to real property, or postponement of forfeitures and terminations under such contracts of purchase, or extensions of periods for redemption, or reduction of moneys to be paid on redemption; regulating the appointment of receivers in certain cases; declaring the urgency hereof, and providing that it shall take effect immediately. "Chattle Mortgage, Mortgage, and Trust Deed Moratorium Act of 1941"

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.] In effect immediately

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

SECTION 1. A large proportion of the real property in this State is held subject to mortgage or deed of trust or under Legislative finding of facts

contract of purchase, and many owners and purchasers thereof are finding it extremely difficult or impossible, because of past economic conditions from which recovery has not been complete to meet their obligations and to retain their property.

Prices for farm products are still low and unemployment in industry and business is still so widespread, that farmers and wage earners, and those who do business with them, are not yet as a class receiving a normal income.

The value to the State of a large body of owners of land is inestimable, as such owners have a vital interest in the State and its welfare, and participate in governmental affairs to such an extent and in such a way that they constitute an essential factor in the political and economic life of the State.

If steps are not taken immediately to permit additional delay of sales under certain chattel mortgages, mortgages, deeds of trust, and contracts of purchase, and forfeitures and terminations under contracts of purchase a large number of owners of real and personal property will be forced to abandon their interests in their property and the benefits of past moratoria will be completely lost

An emergency therefore exists, and it is necessary to provide for the permitting of delays of sales under certain chattel mortgages, mortgages, deeds of trust, and contracts of purchase, or of forfeitures and terminations under contracts of purchase.

In permitting such delays the greatest care must be taken to prevent an economic result contrary to the purpose of moratoria legislation. Undue restrictions upon, and extended postponements of, the remedies of owners of certain chattel mortgages, mortgages, deeds of trust and contracts of purchase must, of necessity, result both in a material lessening of the loan value of the property of the State and of the value to the property owners of their equity over and above encumbrances, and also in the inability of property owners to refinance their obligations on favorable terms. Such results can not but impair the financial stability and prevent the financial rehabilitation of property owners of the State, and must eventually precipitate an unduly large number of foreclosures, sales and forfeitures. The conflicting economic principles involved in moratoria legislation and the inestimable value to the State, not only of a large body of landowners but also of the existence of sound property values, requires at this time a statement of the policy of this Legislature to be that relief by moratoria legislation should be extended only in those cases where the value of the security will not be seriously jeopardized.

With these considerations in view, the following provisions are intended to permit such delays and such safeguards to the interests of creditors affected thereby as are required by the present emergency.

Petition to postpone mortgage, etc., sale

SEC. 2. At any time within 90 days from and after the recording of notice of default under Section 2924 of the Civil Code, but not later than June 1, 1943, the trustor under any deed of trust upon real property, or upon chattels attached to

real property, or the mortgagor under any mortgage upon real property, or upon chattels attached to real property, conferring the power of sale, may file a petition in the superior court of the county in which such real property, or chattels attached to real property, or the major portion thereof, is situated, praying for an order postponing the sale of such property under the power of sale conferred by such deed of trust of such mortgage.

Service of petition

SEC. 3. A copy of such petition shall be served upon the trustee and the beneficiary under such deed of trust, or upon the mortgagee under such mortgage, as the case may be, in the manner provided by law for the service of summons in a civil action.

Notice of pendency

A notice of pendency of such petition shall immediately be recorded in each county in which any of such property is situated, and on the day of such recordation a copy thereof shall be mailed, postage prepaid, from a post office within this State, addressed to such trustee and beneficiary, or such mortgagee, as the case may be, at their respective places of residence, if known to petitioner, if not, then at the county seat of the county, or at the city and county, where the proceeding is pending.

Contents

Such notice of pendency shall state the name of the petitioner, the nature of the petition, and the book and page of the records of the county recorder in which the mortgage or deed of trust is recorded.

Hearing

SEC. 4. Upon application of the petitioner, after service of such petition, or upon application of any other interested party after the filing of the petition, a hearing shall be had thereon within 20 days after such application, upon such notice as the court shall reasonably prescribe; provided, however, that the court, if it finds equitable grounds therefor, may postpone such hearing for not to exceed 10 days.

Postponement of sale

After the filing of such petition and the recording and mailing of the notice of the pendency thereof, as provided in Sections 2 and 3 of this act, no sale under the power of sale conferred by such deed of trust or such mortgage shall be held until the court makes its order in the matter, but nothing herein contained shall prevent such sale at any time after July 1, 1943.

Order of postponement

SEC. 5. Upon such hearing the court may make its order, if it finds equitable grounds for relief, and finds that the security will not be unreasonably jeopardized thereby, ordering that such sale shall not be held until after such date as the court considers just and equitable, but in no event shall such date be beyond July 1, 1943, or may make its order dismissing such proceedings.

Reasonable income, etc., value

If the court orders the sale postponed it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor as determined by

the court, and by such order shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes, insurance, interest, or principal of the indebtedness at such times and in such manner as are determined to be just and equitable under the circumstances.

Maintenance and repair

SEC. 6. The court must include in such order provisions requiring maintenance and repair by the trustor or mortgagor, regulating the disposition of any income from the property and such other provisions as it deems just and equitable for the protection of the security, but in no event shall the court order the payment by the trustor or mortgagor of a lesser sum than necessary to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installments as may be provided by law, and (c) any insurance premiums required to be paid by the debtor under the contract between the parties.

Petition to extend redemption period

SEC. 7. When any mortgage or deed of trust upon real property, or upon chattels attached to real property, has been foreclosed, and the property covered thereby has been sold in whole or in part under decree of foreclosure, and the period of redemption has not yet expired, the mortgagor or trustor thereof, having the right of redemption, may at any time not later than June 1, 1943, file a petition in the superior court of the county in which the property so sold or the major portion thereof is situated, praying for an order extending such period of redemption.

Service of petition

SEC. 8. A copy of such petition shall be served upon the purchaser of such property at the foreclosure sale, or, if there has been a redemption, upon the last redemptioner, in the manner provided by law for the service of summons in a civil action.

Notice of pendency

A notice of pendency of such petition shall immediately be recorded in each county in which any of such property is situated, and, on the day of such recordation, a copy thereof shall be mailed, postage prepaid, from a post office within this State, addressed to such purchaser or last redemptioner, as the case may be, at his place of residence, if known to petitioner, if not, then at the county seat of the county, or at the city and county, where the proceeding is pending.

Contents

Such notice of pendency shall state the name of the petitioner, the nature of the petition, and the book and page of the records of the county recorder in which the mortgage or deed of trust is recorded.

Hearing

SEC. 9. Upon application of the petitioner after service of such petition, or upon application of any other interested party, after the filing of the petition, a hearing shall be had thereon within 20 days after such application, upon such notice as the court shall reasonably prescribe; provided, however, that the court, if it finds equitable grounds therefor, may postpone such hearing for not to exceed 10 days.

Upon the filing of such petition and the recording and mailing of the notice of pendency thereof as provided in Sections 7 and 8 of this act, the period of redemption, if such period would sooner terminate, shall be extended until 10 days after the court makes its order in the matter, but in no event beyond July 1, 1943. Extension of period

SEC. 10. Upon such hearing the court may make its order, if it finds equitable grounds for relief and finds that the security will not be unreasonably jeopardized thereby, extending such period of redemption for such additional time as the court considers just and equitable, but in no event beyond July 1, 1943, or may make its order dismissing such proceeding. Order of extension

If the court by its order extends the period of redemption, it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor as determined by the court. Reasonable income, etc., value

The court shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes upon such property, the cost of insurance and the sums to which the purchaser of such property at such foreclosure sale, or the last redemptioner, as the case may be, is entitled under the provisions of Section 707 of the Code of Civil Procedure, at such times and in such manner determined to be just and equitable under the circumstances.

SEC. 11. The court must include in such order provisions requiring maintenance and repair by the trustor or mortgagor, regulating the disposition of any income from the property, and such other provisions as it deems just and equitable for the protection of the interest and security of the purchaser or last redemptioner, as the case may be. Maintenance and repair

In no event shall the court order the payment by the trustor or mortgagor of a lesser sum than the greater of (1) the amount of such reasonable value of the income, or such reasonable rental value, or such reasonable sum so determined by the court, or (2) a sum sufficient to pay (a) current taxes, (b) all delinquent taxes, except that such taxes may be paid in installments as provided by law, and (c) a sum reasonably necessary for fire and other insurance upon any improvement upon such property.

SEC. 12. Any sums paid to a purchaser or redemptioner pursuant to Sections 10 or 11 of this act shall be a credit upon the redemption money to be paid as provided in Section 707 of the Code of Civil Procedure; but in the event no redemption is made, the same shall belong to such purchaser or redemptioner. Credit upon redemption money

SEC. 13. Nothing in this act shall be construed as abridging or limiting the statutory right of redemption provided in Sections 701, 702, 703, 704, 705, 706 and 707 of the Code Scope of act

of Civil Procedure, or as shortening the period of redemption as therein provided, or as altering the mode or procedure for redemption as therein provided.

Fixing date of sale

SEC. 14. In any decree rendered, prior to July 1, 1942, foreclosing a mortgage or deed of trust upon real property, the court may provide that the sale of the property shall not be held until on or after such date as the court considers just and equitable, but in no event later than July 1, 1942. If the court provides in such decree that the sale shall not be held until on or after such date as it shall fix, it shall determine the reasonable value of the income from such property, or if the property has no income, then the reasonable rental value of such property, or if the property is unimproved, a reasonable sum to be paid by the trustor or mortgagor as determined by the court, and shall require the trustor or mortgagor to pay all or at least a reasonable part of such income, rental value, or sum so determined by the court, in or toward the payment of taxes, insurance, interest, or principal of the indebtedness at such times and in such manner determined to be just and equitable under the circumstances. The court may include in such order provisions requiring maintenance and repair, regulating the disposition of any income from the property, and such other provisions as it deems just and equitable for the protection of the security.

Petition to postpone purchase foreclosure sale

SEC. 15. The purchaser of any real property, or of chattels attached to real property, under any contract of purchase may, at any time prior to the foreclosure, termination, or forfeiture of his interest under such contract, but not later than June 1, 1943, file a petition in the superior court of the county in which such property, or the major portion thereof, is situated for an order postponing to a date not later than July 1, 1943, the foreclosure, termination, or forfeiture of his interest thereunder.

Service of petition

A copy of such petition shall be served upon the vendor, and notice of pendency of such petition shall be recorded and mailed, and a hearing shall be held thereon within the time, after the notice, and in the manner provided in Sections 3, 4, 5 and 6 of this act in respect to petitions relating to sales under the power of sale conferred by deeds of trust and mortgages.

Hearing

After such hearing the court, if it shall determine that it is equitable and just so to do and that the security will not be unreasonably jeopardized thereby, may make its order postponing to a date not later than July 1, 1943, the foreclosure, termination or forfeiture of the petitioners' interest under such contract of purchase on substantially the same terms and conditions as those prescribed in Sections 5 and 6 of this act, or the court may make its order dismissing such proceeding.

Order modifying previous order postponing sale.

SEC. 16. Upon the petition of any interested party at any time or from time to time prior to the date to which any postponement or extension pursuant to this or any of the foregoing sections, or pursuant to Chapter 7 or Chapter 348, Statutes of 1935, or by virtue of the provisions of Chapter 5, Statutes of 1937, or Chapter 167, Statutes of 1937, or Chapter 86, Statutes of 1939, or any other provision of law, was made, or prior to the time that a sale may be held under any decree or order rendered pursuant to this act, the court, upon hearing after such notice to the other interested parties as it shall reasonably prescribe, may make an order altering or supplementing or extending any previous order or decree of the postponement of sale therein provided rendered in the matter pursuant to this or any of the foregoing sections, or pursuant to Chapter 7 or Chapter 348, Statutes of 1935, or by virtue of the provisions of Chapter 5, Statutes of 1937, or Chapter 167, Statutes of 1937, or Chapter 86, Statutes of 1939, or any other provision of law, upon the presentation of evidence showing that the provisions of such order or decree should be altered or supplemented or extended to make them just and equitable and that such extension will not unreasonably jeopardize the security; provided, however, that the court by such order shall not require the payment of lesser sums than are under this act required to be paid, nor extend any periods of postponement or extension beyond the limits in this act prescribed.

Waste or default.

SEC. 17. If the trustor, mortgagor or purchaser under a contract of purchase commits waste or defaults in any payment or act required by order or decree of court, the court, unless good excuse therefor is shown, shall order that the sale, foreclosure, termination or forfeiture postponed by its order or decree proceed as provided by law, or that the period of redemption extended by its order or decree shall expire on the making of its order or within the time provided by law, whichever shall last occur, and that the moneys to be paid on redemption, if theretofore reduced, be increased to the extent of such previous reduction, if it finds after hearing upon such notice to the original petitioner or his attorney as it prescribes, that there has been such waste or such default, unless good excuse therefor is shown, amounting to a material breach of the order or decree of postponement or extension.

SEC. 18. No suit or action shall be commenced against the guarantor of any note secured by a mortgage or deed of trust upon real property, or upon chattels attached to real property, in any case while, pursuant to the provisions of this act, no sale may be made under any power of sale contained in such mortgage or deed of trust or while no sale may be made under the final decree of foreclosure rendered in an action to foreclose such mortgage.

SEC. 19. No sale shall be made under any decree of foreclosure of, or under any power of sale contained in, any chattel mortgage (a) upon any personal property located in and used in connection with the operation of any building located

upon real property, or (b) upon any personal property (excluding personal property under lease contract and excluding live stock) which is used in connection with the customary operation of agricultural real property, sale of which real property under any mortgage, deed of trust, or contract of purchase, is postponed by the filing of a petition and the recording of notice thereof under the provisions of this act, until on or after such date as a sale of such real property is lawfully held under such mortgage, deed of trust, or contract of purchase, when such chattel mortgage was given as additional security for an obligation also secured by a deed of trust, mortgage, or contract of purchase, on such real property.

Statute of limitations

SEC. 20. Whenever the time within which an action may be commenced upon any obligation founded upon a written instrument secured by chattel mortgage, mortgage, deed of trust or contract of purchase, or founded upon any guarantee of such obligation or any contract of suretyship therefor or any indorsement of such instrument, would expire by virtue of Section 337 of the Code of Civil Procedure, or by virtue of the provisions of Chapter 1, Statutes of Extra Session of 1934, or by virtue of the provisions of Chapter 7 or Chapter 348, Statutes of 1935, or by virtue of the provisions of Chapter 5, Statutes of 1937, or Chapter 167, Statutes of 1937, Chapter 86, Statutes of 1939, or any other provision of law, during the period commencing with the effective date of this act and ending on July 1, 1943, such time is hereby extended so as not to expire until the first day of October, 1943.

Exceptions

SEC. 21. Nothing contained in this act shall apply to or be deemed to affect:

(a) Any mortgage, deed of trust or contract of sale upon real property, or upon chattels attached to real property, executed after February 1, 1935;

(b) Any mortgage or deed of trust securing the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by public utilities subject to the provisions of the Public Utilities Act;

(c) Any mortgage or deed of trust while held and owned by the original lender securing any loan made by the United States Government or any agency thereof or any loan insured by the United States Government or any agency thereof; and any judgment entered in favor of, or any sheriff's or commissioner's certificate of sale issued to the United States Government or any agency thereof in an action to foreclose any such mortgage or deed of trust;

(d) Any mortgage or deed of trust securing an obligation in default at the time the owner or owners acquired title by purchase subsequent to the effective date of this act.

Definitions

SEC. 22. As used in this act:

(a) The terms "mortgagor," "mortgagee," "trustor," "trustee," "purchaser," "vendor," and "guarantor" shall

include their personal representatives, assigns or successors in interest, and the singular shall include the plural.

(b) The term "trustee" shall also include the beneficiary of a deed of trust.

(c) As used in this act, the term "chattels attached to real property," or similar designation, includes anything which is deemed affixed or attached to land, or as forming part of the land.

Waiver of benefits

SEC. 23. Nothing contained in this act shall preclude any trustor under a deed of trust or any mortgagor of chattels or any mortgagor under a mortgage or any purchaser under a contract for the purchase of real property, or chattels attached to real property, from executing and delivering at any time a deed to his beneficiary, mortgagee or vendor, or the purchaser at any foreclosure sale or a redemptioner, as the case may be, and the execution and delivery of any such deed by any such trustor, mortgagor or purchaser shall constitute a waiver of the benefit of all the provisions of this act. The failure on the part of any trustor, mortgagor or purchaser to file a petition within the times specified in this act, shall be deemed a waiver of the benefit of the provisions of this act.

Effect of sale

SEC. 24. Any sale of property under a chattel mortgage, or of real property, or of chattels attached to real property, under a deed of trust, mortgage, or chattel mortgage, made in violation of this act shall be voidable, except as against a bona fide purchaser or encumbrancer for value, at the instance of the record owner of such real or personal property at the time of such sale; provided, that any action to avoid such sale or any deed executed pursuant thereto must be brought within one year of the date of such sale.

Filing fees

SEC. 25. There shall be no filing fees for the filing of any document with the county clerk under the provisions of this act.

Appointment of receiver

SEC. 26. Until July 1, 1943, no receiver shall be appointed at the instance of the mortgagee of any mortgage or the trustee or beneficiary of any deed of trust, with respect to real property or chattels attached to real property subject to mortgage or deed of trust, except in a suit or action for the foreclosure of such mortgage or deed of trust or for the enforcement of the covenants, or any thereof, contained in such mortgage or deed of trust, or in a proceeding ancillary to any such suit or action, or until after recording notice of default.

Constitutionality

SEC. 27. If any section, clause or part of this act, or the application thereof to any person or circumstance, is finally determined by the courts to be unconstitutional, such section, clause or part shall no longer be effective or such application shall no longer control, but all other sections, clauses or parts or the application thereof to other persons and circumstances shall continue in full force and effect; it being the intent of the Legislature to make this act as effective as possible to relieve debtors in the manner herein provided.

Confirmation of compromise

SEC. 28. Whenever any petition under this act is to be or is being heard by the court, the interested parties may submit

to the court, in writing, a composition of the indebtedness involved in the proceeding, or a compromise settlement of the proceeding, and the court shall have jurisdiction and may by its order confirm and approve such composition or settlement.

Construction

SEC. 29. Nothing contained herein shall be construed as affecting any rights which have accrued under Chapter 1, Statutes of the Extra Session of 1934, or shorten the time within which any action may be commenced.

SEC. 30. Nothing contained herein shall be construed as affecting any rights which have accrued under Chapter 7, Statutes of 1935, Chapter 348, Statutes of 1935, Chapter 5 or Chapter 167, Statutes of 1937, Chapter 86, Statutes of 1939, or shorten the time within which any action may be commenced, or affect any proceedings taken thereunder, and in so far as such proceedings have not been completed they may be continued under this act and subject to its provisions, and the court in any such proceeding shall have the same powers as though the petition therein had been filed under the provisions of this act.

Short title

SEC. 31. This act shall be known as the "Chattel Mortgage, Mortgage, and Trust Deed Moratorium Act of 1941."

Urgency

SEC. 32. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution, and shall therefore take effect immediately.

The facts constituting the necessity are as follows: A severe economic depression has long existed throughout the State and many citizens have not yet reached normal earning power and are still unable to pay the principal sum of their debts or to otherwise finance their obligations. As a result thereof, through foreclosure actions, they are being deprived of their property. This will impose severe hardships upon many persons who have hitherto constituted an important part of the self-supporting and economically independent people of the State. This act will provide a means for delaying such sales, foreclosures, terminations and forfeitures so as to permit landowners and land purchasers to find means of meeting their obligations, and at the same time will protect the interests of creditors. The dangers mentioned will thus be avoided.

CHAPTER 205

An act to add Section 14450.5 to the Health and Safety Code, relating to county fire protection districts and civil service applying thereto.

Stats. 1939, p. 482, amended

[Approved by Governor April 29, 1941. Filed with Secretary of State April 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 14450.5 is hereby added to the Health and Safety Code, to read as follows:

New section

14450.5. In any county where there is more than one district, the board may, by the adoption of a single resolution, instruct the civil service commission, or department, of any county, to hold one examination for the combined districts within any such county for each rank of candidates, to establish one eligible list, and permit qualified candidates to transfer from one district to another for appointment.

Combined eligible lists

CHAPTER 206

An act to amend Sections 794, 828.2 and 829.1 of the Agricultural Code, relating to cherries and containers thereof, declaring the urgency thereof and that this act take effect immediately.

Stats. 1933, p. 60, amended

[Approved by Governor May 3, 1941. Filed with Secretary of State May 3, 1941.]

In effect immediately

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

SECTION 1. Section 794 of the Agricultural Code is hereby amended to read as follows:

Stats. 1937, p. 1187

794. Cherries shall be mature but not overripe, free from (a) insect injury or bird pecks which have penetrated or damaged the flesh, unsealed skin breaks, mold, brown rot, decay and (b) growth cracks, cracks or splits over three-eighths of an inch in length even though well healed, except that well healed shoulder cracks shall be allowed regardless of length and (c) serious damage due to sunburn, shriveling, sponginess, abnormal softening or other causes.

Cherries

Not more than 10 per cent, by count, of the cherries in any one container or bulk lot, may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause. In addition 5 per cent of the cherries in any one container or bulk lot may be slightly below the maturity requirements of this section but in no case may such cherries show any green areas, excepting the Bing variety when testing not less than 16 per cent, and the Tartarian variety,

when testing not less than 14 per cent, soluble solids in a composite sample of the juice from not less than 10 representative cherries as shown by a standard refractometer instrument.

All red and black varieties of cherries shall not be considered mature unless at the time of picking the entire surface has attained at least a solid light red color.

When cherries are packed in containers by the "face and fill" method the average size of the cherries used in the fill shall not be smaller than would pack one "row size" more than the cherries in the packed face; however, none of the cherries in the fill shall be of a size that would pack more than two sizes smaller, except that 5 per cent, by count, of the cherries in any one container may be below this minimum size requirement.

Cherries meeting all other requirements of this section shall in addition be free from doubles except that (1) a tolerance of 10 per cent, by count, shall be allowed for doubles with both halves well developed uniform in size and mature, and (2) a tolerance of 2½ per cent, by count, shall be allowed for doubles having one portion not well developed. However, any amount of such doubles shall be allowed if the container in which they are placed or packed is plainly and conspicuously marked on the outside end of the container, bearing other markings required by this section, with the designation "Exceeds tolerance for doubles" in letters at least three-eighths of an inch in height.

Containers

All containers of cherries shall bear upon them in plain sight and in plain letters on one outside end: The name of the person who first authorized the packing of the cherries or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; the name of the variety, if known, and when not known the words "unknown variety." When two or more varieties are placed in the same container they shall be marked "mixed varieties." All containers of row packed cherries shall be marked with the number of rows of cherries packed laterally across the end of the container, directly followed by the word "row" or "rows" or the letter "R" in like size letters. All closed containers of loose cherries shall be marked in numbers and letters at least three-eighths of an inch in height with (a) the row size of the cherries in the container followed by the term "row size" or (b) the "minimum diameter" of the cherries in the container expressed in inches or fractions thereof, followed by the term "inch minimum diameter" or "inches minimum diameter" or a proper abbreviation or variation of such designation.

(a) When containers of loose cherries are marked with a row size designation at least 50 per cent of the cherries in the container shall be of a size no smaller than the row size number marked; however, none of the cherries in such container shall be more than two row sizes smaller than that marked on the container, except that 5 per cent, by count, of the cherries

in any one container may be below this minimum size requirement. The row size number shall be deemed to be that number of cherries of uniform size whose aggregate width will equal $11\frac{1}{2}$ inches.

(b) When containers of loose cherries are marked with the minimum diameter of the cherries in the container none of the cherries in such container shall be smaller in diameter than the size marked on the container, except that 5 per cent, by count, of the cherries in any one container may be below the size marked. In addition the cherries in any container so marked with the minimum diameter, shall not vary in diameter between the fruits in the container, more than one-fourth of an inch. The "diameter" shall mean the diameter measured through the widest portion of the cross section of the cherry at a right angle to a straight line drawn from the stem end to the distal end thereof.

Compliance with the requirements of this section may be determined by the examination of a representative sample of the cherries in any container or bulk lot.

Cherries shall be in standard containers numbers 4, 10, 11, 12, 12A, 22C, 25 or 27.

Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container."

Standard container number 15, the cherry box 3 inches in depth, $9\frac{3}{4}$ inches in width and $18\frac{1}{8}$ inches in length, inside measurements, and the lug 4 inches in depth, $13\frac{1}{2}$ inches in width and $16\frac{1}{8}$ inches in length, inside measurements, shall be considered standard for cherries until January 1, 1942.

SEC. 2. Section 828.2 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1483

828.2.	10	Standard cherry box	$2\frac{1}{4}$	9	$18\frac{1}{8}$	Cherry box
	11	Standard cherry lug	$3\frac{3}{4}$	$11\frac{1}{2}$	$16\frac{1}{8}$	Cherry lugs
	12	Standard cherry lug	$2\frac{7}{8}$	11	$16\frac{1}{8}$	
	12A	Standard cherry lug	$3\frac{3}{4}$	$11\frac{1}{2}$	$14\frac{1}{8}$	

SEC. 3. Section 829.1 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1772 See also Stats 1941, p 2693

829.1. 1. Fresh apricots, numbers 1, 5, 6, 7, 8, 9, 22A, 22B, 24 or 27. Apricots

2. Strawberries, number 3a. Berries

3. Red and blackcap raspberries, blackberries, dewberries and loganberries, numbers 3a or 3b.

4. Cherries, numbers 4, 10, 11, 12, 12A, 22C, 25 or 27. Cherries

5. Oranges, grapefruit and tangerines, numbers 31 or 33; lemons, numbers 35 or 36. Citrus fruit

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

Improved quality, maturity and methods of packing of cherries required by this act are important factors to the welfare of the cherry industry. Abuses in this connection which have taken place during the past several years in this branch of the agricultural industry threaten to cause serious and unnecessary economic losses to the cherry growers of this State who follow proper and ethical practices. The cherry shipping season will start before this act would normally take effect and, therefore, in order to prevent great loss and economic hardship to a large number of people it is necessary that this act take immediate effect.

CHAPTER 207

Stats 1925, p 648, amended

An act to add Sections 11b and 11c to the Municipal Court Act of 1925, relating to municipal courts in cities of the second and three-eighths class.

In effect September 13, 1941

[Approved by Governor May 3, 1941. Filed with Secretary of State May 3, 1941.]

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

New section

SECTION 1. Section 11b is hereby added to the act cited in the title hereof, to read as follows:

Cities of 2⅜ class; Judges, etc (Sacramento)

Sec. 11b. The municipal court in a city or city and county of the second and three-eighths class shall be constituted, and the judges, officers and attaches thereof shall receive compensation, as follows:

(a) There shall be three judges, each of whom shall receive five thousand dollars ($5,000) per annum, payable in equal monthly installments.

(b) There shall be one clerk, to be appointed by the judges of the court, who shall be the secretary of the court, and who shall receive two hundred fifty dollars ($250) per month.

The clerk shall appoint the following:

One chief deputy clerk, who shall receive two hundred forty dollars ($240) per month;

One court clerk, who shall receive one hundred eighty-three dollars and seventy-five cents ($183.75) per month;

Two deputy clerks, each of whom shall receive one hundred sixty-five dollars ($165) per month;

One deputy clerk, who shall receive one hundred forty-five dollars ($145) per month;

One senior stenographer-clerk, who shall receive one hundred forty-five dollars ($145) per month;

One junior stenographer-clerk, who shall receive one hundred twenty-five dollars ($125) per month; and

One clerk, who shall receive one hundred ten dollars ($110) per month.

(c) There shall be one marshal, to be appointed by the judges of the court, who shall receive two hundred twenty-five dollars ($225) per month.

The marshal shall appoint the following:

One assistant marshal, who shall receive two hundred dollars ($200) per month;

One chief deputy marshal, who shall receive one hundred seventy-five dollars ($175) per month;

One deputy marshal, who shall receive one hundred fifty dollars ($150) per month; and

One deputy marshal who shall be a stenographer-clerk, who shall receive one hundred thirty-five dollars ($135) per month.

SEC. 2. Section 11c is hereby added to said act, to read as follows: New section

Sec. 11c. Whenever a municipal court is established in a city of the second and three-eighths class, the salaries of the judges, clerk, marshal, and other attaches, and the cost of all supplies, books, furniture and suitable quarters, except as hereinafter otherwise provided in this section, for carrying out their duties, including supplies and equipment for the preparation and maintenance of duplicate records of the court, or a division thereof when sessions are held at more than one place within the city wherein the court is established, shall be paid by the county in which the court is situated out of the municipal court fund, or, if there be no such fund, out of the county general fund. However, if such charges upon the county for maintaining the municipal court exceed the sum of twenty-five thousand dollars ($25,000) per annum, the city shall reimburse the county in the amount of such excess from such municipal court fines and forfeitures as by law would otherwise become the property of the city. The amount to be repaid may be deducted and retained for the account of the county by the county auditor, as often as may be practicable, and at least semiannually, from the amounts payable to the city pursuant to Section 1463 of the Penal Code. The amount to be repaid may be changed at any semiannual period by agreement between the governing bodies or authorized officers of the city and the county. Payment of expenses

The city in which the court is established shall provide and maintain suitable quarters for one department of the municipal court, including heat, light, and janitorial service, free of cost or charge to the county, and, without cost or charge to the county, shall assign city police officers to act as ex officio deputy marshals of the department and perform the duties and exercise the powers imposed or conferred upon deputy marshals.

Whenever the charter of any city of the second and three-eighths class operating under a freeholders' charter creates

the office of city prosecutor, or provides that a deputy city attorney shall act as city prosecutor, and charges such prosecutor with the duty of prosecuting misdemeanor offenses arising out of violations of the laws of this State, such city prosecutor shall prosecute all misdemeanors committed within the city which are within the jurisdiction of the municipal court of such city, and handle all appeals arising therefrom. He shall draw complaints for such misdemeanors, and shall prosecute all recognizances or bail bond forfeitures and all actions for the recovery of fines, penalties, and forfeitures arising or resulting from the commission of such offenses. In addition, he shall perform such other duties as may be prescribed by law.

CHAPTER 208

An act to amend Sections 4095 and 4101 of the Political Code, relating to the issuance, payment and cancellation of county warrants.

In effect immediately

[Approved by Governor May 3, 1941. Filed with Secretary of State May 3, 1941.]

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

Stats 1919, p 309

SECTION 1. Section 4095 of the Political Code is hereby amended to read as follows:

Warrants to be numbered

4095. All warrants issued by the auditor during each fiscal year, commencing with the first of each fiscal year, must be numbered consecutively and the number, date, amount of each, and the name of the person to whom payable and the purpose for which drawn, must be stated thereon, and they must, at the time they are issued, be registered by him. Separate series of numbers may be used for the different kinds of warrants, such as pay roll warrants and general warrants drawn for miscellaneous supplies and expenses, and special warrants drawn on court orders, etc.

Cancellation

Any warrant not presented to the county treasurer within two years after it was issued shall be canceled. However, any warrant issued for the giving of aid to a needy aged person, to a needy child or to a needy blind person shall be canceled if not presented for payment within six months after the date of issuance.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the State Constitution, and as such it shall take effect immediately. The following is a statement of the facts constituting such necessity:

The Federal Social Security Act provides for quarterly payments to eligible States for use in aiding the needy aged, the needy blind and needy dependent children; such payments

being based in part on State reports of estimated needs filed at the commencement of each quarterly period, and in part on semiannual investigations and audits conducted by Federal agents. In the case of California, which is one of the States eligible for payments, serious administrative difficulties have been experienced in connection with these reports and audits for the reason that under the existing law warrants issued by county auditors for the extension of aid need not, and frequently are not, presented for payment within a period of six months after their issuance. Unless this situation is corrected there is danger of a withholding by the Federal Government of Social Security funds to which this State is justly entitled. This act provides the remedy and, if made to take effect at the earliest time possible, will ward off all possibility of such withholding.

SEC. 2. Section 4101 of the Political Code is hereby amended to read as follows: Stats 1919, p 339

4101. The treasurer must: Duties of county treasurer

1. Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, safely keep the same, and apply and pay them out, rendering the account thereof as required by law.

2. File and keep the certificates of the auditor delivered to him when moneys are paid into the treasury.

3. Keep an account of the receipt and expenditure of all such moneys, in books provided for the purpose, in which must be entered the amount, the time when, from whom, and on what account all moneys were received by him; the warrant number, the amount, time when, and on what account all disbursements were made by him.

4. So keep his books that the amount received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole receipts and expenditures shown in one general or cash account.

5. Enter no moneys received for the current year on his account with the county for the past fiscal year, until after his annual settlement for the past year has been made with the county auditor.

6. Disburse the county moneys and all other money placed in his custody by official authority only on county warrants issued by the county auditor, except on settlement with the State.

7. Disburse the moneys in the treasury on such warrants only when they are based on orders of the board of supervisors, or upon order of the superior court, or as otherwise provided by law, and in the payment of such warrants he may issue his order, check or draft drawn upon the proper funds that are on deposit in any bank.

CHAPTER 209

Stats 1939, p 482, amended

An act to add Section 10253.5 to the Health and Safety Code, relating to birth certificates of adopted children.

In effect September 13, 1941

[Approved by Governor May 3, 1941 Filed with Secretary of State May 3, 1941.]

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

New section

SECTION 1. Section 10253.5 is hereby added to the Health and Safety Code, to read as follows:

Disposition of original birth certificate

10253.5. When a new birth certificate is issued in place of the original birth certificate of an adopted child, the State Registrar shall inform the local registrar and the county recorder whose records contain copies of the original certificate, and the local registrar and county recorder shall forward such copies to the State Registrar for filing with the original certificate, if it is practical for the local registrar or county recorder to do so. If it is impractical for the local registrar or county recorder to forward the copy to the State Registrar, the local registrar or county recorder shall effectually seal a cover over such copy in such a manner as not to deface or destroy such copy and forward a verified statement of his action to the State Registrar. Thereafter the information contained in such copy shall be only available to any person as provided in Section 10254.

CHAPTER 210

An act making an appropriation for the contingent expenses of the Senate, the act to take effect immediately.

In effect immediately

[Approved by the Governor May 3, 1941, with reduction hereunder noted. In effect immediately Filed with Secretary of State May 3, 1941.]

I object to the appropriation of $50,000 and hereby reduce the sum to $25,000. With this reduction I approve the bill.

My reasons for reducing the amount of said appropriation are as follows:

The total of the appropriation proposed to be made by this bill, together with other appropriations to the Senate Contingent Fund, far exceeds the total amount appropriated to the Senate Contingent Fund of previous regular sessions This total even exceeds the unusually large appropriations made for the previous regular legislative session to cover extremely large sums spent by numerous special Senate and joint legislative investigating committees This additional amount of $25,000 which I have approved I know is ample to cover all necessary expenditures from the Senate Contingent Fund It is inconceivable that the normal contingent expenses that could be incurred by the Senate during the remainder of this regular session could possibly exceed the sum of $10,000, even though the session were to last another 60 days If at a later date a still further appropriation to this fund should become necessary, I will willingly approve the same.

May 3, 1941

CULBERT L. OLSON
Governor of California

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

Appropriation: Contingent expenses of Senate

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of fifty thousand dollars ($50,000) is hereby appropriated for contingent expenses of

the Senate to be expended for such purposes and in such manner as the Senate shall by resolution direct. This appropriation shall be available without regard to fiscal year.

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State, it shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 211

An act to add Section 20 to the California Unemployment Relief Act of 1935, relating to the support of persons in need of unemployment relief. Stats. 1935, p. 1850, amended

[Approved by Governor May 3, 1941. Filed with Secretary of State May 3, 1941.] In effect September 13, 1941

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

SECTION 1. Section 20 is hereby added to the act referred to in the title, to read as follows: New section

Sec. 20. No person shall be denied relief under this act for the reason that he has a spouse, parent or adult child financially able to support him, when in fact such relatives are not providing him with a reasonable subsistence compatible with decency and health. Right to relief

If any person applying for or receiving relief under this act has a spouse, parent, or adult child financially able to contribute to his support, upon the failure of such relatives to support him, the Relief Administrator shall request the district attorney of the county in which the relatives reside to proceed against such relatives. Upon such request, the district attorney shall, on behalf of the State, maintain an action against such relatives or any of them in the county in which any of the defendants reside (i) to recover for the State such portions of the aid granted as the court finds such relative or relatives financially able to pay and (ii) to secure an order requiring such relative or relatives to pay to the State any sums which may become due in the future and for which the relative or relatives may be liable. Recovery from spouse, parent or adult child

The court making an order pursuant to this section shall have continuing jurisdiction to modify the order prospectively by increasing or decreasing the amount which any relative is to pay, in accordance with changing circumstances. The court may, at any time while it has jurisdiction of the action, and upon motion or upon its own motion, order new parties defendant to be brought in, and to that end may order amended and supplemental pleadings to be filed and summons thereon to be issued and served. Thereafter the court shall have jurisdiction to render judgment against or issue an order to such new parties and the court's jurisdiction over such new parties shall continue as heretofore provided in this section. Court order

Any money recovered shall be paid into the State Treasury to the credit of the Unemployment Relief Fund.

CHAPTER 212

An act making an appropriation for the contingent expenses of the Assembly for the Fifty-fourth Session of the Legislature including expenses of committees created at that session, and declaring that this act shall take effect immediately.

In effect immediately

[Approved by the Governor May 6, 1941, with reduction hereunder noted. In effect immediately. Filed with Secretary of State May 7, 1941.]

I object to the appropriation of $50,000 and hereby reduce the sum to $25,000. With this reduction I approve the bill.

My reasons for reducing the amount of said appropriation are as follows:

The total of the appropriation proposed to be made by this bill, together with the $45,000 already appropriated to the Assembly Contingent Fund, far exceeds the total amount appropriated to the Assembly Contingent Fund of previous regular sessions This total even exceeds the unusually large appropriations made for the previous regular Legislative session to cover extremely large sums spent by numerous special Assembly and joint legislative investigating committees. This additional amount of $25,000 which I have approved together with the amount remaining from previous appropriations, I know is ample to cover all necessary expenditures from the Assembly Contingent Fund It is inconceivable that the normal contingent expenses that could be incurred by the Assembly during the remainder of this regular session could possibly exceed the sum of $25,000 more than the amount now in the fund, even though the session were to last another 60 days If at a later date a still further appropriation to this fund should become necessary, I will willingly approve the same.

May 6, 1941

CULBERT L. OLSON
Governor of California

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

Appropriation Contingent expenses of Assembly

SECTION 1. The sum of fifty thousand dollars ($50,000), or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated, for contingent expenses of the Assembly for the Fifty-fourth Session of the Legislature, including expenses of committees created at that session whether to meet and act during the constitutional recess or after final adjournment.

SEC. 2. This appropriation shall be available for the purposes for which it is appropriated without regard to fiscal years.

Current expenses

SEC. 3. Inasmuch as this act makes an appropriation for the usual current expenses of the State it shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 213

An act to add Sections 802.6 and 828.53 to, and to amend Sections 828.1, 828.45 and 829.15 of the Agricultural Code, relating to containers for grapes, declaring the urgency of this act, to take effect immediately.

Stats 1933, p. 60, amended

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

In effect immediately

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

SECTION 1. Section 802.6 is hereby added to the Agricultural Code, to read as follows:

New section

802.6. All grapes intended for shipment out of the State of California shall be placed in standard containers numbers 1, 1B, 1C, 2, 5, 6, 7, 8, 9, 9A, 28, 29, 30A, 37A, 37B, 37C, 37D, 37E, 37F, 37G, 38H, 38I, 38J, 49, and 50 subject to the restrictions and additions specified in this chapter. Except as otherwise designated, all such containers shall be considered as standard for grapes when packed with or without pads.

Grape containers

The depth dimension of containers, exclusive of cleats, designated for grapes in this chapter shall apply only to the depth of the head of each such container.

Containers designated as 37A, 37B, 37C, 37D, 37E, 37F and 37G shall be standard for grapes when used without cleats or with any one of the following defined cleats attached to the top of each end piece; however, no such container shall be less than $4\frac{7}{16}$ nor more than $6\frac{1}{16}$ inches in depth, including the depth of a cleat on each end.

1. Cleat $\frac{3}{8}$ inch depth and $1\frac{1}{16}$ inch width.
2. Cleat $\frac{1}{2}$ inch depth and $1\frac{1}{16}$ inch width.
3. Cleat $1\frac{1}{16}$ inch depth and $1\frac{1}{16}$ or $\frac{7}{8}$ or $1\frac{3}{8}$ inch width.
4. Cleat $\frac{7}{8}$ inch depth and $1\frac{1}{16}$ inch width.

Only the depth measurement of these cleats shall be used to increase the depth measurements of the container.

Containers designated as 5, 6, 7, 8, 9, 9A, 30A, 38H, 38I and 38J shall be standard for grapes when used with or without any style of cleat providing the sides of the container are not placed above the container head.

Containers numbers 28, 29, 49 and 50 shall be standard for grapes only when (1) containing grapes packed in sawdust, cork or similar packing material in sufficient amount to completely surround and cover the grapes and (2) used without cleats.

Containers numbers 30A and 38H shall be standard for grapes only when containing bunches which are (1) individually wrapped in paper or other protective wrapping material and (2) packed in excelsior or other similar packing material.

Container number 37G shall also be considered standard for grapes when each head piece is beveled across each bottom corner at an angle of 45 degrees, starting 2 inches from each

such corner, and is notched at the center of the base by a triangle with a base of 4 inches and an altitude of 2 inches and bottom slats are attached to each bevel and to each side of the notch, so as to affect the contour of the box.

Containers designated as 37D, 37F and 37G shall also be considered standard for grapes when constructed as display lugs defined herein and subject to the following restrictions. No other container shall be considered standard for grapes when so constructed.

Standard Display Lug: Container 37G when constructed as a "display lug" shall have a $5\frac{3}{4}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $4\frac{1}{2}$ inches in depth, and shall be used without a cleat or cleats; however, when a pad filler is placed in the bottom of the container a $\frac{3}{8}$ or $\frac{11}{16}$ inch cleat may be placed on each end of the container on top of the head in such a manner as to add $\frac{3}{8}$ or $\frac{11}{16}$ of an inch to the height of each end piece.

Special Display Lug: Container 37F when constructed as a "display lug" shall have a $5\frac{1}{2}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $4\frac{1}{4}$ inches in depth, and shall be used without a cleat or cleats.

Special Display Lug: Container 37D when constructed as a "display lug" shall have a $5\frac{1}{8}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $3\frac{7}{8}$ inches in depth, with or without a $\frac{5}{8}$ inch cleat making a total depth of $5\frac{1}{8}$ or $5\frac{3}{4}$ inches.

The term "display lug" shall mean a lug with a two-piece or slotted head (with or without cleats) and sides consisting of two pieces, constructed in such a manner that when packed with grapes and lidded, an entire upper section of the lug, together with the lid, can readily be removed, thereby displaying the grapes.

Stats 1939, p 1483

SEC. 2. Section 828.1 of the Agricultural Code is hereby amended to read as follows:

Baskets

828.1. 1. Standard basket, approximately 8 inches square on top, $6\frac{1}{2}$ inches square on bottom and 4 inches deep, inside measurements.

1A. Standard basket, approximately $5\frac{3}{4}$ inches in width, and $11\frac{1}{4}$ inches in length on top; $5\frac{3}{8}$ inches in width, and $10\frac{1}{2}$ inches in length on the bottom; and $3\frac{5}{16}$ inches in depth, all inside measurements.

1B. Standard basket, approximately $5\frac{1}{4}$ inches square on top, $4\frac{1}{4}$ inches square on bottom and $3\frac{3}{4}$ inches deep, inside measurements.

1C. Standard basket, approximately 8 inches square on top, $6\frac{1}{2}$ inches square on bottom and 5 inches deep, inside measurements.

2. Standard four quart climax basket with following dimensions: length of bottom piece, 12 inches; width of bottom piece, 4½ inches; thickness of bottom piece, ⅜ of an inch; height of basket, 4 11/16 inches, outside measurements; top of basket, length 14 inches, width 6¼ inches, outside measurements. Basket to have cover 6¼ inches by 14 inches, when cover is used.

3. Standard berry basket: (a) dry pint containing an interior capacity of approximately 33 6/10 cubic inches. (b) Dry one-half pint containing an interior capacity of approximately 16 8/10 cubic inches.

SEC. 3. Section 828.45 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1484

828.45.	28	Special sawdust pack chest	7¾	14 11/16	18⅝	Sawdust pack lugs
	29	Special sawdust pack lug--	7¾	13½	16⅛	
	29A	Special lug box ----------	6½	13½	20⅝	Lug boxes
	30	Special lug box----------	8½	14	22¾	
	30A	Special lug box----------	4⅞	15	22⅛	

SEC. 4. Section 828.53 is hereby added to the Agricultural Code, to read as follows: New section

828.53.	37A	Standard grape lug--	3¾	13½	16⅛	Standard grape lugs
	37B	Standard grape lug--	4⅜	13½	16⅛	
	37C	Standard grape lug--	4¾	13½	16⅛	
	37D	Standard grape lug--	5⅛	13½	16⅛	
	37E	Standard grape lug--	5¼	13½	16⅛	
	37F	Standard grape lug--	5½	13½	16⅛	
	37G	Standard grape lug--	5¾	13½	16⅛	
	38H	Standard grape lug--	5⅞	11½	16½	
	38I	Standard grape lug--	5 15/16 to 6 7/16	at top 14½ to 14⅞ at bottom 10½ to 10⅞	16⅛	
	38J	Standard grape lug--	5¾	6¾	16⅛	

SEC. 5. Section 829.15 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1486

829.15. 6. Grapes when packed in sawdust, cork, or similar packing material, numbers 28, 29, 49 or 50. Grapes with each bunch individually wrapped in paper or other protective wrapping material and packed in excelsior or other similar packing material, numbers 30A and 38H. All other grapes, numbers 1, 1B, 1C, 2, 5, 6, 7, 8, 9, 9A, 37A, 37B, 37C, 37D, 37E, 37F, 37G, 38I or 38J. Grapes

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Urgency

Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

Abuses involving the packing and shipment of grapes in numerous sizes and types of containers with extreme variations in contents, constitute a serious unfair trade practice and threaten to cause unnecessary losses to the grape growers in this State. A large part of the grape crop for the coming season will have been marketed and containers for the season will be ordered and a considerable quantity used before this act would normally take effect. Therefore in order to prevent great loss, distress and hardship to a large number of people, it is necessary that this act take immediate effect.

CHAPTER 214

An act to add Section 4.368-1 to the School Code, relating to school district funds, declaring the urgency thereof and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

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

New section

SECTION 1. Section 4.368-1 is hereby added to the School Code, to read as follows:

Expenditure of unbudgeted funds

4.368-1. Notwithstanding any provision of law to the contrary, whenever moneys are allocated or apportioned to a school district by the Government of the United States or any agency thereof, or by the State of California or any agency thereof, through the Department of Education, the Director of Education, Superintendent of Public Instruction or the State Board of Education, the State Board for Vocational Education, or any of them, and no provision for the expenditure of such moneys has been made in the budget of the district, such moneys nevertheless shall be placed in the county treasury to the credit of the district and may be expended for the purposes for which such moneys were allocated to the district during the school year in which they are received, as though the expenditure of such moneys was provided for in the budget of the district.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of facts constituting such urgency is as follows:

Under existing provisions of law, funds allocated or apportioned to school districts by the Government of the United States of America or its agencies for, among other things, the

training of workers in industries essential to National defense may not be expended until the close of the school year in which such funds are received.

Furthermore, under existing provisions of law, certain of the funds allocated or apportioned by the State or its agencies may not be expended until the close of the school year in which such funds are received.

These conditions are detrimental to the program of National defense and the welfare of the pupils of the public schools and to correct such conditions this act should take effect immediately.

CHAPTER 215

An act to amend Sections 5 and 6 of, and to add Sections 8 and 9 to "An act authorizing municipalities to declare noxious or dangerous weeds growing upon the streets or sidewalks, or upon private property within municipalities, to be a public nuisance, creating a lien upon the property fronting upon such streets or sidewalks or upon which such nuisance exists for the cost of abating the same," approved May 26, 1915, relating to the abatement of nuisances.

Stats 1915, p. 841, amended

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1915, p. 842

Sec. 5. After final action has been taken by the legislative body on the disposition of any protests or objections, or in case no protests or objections have been received, the legislative body of the municipality, by motion or resolution, shall order the street superintendent, or such other public officer as the legislative body may designate, to abate said nuisance by having the weeds referred to removed, and he and his assistants or deputies are hereby expressly authorized to enter upon private property for that purpose. Any property owner shall have the right to have any such weeds removed at his own expense providing the same is done prior to the arrival of the street superintendent or such other public officer so designated or his representatives to do the same.

Order to abate nuisance

SEC. 2. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1915, p. 842

Sec. 6. The street superintendent, or such other public officer so designated, shall keep an account of the cost of abating such nuisance in front of or on each separate lot or parcel of land where the work is done by him or his deputies, and shall render an itemized report in writing to the legislative body of the municipality showing the cost of removing such

Report of street superintendent

weeds on each separate lot, or in front thereof, or both; provided, that before said report is submitted to said legislative body, copy of the same shall be posted for at least three days prior thereto on or near the chamber door of said legislative body, together with a notice of the time when said report shall be submitted to the legislative body for confirmation.

New section

SEC. 3. A new section, to be numbered Section 8, is hereby added to the act cited in the title hereof, to read as follows:

Refund of tax

Sec. 8. The legislative body may order any tax, or any portion thereof, paid pursuant to the provisions of this act, refunded, provided that said tax or portion thereof, is found and determined by said legislative body to have been erroneously levied, and provided, further, that no such tax, or portion thereof, shall be refunded unless a claim, verified by the person who paid the tax, his guardian, executor, or administrator, shall have been filed with the clerk of such legislative body on or before the first day of March after the date upon which said tax became due and payable.

New section

SEC. 4. A new section to be numbered Section 9 is hereby added to the act cited in the title hereof, to read as follows:

Payment for damages

Sec. 9. Claims for damages to property, caused by any officer or employee of a municipality in connection with the abatement of any nuisance pursuant to the provisions of this act, may be paid from the general funds of such municipality if the legislative body thereof shall find and determine that such damage was caused by the negligence of such officer or employee; provided, however, that no such claim for damages shall be considered or paid by such legislative body unless it shall be presented in writing and filed with the clerk of such legislative body within 180 days after such damages occurred.

CHAPTER 216

Stats 1939, p 49, amended

An act to amend Section 2540 of the Elections Code, relating to parties qualified to participate in primary elections.

In effect September 13, 1941

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

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

Stats 1939, p 120

SECTION 1. Section 2540 of the Elections Code is hereby amended to read as follows:

Qualifications

2540. A party is qualified to participate in any primary election:

Vote for party candidate at state-wide election

(a) If at the last preceding gubernatorial election there was polled for any one of its candidates who was the candidate of that party only for any office voted on throughout the State, at least 3 per cent of the entire vote of the State, or for any one of its candidates who, upon the date of such gubernatorial election, as shown by the affidavits of registration of voters in the county of his residence, was affiliated with that party and who

was the joint candidate of that party and any other party for any office voted on throughout the State, at least 6 per cent of the entire vote of the State; or

(b) If on or before the seventy-fifth day before any primary election it appears to the Secretary of State as a result of examining and totaling the statement of voters and their political affiliations transmitted to him by the county clerks, that voters, equal in number to at least 1 per cent of the entire vote of the State at the last preceding gubernatorial election, have declared their intention to affiliate with that party; or Registration

(c) If on or before the seventy-fifth day before any primary election there is filed with the Secretary of State a petition signed by voters, equal in number to at least 10 per cent of the entire vote of the State at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated therein, which proposed party those voters desire to have participate in that primary election. This petition shall be circulated, signed, verified and the signatures of the voters thereon shall be certified to and transmitted to the Secretary of State by the county clerks substantially as provided for initiative petitions. Each page of the petition shall bear a caption in 18-point black-face type, which caption shall be the name of the proposed party followed by the words "Petition to participate in the primary election." No voters or organization of voters shall assume a party name or designation which is so similar to the name of an existing party as to mislead voters. Petition of proposed party; Party name

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CHAPTER 217

An act to add Section 1011.13b to the Political Code, relating to the powers and duties of purchasing agents.

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.] In effect September 13, 1941

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

SECTION 1. Section 4041.13b is hereby added to the Political Code, to read as follows: New section

4041.13b. In counties having a purchasing agent, the purchasing agent in the disposition of any personal property pursuant to the provisions of Section 4041.13a, may purchase, upon approval by the board of supervisors, advertising space in, and may advertise the proposed sale or other disposition of such personal property in, such newspapers, magazines, and other periodicals as in his judgment will best publicize the proposed sale or other disposition to those persons most likely to bid for, or purchase, such personal property. Powers of purchasing agent

The purchasing agent, within the limits of the order of the board of supervisors approving such advertising, shall decide upon the amount, nature, make-up, and content thereof.

CHAPTER 218

Stats. 1937, p 1229, amended

An act to amend Section 2112 of the Business and Professions Code, relating to the directory under the chapter on medicine thereof.

In effect September 13, 1941

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

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

Stats 1937, p 1256

SECTION 1. Section 2112 of the Business and Professions Code is hereby amended to read as follows:

Contents

2112. The directory shall contain:

(a) The following information concerning each person designated in Section 2111:

(1) The name and address of such person.

(2) The names and symbols indicating his title.

(3) The school, attendance at which qualified him for examination or admission to practice.

(4) The date of the issuance of his certificate.

(5) The form of certificate that he holds.

(b) The annual report of the board for the prior year.

(c) Information relating to other laws of this State and the United States, which the board determines to be of interest to persons licensed under this chapter.

(d) Copy of the provisions of this chapter.

CHAPTER 219

Stats 1937, p 1229, amended

An act to amend Section 2458 of, and to add Section 2455.3 and 2455.6 to, the Business and Professions Code, relating to fees and certificates under the chapter on medicine thereof.

In effect September 13, 1941

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

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

New section

SECTION 1. Section 2455.3 is hereby added to the Business and Professions Code, to read as follows:

Duplicate certificate

2455.3. Upon filing application therefor, containing such information as the board may require, and the payment of the certificate fee, the board may issue to any person licensed under this chapter a duplicate certificate for one previously issued or, where there has been a change in name, another certificate in lieu of one previously issued.

SEC. 2. Section 2455.6 is hereby added to said code, to read as follows: New section

2455.6. Upon filing application therefor and the payment of the indorsement fee, the board may indorse or certify the credentials of a person licensed under this chapter. Certification of credentials

SEC. 3. Section 2458 of said code is hereby amended to read as follows: Stats 1937, p 1282

2458. The amount of fees and refunds prescribed by this chapter in connection with the certificates issued under its provisions is that fixed by the following schedule: Fee schedule

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, is twenty-five dollars ($25). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars ($10) shall be retained and the remainder of the fee is returnable on application.

(b) The fee for each applicant for a certificate based upon a National board diplomate certificate is one hundred dollars ($100). If the applicant fails to receive a certificate, the refund is ninety dollars ($90).

(c) The fee for each applicant under Article 6 is fifty dollars ($50). If the applicant fails to receive a certificate, the refund is forty dollars ($40).

(d) The fee for each applicant for a reciprocity certificate is one hundred dollars ($100). If the applicant does not receive a certificate, the refund is ninety dollars ($90).

(e) The annual tax and registration fee is two dollars ($2).

(f) The delinquent fee for failure to pay the annual tax and registration fee is ten dollars ($10).

(g) The duplicate certificate fee is two dollars ($2).

(h) The indorsement fee is five dollars ($5).

CHAPTER 220

An act to amend Section 2286 of the Business and Professions Code, relating to medical examinations. Stats 1937, p 1229, amended

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2286 of the Business and Professions Code is hereby amended to read as follows: Stats 1937, p 1268

2286. There shall be at least 10 questions on each subject included in the examination for each certificate. The answers to the questions shall be marked on a scale of 0 to 100. Each Scope of examination

Grades applicant shall obtain not less than a general average of 75 per cent and not less than 60 per cent in any two subjects. Each applicant shall be granted a credit of 1 per cent upon his general average for each year of actual licensed practice in the United States and Canada since graduation, which credit shall not exceed 10 points upon such general average.

Scope SEC. 2. The amendment to Section 2286 of the Business and Professions Code made by this act shall not apply to any person, who on March 31, 1941, was serving the period of internship required by Chapter 5 of Division 2 of the Business and Professions Code, relating to the practice of medicine, and who on March 31, 1941, was registered with the Board of Medical Examiners of the State of California, and he shall be entitled to the credits provided by said Section 2286 as it existed prior to its amendment by this act.

CHAPTER 221

Stats 1937, p 1229, amended *An act to add Section 2454.5 to the Business and Professions Code, relating to the use of the addressing facilities of the administrative board under the chapter on medicine thereof.*

In effect September 13, 1941 [Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

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

New section SECTION 1. Section 2454.5 is hereby added to the Business and Professions Code, to read as follows:

Charge for addressing facilities 2454.5. The board may charge one-half cent per name for the use of its facilities by persons who are or are not licensed under this chapter to address materials which are to be sent to persons licensed under this chapter.

CHAPTER 222

Stats 1937, p 1229, amended *An act to amend Section 2120 of the Business and Professions Code, relating to reports under the chapter on medicine thereof.*

In effect September 13, 1941 [Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

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

Stats 1937, p 1257 SECTION 1. Section 2120 of the Business and Professions Code is hereby amended to read as follows:

Reports 2120. On or before the first day of January of each year, the board shall transmit to the Governor a full and true

report of all its proceedings, together with a report of all its receipts and disbursements.

The board may publish its report separately and also as a part of the annual directory. The costs of publication shall be chargeable against the contingent fund of the board.

CHAPTER 223

An act to amend Section 61a of the Bank Act, relating to the investigation and certification of securities by the Superintendent of Banks.

Stats 1909, p 87, amended

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 61a of the Bank Act is hereby amended to read as follows:

Stats 1937, p 748

Sec. 61a. The Superintendent of Banks shall have power, when any issue of bonds or securities is presented to him for that purpose, to investigate and ascertain whether such issue of bonds or securities come within and fully conform to all the requirements of paragraphs (d), (e), (f) or (g) of Subdivision 6 of Section 61 of this act, or of either of said paragraphs.

Investigation of bonds by Superintendent of Banks

He may also investigate and ascertain for what period of time, and upon what conditions, any franchise granted to or held by any corporation issuing any such bonds or securities will remain in force, and any other facts or conditions bearing upon the value or sufficiency of such bonds. The Superintendent of Banks may accept and act upon the opinions and appraisements of any attorneys, engineers or appraisers which may be presented by such person or corporation, so applying, and the reports of any of the executive officers of the corporation issuing such bonds or securities, on any question of fact concerning or affecting such bonds or securities, the security thereof, the franchise conditions herein mentioned, or the financial condition of the corporation issuing the same. In lieu of or in addition to such opinions, appraisements and reports, the Superintendent of Banks may, if he deems proper, have any or all such matters passed upon and certified to him by attorneys, engineers, appraisers or accountants of his own selection at the expense of the applicant. If the Superintendent of Banks shall find from such investigation that the bonds or securities so presented come within and fully conform to all the requirements of any of said paragraphs of Subdivision 6 of Section 61 of this act, and is satisfied from such investigation as to such franchise conditions, he shall so certify unless for any reason he shall be of the opinion that such bonds are not a safe or proper investment for savings banks, and in such event or if such bonds shall fail to meet the requirements of

Certification

this act such certificate must be refused. The Superintendent of Banks also shall have power to investigate and ascertain the status and sufficiency as investments for savings banks of any bonds or notes or obligations specified in paragraphs (a), (b), (c), (h), (i) and (j), of Subdivision 6 of Section 61 of this act. If upon such investigation it shall be determined in the opinion of the Superintendent of Banks that any bonds or notes or obligations specified in paragraphs (a), (b), (c), (h), (i) and (j), of Subdivision 6 of Section 61 of this act constitute a proper investment for savings banks he shall so certify.

Revocation of certification

Any certificate issued by the Superintendent of Banks under authority of the provisions of this section may be revoked at any time in his discretion. Any certificate issued in relation to notes or bonds of a railroad or other public utility corporation shall expire not later than three months after the end of the then current fiscal year of the corporation issuing such notes or bonds.

Renewal

Any such certificate expiring may be renewed or extended by the Superintendent of Banks without application therefor from such corporation or other interested parties if he shall be satisfied that the notes or bonds referred to in said certificate are in conformity with the then requirements of Section 61 of this act.

Expense of investigation

The actual expense of investigating any issue of bonds or securities so presented, other than the ordinary expenses of the State Banking Department, shall be paid by any person, district or corporation presenting the same for investigation, and the Superintendent of Banks, before making such investigation, may require a cash deposit of such amount as he may deem necessary to cover such expense. The Superintendent of Banks shall keep an official list of all bonds and securities certified by him.

No provision of this act, and no act or deed, done or performed under or in connection therewith, and no finding made or certificate issued under any provision thereof, shall be held or construed to obligate the State of California to pay, or be liable for the payment of, or to guarantee in any manner whatsoever, the regularity or the validity of the issuance of any stock or bond certificate, or bond, note, or other evidence of indebtedness certified under any provision of this act, by the Superintendent of Banks.

Unlawful advertisement of securities as legal investments

It shall not be lawful for any individual, firm, association, bank, trust company, stock company, copartnership or corporation to advertise by newspaper or circular or in any other manner that any securities are legal investments for savings banks in this State unless such securities are at the time of said advertisement legal investments for savings banks in this State, or to use any advertisement which might lead the public to believe that any securities conform to the requirements of law relating to investments by savings banks unless such advertisement shall have been approved in writing by the

Superintendent of Banks prior to publishing, circulating or otherwise issuing the same. Any individual, firm, association, bank, trust company, stock company, copartnership or corporation who shall advertise any securities in violation of the provisions of this paragraph shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in a county jail not exceeding one year or by both such fine and imprisonment.

CHAPTER 224

An act to amend Section 11860 of the Insurance Code, relating to workmen's compensation insurance and reports of the State Compensation Insurance Fund.

Stats 1935, p 496, amended

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 11860 of the Insurance Code is hereby amended to read as follows:

Stats 1935, p 730

11860. Each quarter the commission shall make a report to the Governor of the business done by the State Compensation Insurance Fund during the previous quarter and a statement of the fund's resources and liabilities at the close of that previous quarter. The State Department of Finance shall annually audit such reports and statements and cause an abstract thereof to be published one or more times in at least two newspapers of general circulation in the State. The commission shall likewise make to the commissioner all reports required by law to be made to him by other insurers.

Quarterly report of commission

CHAPTER 225

An act to amend Section 6830 of the Health and Safety Code, relating to the annexation of territory to a sanitary district.

Stats 1939, p 482, amended

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 6830 of the Health and Safety Code is hereby amended to read as follows:

Stats 1941, p 404

6830. In the manner provided in this part, there may be annexed to a district any of the following territory which is in the same county as the district:

Territory to be annexed

(a) Any territory contiguous to the district.

(b) Any territory any point of which touches any point of the district.

(c) Any territory separated from the district by a "separating barrier," which term includes a street, road, highway, railway line, railway crossing, railway right of way, water course, lagoon, or other natural barrier.

Any territory specified in this section may consist of one or more separate parcels of land, but it is not necessary that all parcels shall constitute in the aggregate one tract of land.

CHAPTER 226

An act accepting a retrocession of jurisdiction from the United States of America over certain rights of way granted to the State of California over a certain road in the Presidio of San Francisco Military Reservation.

In effect September 13, 1941

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

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

Acceptance of jurisdiction

SECTION 1. The State of California hereby accepts that certain retrocession of jurisdiction granted by the United States of America over certain rights of way for a State road known as Funston Avenue Approach across the Presidio of San Francisco Military Reservation by an act of the Congress of the United States entitled "An act to grant to the State of California a retrocession of jurisdiction over certain rights-of-way granted to the State of California over a certain road about to be constructed in the Presidio of San Francisco Military Reservation," approved July 26, 1939.

53 Stat at L 1120

CHAPTER 227

Stats 1929, p 900, repealed

An act to repeal an act entitled "An act making an appropriation to be expended by and under the direction of the Department of Public Works for the purpose of rectifying, improving and protecting the channel of the Pajaro River," approved May 28, 1929, and to abolish the Pajaro River Flood Control Fund, which is created thereby.

In effect September 13, 1941

[Approved by Governor May 7, 1941. Filed with Secretary of State May 7, 1941.]

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

Repeal

SECTION 1. The act cited in the title hereof is hereby repealed.

Pajaro River Flood Control Fund abolished

SEC. 2. The Pajaro River Flood Control Fund in the State Treasury is hereby abolished and any money remaining in that fund on the effective date of this act shall revert to and become a part of the General Fund.

CHAPTER 228

An act to amend Section 44 of the Bank Act, relating to the making of loans upon the security of the capital stock of another bank or of a corporation.

Stats 1909, p 87, amended

[This bill having remained with the Governor 10 days (Sundays excepted), and the Legislature being in session, it has become a law this eighth day of May, 1941. PAUL PEEK, Secretary of State.]

[Filed with Secretary of State May 8, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 44 of the Bank Act is hereby amended to read as follows:

Stats 1931, p 342

Sec. 44. No bank shall hereafter make a loan secured by the stock of another bank, if by making such loan the total stock of such other bank held by such loaning bank as collateral will exceed in the aggregate 25 per centum of the capital stock of such other bank, without the previous written approval of the Superintendent of Banks. No bank shall make a loan upon the capital stock of any bank unless such bank has been in existence at least two years and has earned and paid a dividend upon its capital stock and no bank may loan more than 10 per centum of its assets upon the capital stock of any corporation whatsoever as collateral security.

Loan on bank stock

CHAPTER 229

An act to amend Section 517 of the Code of Civil Procedure, relating to claim and delivery of personal property and the steps to be followed in obtaining possession of such property in a building or inclosure.

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 517 of the Code of Civil Procedure is hereby amended to read as follows:

Stats 1933, p 1857

517. If the property, or any part thereof, be in a building or inclosure, the sheriff, constable, or marshal must publicly demand its delivery. If it be not delivered, he must cause the building or inclosure to be broken open, and take the property into his possession; and, if necessary, he may call to his aid the power of his county.

Building may be broken open to get property

CHAPTER 230

An act to amend Section 4.974 of the School Code, relating to school bonds.

In effect September 13, 1941

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941.]

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

Stats 1937, p 1715

SECTION 1. Section 4.974 of the School Code is hereby amended to read as follows:

Form

Expense incurred

4.974. The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds and of the interest coupons attached thereto, if any. Any and all expense incurred for the preparation, sale and delivery of said school bonds shall be a legal charge against the funds of the school district issuing said bonds.

CHAPTER 231

Stats 1933, p 60, amended

An act to amend Section 80 of the Agricultural Code, relating to agricultural districts.

In effect September 13, 1941

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941.]

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

Stats 1939, p 1412

SECTION 1. Section 80 of the Agricultural Code is hereby amended to read as follows:

Agricultural districts

80. The several counties of this State constitute agricultural districts numbered as follows:

District 1. The County of Alameda.

District 1a. The City and County of San Francisco and the County of San Mateo.

District 2. The County of San Joaquin.

District 3. The County of Butte.

District 4. The Counties of Sonoma and Marin.

District 5. The County of Santa Clara.

District 6. All that portion of Los Angeles County not included in Agricultural District Number 48 and Agricultural District Number 50.

District 7. The County of Monterey.

District 8. The County of El Dorado.

District 9. The County of Humboldt.

District 10. The County of Siskiyou.

District 11. The Counties of Plumas and Sierra. A fair shall be held in each county of this district alternately.

District 12. The County of Mendocino.

District 13. The Counties of Sutter and Yuba.

District 14. The County of Santa Cruz.
District 15. The County of Kern.
District 16. The County of San Luis Obispo.
District 17. The County of Nevada.
District 18. The Counties of Mono, Inyo, and Alpine.
District 19. All that portion of Santa Barbara County lying east of Gaviota and south of the Santa Ynez Mountains.
District 20. The County of Placer.
District 21. The County of Fresno.
District 21a. The County of Madera.
District 22. The County of San Diego.
District 23. The County of Contra Costa.
District 24. The Counties of Tulare and Kings.
District 25. The County of Napa.
District 26. The County of Amador.
District 27. The County of Shasta.
District 28. The County of San Bernardino.
District 29. The County of Tuolumne.
District 30. The County of Tehama.
District 31. The County of Ventura.
District 32. The County of Orange.
District 33. The County of San Benito.
District 34. The County of Modoc.
District 35. The County of Merced.
District 35a. The County of Mariposa.
District 36. The County of Solano.
District 37. All that portion of Santa Barbara County not included in Agricultural District Number 19.
District 38. The County of Stanislaus.
District 39. The County of Calaveras.
District 40. The County of Yolo.
District 41. The County of Del Norte.
District 42. The County of Glenn.
District 43. The County of Lassen.
District 44. The County of Colusa.
District 45. The County of Imperial.
District 46. The County of Riverside.
District 47. The County of Trinity.
District 48. All that portion of Los Angeles County described as follows:

Beginning at the intersection of a southerly extension of the east line of Avalon Boulevard with the Pacific Ocean, proceed north to the east line of Avalon Boulevard; thence north along the east line of Avalon Boulevard to its intersection with the south line of Slauson Avenue; thence west along the south line of Slauson Avenue to La Brea Boulevard; thence north along west line of La Brea Boulevard to north line of Exposition Boulevard; thence east along north line of Exposition Boulevard to west line of Crenshaw Boulevard; thence south along the west line of Crenshaw Boulevard to south line of Vernon Avenue; thence east along south line of Vernon Avenue to Main Street; thence north along the west

line of Main Street to the north line of Valley Boulevard; thence east along the north line of Valley Boulevard to the east line of San Gabriel Boulevard; thence south along the east line of San Gabriel Boulevard to the north line of Whittier Boulevard; thence east along the north line of Whittier Boulevard to the Orange County line; thence south along the Orange County line to its intersection with the Pacific Ocean; thence west along the Pacific Coast to point of beginning.

District 49. The County of Lake.

District 50. All that portion of Los Angeles County lying north of the south line of Township 5 North, San Bernardino Base.

CHAPTER 232

Stats 1937, p 185, amended

An act to amend Section 7101 of the Labor Code, relating to safety in employment.

In effect September 13, 1941

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941.]

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

Stats 1937, p 318

SECTION 1. Section 7101 of the Labor Code is hereby amended to read as follows:

Protective flooring

7101. Every building shall have the joists, beams, or girders of floors below the floor or level where any work is being done, or about to be done, covered with flooring laid close together, or with other suitable material to protect workmen engaged in such building from falling through joists or girders, and from falling substances, whereby life or safety is endangered.

CHAPTER 233

Stats 1933, p 394, amended

An act to amend Section 797 of the Fish and Game Code, relating to abalones.

In effect September 13, 1941

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941.]

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

Stats 1933, p 465

SECTION 1. Section 797 of the Fish and Game Code is hereby amended to read as follows:

Abalones

797. Abalone meat may not be transported out of the State. Meal made from abalone trimmings by a reduction process, and chowder made from abalone trimmings canned in not less than No. 10 size cans, may be transported out of the State.

CHAPTER 234

An act to amend Section 3166 of the Civil Code, relating to the time of payment of negotiable instruments.

[Approved by Governor May 8, 1941 Filed with Secretary of State May 8, 1941] In effect September 13, 1941

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

SECTION 1. Section 3166 of the Civil Code is hereby amended to read as follows: Stats 1939, p 1749

3166. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, Saturday or a holiday, the instrument is payable on the next succeeding business day which is not a Saturday; provided, however, that where the day of maturity of the instrument falls on Saturday or the instrument would except for the foregoing provision be payable on Saturday and it is payable by or at a banking house or any branch or office thereof and the particular banking house or branch or office thereof by or at which the instrument is payable is open for the transaction of business on Saturday, the holder of the instrument may at his option present the same for payment at said banking house or branch or office thereof by or at which the same is payable before 12 o'clock noon on Saturday. An instrument payable on demand is not to be presented for payment on Sunday, Saturday, or a holiday but is to be presented for payment on the next succeeding business day which is not a Saturday, except that where such instrument is payable by or at a banking house or any branch or office thereof and the particular banking house or branch or office thereof by or at which such instrument is payable is open for the transaction of business on Saturday, the holder of such instrument may at his option present the same for payment at said banking house or branch or office thereof by or at which the same is payable before 12 o'clock noon on Saturday. Time of payment

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CHAPTER 235

An act to add Section 2958a to the Civil Code, and to amend Section 2971 thereof, relating to chattel mortgages on aircraft.

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2958a is hereby added to the Civil Code, to read as follows: New section

2958a. A mortgage of any aircraft, or part of any aircraft, registered or licensed under the laws of the United States, is Mortgages on aircraft

void as against any person (other than the mortgagor, his heirs, and devisee, and persons having actual notice thereof) unless the mortgage is registered or recorded in accordance with the provisions of the laws of the United States providing for such recordation or registration.

1872 Code

SEC. 2. Section 2971 of the Civil Code is hereby amended to read as follows:

Certain sections not applicable to mortgages of certain ships and aircraft

2971. Sections 2957, 2960, 2961, 2962, 2963, 2964, 2965 and 2966 do not apply to any mortgage of a ship, or part of a ship, under the Flag of the United States, nor to any mortgage of any aircraft, or part of any aircraft, licensed or registered under the laws of the United States.

CHAPTER 236

An act to provide for the taking of an oath by State employees not in the State civil service.

In effect September 13, 1941

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941.]

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

Oath for non-civil service employees

SECTION 1. Every person appointed to a State position not in the State civil service and not otherwise so required by law, shall, pursuant to the provisions of this act, take and subscribe the following oath within 30 days of the date of such person's appointment to any position not now included in the State civil service:

"I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of _____ (insert classification title), according to the best of my ability."

Time for taking oath

Every person now holding such a position shall, within 30 days of the effective date of this act, take and subscribe such oath.

Penalty

Any person who shall fail to take the oath herein required within the time provided shall forthwith forfeit his right to his position, and the same shall be considered vacant.

The method and manner of the taking, subscribing and filing of the oath herein provided shall be in accordance with the provisions of the Political Code. No fee shall be charged by any person before whom the oath herein provided may be taken and subscribed.

CHAPTER 237

An act to add Section 22140 to the Streets and Highways Code, providing an alternative method for collecting assessments to cover the cost of the improvements provided for under the Tree Planting Act of 1931.

Stats 1935, p 248, amended

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941]

In effect September 13, 1941

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

SECTION 1. Section 22140 is hereby added to the Streets and Highways Code, to read as follows:

New section

22140. As an alternative method for the collection of assessments levied under this part, the council, after the adoption of the resolution ordering the improvement, may order the assessment roll prepared by the city forester, showing the amount of the assessment against each lot or parcel of land, to be turned over to the assessor and the tax collector of the city, whereupon it shall be the duty of said officers to add the amount of said assessments to the next regular bill for taxes levied against the said lot or parcel of land for city purposes. Where city taxes are collected by the county officials, said assessment roll shall be delivered to the county auditor, who shall enter the amount thereof on the county assessment book opposite the description of the lot or parcel of land, and the amount shall be collected together with all other taxes thereon against the lot or parcel of land; provided, that said assessment roll shall be delivered to the county auditor before the date fixed by law for the delivery of the assessment books to the county board of equalization. Thereafter said amount shall be collected at the same time and in the same manner as city taxes are collected and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale, in case of delinquency, as provided for city taxes. All laws applicable to the levy, collection and enforcement of city taxes are hereby made applicable to such special assessment taxes.

Collection of assessment Alternative method

CHAPTER 238

An act to add Section 435 to the Political Code and to repeal an act entitled "An act to provide for the reversion of unexpended balances of certain appropriations," approved May 18, 1921, relating to the reversion of unexpended balances of certain appropriations, declaring the urgency thereof, to take effect immediately.

Stats 1921, p 155, repealed

In effect immediately

[Approved by Governor May 8, 1941. Filed with Secretary of State May 8, 1941.]

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

New section

SECTION 1. Section 435 is hereby added to the Political Code, to read as follows:

Reversion of unexpended balances

435 Three years after the date upon which it became available for expenditure, all money remaining unexpended from any appropriation shall revert to and become a part of the fund from which it was appropriated. No claim against any money, irrespective of the date upon which the claim against the State arose, shall be paid after the date upon which the money reverts.

Exceptions

This section does not affect or apply to:

(a) Transfers of money from the General Fund for the benefit of elementary schools, high schools, the University of California, the Interest and Sinking Fund, or any other bond interest fund.

(b) Regular periodic expenditures of fixed sums for any public purpose.

(c) Appropriations made for cooperative work under specific agreement or under contract.

Stats 1921, p 155

SEC. 2. The act cited in the title hereof is hereby repealed.

Declaration of intent

SEC. 3. The provisions of Section 435 of the Political Code, as added by this act, in so far as they are substantially the same as the provisions of Chapter 158 of the Statutes of 1921, hereby repealed, shall be construed as restatements and continuations thereof, and not as new enactments.

Payment of claims: Statute of Limitations

SEC. 4. When solely by reason of the provisions of Section 435 of the Political Code, a claim against any money available for expenditure prior to July 1, 1941, is barred due to the period of limitation prescribed by such provisions, the claim, notwithstanding the provisions of Section 435 of the Political Code, may be paid on or before whichever is the later of the following, (i) three years of the date upon which the money against which the claim is filed became available, or (ii) June 30, 1942.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect

immediately and become operative July 1, 1941. The facts constituting such necessity are as follows:

The financial accounts of the State Government are maintained upon a fiscal year basis. To avoid a serious disruption of the State fiscal procedure and to provide for a clearing of dead accounts and the elimination of dead claims, thereby permitting more efficient and economical handling of the State finances, it is necessary that this act take effect immediately, else such disruption can not be avoided and such clearing of accounts and claims can not be made effective concurrently with the Budget Act of 1941, to the consequent endangering of the public peace, health and safety.

CHAPTER 239

An act to add Section 1.6 to the Unemployment Relief Appropriation Act of 1940, relating to the relief of hardship and destitution due to and caused by unemployment and the administration thereof, providing terms and conditions upon which such relief may be granted, making an appropriation therefor, declaring the urgency thereof, to take effect immediately.

Stats. 1941, p. 122, amended

[Approved by Governor May 9, 1941. Filed with Secretary of State May 9, 1941.]

In effect immediately

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

SECTION 1. Section 1.6 is hereby added to the Unemployment Relief Appropriation Act of 1940, to read as follows:

New section

Sec. 1.6. (a) Out of any money in the State Treasury, not otherwise appropriated, the sum of six hundred fifty thousand dollars ($650,000) is hereby appropriated to the Relief Administrator and the Relief Commission for the relief of hardship and destitution due to and caused by unemployment and the administration thereof as provided in this act and the California Unemployment Relief Act of 1935, during the fourth quarter of the Ninety-second Fiscal Year.

Appropriation Unemployment relief

(b) Except for the apportionment for the administrative expenses of the Controller, all sums remaining unexpended under Sections 1, 1.5 and 3 of this act shall be available for expenditure during the fourth quarter of the Ninety-second Fiscal Year by the Relief Administrator and the Relief Commission. The apportionment for the administrative expenses of the Controller provided in Sections 1 and 1.5 of this act remaining unexpended shall be available for expenditure by the Controller during the fourth quarter of the Ninety-second Fiscal Year.

Fiscal year

(c) As used in this section, (i) "Unexpended" describes sums of money which are unencumbered and against which no commitments have been made by the Relief Administrator and Relief Commission or which having been encumbered or

Definitions

committed, have been unencumbered and the commitment released by the Relief Administrator and the Relief Commission, and (ii) "Expended" describes sums of money which are encumbered and against which commitments are made.

(d) "Appropriation," as used in this act (including Section 18) refers to the appropriation made by this section.

(e) The sum appropriated by subdivision (a) shall, upon order of the State Controller, be transferred to the Unemployment Relief Fund and shall be disbursed therefrom for the purposes herein provided. Until such time as such transfer is made, or when there is no money in said fund, the procedure for transfer of money from other funds prescribed by Section 1a of the California Unemployment Relief Act of 1935 shall be applicable hereto.

Scope of act (f) All money appropriated by this section shall be subject to all the limitations and conditions imposed by this act upon the money appropriated by Section 1 and Section 1.5.

Urgency SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows:

The appropriation for unemployment relief is about to be totally expended and it is necessary that additional funds be made available immediately. Unless this act providing immediate funds and the means for the expenditure thereof and safeguards upon their use takes effect immediately relief operations will have to be suspended at a time when the need is great, which will result in untold hardship and suffering to a great number of persons receiving relief in this State at this time, and will cause serious unrest throughout the State.

CHAPTER 240

An act to add Section 4.352 to the School Code, relating to the payment of wages of employees of school districts employed in positions not requiring certification qualifications.

In effect September 13, 1941 [Approved by Governor May 9, 1941. Filed with Secretary of State May 9, 1941.]

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

New section SECTION 1. Section 4.352 is hereby added to the School Code, to read as follows:

Payment of noncertificated employees 4.352. Orders for the payment of wages and pay roll orders for the payment of wages of employees employed full time in positions not requiring certification qualifications shall be drawn twice during each calendar month on days

designated in advance by the governing board of each school district to which the provisions of this section are made applicable. Labor performed between the first and fifteenth days, inclusive, of any calendar month shall be paid for between the sixteenth and twenty-sixth day of the month during which the labor was performed, and labor performed between the sixteenth and the last day inclusive, of any calendar month, shall be paid for between the first and tenth day of the following month.

The governing board of every school district which has an average daily attendance of 5,000, or more, shall make the provisions of this section applicable thereto, whenever a majority of the employees of the district employed full time in positions not requiring certification qualifications, petition the board, in writing, to do so.

The governing board of a district which has an average daily attendance of less than 5,000 may, on the petition, in writing, of a majority of the employees of the district, employed full time in positions not requiring certification qualifications, make the provisions of this section applicable to said board.

CHAPTER 241

An act to grant the consent of the State of California to the United States to use certain territorial waters of the State in connection with target practice operations on United States land adjacent thereto, and providing that the act shall take effect immediately.

[Approved by Governor May 9, 1941. Filed with Secretary of State May 9, 1941.] In effect immediately

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

SECTION 1. The consent of the State of California is hereby granted to the United States to use the territorial waters of the State of California, adjacent to any land on the coast thereof now or hereafter owned by or under the control of the United States and occupied for military purposes, in connection with conducting on such lands target practice operations of any type. Before any of the herein described waters shall be used in connection with conducting target practice operations of any type the United States shall take all appropriate measures and shall make and publish necessary regulations for the protection of the person and property of all persons using such waters. The use herein consented to shall not be so exercised as to interfere unreasonably with the public use of said waters. Target practice in State waters

SEC. 2. The provisions of this act shall not be construed to impose any liability whatsoever upon the State of California in connection with the use of the waters as herein set forth. Construction of act

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. A statement of the facts constituting such necessity is as follows:

The United States Government is creating a number of military establishments on the California coast including Camp Ord in Monterey County. In order to conduct adequate military training it is necessary to engage in artillery target practice on and over the territorial waters of the State. It is necessary that the consent of the State for the use of such waters be granted forthwith in order that the Program of National Defense will not be delayed nor impeded.

CHAPTER 242

Stats 1937, p 1229, amended

An act to add Section 12700.5 to the Business and Professions Code, relating to public weighmasters.

In effect September 13, 1941

[Approved by Governor May 10, 1941. Filed with Secretary of State May 10, 1941.]

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

New section

SECTION 1. Section 12700.5 is hereby added to the Business and Professions Code, to read as follows:

Weight receipt

12700.5. The issuance of a receipt showing the weight of fish, mollusks, or crustaceans pursuant to Section 1091 of the Fish and Game Code does constitute the issuance of a weight or measure certificate under this chapter.

CHAPTER 243

Stats 1937, p 2085, amended

An act to add Section 201.5 to the State Civil Service Act, prohibiting discrimination upon account of race, religion or color and prescribing means for the enforcement thereof.

In effect September 13, 1941

[Approved by Governor May 10, 1941. Filed with Secretary of State May 10, 1941.]

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

New section

SECTION 1. Section 201.5 is added to the State Civil Service Act, to read as follows:

Prohibition Record of race, color or religion

Sec. 201.5. In applying the provisions of this act or in doing any of the things provided for in this act it is unlawful to require, permit or suffer any notation or entry to be made upon or in any application, examination paper or other paper, book, document or record indicating or in any wise suggesting or pertaining to the race, color or religion of any person whomsoever.

CHAPTER 244

An act to amend Section 15 of the "Reclamation Board Act," approved December 24, 1911, as amended, relating to assessments.

Stats. First Ex. Sess. 1911, p. 117

[Approved by Governor May 10, 1941. Filed with Secretary of State May 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 15 of the "Reclamation Board Act" is hereby amended to read as follows:

Stats. 1929, p. 711

Sec. 15. All money collected upon sales or otherwise shall be paid to the county treasurer of the county in which the land is situated, and said money, together with all other money collected by the county treasurer shall, within one month after its receipt by the county treasurer, be by him deposited in the State Treasury to the credit of said drainage district in a fund which is hereby created and known as the Sacramento and San Joaquin Drainage District Fund, specifying the name and number of the assessment from which such money was derived, and shall be paid out upon warrants of the State Controller, and the Controller is hereby directed to issue warrants upon said funds whenever drafts of the reclamation board shall be presented to him, and the State Treasurer is hereby directed to pay such Controller's warrants when there is sufficient money in the fund of said drainage district; provided, that all moneys collected from assessments shall be paid out only on warrants issued for works or other expenses covered by the assessment from which such money was derived, which assessments must be numbered consecutively, to the end that all moneys raised by assessment upon any of the lands embraced in said drainage district, shall be expended only for works of reclamation or other expenses, beneficial to the lands so assessed, and for the payment of warrants issued for the construction of the works and other expenses for which such assessment was levied, and each warrant must designate the name and number of the assessment from which it is to be paid. Drafts of the reclamation board may be presented to the Controller and warrants drawn as aforesaid, against the funds to be raised by an assessment as soon as the reclamation board has passed its order or resolution for the levy of such assessment and appointed the assessors therefor. In case there are not sufficient funds applicable thereto for the payment of such warrants when presented to the State Treasurer, he shall indorse on such warrants the date of presentation and register the same, and thereafter such warrants shall bear interest at the rate of 7 per cent per annum, and must be paid in the order of their registration. All such warrants, whether heretofore or hereafter issued, shall be considered as contracts in writing for the payment of money, and the period prescribed

Deposit of money collected

Warrants

Insufficient funds

for the commencement of an action based upon any such warrants, or connected therewith, is and shall be four years from the date of the first publication of the notice specifying such warrants published by the State Treasurer pursuant to the provisions of this section; and no statute of limitations shall be deemed to have run against any action upon or affecting any warrant heretofore or hereafter drawn against any assessment under this act by reason of the lapse of time during which funds adequate for the payment of the outstanding warrants against such assessment were not available. Said warrants shall, at any time within said period of four years, be received in payment of any assessment for work or expenses for which such warrants were issued. The

Renewal of warrants

reclamation board may, at its option, at any time before payment of any warrant renew the same upon application of the owner or holder thereof by an indorsement thereon of the fact and date of such renewal and notice thereof to the State

Notice of sufficiency of funds to pay warrants

Treasurer and Controller. Whenever there is sufficient money in the Treasury applicable to the payment of any outstanding warrants of the district, the State Treasurer shall give notice that there is money in the Treasury to pay certain warrants, giving their numbers in the order of their registration; said notice shall be published for 10 days in one newspaper published in the City of Stockton and one published in the City of Sacramento. After the last publication of said notice the warrants therein mentioned shall cease to bear interest. The reclamation board shall designate a paper in each of said cities which shall be the official papers of said district for the purpose of such publication. Whenever in the opinion of the

Partial release of assessment

reclamation board it shall appear that the total amount of any assessment previously levied and assessed and which has become a lien upon lands in said drainage district including assessments which have been bonded pursuant to the provisions of Chapter 520, Statutes of 1919, is greater than required to meet all obligations incurred or to be incurred for the purposes for which such assessment was levied, the reclamation board may by resolution entered in its minutes, order the release of the lien of and abandonment of any part of the charges against any tract so assessed not required to be collected, as aforesaid; provided, however, that the portions of said assessment to be first abandoned and released shall be such portions of the charges on each tract as are based upon flood control benefits or by-pass severance as those terms are defined in, and have been determined by the assessors appointed by the reclamation board, pursuant to the provisions of Section 32 of this act; and provided further, that no assessment upon any tract shall be so released or abandoned until any and all delinquent installments which may have accrued thereon, together with interest and penalties, shall have been paid in full and a copy of such resolution certified by the secretary of said board and attested with its seal shall be deposited in the office of the county treasurer of each county

wherein is situated any land affected by such assessment, and shall be by such county treasurer annexed to the assessment list of such assessment for that county; and in any such case, when any payment has been made upon the part of such assessment upon any tract of land so abandoned and released, in whole or in part, the reclamation board may cause such warrants to be issued, in the manner as provided in this section, as may be necessary to secure a just, fair and equitable readjustment of said assessment so paid, but the reclamation board shall not take any action after June 30, 1944, to cause warrants to be issued for such readjustment of Sutter-Butte By-pass Assessment No. 6 and any action or proceeding brought to secure such readjustment of said Sutter-Butte By-pass Assessment No. 6 or to require the issuance of any warrant or payment of any money in connection with such readjustment of Sutter-Butte By-pass Assessment No. 6 must be commenced before January 1, 1945. Likewise, the reclamation board may also in its discretion abandon any assessment in whole or in part at any time prior to the time when the lien of such assessment has accrued to the extent that said assessment shall be greater than required to meet the obligations incurred or to be incurred thereon. In case of any change of county boundary lines or creation of any new county, all acts and proceedings in this act provided for in the manner of or relating to or in pursuance of or founded upon any assessment upon lands affected by such change of county boundary lines, or creation of such new county, shall be done and conducted as if such lands were situated in the same county as at the time of appointment of the assessors to make such assessment.

Change of county boundaries

CHAPTER 245

An act to amend Section 1628 of, and to add Section 1628a to, the Business and Professions Code, relating to examinations.

Stats 1937, p 1229, amended

[Approved by Governor May 10, 1941. Filed with Secretary of State May 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1628 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 1813

1628. Any person over 21 years of age who has not three times previously failed examinations of the board is eligible to take an examination before the board upon making application therefor and:

Examination eligibility

(a) Paying the fee for applicants for examination provided by this chapter, which shall not be refunded except that applicants, who are found ineligible to take the examination, are entitled to a refund;

(b) Furnishing satisfactory testimonials of good moral character;

(c) Furnishing satisfactory evidence of having graduated from a reputable dental college, which shall have been approved by the board; provided, also, that applicants furnishing evidence of having graduated after 1921 shall also present satisfactory evidence of having not less than four years attendance at such a reputable dental school or schools.

New section

SEC. 2. Section 1628a is hereby added to said code, to read as follows:

Additional graduate work

1628a. Applicants for said examination who have previously failed in three examinations shall, in addition to the qualifications set forth in Section 1628, as a condition of eligibility to take further examinations furnish to the board satisfactory evidence of having an additional year's graduate work at a reputable dental college approved by the board, in subjects approved by the board, and which year of additional instruction shall have been since the time of failing in the third examination.

CHAPTER 246

"Automobile Parking District Act of 1941"

An act to provide for the formation of districts within municipalities, for the providing of parking space for automobiles; for the laying out, opening, extending, widening, straightening, establishment or change of grade, in whole or in part, of public auto parks and public rights of way necessary or convenient therefor; for the condemnation of property or of any interest therein necessary or convenient therefor; for work in or upon any such places including property over which possession and right of use has been obtained under the provisions of Section 14, of Article I, of the Constitution in such districts; for the acquisition and construction of public improvements, works and equipment necessary or convenient therefor; for the maintenance of such districts and the public improvements, works, and equipment thereof; for the issuance, sale, and payment of bonds of such districts to meet the cost thereof; for the levy of assessments; and providing for aid from any county, municipality, State, or the Federal Government, or any department thereof.

In effect immediately

[Approved by Governor May 13, 1941 Filed with Secretary of State May 13, 1941]

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

Automobile parking district Powers

SECTION 1. Any municipality or portion thereof may be formed into an improvement district for the providing of parking space for automobiles; for the laying out, opening, extending, widening, straightening, establishment, or change of grade,

in whole or in part, of public auto parks and public rights of way necessary or convenient therefor; for the condemnation of property, or of any interest therein, necessary or convenient for such purposes; for work in or upon public auto parks and public rights of way, including property over which possession and right of use has been obtained under the provisions of Section 14, of Article I, of the Constitution in such district; for the acquisition and construction of public improvements, works, and equipment necessary or convenient therefor; for the issuance, sale, and payment of bonds of such districts to meet the cost thereof; for the levy of assessments; and any such district may levy assessments and may receive, accept, and use aid for any or all such purposes from any municipality, county, State, or the Federal Government or any department thereof, and do all other things necessary or convenient for the providing of parking space for automobiles in such district as hereinafter provided, and otherwise to carry out the purposes of this act; and any municipality, county, or the State of California, or any department thereof, is authorized to contribute funds, lands, or equipment therefor.

Petition for formation of district

SEC. 2. Upon receipt of a petition verified by one or more persons and signed by property owners owning taxable land equal in assessed value to twenty-five per cent (25%) of the assessed value of all of the taxable land in a proposed improvement district as described in said petition, as shown by the county assessment roll of all lands in said district as last equalized prior to the filing of said petition, and describing generally the improvement requested and the estimated cost thereof, the legislative body of the municipality in which said proposed improvement district is located, may adopt a resolution declaring its intention to form an improvement district. Said resolution shall contain:

Contents of petition

1. The name of the improvement district proposed to be formed, which district shall bear the same name as the municipality conducting the proceedings, together with the number of such district, as_____ _____Improvement District No. _____.

2. A legal description of the boundaries of the proposed district, which may be described by reference to a boundary line on a map on file in the office of the city engineer of said city for public inspection.

3. A general nontechnical description of what is proposed to be done as an improvement in such district and referring to a sketch, map, or tentative general plan on file with the said city engineer of the said city, indicating what is proposed to be done. It shall not be necessary to indicate on such sketch, map, or plan the exact size, shape, or location of such proposed parking facilities, but it shall be sufficient to indicate in a general way the approximate number of square feet of parking space to be provided in each block, or other designated area, within said improvement district.

4. A general estimate of the total cost of everything proposed to be acquired, constructed, and done.

5. A general estimate of the annual cost of maintenance thereof after completion.

6. The estimated preliminary expense of preparing detailed plans and specifications, calling and holding any and all hearings for the formation of such district and the authorization of any bond issue proposed, and all incidental expenses in connection therewith.

7. The proportionate share of such preliminary and incidental expenses to be paid or furnished by such city, if any.

8. The date, hour, and place for hearing upon the proposed formation of such improvement district and the time within which and the place where any protests may be filed.

Filing petition

SEC. 3. A copy of said resolution of intention to form an improvement district, together with a copy of all maps, plans, or sketches referred to shall be filed with the clerk of the legislative body of such city, and said resolution shall be published by said clerk once in said city in a newspaper of general circulation published therein. In any city where no such newspaper is published, such resolution shall be posted for 10 days in three public places within the proposed improvement district.

Protests

SEC. 4. Any person interested, objecting to the formation of said improvement district or to the extent thereof or to the inclusion of his property therein, may file a written protest with the clerk of the legislative body of such city within thirty (30) days after the first publication or first posting of such resolution of intention. The clerk of said legislative body shall present to said legislative body all protests filed with him, and said legislative body shall hear and determine the same, and its decision thereon shall be final and conclusive; provided, however, that if the owners of real property having an assessed valuation, exclusive of improvements, equal to fifty per cent (50%) of the assessed valuation exclusive of improvements of the district as a whole, have protested the proposed district or improvement, then such protests shall be sustained and no further proceedings shall be had or taken pursuant to said petition, but a new petition for the same or a similar purpose may be filed at any time after the expiration of one (1) year from the date such protests were sustained. Said hearing may be continued from time to time at the discretion of the legislative body. At the conclusion of said hearing the legislative body of such municipality may make such changes in the boundaries of the proposed district within said city as it shall find to be advisable, or may, in its discretion, abandon such proceeding even though the protests have not been sufficient to require the abandonment of such proceedings, as hereinabove provided, nor shall any territory be included in such district which, in the judgment of such legislative body, will not be benefited by said proposed improvement in said district.

Hearing

Said legislative body shall not modify the boundaries of said proposed improvement district except after notice of its intention to do so is given by publishing once in said newspaper or by posting in three public places, as the case may be, describing the proposed modification and specifying a time for hearing objections to such modification, which time shall be at least ten (10) days after the first publication or posting of said notice. Written objection to said proposed modification may be filed with the clerk of said legislative body by any interested person as provided for protests in the first instance, at or before the time set for hearing the same; and said legislative body shall hear and pass upon such objections at the time appointed or at any time to which the hearing thereof may be continued, and its decisions thereon shall be final and conclusive. At the expiration of the time within which protests may be filed, if none be filed, or if protests be filed and after hearing be denied, or at the expiration of the time within which objections to the modification of the boundaries of the district, in case such modification be proposed, may be filed, if none be filed, or if such objections be filed and, after hearing, be overruled, as above provided, then said legislative body shall be deemed to have acquired jurisdiction to proceed further in accordance with the provisions of this act. At the conclusion of all hearings held as hereinabove provided said legislative body of said city shall adopt a resolution declaring said improvement district to be formed and including the territory as originally described or as modified after said hearings.

Modification of boundaries

Resolution

SEC. 5. At any time after said legislative body shall have so acquired jurisdiction and approved the boundaries of the improvement district, it may adopt a resolution of intention to issue bonds of the said improvement district described in the resolution of intention to issue bonds, which description shall conform to the boundaries of the said district, as the same may have been approved as hereinabove provided, and may provide for the submission to the property owners thereof the proposition of incurring a debt by the issuing of bonds of such improvement district for the purposes set forth and enumerated in the original resolution of intention. The resolution of intention to issue said bonds shall also recite the objects and purposes for which said proposed indebtedness is to be incurred, the total estimated cost thereof, the estimated cost of all incidental expense in connection therewith; the amount of the principal of the indebtedness proposed to be incurred therefor, which principal of indebtedness shall not exceed twenty per cent (20%) of the assessed value of the taxable land in said district as shown by the county assessment roll of all the lands of such district as last equalized prior to the adoption of such resolution; the rate of interest to be paid on such indebtedness, which rate shall not be more than five per cent (5%) per annum, payable semiannually; the

Bonds

Resolution of intention

amount of any moneys or labor or equipment or material allocated to such district or for the use thereof by any city, county, State, or the Federal Government or any department thereof; provided, that the failure to secure any such allocation prior to the completion of proceedings hereunder shall not prevent the use of any such allocation of funds, labor, equipment, or material afterward obtained. Such resolution of intention to issue bonds shall also fix a date, hour, and place for the hearing of protests, which date shall be at least thirty (30) days and not more than sixty (60) days after the adoption of the resolution of intention to issue said bonds. Within ten (10) days after adoption of the said resolution of intention to issue bonds the clerk of said legislative body shall mail prepaid post cards, each with an addressed reply post card attached thereto with the return postage thereon guaranteed, giving notice of the proposed formation of such district, of the incurring of any indebtedness proposed to be incurred, and of the time and place for hearing protests thereon. Said card shall be mailed to each person to whom land in the proposed district is assessed on the last equalized county assessment roll at his address as shown upon such roll and to any person, whether owner in fee or having a lien upon, or legal, or equitable interest in any land within said proposed district, who has filed his name and address and a designation of the land in which he is interested with the said clerk.

Mailing notice of intention

The return post card as sent out shall be addressed to the clerk sending out the notice and shall have thereon a guarantee of the payment of the postage for the return thereof, and on the reverse side shall contain substantially the following:

"The undersigned is opposed to the formation of the _____Improvement District, Number_____, and to the incurring of indebtedness by the issuance of bonds of such district as proposed in the resolution of intention therefor, No._____.

(Signature)_____

"Write underneath a description or designation of property represented and interest therein_____

_____"

Objections

In the absence of fraud, no error or mistake in the sending of said notices, or any of them, and no failure on the part of anyone to receive the same shall affect the validity of any proceedings, but the clerk must sign an affidavit of mailing such notices and must include a list of the names and addresses of the persons to whom such notices were sent. If the owners of land equal in assessed value to one-half ($\frac{1}{2}$) of the total assessed value of all land in the proposed district return such cards to the clerk of the initiating legislative body indicating their objection to the formation of such district and the incurring of said indebtedness by the issuance of the bonds of said district, no further proceeding therefor shall be valid, except that a new resolution to form said district for such

improvement may be adopted after the expiration of one (1) year, as in the first instance, and the same proceedings shall be repeated as hereinabove provided.

At the expiration of the time within which protests may be filed, if an insufficient number of protests have been received to stop the proceedings, the said legislative body may adopt an ordinance providing for the issuance of bonds of the district described in the resolution of intention to issue bonds and for the purposes set forth in said resolution of intention.

Bonds Repayment

SEC. 6. Said legislative body shall, subject to the provisions of this act, prescribe the form of said bonds, and of the interest coupons attached thereto. Said bonds shall be payable in the following manner:

A part, to be determined by said legislative body and which shall not be less than one-twentieth ($\frac{1}{20}$) part of the whole amount of such indebtedness, shall be payable each and every year, on a day and date and at a place to be fixed by said legislative body and designated in such bonds, together with the interest on all sums unpaid on such date, until the whole of said indebtedness shall have been paid; provided, however, that the said legislative body may in its discretion determine and fix a date for the earliest maturity of the principal of such bonds, not more than two (2) years from the date of the issue of such bonds, but in this event the whole amount of such indebtedness must be made payable in equal annual parts in not to exceed twenty (20) years from the time of contracting the same.

Same Form

The bonds shall be issued in such denomination as said legislative body may determine, except that no bonds shall be of a less denomination than one hundred dollars ($100), nor of a greater denomination than one thousand dollars ($1,000), and shall be payable on the day and at the place fixed in such bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of five (5) per centum per annum, and shall be paid semiannually; and said bonds shall be signed by the chairman of the said legislative body or by such other officer as the said legislative body shall, by resolution adopted by a two-thirds ($\frac{2}{3}$) vote of all of its members, authorize and designate for that purpose, and also signed by the treasurer of said city, and shall be countersigned by the clerk thereof. All signatures on the bonds, except that of the clerk, may be lithographed. The interest coupons on said bonds shall be numbered consecutively and signed by the said treasurer by his engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds.

Same Sale

SEC. 7. Said legislative body may issue and sell the bonds of such district, authorized as hereinabove provided, at not

less than par value, and the proceeds of the sale of such bonds shall be placed in the treasury of such municipality to the credit of the proper district fund and shall be applied exclusively to the purposes and objects mentioned in the said resolution of intention for the issuance of said bonds as aforesaid and to the incidental expense in connection therewith. Said bonds shall be sold only after notice of sale published once at least ten (10) days before the time for receiving bids, or after posting such notice for at least ten (10) days, calling for bids based upon a stated interest rate or upon a statement of a maximum interest rate with provision for the bidder to specify the exact interest rate; provided, that nothing herein contained shall prevent said or any municipality or county from purchasing said bonds.

Tax levy

SEC. 8. The said legislative body shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect a tax each year upon the taxable land, exclusive of improvements, in such district sufficient to pay the interest on such bonds and such portion of the principal thereof as is to become due before the time when the proceeds from the next general tax levy becomes available; provided, however, that if the maturity of the indebtedness created by the issue of such bonds be made to begin more than one (1) year after the date of such issue, such tax shall be levied and collected, at the time and in the manner aforesaid, each year sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. Such tax shall be in addition to all other taxes levied for any other purposes and, when collected, shall be paid into the treasury of such city and be used for the payment of the principal and interest on such bonds, and for no other purpose. The principal and interest on such bonds shall be paid by the said treasurer in the manner provided by law for the payment of principal and interest on bonds of such city.

Construction contracts

SEC. 9. All contracts for the construction or completion of any public work or improvement, or for furnishing labor, materials, or supplies therefor as herein provided shall be let to the lowest responsible bidder. The legislative body of such city shall advertise as for the letting of contracts generally inviting sealed proposals for furnishing labor, materials, and supplies for the proposed improvement or work or portion thereof before any contract shall be made therefor. The said legislative body shall have the right to require such bonds as it may deem best from the successful bidder to insure the faithful performance of the contract and shall also have the right to reject any and all bids; provided, however, that nothing herein contained shall be construed as prohibiting the municipality itself from constructing or completing such works or improvements and employing the labor necessary therefor, without a contractor; and provided further, that in municipalities operating under a charter heretofore or hereafter framed

under the provisions of the Constitution of the State of California, all acts required to be performed subsequent to the sale of such bonds by this act, shall be done and performed by the proper body, board, officer, or commission of such municipality as is required or authorized by such charter to perform such acts; and in case such charter also prescribes the manner of letting and entering into contracts for the furnishing of labor, materials, or supplies for the constructing or completion of public works or improvements, the contracts therefor shall be let and entered into in conformity with such charter.

The provisions of an act entitled "An act to secure the payment of claims of persons employed by contractors upon public works and the claims of persons who furnish materials, supplies, teams, implements or machinery used or consumed by such contractors in the performance of such works and prescribing the duties of certain public officers with respect thereto," approved May 10, 1919, as now or hereafter amended, are hereby expressly made applicable to any work performed under the provisions of this act. Stats 1919, p 487

SEC. 10. Said municipality shall, by and through its proper officers, have full power and authority to expend the proceeds acquired from the sale of such bonds for the acquisition or construction of the improvement or work or purposes set forth in the resolution of intention to issue bonds, and shall also have full power and authority to acquire or construct such improvements or works, and such improvements or works so acquired or constructed shall be the property of such district. Acquisition and construction of improvements

SEC. 11. Whenever the legislative body which has formed a district hereunder shall by resolution declare that it is no longer necessary to expend the money raised by the sale of bonds of such district for the purpose for which said bonds were issued by reason of the fact that such purpose for which said bonds were issued has been accomplished by other means, or is no longer feasible, or if a surplus remains in said bond fund after the completion of such improvement for which said bonds were voted, the said legislative body shall by resolution order that said money be placed into a sinking fund for the purpose of paying the principal and interest of said bonds. Surplus funds

SEC. 12. This act shall not affect any other act or acts relating to the same or a similar subject, but it is intended to provide an alternative method of procedure governing the subject to which it relates. When proceeding under the provisions of this act, its provisions, and none other, need be followed. The said legislative body after the formation of such a district, instead of incurring an indebtedness of such district by issuing bonds of such district, may proceed in the manner hereinabove provided for a bond issue for the purpose of determining whether or not said legislative body shall levy an annual tax of not to exceed ten cents ($0 10) per one hundred dollars ($100) of assessed valuation on all of the land in Alternative method

Tax levy Improvements

such district for the objects and purposes hereinabove enumerated, in which case, all proceedings, notices, protests, and requirements shall be the same as hereinabove provided for and preliminary to the issuance of bonds of said district.

Same: Maintenance and operation

SEC. 13. After the formation of such district and the proper adoption of an ordinance ordering the incurring of indebtedness by the issuance of bonds or the making of an annual tax levy on the land in said district, as hereinabove in the last preceding section provided, the said legislative body, concurrently at the time of fixing the general tax levy and in the manner for such general tax levy provided, may levy and collect a tax each year upon the taxable land, exclusive of improvements, in such district, not to exceed five cents ($0.05) per one hundred dollars ($100) of assessed valuation as shown on the county assessment roll, to maintain, repair, equip, and operate any or all auto parks, parking places, improvements, works, and equipment theretofore authorized; and the said legislative body shall have full power and authority to do anything and everything necessary or convenient to accomplish the objects and purposes hereinabove referred to, or any portion thereof.

Definitions

SEC. 14. Whenever the terms "owner," "owners," "property owners," or "owners of land" are used in this act, such terms shall be deemed to refer to those, and to those only, who appear to be such upon the records of the recorder's office of the county in which the district is situated on the day before the day set for the filing of any petition or of any protest, as the case may be, referred to herein; and an executor or administrator shall be deemed representative of his decedent; and a trustee of an expressed trust in land, other than as security for the payment of money, of the land held in such trust; and a trustee in bankruptcy of the bankrupt; and a guardian of his ward. Such terms shall also include any person who holds a valid contract to purchase land, which fact must either be shown to be such upon the records in such recorder's office or the owner signing any protest must exhibit his contract to purchase; provided, however, that if both the owner of record and the contract purchaser shall present protests for the same land, only one protest shall be counted.

Form of objections

The objection of any owner may be made by the signature of his agent; provided, that there must be attached to the objection the affidavit of the agent that he is duly authorized to sign said objection. Every written objection must contain a description of the property in which each signer thereof is interested sufficient to identify it, and must set forth the nature of his interest therein, and if signed by more than one objector, must be accompanied by the affidavit of one of the signers thereto that each signature thereto is the genuine signature of the person whose name is thereto subscribed. No informal or technical insufficiency in the form of any protest shall invalidate such protest if such protest shall be sufficient to identify the property in which the signer is interested to

show that such protest is based upon a bond or bonds authorized hereby and to show that such signer is entitled to file such protest.

The provisions of this act shall be liberally construed to effect the purpose thereof, and no provision hereof shall be deemed or construed to prohibit the inclusion within the boundaries of any district formed under the provisions of this act of any territory which has heretofore or which may be hereafter included within any other district formed under the provisions of this act. Construction of act

This act and all proceedings hereunder shall be exempt from any and all provisions of the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931." Stats 1931, p 1372

SEC. 15. This act shall be known and may be cited and referred to as the "Automobile Parking District Act of 1941." Short title

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CHAPTER 247

An act to amend Sections 2, 9, 11, 17, 18, 20, 21, 23, 26 and 28 of, to repeal Section 2.5 of, and to add Section 5.2 to, the Retail Sales Tax Act of 1933; to amend Sections 2, 4, 7, 9, 10, 12, 14, 15, 17, 20 and 22 and to repeal Section 2.5 of the Use Tax Act of 1935; to declare the legislative intent with respect to the construction of said acts; to repeal Section 6 of Chapter 355, Statutes of 1935; to amend Sections 6006, 6010, 6455, 6481, 6487, 6511, 6514, 6561, 6701, 6702, 6738, 6757, 6776, 6777, 6811, 6812, 6901, 6902 and 7056 of, to repeal Section 6402 of, and to add Section 6362 to, the Revenue and Taxation Code, all relating to the levy, assessment and collection of retail sales and use taxes and providing that this act shall take effect immediately. Stats 1933, p 2599, amended; Stats 1935, p 1297, amended; Stats 1935, p 1252, amended; Stats 1939, p 1274, amended

[Approved by Governor May 13, 1941 Filed with Secretary of State May 13, 1941]

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

SECTION 1. Section 2 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows: Stats 1939, p 2170

Sec. 2. The following words, terms and phrases when used in this act have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning: Definitions

(a) "Person" includes any individual, firm, copartnership, joint adventure, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, this State, any county, city and county, municipality, district or other political subdivision thereof, or any other group or combination acting as a unit, and the plural as well as the singular number.

Definitions (b) "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration, or any withdrawal, except a withdrawal pursuant to a transaction in foreign or interstate commerce, of tangible personal property from the place at which such property is located for delivery to a point in this State for the purpose of the transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of such tangible personal property for a consideration, and includes the producing, fabricating, processing, printing or imprinting of tangible personal property for consumers who furnish either directly or indirectly the materials used in such producing, fabricating, processing, printing or imprinting, the furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others, and the furnishing, preparing or serving for a consideration of food, meals or drinks. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price shall be deemed a sale. A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication, shall likewise be deemed a sale.

(c) A "retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the regular course of business in the form of tangible personal property, except that the expressions "transfer of possession," "lease," and "rental" as used in subdivision (b) of this section shall mean and include only such transactions as the board, upon investigation, finds to be in lieu of sales as defined in subdivision (b) of this section without the words "lease or rental."

The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor if such delivery is to a consumer pursuant to a retail sale made by a retailer not engaged in business in this State, is a retail sale in this State by the person making such delivery and such person shall include the retail selling price of such property in his gross receipts.

(d) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(e) "Seller" includes every person engaged in the business of selling tangible personal property the gross receipts from the retail sale of which are required to be included in the measure of the tax imposed hereunder.

"Retailer" includes every person engaged in the business of making sales at retail or in the business of making retail sales at auction of tangible personal property owned by such

person or others; except that public or private schools, school districts, student organizations and parent-teacher associations serving meals exclusively to students and teachers, and employers or employee organizations serving meals exclusively to employees shall not be regarded as retailers of the meals served by them. When in the opinion of the board it is necessary for the efficient administration of this act to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers the board may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this act. Definitions

(f) "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of such sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of any kind or nature, and also any amount for which credit is allowed by the seller to the purchaser, without any deduction therefrom on account of the cost of the property sold, except that in accordance with such rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor must pay to the State, or has paid the use tax with respect to such property, and has resold the property prior to making any use of such property other than retention, demonstration, or display while holding it for sale in the regular course of business, and without any deduction on account of the cost of the materials used, labor or service cost, interest paid, losses or any other expense whatsoever; provided, however, that cash discounts allowed and taken on sales shall not be included, and "gross receipts" shall not include the sale price of property returned by customers upon rescission of the contract of sale, when the full sale price thereof is refunded either in cash or by credit, nor shall "gross receipts" include the price received for labor or services used in installing or applying the property sold.

For the purpose of this act the total amount of the sale price above mentioned shall be deemed to be the amount received exclusive of the tax hereby imposed; provided, that the retailers shall establish to the satisfaction of the board that the tax imposed hereunder had been added to the sale price and not absorbed by the retailer.

(g) "Board" means the State Board of Equalization.

(h) "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched, or is in any other manner perceptible to the senses.

(i) "In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within such limits owned by or ceded to the United States of America.

Stats 1941, p 130

SEC. 2. Section 2.5 of the Retail Sales Tax Act of 1933 is hereby repealed.

New section

SEC. 3. A new section is hereby added to the Retail Sales Tax Act of 1933, to be numbered Section 5.2 and to read as follows:

Exemption

Sec. 5 2. There are hereby specifically exempted from the provisions of this act and from the computation of the amount of tax, levied, assessed, or payable under this act, the gross receipts from the sale of tangible personal property which becomes an ingredient or component part of any publication regularly issued at average intervals not exceeding one month and the gross receipts from the sale of any such publication.

Stats 1939, p 2173

SEC. 4. Section 9 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows:

Tax returns

Sec. 9. The tax levied hereunder shall be a direct obligation of the retailer and shall be due and payable quarterly on or before the fifteenth day of the month next succeeding each quarterly period, the first of such quarterly periods being the period commencing with August 1, 1933, and ending on the thirtieth day of September, 1933. Each seller shall on or before the fifteenth day of the month following the close of the first quarterly period as above defined, and on or before the fifteenth day of the month following each subsequent quarterly period of three months, make out a return for the preceding quarterly period in such form as may be prescribed by the board showing the gross receipts of the seller, the amount of the tax for the period covered by such return and such information as the board may deem necessary for the proper administration of this act. The seller shall deliver the return together with a remittance of the amount of the tax due to the office of the board. The board, if it deems it necessary in order to insure the payment or facilitate the collection of the tax imposed by this act, may require returns and payment of the tax to be made for quarterly periods other than calendar quarters, depending upon the location of the principal place of business of the seller, or for other than quarterly periods. Returns shall be signed by the seller or his duly authorized agent but need not be verified by oath.

Rentals or leases

Gross receipts from rentals or leases of tangible personal property shall be reported and the tax paid with respect thereto in accordance with such rules and regulations as the board may prescribe.

The board, if it deems it necessary to insure the collection of the tax imposed by this act, may provide by rule and regulation for the collection of said tax by the affixing and canceling of revenue stamps and may prescribe the form and method of such affixing and canceling. Revenue stamps

The board may by regulation provide that the amount collected by the retailer from the consumer, in reimbursement of taxes imposed by this act, shall be displayed separately from the list, advertised in the premises, marked or other price on the sales check or other proof of sale.

SEC. 5. Section 11 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows: Stats 1933, p 2603

Sec. 11. The board, whenever it deems it necessary to insure compliance with the provisions of this act, may require any person subject to the tax imposed hereunder to deposit with it such security as the board may determine. The amount of the security shall be fixed by the board but shall not be greater than twice the person's estimated average tax for the period for which he files returns, determined in such manner as the board deems proper, or ten thousand dollars ($10,000), whichever amount is the lesser. The amount of the security may be increased or decreased by the board subject to the limitations herein provided. The security may be sold by the board at public sale if it becomes necessary so to do in order to recover any tax, interest or penalty due. Notice of such sale may be served upon the person who deposited such securities personally or by mail; if by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the person at his address as the same appears in the records of the board. Upon any such sale, the surplus, if any, above the amounts due under this act shall be returned to the person who deposited the security. Deposit of security; Notice of sale

SEC. 6. Section 17 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows: Stats 1939, p. 2175

Sec. 17. The burden of proving that a sale of tangible personal property is not a sale at retail shall be upon the person who makes it, unless such person takes from the purchaser a certificate to the effect that the property is purchased for resale. Such certificate relieves the seller from such burden only if taken in good faith from a person engaged in the business of selling tangible personal property and holding the permit provided for in Section 12 of this act and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether such property will be sold or will be used for some other purpose. Such certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to such purchaser under this act, and shall indicate the general character of the tangible Resale certificate

personal property sold by such purchaser in the regular course of business. Such certificate shall be substantially in such form as the board may prescribe.

If a purchaser who gives such a certificate makes any use of such property other than retention, demonstration, or display while holding it for sale in the regular course of business, such use shall be deemed a retail sale by such purchaser as of the time such property is first used by him and the cost of such property to him shall be deemed the gross receipts from such retail sale. If the sole use of such property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the cost of the property to him.

Presumption

For the purpose of the proper administration of this act and to prevent evasion of the tax hereby imposed it shall be presumed that all gross receipts are subject to the tax hereby imposed until the contrary is established.

Additional assessment

If the board is not satisfied with the return or returns of tax made by any retailer, it is hereby authorized and empowered to make one or more additional assessments of tax due from such retailer based upon the facts contained in the return or returns, or upon any information within its possession or that shall come into its possession. One or more additional assessments may be made of the amount of tax due for one or for more than one period.

Interest

The amount of tax so assessed shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the quarterly period for which the amount of such tax or any portion thereof should have been returned until the date of payment. In

Offsets

making an assessment hereunder the board may offset overpayments for a period or periods, together with interest on such overpayments, against underpayments for another period or periods, against penalties, and against the interest on such underpayments. Such interest on underpayments and overpayments shall be computed in the manner set forth

Penalties

in Sections 9½ and 23 hereof. If any part of the deficiency for which the additional assessment is imposed is due to negligence or intentional disregard of the act or authorized rules and regulations, a penalty of 10 per cent of the amount of the additional assessment shall be added thereto. If any part of the deficiency for which the additional assessment is imposed is due to fraud or an intent to evade the tax, a penalty of 25 per cent of the amount of the additional assessment

Notice

shall be added thereto. The board shall give to the retailer written notice of such additional assessment. Such notice may be served upon the retailer personally or by mail; if by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the retailer at his address as the same appears in the records of the board.

SEC. 7. Section 18 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows: Stats 1939, p 2177

Sec. 18. If a retailer fails to make a return as required by this act, the board shall make an estimate based upon any information in its possession or that may come into its possession, of the amount of the gross receipts of the delinquent for the period or periods in respect to which he failed to make a return, and upon the basis of said estimated amount compute and assess the tax payable by the delinquent, adding to the sum thus arrived at a penalty equal to 10 per cent thereof. One or more assessments may be made of the amount of tax due for one or for more than one period. The amount of tax so assessed shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the quarterly period for which the amount of such tax or any portion thereof should have been returned until the date of payment. In making an assessment hereunder the board may offset overpayments for a period or periods together with interest on such overpayments against underpayments for another period or periods, against penalties, and against the interest on such underpayments. Such interest on underpayments and overpayments shall be computed in the manner set forth in Sections 9½ and 23 hereof. Failure to make return. Penalty. Interest. Offsets.

If the failure of a retailer to file a return as required by this act was due to fraud or an intent to evade the tax, there shall be added to the tax a penalty equal to 25 per cent thereof in addition to the 10 per cent penalty for failure to file returns. Promptly thereafter the board shall give to the delinquent written notice of such estimate, tax and penalty, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 17 hereof. But the delinquent shall have the right to petition for reassessment of any such tax found, determined and declared by the board pursuant to and in accordance with the provisions of this section. Additional penalty. Notice.

SEC. 8. Section 20 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows: Stats 1939, p 2177

Sec. 20. Any retailer against whom an assessment is made by the board under the provisions of Section 17 or 18 hereof or any person directly interested may petition for a reassessment thereof within 30 days after service upon the retailer of notice thereof. If a petition for reassessment is not filed within said 30-day period the amount of the assessment becomes final at the expiration thereof. Petition for reassessment.

If a petition for reassessment is filed within said 30-day period the board shall reconsider the assessment, and if the retailer has so requested in his petition, shall grant said retailer an oral hearing and shall give the retailer 10 days' notice of the time and place thereof. The board shall have Hearing.

power to continue the hearing from time to time as may be necessary.

Increase or decrease

The board may decrease or increase the amount of the assessment. The amount of the assessment may be increased, however, only if a claim for such increase is asserted by the board at or before the hearing.

When order final

The order or decision of the board upon a petition for reassessment shall become final 30 days after service upon the retailer of notice thereof.

Penalty

All assessments made by the board under the provisions of Section 17 or 18 hereof shall become due and payable at the time they become final and if not paid when due and payable there shall be added thereto a penalty of 10 per cent of the amount of the tax.

Service of notice

Any notice required by this section shall be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 17 hereof.

Stats 1941, p 86

SEC. 9. Section 21 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows:

Additional tax notice

Sec. 21. Except in case of fraud, intent to evade the tax, failure to make a return, or claim for additional tax pursuant to Section 20 hereof, and except in case of additional tax proposed to be assessed with respect to sales of property for the storage, use or other consumption of which notice of a determination of an additional amount has heretofore been given, or is hereafter given, pursuant to Sections 9, 10, 11 and 15 of the Use Tax Act of 1935, every notice of additional tax proposed to be assessed hereunder shall be mailed to the retailer within three years after the fifteenth day of the calendar month following the quarterly period for which the tax is proposed to be assessed or within three years after the return is filed, whichever period expires the later.

Stats 1939, p 2178

SEC. 10. Section 23 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows:

Refunds and credits

Sec. 23. If the board determines that any amount, penalty or interest has been paid more than once, or has been erroneously or illegally collected, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due, and the person from whom it was collected, or by whom paid, and if approved by the State Board of Control the excess amount collected or paid shall be credited on any taxes then due from the retailer under this act or under the Stats 1935, p 1297 California Use Tax Act of 1935 and the balance shall be refunded to the person, or his successors, administrators, or Claim executors. No refund shall be allowed unless a claim therefor is filed with the State Board of Equalization within three years from the fifteenth day after the close of the quarterly period for which the overpayment was made or, with respect to

assessments made under the provisions of Sections 17 and 18 hereof, within six months after such assessments became final, or within 60 days from the date of overpayment, whichever period expires the later. No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the board within such period.

Every such claim must be in writing and must state the specific grounds upon which the claim is founded.

Failure to file such claim within the time prescribed in this section shall constitute waiver of any and all demands against this State on account of overpayments hereunder. Within 30 days after disallowing any such claim in whole or in part, the board shall serve notice of such action on the claimant, such service to be made as provided by Section 17 hereof. Notice

Interest shall be computed, allowed and paid upon any overpayment of any tax, at the rate of one-half of 1 per centum per month as follows: Interest

(1) From the fifteenth day of the calendar month following the quarterly period for which the overpayment was made but no refund or credit shall be made of any interest imposed upon the claimant with respect to the tax being refunded or credited.

(2) In the case of a refund, to the fifteenth day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or that the claim has been certified to the State Board of Control, whichever date is the earlier.

(3) In the case of a credit, to the same date that interest is computed on the tax against which the credit is applied.

Any refund or any portion thereof which is erroneously made and any credit or any portion thereof which is erroneously allowed, may be recovered in an action brought by the Controller of the State in a court of competent jurisdiction in the County of Sacramento, in the name of the people of the State of California and such action shall be tried in the County of Sacramento unless the court with the consent of the Attorney General, orders a change of place of trial. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for Recovery of erroneous refunds or credits

In the event that a tax has been illegally levied, the board shall certify such fact to the State Board of Control and said board shall authorize the cancellation of the tax upon the records of the board. Cancellation

If the board determines that any overpayment of tax has been intentionally made or made by reason of carelessness, it shall not allow any interest thereon.

Stats 1939, p 2179

SEC. 11. Section 26 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows:

Judgments

Sec. 26. In any case in which any tax, interest or penalty imposed under this act is not paid when due the board may within three years after the tax is due file in the office of the county clerk of Sacramento County, or any other county, a certificate specifying the amount of the tax, interest and penalty due, the name and address as it appears on the records of the board of the retailer liable for the same, that the board has complied with all the provisions of this act in relation to the computation and levy of the tax and a request that judgment be entered against the retailer in the amount of the tax, interest and penalty set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of the State of California against the retailer in the amount of the tax, interest and penalty set forth in the certificate. The judgment may be filed by the county clerk in a loose-leaf book entitled "Special Judgments for State Retail Sales or Use Tax."

Abstract of judgment

An abstract of such judgment or a copy thereof may be recorded with the county recorder of any county and from the time of such recording, the amount of the taxes, interest and penalty therein set forth shall constitute a lien upon all the real property of the retailer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien and shall continue for five years from the date of the judgment so entered by the county clerk unless sooner released or otherwise discharged. The lien may, within five years from the date of the judgment or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record in the office of the county recorder of any county an abstract or copy of the judgment and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged. Execution shall issue upon such a judgment upon request of the board in the same manner as execution may issue upon other judgments and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the board shall be authorized to act on behalf of the people of the State of California.

Certificate of recordation

In any case in which any tax, interest or penalty imposed under this act is not paid when due the board may within three years after the tax is due file in the office of any county recorder a certificate specifying the amount of the tax, interest and penalty due, the name and address as it appears on the records of the board of the retailer liable for the same, and that the board has complied with all provisions of this act in relation to the computation and levy of the tax. From the time of the filing for record the amount of the tax, interest and penalty therein set forth shall constitute a lien upon all real

Lien

property of the retailer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien and shall continue for five years from the time of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within five years from the date of the filing of the certificate or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged.

Warrant

At any time within three years after the delinquency of any tax, interest, or penalty, or within five years after the filing of the certificate referred to in the third paragraph of this section a warrant may be issued by the board or its duly authorized representative for the collection of any tax, interest or penalty and for the enforcement of any lien, directed to any sheriff, marshal or constable; and shall have the same effect as a writ of execution. It may and shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and sale pursuant to a writ of execution. The sheriff, marshal or constable shall receive upon the completion of his services pursuant to a warrant and the board is authorized to pay to him the same fees and commissions and expenses in connection with services pursuant to said warrant as are provided by law for similar services pursuant to a writ of execution; provided, that fees for publication in a newspaper shall be subject to approval by the board rather than by the court; said fees, commissions and expenses shall be an obligation of the retailer and may be collected from the retailer by virtue of the warrant or in any other manner provided in this act for the collection of a tax.

Final return on selling or quitting business

If any retailer liable for any tax, interest or penalty levied hereunder shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within 15 days after the date of selling or quitting business. His successor, successors or assigns, if any, shall withhold sufficient of the purchase price to cover the amount of such taxes, interest or penalties accrued or due and unpaid until such time as the former owner shall produce a receipt from the board showing that they have been paid, or a certificate stating that no taxes, interest or penalties are due. If the purchaser of a business or stock of goods shall fail to withhold the purchase price as above provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by any former owner, owners or assignors to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the board shall either issue the certificate or mail

notice to the purchaser at his address as it appears on the records of the board of the amount of the tax, interest, and penalties that must be paid as a condition of issuing the certificate. Failure of the board to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided.

Notice of delinquency

In the event that any retailer is delinquent in the payment of the tax herein provided for or in the event an assessment has been made against him which remains unpaid, the board may, not later than three years after the payment becomes delinquent give notice thereof by registered mail to all persons having in their possession, or under their control, any credits or other personal property belonging to such retailer, or owing any debts to such retailer at the time of receipt by them of such notice and thereafter any person so notified shall neither transfer nor make any other disposition of such credits, other personal property, or debts until the board shall have consented to a transfer or disposition, or until 20 days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five days after receipt of such notice, advise the board of any and all such credits, other personal property or debts, in their possession, under their control or owing by them, as the case may be.

Procedure for collection of delinquent taxes

At any time within three years after any retailer is delinquent in the payment of the tax herein provided for, the board may proceed forthwith to collect the tax due from the retailer in the following manner: The board shall seize any property, real or personal, of the retailer not exempt from execution under the provisions of the Code of Civil Procedure, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent retailer in writing at least 10 days before the date set for such sale by inclosing such notice in an envelope addressed to such retailer at his last known residence or place of business in this State, if any, and depositing the same in the United States mail, postage prepaid, and by publication for at least 10 days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, that if there be no newspaper of general circulation in such county or city and and county, then by the posting of such notice in three public places in such county or city and county 10 days prior to the date set for such sale. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, interest, penalties and costs, the name of the retailer, and the further statement that unless such taxes, interest and penalties and costs are paid on or before the time fixed in said notice for

Notice of sale

Contents of notice

such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Sale of property

At any such sale, the property shall be sold by the board in accordance with law and said notice, and the board shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest the interest or title of the retailer in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of the retailer. If upon any such sale, the moneys so received shall exceed the amount of all taxes, interest, penalties and costs due the State from such retailer, any such excess shall be returned to the retailer, and his receipt therefor obtained; provided, however, that if any person having an interest or lien upon the property has filed with the board prior to any such sale notice of such interest or lien the board shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If, for any reason, the receipt of such retailer shall not be available, the board shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such retailer, his heirs, successors or assigns.

Disposition of excess proceeds

Remedies cumulative

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the board or Attorney General shall be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Stats 1939, p. 2183

SEC. 12. Section 28 of the Retail Sales Tax Act of 1933 is hereby amended to read as follows:

Unlawful to divulge information

Sec. 28. It shall be unlawful for the board, or any person having an administrative duty under this act to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any retailer or other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person; provided, however, that the Governor may, by general or special order, authorize examination of such returns by other State officers, by tax officers of another State or the Federal Government if a reciprocal arrangement exists, and any other persons the Governor may so authorize. Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax, interest, and penalties.

Exception

Penalty

Any violations of the provisions of this section shall be a misdemeanor and be punished by a fine not exceeding one

thousand dollars ($1,000), or by imprisonment not exceeding one year, or both, at the discretion of the court.

Stats 1935, p. 1254

SEC. 13. Section 6 of Chapter 355, Statutes of 1935, is hereby repealed.

Stats 1939, p 2154

SEC. 14. Section 2 of the Use Tax Act of 1935 is hereby amended to read as follows:

Definitions

Sec. 2. The following words, terms and phrases when used in this act have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) "Storage" means and includes any keeping or retention in this State for any purpose except sale in the regular course of business or subsequent use solely outside this State of tangible personal property purchased from a retailer.

(b) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership of that property, except that it shall not include the sale of that property in the regular course of business.

(c) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price shall be deemed a purchase. A transfer for a consideration of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication, shall likewise be deemed a purchase.

(d) "Sales price" means the total amount for which tangible personal property is sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses or any other expenses whatsoever; provided, that cash discounts allowed and taken on sales shall not be included, and "sales price" shall not include the amount charged for property returned by customers upon rescission of the contract of sale when the entire amount charged therefor is refunded either in cash or credit or the amount charged for labor or services rendered in installing or applying the property sold.

(e) "Person" means and includes any individual, firm, copartnership, joint adventure, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, this State, any county, city and county, municipality, district or other political subdivision thereof, or any other group or combination acting as a unit, and the plural as well as the singular number.

(f) "Retailer" means and includes every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by such person or others for storage, use or other consumption; except that public or private schools, school districts, student organizations and parent-teacher associations serving meals exclusively to students and teachers, and employers or employee organizations serving meals exclusively to employees shall not be regarded as retailers of the meals served by them. When in the opinion of the board it is necessary for the efficient administration of this act to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the board may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this act.

(g) "Board" means the State Board of Equalization.

(h) "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched, or is in any other manner perceptible to the senses.

(i) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(j) "In this State" or "in the State" means within the exterior limits of the State of California, and includes all territory within such limits owned by or ceded to the United States of America.

SEC. 15. Section 2.5 of the Use Tax Act of 1935 is hereby repealed. Stats 1941, p 130

SEC. 16. Section 4 of the Use Tax Act of 1935 is hereby amended to read as follows: Stats 1939, p 2156

Sec. 4. The storage, use or other consumption in this State of the following tangible personal property is hereby specifically exempted from the tax imposed by this act: Exemptions

(a) Property, the gross receipts from the sale of which are required to be included in the measure of the tax imposed by Chapter 1020, Statutes of 1933, and any amendments made or which may be made thereto.

(b) Property, the storage, use or other consumption of which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

(c) Gas, electricity and water, when furnished or delivered to consumers through mains, lines or pipes.

(d) Gold bullion, gold concentrates or gold precipitates, when sold by the producer or refiner thereof for storage, use or other consumption in this State.

(e) Property used for the performance of a contract on public works executed prior to August 1, 1933.

(f) Motor vehicle fuel, the sales or distributions of which in this State are subject to the tax imposed thereon under the provisions of the "Motor Vehicle Fuel License Tax Act," and not subject to refund.

Stats 1923, p 571

(g) Food Products Purchased for Human Consumption. "Food products" as used herein includes cereals and cereal products, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products other than candy and confectionery, coffee and coffee substitutes, tea, cocoa and cocoa products other than candy and confectionery. "Food products" does not include spirituous, malt or vinous liquors, soft drinks, sodas or beverages such as are ordinarily dispensed at bars and soda fountains or in connection therewith, medicines, tonics, and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts, nor does "food products" include meals served on or off the premises of the retailer, nor drinks or foods furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer.

(h) Tangible personal property which becomes an ingredient or component part of any publication regularly issued at average intervals not exceeding one month and any such publication.

Stats 1939, p 2157

SEC. 17. Section 7 of the Use Tax Act of 1935 is hereby amended to read as follows:

Tax returns

Sec. 7. The tax imposed by this act shall be due and payable to the board quarterly on or before the fifteenth day of the month next succeeding each quarterly period during which the storage, use or other consumption of tangible personal property became taxable hereunder, the first of such quarterly periods being the period commencing with the first day of July, 1935, and ending on the thirtieth day of September, 1935. Every retailer maintaining a place of business in this State shall on or before the fifteenth day of the month following the close of the first quarterly period as above defined, and on or before the fifteenth day of the month following each subsequent quarterly period of three months, file with the board a return for the preceding quarterly period in such form as may be prescribed by the board showing the total sales price of the tangible personal property sold by the retailer, the storage, use or consumption of which became subject to the tax imposed by this act during the preceding

Returns by retailers

quarterly period, and such other information as the board may deem necessary for the proper administration of this act. The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the retailer during the period covered by the return. The board, if it deems it necessary in order to insure and facilitate payment to the State of the amount of tax herein required to be collected by retailers, may require returns and payment of such amount of tax for quarterly periods other than calendar quarters, depending upon the location of the principal place of business of the retailer, or for other than quarterly periods. Returns shall be signed by the retailer or his duly authorized agent but need not be verified by oath.

Remittance of tax

Every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the tax imposed by this act, and who has not paid the tax due with respect thereto to a retailer required or authorized hereunder to collect the tax, shall on or before the fifteenth day of the month following the close of the first quarterly period as above defined, and on or before the fifteenth day of the month following each subsequent quarterly period of three months, file with the board a return for the preceding quarterly period in such form as may be prescribed by the board showing the total sales price of the tangible personal property purchased by such person, the storage, use or other consumption of which became subject to the tax imposed by this act during the preceding quarterly period and with respect to which the tax was not paid to a retailer required or authorized hereunder to collect the tax, and such other information as the board may deem necessary for the proper administration of this act. The return shall be accompanied by a remittance of the amount of tax herein imposed and not paid to a retailer required or authorized hereunder to collect the tax during the period covered by the return. The board, if it deems it necessary in order to insure and facilitate payment to the State of the amount of such tax may require returns and payment for quarterly periods other than calendar quarters depending upon the location of the principal place of business of the purchaser, or for other than quarterly periods. Returns shall be signed by the person liable for the tax or his duly authorized agent but need not be verified by oath.

Returns by consumers

Remittance of tax

The board, if it deems it necessary to insure the collection of the tax imposed by this act, may provide by rule and regulation for the collection of said tax by the affixing and canceling of revenue stamps and may prescribe the form and method of such affixing and canceling.

Resale certificate

For the purpose of the proper administration of this act and to prevent evasion of the tax and the duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State

unless the person selling such property takes from the purchaser a certificate to the effect that the property is purchased for resale. Such certificate relieves the seller from such burden only if taken in good faith from a person engaged in the business of selling tangible personal property and holding the permit provided for by Section 12 of the California Retail Sales Tax Act of 1933, and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business, or is unable to ascertain at the time of purchase whether such property will be sold or will be used for some other purpose. Such certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to such purchaser under the California Retail Sales Tax Act of 1933, and shall indicate the general character of the tangible personal property sold by such purchaser in the regular course of business. Such certificate shall be substantially in such form as the board may prescribe.

Stats 1939, p 2174

If a purchaser who gives such a certificate makes any storage or use of such property other than retention, demonstration, or display while holding it for sale in the regular course of business, such storage or use is taxable as of the time the property is first so stored or used. If the sole use of such property, other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to pay the tax on such use measured by the amount of the rental charged rather than the sales price of the property to him.

Presumption

It shall be further presumed that tangible personal property shipped or brought to this State by the purchaser thereof was purchased from a retailer on or after July 1, 1935, for storage, use or other consumption in this State.

Stats 1939, p 2159

SEC. 18. Section 9 of the Use Tax Act of 1935 is hereby amended to read as follows:

Additional determinations

Sec. 9. If the board is not satisfied with the return or returns of the tax or the amount of tax herein required to be paid to the State by any person, it is hereby authorized and empowered to compute and determine the amount required to be paid based upon the facts contained in the return or returns or upon any information within its possession or that shall come into its possession.

Interest

One or more additional determinations may be made of the amount due for one or for more than one period. The amount so determined shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the quarterly period for which such amount or any portion thereof should have been returned until the date of payment.

Offsets

In making a determination hereunder the board may offset overpayments for a period or periods, together with interest

on such overpayments, against underpayments for another period or periods, against penalties, and against the interest on such underpayments. Such interest on underpayments and overpayments shall be computed in the manner set forth in Sections 8 and 17 hereof.

If any part of the deficiency for which a determination of an additional amount due is made is due to negligence or intentional disregard of the act or authorized rules and regulations, a penalty of 10 per cent of such amount shall be added thereto. If any part of the deficiency for which a determination of an additional amount due is made is due to fraud or an intent to evade the act or authorized rules and regulations, a penalty of 25 per cent of such amount shall be added thereto. The board shall give to the retailer or person storing, using or consuming tangible personal property written notice of its determination. Such notice may be served personally or by mail; if by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the retailer or person storing, using or consuming tangible personal property at his address as the same appears in the records of the board.

Penalties

Notice

SEC. 19. Section 10 of the Use Tax Act of 1935 is hereby amended to read as follows:

Stats 1939, p 2159

Sec. 10. If any person fails to make a return required to be made by this act, the board shall make an estimate for the period or periods in respect to which such person failed to make a return, based upon any information in its possession or that may come into its possession, of the amount of the total sales price of tangible personal property sold or purchased by such person, the storage, use or other consumption of which in this State is subject to the tax imposed by this act, and upon the basis of said estimate compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a penalty equal to 10 per cent thereof.

Failure to make return

Penalty

One or more determinations may be made of the amount due for one or for more than one period. The amount so determined shall bear interest, at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the quarterly period for which such amount or any portion thereof should have been returned until the date of payment. In making a determination hereunder the board may offset overpayments for a period or periods together with interest on such overpayments against underpayments for another period or periods, against penalties, and against the interest on such underpayments. Such interest on underpayments and overpayments shall be computed in the manner set forth in Sections 8 and 17 hereof. If the failure of any person to file a return as required by this act was due to fraud or an intent to evade this act or rules and

Interest

Offsets

Additional penalty

regulations hereunder, a penalty of 25 per cent of the amount required to be paid by such person shall be added thereto in addition to the 10 per cent penalty as above provided.

Notice

Promptly thereafter the board shall give to such person written notice of such estimate, determination and penalty, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 9 hereof.

Stats 1939, p 3160

SEC. 20. Section 12 of the Use Tax Act of 1935 is hereby amended to read as follows:

Petition for redetermination

Sec. 12. Any person from whom an amount is determined to be due under the provisions of Section 9 or 10 hereof or any person directly interested may petition for a redetermination thereof within 30 days after service upon such person of notice thereof. If a petition for redetermination is not filed within said 30-day period, the amount determined to be due

Hearing

becomes final at the expiration thereof. If a petition for redetermination is filed within said 30-day period, the board shall reconsider the amount determined to be due, and if such person has so requested in his petition, shall grant such person an oral hearing and shall give such person 10 days' notice of the time and place thereof. The board shall have power to continue the hearing from time to time as may be necessary.

Increase or decrease

The board may decrease or increase the amount of the determination. The amount of the determination may be increased, however, only if claim for such increase is asserted by the board at or before the hearing.

When order final

The order or decision of the board upon a petition for redetermination shall become final 30 days after service upon such person of notice thereof.

Penalty

All amounts determined to be due by the board under the provisions of Section 9 or 10 hereof shall become due and payable at the time they become final and if not paid when due and payable there shall be added thereto a penalty of 10 per cent of the amount determined to be due.

Service of notice

Any notice required by this section shall be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 9 hereof.

Stats 1935, p. 1304

SEC. 21. Section 14 of the Use Tax Act of 1935 is hereby amended to read as follows:

Deposit of security

Sec. 14. The board, whenever it deems it necessary to insure compliance with the provisions of this act, may require any person subject thereto to deposit with it such security as the board may determine. The amount of the security shall be fixed by the board but shall not be greater than twice the person's estimated average liability for the period for which he files returns, determined in such manner as the board deems proper, or ten thousand dollars ($10,000), whichever amount is the lesser. The amount of the security may be increased or

decreased by the board subject to the limitations herein provided. The security may be sold by the board at public auction if it becomes necessary so to do in order to recover any tax, or any amount herein required to be collected, interest or penalty due. Notice of such sale may be served upon the person who deposited such security personally or by mail; if by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the person at his address as the same appears in the records of the board. Upon any such sale, the surplus, if any, above the amounts due under this act shall be returned to the person who deposited the security.

SEC. 22. Section 15 of the Use Tax Act of 1935 is hereby amended to read as follows: Stats 1935, p 1301

Sec. 15. Except in the case of fraud, intent to evade the act or authorized rules and regulations, failure to make a return, or claim for additional amount pursuant to Section 12 hereof, every notice of a determination of an additional amount due shall be mailed within three years after the fifteenth day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. Additional determination notice

SEC. 23. Section 17 of the Use Tax Act of 1935 is hereby amended to read as follows: Stats 1941, p 86

Sec. 17. If the board determines that any amount, penalty or interest has been paid more than once, or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due, and the person from whom it was collected, or by whom paid to the board, and if approved by the State Board of Control the excess amount collected or paid shall be credited on any amounts then due from such person under this act or the California Retail Sales Tax Act of 1933, and the balance shall be refunded to such person, or his successors, administrators, or executors. No refund shall be allowed unless a claim therefor is filed with the State Board of Equalization within three years from the fifteenth day after the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under the provisions of Sections 9 and 10 hereof within six months after such determinations become final, or within 60 days from the date of overpayment whichever period expires the later. No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the board within such period. No such credit or refund shall be allowed on the ground that the storage, use or other consumption of Refunds and credits Stats 1933, p 2599 Claim

the property is exempted under the provisions of subdivision (a) of Section 4 of this act unless in addition to the overpayment for which the claim is filed the claimant has also reimbursed his vendor for the amount of tax imposed upon his vendor under the Retail Sales Tax Act of 1933 with respect to the sale of such property and the vendor has paid such amount to the State. Every claim for refund or credit must be in writing and must state the specific grounds upon which the claim is founded.

Any overpayment made by a purchaser to a retailer required to collect the tax, and who gives the purchaser a receipt therefor pursuant to Section 3 of this act, shall be credited or refunded to the purchaser.

Waiver

Failure to file such claim within the time prescribed in this section shall constitute waiver of any and all demands against this State on account of overpayment hereunder. Within 30 days after disallowing any such claim in whole or in part the board shall serve notice of such action on the claimant, such service to be made as provided by Section 9 hereof.

Notice

Interest

Interest shall be computed, allowed and paid upon any overpayment of any amount of tax, at the rate of one-half of 1 per centum per month as follows:

(1) From the fifteenth day of the calendar month following the quarterly period for which the overpayment was made but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

(2) In the case of a refund, to the fifteenth day of the calendar month following the date upon which the claimant is notified by the board that a claim might be filed or that the claim has been certified to the State Board of Control, whichever date is the earlier.

(3) In the case of a credit, to the same date that interest is computed on the tax or amount against which the credit is applied.

Recovery of erroneous refunds or credits

Any refund or any portion thereof which is erroneously made and any credit or any portion thereof which is erroneously allowed, may be recovered in an action brought by the Controller of the State in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California and such action shall be tried in the County of Sacramento unless the court with the consent of the Attorney General, orders a change of place of trial. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

Cancellation

In the event that any amount has been illegally determined, the board shall certify such fact to the State Board of Control and said board shall authorize the cancellation of such amount upon the records of the board.

If the board determines that any overpayment has been intentionally made or made by reason of carelessness, it shall not allow any interest thereon.

SEC. 24. Section 20 of the Use Tax Act of 1935 is hereby amended to read as follows: Stats 1939, p 2162

Sec. 20. In any case in which any amount required to be paid to the State in accordance with the provisions of this act is not paid when due the board may within three years after the amount is due file in the office of the county clerk of Sacramento County, or any other county, a certificate specifying the amount required to be paid, interest and penalty due, the name and address as it appears on the records of the board of the retailer or other person liable for the same, that the board has complied with all the provisions of this act in relation to the determination of the amount herein required to be paid and a request that judgment be entered against the retailer or other person in the amount herein required to be paid, together with interest and penalty as set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of the State of California against the retailer or other person in the amount herein required to be paid, together with interest and penalty as set forth in this certificate. The judgment may be filed by the county clerk in a loose-leaf book entitled, "Special Judgments for State Retail Sales or Use Tax." Judgments

An abstract of such judgment or a copy thereof may be filed for record with the county recorder of any county and from the time of such filing, the amount herein required to be paid, together with interest and penalty therein set forth shall constitute a lien upon all the real property of the retailer or other person liable for the tax, interest or penalty in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien and shall continue for five years from the date of the judgment so entered by the county clerk unless sooner released or otherwise discharged. The lien may within five years from the date of the judgment, or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record in the office of the county recorder of any county an abstract or copy of the judgment and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged. Execution shall issue upon such a judgment upon request of the board in the same manner as execution may issue upon other judgments and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the board shall be authorized to act on behalf of the people of the State of California. Abstract of judgment Lien

Certificate recordation

In any case in which any amount required to be paid to the State in accordance with the provisions of this act is not paid when due, the board may within three years after the amount is due file for record in the office of any county recorder a certificate specifying the amount required to be paid, interest and penalty due, the name and address as it appears on the records of the board of the retailer or other person liable for the same and that the board has complied with all provisions of this act in relation to the determination of the amount herein required to be paid. From the time of such filing the amount so required to be paid with interest and penalty therein set forth shall constitute a lien upon all real property of the retailer or other person liable for the tax, interest or penalty in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien and shall continue for five years from the time of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within five years from the date of the filing of the certificate or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged.

Lien

Warrant

At any time within three years after any amount required to be paid to the State in accordance with the provisions of this act is due, or within five years after the filing of the certificate referred to in the third paragraph of this section a warrant may be issued by the board or its duly authorized representative for the collection thereof and for the enforcement of any lien, directed to any sheriff, marshal or constable, and shall have the same effect as a writ of execution. It may and shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and sale pursuant to a writ of execution. The sheriff, marshal or constable shall receive upon the completion of his services pursuant to a warrant and the board is authorized to pay to him the same fees and commissions and expenses in connection with services pursuant to said warrant as are provided by law for similar services pursuant to a writ of execution; provided, that fees for publication in a newspaper shall be subject to approval by the board rather than by the court; said fees, commissions and expenses shall be the obligation of the person required to pay any amount hereunder and may be collected from such person by virtue of the warrant or in any other manner provided in this act for the collection of a tax.

Final return on selling or quitting business

If any retailer liable for an amount of tax herein required to be collected shall sell out his business or stock of goods or

shall quit the business, he shall make a final return and payment within 15 days after the date of selling or quitting business. His successor, successors or assigns, if any, shall withhold sufficient of the purchase price to cover the amount of such taxes herein required to be collected, and interest or penalties accrued or due and unpaid until such time as the former owner shall produce a receipt from the board showing that they have been paid, or a certificate stating that no amount is due. If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the board shall either issue the certificate or mail a notice to the purchaser at his address as it appears on the records of the board of the amount that must be paid as a condition of issuing the certificate. Failure of the board to mail the notice will release the purchaser from any further obligation to withhold the purchase price as above provided.

Notice of delinquency

In the event that any person is delinquent in the payment of the amount herein required to be paid by him, or in the event a determination has been made against him which remains unpaid the board may not later than three years after the payment becomes delinquent give notice thereof by registered mail to all persons having in their possession, or under their control, any credits or other personal property belonging to such person, or owing any debts to such person at the time of the receipt by them of such notice and thereafter any person so notified shall neither transfer nor make any other disposition of such credits, other personal property, or debts until the board shall have consented to a transfer or disposition, or until 20 days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five days after receipt of such notice advise the board of any and all such credits, other personal property or debts, in their possession, under their control or owing by them, as the case may be.

Procedure for collection of delinquent taxes

At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, the board may proceed forthwith to collect such amount in the following manner: The board shall seize any property, real or personal, of such person not exempt from execution under the provisions of the Code of Civil Procedure, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the amount due, together with any interest or penalties imposed for delinquency, and any costs incurred on account of such seizure and sale.

Notice of sale

Notice of such intended sale and the time and place thereof, shall be given to such delinquent person in writing at least 10 days before the date set for such sale by inclosing such notice in an envelope addressed to such person at his last

known address or place of business, if any, and depositing the same in the United States mail, postage prepaid, and by publication for at least 10 days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county 10 days prior to the date set for such sale.

Contents of notice

The said notice shall contain a description of the property to be sold, together with a statement of the amount due, including interest, penalties and costs, if any, the name of the person from whom due, and the further statement that unless the amount due, interest and penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Sale of property

At any such sale, the property shall be sold by the board in accordance with law and said notice, and the board shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest the interest or title of the retailer or other person liable for the tax in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of the retailer or other person liable for the tax.

Disposition of excess proceeds

If upon any such sale, the moneys so received shall exceed the total of all amounts including interest, penalties and costs due the State, any such excess shall be returned to the retailer, or other person liable for the tax, and his receipt therefor obtained; provided, however, that if any person having an interest or lien upon the property, has filed with the board prior to any such sale notice of such interest or lien the board shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If, for any reason, the receipt of such retailer or other person liable for the tax shall not be available, the board shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such retailer or other person liable for the tax, his heirs, successors or assigns.

Remedies cumulative

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the board or Attorney General shall be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Stats 1939, p 2167

SEC. 25. Section 22 of the Use Tax Act of 1935 is hereby amended to read as follows:

Unlawful to divulge information

Sec. 22. It shall be unlawful for the board, or any person having an administrative duty under this act to divulge or to make known in any manner whatever, the business affairs,

operations, or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof of any book containing any abstract or particulars thereof to be seen or examined by any person; provided, however, that the Governor may, Exception
by general or special order, authorize examination of such returns by other State officers, by tax officers of another State, or the Federal Government, if a reciprocal arrangement exists, and any other persons the Governor may so authorize. Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

Any violation of the provisions of this section shall be a Penalty
misdemeanor and be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment not exceeding one year, or both, at the discretion of the court.

SEC. 25.5. Nothing contained in this act shall be construed as repealing Section 3 of an act entitled "An act to add Section 2.5 to the Retail Sales Tax Act of 1933 and Section 2.5 to the Use Tax Act of 1935, relating to the definition of 'sale' and 'purchase' respectively, including but not limited to declaring the legislative intent as to the construction of said acts with respect to transactions involving the sales of newspapers and providing when this act shall become effective," in effect June 2, 1940, nor shall anything contained herein be construed as in any way affecting the legislative intent as declared in said act of 1940 with respect to the construction of the Retail Sales Tax Act of 1933 and the Use Tax Act of 1935 as said acts read prior to the amendment thereof by this act. Declaration of intent

SEC. 26. Section 6006 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 532

6006. "Sale" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, or any withdrawal, except a withdrawal pursuant to a transaction in foreign or interstate commerce, of tangible personal property from the place where it is located for delivery to a point in this State for the purpose of the transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of the property for a consideration. "Sale"

"Transfer of possession," "lease," or "rental" includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

"Sale" includes:

(a) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(b) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(c) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(d) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(e) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

Stats 1941, p 533

SEC. 27. Section 6010 of the Revenue and Taxation Code is hereby amended to read as follows:

"Purchase"

6010. "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price is a purchase. A transfer for a consideration of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication, is also a purchase.

New section

SEC. 28. A new section is hereby added to the Revenue and Taxation Code, to be numbered 6362 and to read as follows:

Exemption of publishing matter

6362. There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this State of, tangible personal property which becomes an ingredient or component part of any publication regularly issued at average intervals not exceeding one month and any such publication.

Stats 1941, p 542

SEC. 29. Section 6402 of the Revenue and Taxation Code is hereby repealed.

Stats 1941, p 543

SEC. 30. Section 6455 of the Revenue and Taxation Code is hereby amended to read as follows:

Returns other than quarterly

6455. The board, if it deems it necessary in order to insure payment to or facilitate the collection by the State of the amount of taxes, may require returns and payment of the

amount of taxes for quarterly periods other than calendar quarters depending upon the principal place of business of the seller, retailer or purchaser as the case may be, or for other than quarterly periods.

SEC. 31. Section 6481 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 544

6481. If the board is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the State by any person, it may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one or for more than one period. Deficiency determinations

SEC. 32. Section 6487 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 545

6487. Except in the case of fraud, intent to evade this part or authorized rules and regulations, failure to make a return, or claim for additional amount pursuant to Section 6563, every notice of a deficiency determination shall be mailed within three years after the fifteenth day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. Time for mailing notice

The limitation specified in this section does not apply in case of a sales tax proposed to be determined with respect to sales of property for the storage, use, or other consumption of which notice of a deficiency determination has been or is given pursuant to Sections 6486, 6515 and 6537 and to the first paragraph of this section.

SEC. 33. Section 6511 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 545

6511. If any person fails to make a return, the board shall make an estimate of the amount of the gross receipts of the person, or, as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person, the storage, use, or other consumption of which in this State is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come in its possession. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a penalty equal to 10 per cent thereof. One or more determinations may be made for one or for more than one period. Determinations on failure to make returns

Penalty

Stats 1941, p 546

SEC. 34. Section 6514 of the Revenue and Taxation Code is hereby amended to read as follows:

Additional penalty

6514. If the failure of any person to file a return is due to fraud or an intent to evade this part or rules and regulations, a penalty of 25 per cent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 10 per cent penalty provided in Section 6511.

Stats 1941, p. 547

SEC. 35. Section 6561 of the Revenue and Taxation Code is hereby amended to read as follows:

Petition for redetermination

6561. Any person against whom a determination is made under Articles 2 or 3 of this chapter or any person directly interested may petition for a redetermination within 30 days after service upon the person of notice thereof. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.

Stats 1941, p 548

SEC. 36. Section 6701 of the Revenue and Taxation Code is hereby amended to read as follows:

Deposit of security

6701. The board, whenever it deems it necessary to insure compliance with this part, may require any person subject thereto to deposit with it such security as the board may determine. The amount of the security shall be fixed by the board but shall not be greater than twice the person's estimated average liability for the period for which he files returns, determined in such manner as the board deems proper, or ten thousand dollars ($10,000), whichever amount is the lesser. The amount of the security may be increased or decreased by the board subject to the limitations herein provided. The board

Sale

may sell the security at public auction if it becomes necessary so to do in order to recover any tax or any amount required to be collected, interest, or penalty due. Notice of the sale may be served upon the person who deposited the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his address as it appears in the records of the board. Upon any sale any surplus above the amounts due shall be returned to the person who deposited the security.

Stats 1941, p 548

SEC. 37. Section 6702 of the Revenue and Taxation Code is hereby amended to read as follows:

Withhold notices

6702. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than three years after the payment became delinquent give notice of the amount of the delinquency by registered mail to all persons having in their possession or

under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 20 days elapse after the receipt of the notice. All persons so notified shall within five days after receipt of the notice advise the board of all such credits, other personal property, or debts in their possession, under their control, or owing by them.

SEC. 38. Section 6738 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 549

6738. An abstract of the judgment or a copy may be recorded with the county recorder of any county. From the time of the recording, the amount required to be paid together with interest and penalty set forth constitutes a lien upon all the real property in the county owned by the person liable or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien and shall continue for five years from the date of the judgment so entered by the county clerk unless sooner released or otherwise discharged. The lien may within five years from the date of the judgment or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record in the office of the county recorder of any county an abstract or copy of the judgment and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged. Recordation Lien

SEC. 39. Section 6757 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 550

6757. If any amount required to be paid to the State under this part is not paid when due, the board may within three years after the amount is due file in the office of any county recorder a certificate specifying the amount, interest, and penalty due, the name and address as it appears on the records of the board of the person liable for the same, and the fact that the board has complied with all provisions of this part in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned by the person or afterwards and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien and shall continue for five years from the time of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within five years from the date of Recordation of certificate of delinquency

the filing of the certificate or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged.

Stats 941, p 551

SEC. 40. Section 6776 of the Revenue and Taxation Code is hereby amended to read as follows:

Warrant

6776. The board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the State under this part. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

Stats 1941, p 551

SEC. 41. Section 6777 of the Revenue and Taxation Code is hereby amended to read as follows:

Expenses of levying warrant

6777. The board shall pay the sheriff, marshal or constable, upon the completion of his services pursuant to a warrant, the same fees, commissions, and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

Stats 1941, p 552

SEC. 42. Section 6811 of the Revenue and Taxation Code is hereby amended to read as follows:

Withholding purchase money

6811. If any retailer liable for any sales tax, any amount of use tax required to be collected by him, interest, or penalties sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover the amount of the taxes, interest, and penalties accrued or due and unpaid until the former owner produces a receipt from the board showing that they have been paid or a certificate stating that no amount is due.

Stats 1941, p 552

SEC. 43. Section 6812 of the Revenue and Taxation Code is hereby amended to read as follows:

Liability of purchaser

6812. If the purchaser of a business or stock of goods fails to withhold purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the board shall either issue the certificate or mail notice to the purchaser at his

address as it appears on the records of the board of the amount that must be paid as a condition of issuing the certificate. Failure of the board to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided.

SEC. 44. Section 6901 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 553

6901. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited on any amounts then due from the person under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors. Credit or refund of overpayments

Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to Article 1, Chapter 3, of this part shall be credited or refunded by the State to the purchaser. Use tax

SEC. 45. Section 6902 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 553

6902. No refund shall be allowed unless a claim therefor is filed with the board within three years from the fifteenth day after the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under Articles 2 or 3 of Chapter 5 of this part, within six months after the determinations become final, or within 60 days from the date of overpayment, whichever period expires the later. No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the board within such period. Time for filing claim

SEC. 46. Section 7056 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p. 557

7056. It is unlawful for the board or any person having an administrative duty under this part to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return Unlawful to divulge information

or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person. However, the Governor may, by general or special order, authorize examination of the returns by other State officers, by tax officers of another State, by the Federal Government, if a reciprocal arrangement exists, or by any other person. Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

Exception

Constitutionality

SEC. 47. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portion of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy

Effect

Stats 1941, p 531

SEC. 48. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately; provided, however, that the provisions of the Retail Sales Tax Act of 1933 and of the Use Tax Act of 1935, as they existed on January 1, 1941, are hereby continued in force until July 1, 1941, that the provisions amending such acts shall become operative on July 1, 1941, and the provisions of this act amending the Revenue and Taxation Code shall become operative at the same time as Part 1 of Division 2 of the Revenue and Taxation Code passed by the Legislature at its Fifty-fourth Session, at which time sections of the Retail Sales Tax Act of 1933 and of the Use Tax Act of 1935 amended or added by this act are hereby repealed; and further provided, that nothing herein contained shall affect any liability for sales or use taxes arising out of sales or storage, use or other consumption of tangible personal property occurring prior to July 1, 1941.

CHAPTER 248

Stats 1935, p 1123, amended

An act to amend Section 17 of the Alcoholic Beverage Control Act, relating to sale of intoxicating liquors, and to provide that this act shall go into effect immediately.

In effect immediately

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

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

Stats 1937, p 2140

Premises near work of public or quasi public character

SECTION 1. Section 17 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Sec. 17. No license, other than an on-sale beer license, shall be issued to any applicant for any premises situated

more than one mile outside the limits of an incorporated city or town and within four miles of any camp or establishment of men numbering 25 or more, engaged upon or in connection with the construction, repair or operation of any work, improvement or utility of a public or quasi public character; provided, however, that nothing in this section shall be deemed to apply to the renewal of any licenses for any premises which have been established and licensed under this act at least six months prior to the establishment of such camp or establishment of men, and further that any such last mentioned licenses whether held by the original licensee to whom first issued or a subsequent holder thereof shall be subject to transfer as to person and premises, or either, in the same manner as any other license of the same type and character issued by the board.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into effect immediately. The facts constituting the necessity are as follows: Urgency

In several of the seasonal resort areas of the State which are located more than one mile outside the limit of incorporated cities or towns public works camps have become established. In such areas regularly going resort businesses of many years standing have been duly licensed for the sale of distilled spirits and wine for more than six months prior to the establishment of such public works camps. Nevertheless, under the present law when the owner of such a resort business dies or sells his business, or when a partner in a partnership operating such a business dies or drops out of the partnership, there can be no transfer of the licenses held by such owner or partnership. The law does not now permit new licenses, except on-sale beer licenses, to be issued in such areas after the camps are established. However, since the licenses for such businesses can not be transferred and are being rapidly eliminated by the death of present owners or by a partner's death or his going out of business there is an increasing tendency for unlicensed persons to carry on the business of making unlawful sales of alcoholic beverages. There is thereby created a police problem which is extremely detrimental to the public peace, health and safety.

CHAPTER 249

Stats 1935, p. 248, amended

An act to amend Section 2825 of the Streets and Highways Code, relating to special assessments and public improvements, including the preparation of reports on proposed improvements.

In effect September 13, 1941

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

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

Stats 1941, p. 754

SECTION 1. Section 2825 of the Streets and Highways Code is hereby amended to read as follows:

Contents of report

2825. The report upon the proposed improvement or acquisition shall contain the following information:

(a) A map, plat or diagram showing the general nature, location and extent of the proposed improvement or acquisition and the lands to be assessed to pay any part of the cost thereof.

(b) The total estimated cost of the proposed improvement, stating separately the estimated cost of each class of construction proposed such as grading, paving, curbing, and the like, and including the incidental expenses of the proceedings, the total amount of which shall also be separately stated.

(c) The total estimated cost, including the incidental expenses of the proceedings, the total amount of which shall also be separately stated, of the proposed acquisition.

If the acquisition of property for more than one purpose is involved, and any such purpose will require the acquisition of property or rights in property for which compensation must be made, which property or rights would not be required if such purpose were omitted, the estimated cost of the property or rights acquired for such purpose shall be separately stated.

(d) The assessed value of each parcel of land to be specially assessed as shown on the last equalized assessment roll and the total assessed value of the lands.

If the assessed value of any such parcel of land is not separately shown upon the assessment roll, an estimated assessed value of such parcel shall be made by the county or city assessor, as the case may be, and such estimate shall for the purposes of this division be considered the assessed value of such parcel.

(e) The total assessed value of the improvements on all parcels, but not upon each parcel, of the lands to be assessed, as shown by the assessment roll.

(f) The total true value of the lands to be assessed calculated in accordance with the provisions of Part 8.

(g) The true value of each parcel of the lands to be assessed calculated in accordance with the provisions of Part 8.

(h) The amount, as near as may be determined, of the total principal sum of all unpaid special assessments and special assessments required or proposed to be levied under any completed or pending assessment proceedings, other than that contemplated in the instant proceedings, whether direct or ad valorem, upon each parcel of the lands proposed to be assessed, which, if the proceedings therefor were begun after this division became effective, would require an investigation and report under this division.

(i) The estimated amount of the assessment for the proposed acquisition or improvement to be levied upon each parcel of land to be assessed.

If the assessment is to be made in proportion to the assessed value of lands for the purpose of general taxation, then the total estimated cost of the acquisition or improvement less the amount, if any, proposed to be paid toward the cost of such improvement or acquisition from any source other than special assessment upon benefited property and the assessed value of the lands to be assessed as shown on said last equalized assessment roll shall be the basis for the computation of the assessment of each parcel. If the district is to be divided into zones, such proposed zones and the percentage to be assessed against each such zone shall be shown on the district map and such estimated assessment shall also be proportioned, as nearly as may be, according to such zones and percentages.

(j) The number of years within which the bonds, if any, to be issued shall mature, and the number of installments of the principal of such bonds, and the interest rate or maximum interest rate at which such bonds shall be issued if no definite interest rate is to be fixed until such bonds are sold.

CHAPTER 250

An act to add Part 3, consisting of Chapters 1 and 2 consisting of Sections 8300 to 8308 and 8320 to 8324, to Division 9 of the Streets and Highways Code, relating to the vacation of city streets.

Stats 1935, p. 248, amended

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Part 3, consisting of Chapters 1 and 2 consisting of Sections 8300 to 8308 and 8320 to 8324, is hereby added to Division 9 of the Streets and Highways Code, to read as follows:

New part

PART 3. VACATION OF CITY STREETS

CHAPTER 1. GENERAL PROVISIONS

8300. This part may be cited as the Street Vacation Act of 1941.

"Street Vacation Act of 1941"

Construction 8301. This part shall be liberally construed in order to effectuate its purposes.

"Council" 8302. "City council" and "council" include any body which by law is the legislative department of the government of the city.

"Clerk" 8303. "Clerk" and "city clerk" include any person or officer who is clerk of the city council.

"Street" 8304. "Street" includes public street, lane, alley, court, or other place.

"Ordinance" 8305. "Ordinance" includes resolution.

"Vacation" 8306. "Vacation" includes the abandonment of public street easements and the closing of streets to public use.

Proof of publication of notice 8307. Proof of publication of any notice required by this part shall be made by affidavit, as provided in the Code of Civil Procedure, and proof of the posting of any such notice shall be made by the affidavit of the person posting the notice, setting forth the facts regarding such posting.

Any officer who is required by this part to have any notice published or posted shall obtain and file in his office the affidavits in proof thereof but his failure so to do shall not affect the validity of any proceedings under this part. Any such affidavit so filed shall be prima facie evidence of the facts therein stated regarding such publication or posting.

Alternative proceedings 8308. This part provides an alternative system of proceedings for vacating streets in cities; and the provisions of this part shall not apply to or affect any other provisions of this code.

When any proceedings are commenced under this part, the provisions of this part, and no other provisions of this code, shall apply to such proceedings.

The authority conferred upon city councils by this part shall be exercised only in relation to streets within their respective cities. No State highway may be vacated under the provisions of this part without the approval of the California Highway Commission.

CHAPTER 2. POWERS AND DUTIES OF CITY COUNCILS

Vacation by city council 8320. The city council of any city may vacate any street or part of any street therein, in the manner provided in this part.

Election of procedure 8321. The election of the city council to proceed under the provisions of this part shall be expressed in its ordinance of intention to order any vacation.

Ordinance of intention

8322. Before the vacation of any street or part thereof is ordered, the city council shall pass an ordinance declaring its intention to do so, referring to the street or part thereof by its lawful or official name or the name by which it is commonly known and referring to a map or plan on file in the office of the city clerk for particulars as to the proposed vacation. The ordinance of intention shall fix a time and place for hearing all persons interested in or objecting to the proposed vacation, which time shall be not less than 15 days from the date of the passage of the ordinance, and shall be published or posted in the manner prescribed by law for the publishing or posting of ordinances of the city. Notices of street vacation shall be posted conspicuously along the line of the street proposed to be vacated. Such notices shall be posted not less than 500 feet apart, but at least three shall be posted. Such notices shall state the passage of the ordinance of intention and the time and place of the hearing.

One or more streets, or parts thereof, whether contiguous or not may be included and vacated under the same ordinance of intention.

Hearing

8323. The city council shall, on the day fixed for the hearing, or on the day to which the hearing is postponed or continued, hear the evidence offered by any person interested. If the city council finds, from all the evidence submitted, that any street or part thereof, described in the ordinance of intention, is unnecessary for present or prospective public street purposes, the city council may make its order vacating such street or part thereof.

Effect of order

8324. Upon the making of such order of vacation the public easement in the street or part thereof vacated ceases and the title to the land previously subject thereto reverts to the respective owners thereof free from the public easement for street purposes.

Recordation of order

The clerk shall cause a certified copy of such order attested by the clerk under the seal of the city to be recorded in the office of the county recorder of the county within which the city is located.

CHAPTER 251

Stats 1935, p 248, amended

An act to amend Sections 6621, 6622 and 6623 of the Streets and Highways Code, relating to the foreclosure and cancellation of street improvement bonds.

In effect September 13, 1941

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

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

Stats 941, p 910

SECTION 1. Section 6621 of the Streets and Highways Code is hereby amended to read as follows:

Delivery of bond to city treasurer

6621. Whenever a bond is foreclosed pursuant to this chapter, the decree of foreclosure shall direct the county clerk to deliver the bond sued upon to the treasurer of the city which issued said bond together with a memorandum setting forth the title and number of the action and the fact that the bond has been foreclosed.

Stats 1941, p 910

SEC. 2. Section 6622 of the Streets and Highways Code is hereby amended to read as follows:

Cancellation

6622. The treasurer shall cancel the bond upon his records and deliver to the county clerk a receipt substantially in the following form:

"Certificate of Cancellation of Street Improvement Bond Series (designating it), in the City (or County) of (naming it).

$_____/100 No._____

I. _____, Treasurer of the City (or County) of_____ do hereby certify that I have received the above bond from the county clerk of_____(naming county) in that certain foreclosure action entitled_____vs._____No._____, Superior Court of_____County; and I have this day canceled said bond on my records, pursuant to the order of the court made in said case.

Dated at_____, this_____day of_____, 19___.

_____
Treasurer of the City (or County) of_____

By_____
Deputy"

Stats 1941, p 910

SEC. 3. Section 6623 of the Streets and Highways Code is hereby amended to read as follows:

Entry of judgment

6623. The county clerk shall enter the judgment or decree of foreclosure in the action upon the delivery of the certificate of cancellation to him.

CHAPTER 252

An act to amend an act entitled "Los Angeles County Flood Control Act," approved June 12, 1915, as amended, by adding thereto a new section designated Section 14½, relating to claims against the Los Angeles County Flood Control District.

Stats. 1915, p. 1502, amended

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

In effect September 13, 1941

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

SECTION 1. There is hereby added to said act cited in the title hereof, a new section numbered 14½, to read as follows:

New section

Sec. 14½. Claims against the district shall be prepared, presented, audited and allowed or disallowed in the same manner and within the periods of time specified in the Political Code of the State of California for the preparing, presenting, auditing and allowance or disallowance of claims against counties.

Claims

CHAPTER 253

An act to amend Sections 633 and 641 of the Welfare and Institutions Code, relating to term of office, compensation, powers and duties of probation officers.

Stats. 1937, p. 1005, amended

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 633 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats. 1937, p. 1025

633. The term of office of the probation officers and assistant probation officers shall be two years from the date of their appointments. All probation officers and assistant probation officers receiving a salary in excess of one hundred dollars ($100) per month shall devote their entire time and attention to the duties of their offices, and no such probation officer or assistant probation officer, while holding such office and receiving a salary therefor, shall be a candidate for or seek the nomination for any other public office or employment; provided, however, that such probation officer, if so directed by the probation committee, may administer, subject to the supervision and direction of the probation committee, without extra compensation therefor, the management and control of the internal affairs of the detention home.

Term, compensation, etc

Stats 1937, p 1027

SEC. 2. Section 641 of the Welfare and Institutions Code is hereby amended to read as follows:

Powers and duties

641. The probation officer shall have the power, which shall not be exercised except at the direction of the probation committee, whereupon it shall become his duty, to administer, subject to the supervision and direction of the probation committee, the management and control of the internal affairs of the detention home.

The probation officer shall have the powers of a school attendance officer in those portions of the county not otherwise provided with a school attendance officer, and shall exercise such powers when not inconsistent with his other duties.

CHAPTER 254

An act to amend Section 1871 of the Code of Civil Procedure, relating to expert witnesses.

In effect September 13, 1941

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

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

Stats 1925, p 305

SECTION 1. Section 1871 of the Code of Civil Procedure is hereby amended to read as follows:

Appointment of experts by court

1871. Whenever it shall be made to appear to any court or judge thereof, either before or during the trial of any action or proceeding, civil, criminal, or juvenile court, pending before such court, that expert evidence is, or will be required by the court or any party to such action or proceeding, such court or judge may, on motion of any party, or on motion of such court or judge, appoint one or more experts to investigate and testify at the trial of such action or proceeding relative to the matter or matters as to which such expert evidence is, or will be required, and such court or judge may fix the compensation of such expert or experts for such services, if any, as such expert or experts may have rendered, in addition to his or their services as a witness or witnesses, at such amount or amounts as to the court or judge may seem reasonable.

Compensation

In all criminal and juvenile court actions and proceedings such compensation so fixed shall be a charge against the county in which such action or proceeding is pending and shall be paid out of the treasury of such county on order of the court or judge. In all civil actions and proceedings such compensation shall, in the first instance, be apportioned and charged to the several parties in such proportion as the court or judge may determine and may thereafter be taxed and allowed in like manner as other costs.

Nothing contained in this section shall be deemed or construed so as to prevent any party to any action or proceeding

from producing other expert evidence as to such matter or matters, but where other expert witnesses are called by a party to an action or proceeding they shall be entitled to the ordinary witness fees only and such witness fees shall be taxed and allowed in like manner as other witness fees.

Examination

Any expert so appointed by the court may be called and examined as a witness by any party to such action or proceeding or by the court itself; but, when called, shall be subject to examination and objection as to his competency and qualifications as an expert witness and as to his bias. Such expert though called and examined by the court, may be cross-examined by the several parties to an action or proceeding in such order as the court may direct. When such witness is called and examined by the court, the several parties shall have the same right to object to the questions asked and the evidence adduced as though such witness were called and examined by an adverse party.

The court or judge may at any time before the trial or during the trial, limit the number of expert witnesses to be called by any party.

CHAPTER 255

An act to amend Sections 5510, 5513, 5514, 5515, 5518, 5519, 5520, 5521, 5522, 5523, 5524, 5525, 5540, 5550, 5551, 5552, 5553, 5556, 5570, 5571, 5573, 5574, 5575, 5577, 5600, 5601 and 5602, to repeal Sections 5511, 5512 and 5603 of, and to add Section 5603 to, the Business and Professions Code, relating to the practice of architecture.

Stats 1937, p 1229, amended

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5510 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 340

5510. There is in the Department of Professional and Vocational Standards a California State Board of Architectural Examiners which consists of five members appointed by the Governor.

State Board of Architectural Examiners

SEC. 1.5. Section 5513 of the said code is hereby amended to read as follows:

Stats 1939, p 341

5513. Northern California consists of all that portion of the State north of the northerly lines of the Counties of San Luis Obispo, Kern and San Bernardino and Southern California consists of all that portion of the State south of the northerly lines of these three counties.

Districts

Stats 1939, p 341

SEC. 2. Section 5514 of said code is hereby amended to read as follows:

Membership

5514. The membership of the State board shall be composed of two persons selected from the membership of the Northern California chapter or chapters of the American Institute of Architects or other similar association of architects, and two persons selected from the membership of the Southern California chapter or chapters of the American Institute of Architects or other similar association of architects, and one person to be selected from any California chapter of the American Institute of Architects or other similar association of architects.

All appointees shall be members in good standing of their respective organizations.

Stats 1939, p 341

SEC. 3. Section 5515 of said code is hereby amended to read as follows:

Terms

5515. The terms of the members of the State board in office when the amendment to this section takes effect shall expire as follows: Two members, January 15, 1942; four members, January 15, 1943; three members, January 15, 1944; one member, January 15, 1945.

Appointments to fill the vacancies arising by reason of the expiration of term of office shall be filled as follows: For vacancies occurring January 15, 1942, one person shall be appointed; for vacancies occurring January 15, 1943, two persons shall be appointed; for vacancies occurring January 15, 1944, one person shall be appointed; and for vacancies occurring January 15, 1945, one person shall be appointed. Thereafter there shall be as many appointments as there are vacancies. Every person appointed after January 15, 1942, shall serve for four years and until the appointment and qualification of his successor.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

Stats 1939, p 341

SEC. 4. Section 5518 of said code is hereby amended to read as follows:

Officers

5518. The State board shall elect from its number a president and a vice president.

Stats 1939, p 341

SEC. 5. Section 5519 of said code is hereby amended to read as follows:

Secretary

5519. The State board shall also elect a secretary. The secretary shall hold office for two years, or until his successor is duly elected and has qualified.

SEC. 6. Section 5520 of said code is hereby amended to read as follows: Stats 1939, p 341

5520. The State board shall adopt a seal for its own use. The seal used shall have the words, "State Board of Architectural Examiners" inscribed thereon. Seal

The secretary shall have the care and custody of the seal.

SEC. 7. Section 5521 of said code is hereby amended to read as follows: Stats 1939, p 342

5521. The secretary shall keep an accurate record of all proceedings of the State board which shall be open to inspection by the public at all times. Records

SEC. 8. Section 5522 of said code is hereby amended to read as follows: Stats 1939, p 342

5522. The State board shall meet at least once each calendar quarter for the purpose of transacting such business as may lawfully come before it. Meetings

The board may hold meetings at such other times and at such places as it may designate.

SEC. 9. Section 5523 of said code is hereby amended to read as follows: Stats 1939, p 342

5523. Special meetings of the board shall be called by the secretary upon the written request of two-fifths of its membership, by giving each member of the board 20 days' written notice, in advance, of the time and place of the meeting. Special meetings

SEC. 10. Section 5524 of said code is hereby amended to read as follows: Stats 1939, p 342

5524. Three-fifths of the membership constitutes a quorum of the board for the transaction of business. Quorum

SEC. 11. Section 5525 of said code is hereby amended to read as follows: Stats 1939, p 342

5525. The board may prosecute all persons guilty of violating the provisions of this chapter. The board may employ inspectors, special agents, investigators, and such clerical assistants as it may deem necessary to carry into effect the provisions of this chapter. It may also fix the compensation to be paid for such services and incur such additional expense as may be deemed necessary. Prosecution

Stats 1939, p. 343

SEC. 12. Section 5540 of said code is hereby amended to read as follows:

Reciprocity

5540. This chapter does not prevent a person, who is engaged in the practice of architecture outside this State, from preparing plans and specifications for a stipulated building or other structure within this State if he pays the fee provided by this chapter, presents satisfactory evidence to the board that he is competent to practice architecture and the board issues a temporary certificate to him for the stipulated structure.

Stats 1939, p 344

SEC. 13. Section 5550 of said code is hereby amended to read as follows:

Examinations

5550. Any person, subject to the rules and regulations governing examinations, shall be entitled to an examination for a certificate to practice architecture upon the payment of the application fee fixed by this chapter and the filing of his application with the secretary and taking an examination. The fee shall be retained by the board.

Stats 1939, p 344

SEC. 14. Section 5551 of said code is hereby amended to read as follows:

Provisional certificate

5551. If the applicant's examination is satisfactory, upon the payment of the fee for a provisional certificate fixed by this chapter, the secretary shall issue a provisional certificate to the applicant. The provisional certificate shall be signed by the president and the secretary, sealed with the seal of the board, directed to the board and shall show that the person named in it passed the examination satisfactorily and is entitled to a certificate to practice architecture in this State in accordance with provisions of this chapter.

Stats 1939, p 344

SEC. 15. Section 5552 of said code is hereby amended to read as follows:

Duration

5552. A holder of a provisional certificate may practice architecture until the next meeting of the State board.

Stats 1939, p 344

SEC. 16. Section 5553 of said code is hereby amended to read as follows:

Final certificate

5553. Upon the provisional certificate being filed with the State board, it shall, at its next meeting, issue a certificate to the applicant to practice architecture in this State, if no charges of dishonest practice, of deception resorted to in obtaining a certificate, of gross incompetency in the practice of architecture or of any other violation of the provisions of this chapter have been filed with the State board and have been substantiated. Proper index and record of each certificate shall be kept by the State board.

SEC. 16.5. Section 5556 of said code is hereby amended to read as follows: Stats 1939, p 344

5556. Every architect shall have his provisional and final certificate recorded in the office of the county recorder of the county in which he has his principal place of business and shall pay the recorder the same fee as is charged for recording deeds. The receipts for the recording shall be filed with the board. Recordation

SEC. 17. Section 5570 of said code is hereby amended to read as follows: Stats 1939, p 344

5570. A provisional certificate or a final certificate may be suspended for a period not exceeding one year or revoked for any of the causes provided in this article. Discipline

SEC. 18. Section 5571 of said code is hereby amended to read as follows: Stats 1939, p 345

5571. The revocation or suspension of any form of certificate shall be determined solely by the board after a full investigation of the charges with reasonable opportunity having been given the accused to be heard in his own defense by himself or by counsel. Jurisdiction

SEC. 19. Section 5573 of said code is hereby amended to read as follows: Stats 1939, p 345

5573. In all proceedings, the board may take and hear the evidence touching matters under investigation, administer oaths and affirmations, and upon the hearing of such matters may compel the attendance of witnesses and the production of books, papers and documents pertaining to the matters under investigation by subpena as in civil cases. Hearings

SEC. 20. Section 5574 of said code is hereby amended to read as follows: Stats 1939, p 345

5574. The subpenas shall be issued by the secretary of the board under the seal of the board and shall be served in accordance with the laws of this State relating to the service of civil subpenas generally. All provisions of the laws of this State relating to civil subpenas are applicable to civil subpenas issued under this chapter. Subpenas

No witness shall be compelled to attend a hearing outside of the county in which he resides, unless the distance is less than 50 miles from his place of residence to the place of hearing.

Stats 1939, p 345

SEC. 21. Section 5575 of said code is hereby amended to read as follows:

Disobedience of subpena

5575. In the event of the refusal of any person to obey a subpena, the secretary of the board may certify the fact of that refusal to the superior court of the county in which the service of the subpena was made and the court shall thereupon proceed to hear and determine the matter of the disobedience of the subpena in accordance with the laws of this State concerning a contempt for disobedience of the process of the court.

Stats 1939, p 345

SEC. 22. Section 5577 of said code is hereby amended to read as follows:

Vote necessary

5577. The vote of four-fifths of the membership of the board shall be required to suspend or revoke a certificate or provisional certificate.

Upon the suspension or revocation of either of such certificates, the secretary of the board shall give notice of its action to the county recorder of the county in which the certificate was recorded. The recorder shall mark "suspended" or "revoked" on the certificate of the architect recorded in his office.

After the expiration of one year, the person whose certificate has been revoked may file application with the board for a new certificate.

Stats 1939, p 346

SEC. 23. Section 5600 of said code is hereby amended to read as follows:

Annual fee

5600. Every architect shall pay an annual license fee to the department. The fee shall be due and payable on or before the thirty-first day of January of each year and shall become delinquent thereafter.

If the annual license fee is not paid before it becomes delinquent, a penalty of three dollars ($3) shall be added to the amount thereof. If the annual license fee is not paid, together with any penalties due thereon, on or before the thirtieth day of June in the year in which it becomes due, the architect's certificate shall be automatically suspended and can only be reinstated by filing a new application with the board.

The department shall issue a receipt to each architect promptly upon payment of the annual license fee. It shall be signed by the president and secretary and issued under the seal of the board.

Stats 1939, p 346

SEC. 24. Section 5601 of said code is hereby amended to read as follows:

Deposit

5601. Within 10 days after the beginning of every month, all fees collected by the department for the month preceding, under the provisions of this chapter, shall be paid into the

State Treasury to the credit of the California State Board of Architectural Examiners Fund.

SEC. 25. Section 5602 of said code is hereby amended to read as follows: Stats 1939, p 316

5602. The money paid into the California State Board of Architectural Examiners Fund, shall be used in the manner prescribed by law to defray the expenses of the board in carrying out and enforcing the provisions of this chapter. Appropriation

SEC. 26. Section 5603 is hereby added to said code, to read as follows: Stats 1939, p 346

5603. All the money in the California State Board of Architectural Examiners, Northern District Fund and all the money in the California State Board of Architectural Examiners, Southern District Fund are hereby transferred to the California State Board of Architectural Examiners Fund, hereby created, which fund shall be available for all expenses incurred under the provisions of this chapter. Transfer

SEC. 27. Sections 5511, 5512 and 5603 of said code are hereby repealed. Repeals

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CHAPTER 256

An act to amend Sections 12605, 12607 and 12614 of the Business and Professions Code, relating to containers and their contents. Stats 1937, p 1229, amended

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 12605 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 464

12605. No container wherein commodities are packed shall have a false bottom, false side walls, false lid or covering, or be otherwise so constructed or filled, wholly or partially, as to facilitate the perpetration of deception or fraud. False construction

Any sealer may seize any container which facilitates the perpetration of deception or fraud and the contents of such container. By order of the justice's, municipal or superior court of the township, city, or county within which a violation of this section occurs, the containers seized shall be condemned and destroyed or released upon such conditions as the court may impose to insure against their use in violation of this chapter. The contents of any condemned container shall be returned to the owner thereof if he furnishes proper facilities for such return. Seizure and condemnation

Stats 1939, p. 465

SEC. 2. Section 12607 of the Business and Professions Code is hereby amended to read as follows:

Net amount

12607. The designation of the quantity of the commodity shall be the net amount and shall be expressed in terms of weight, measure or numerical count so that the quantity of the contents so marked shall be the net amount of the commodity in the package or container. No trade-mark, brand number, number or numerals in combination or otherwise, shall be used on the side, top or ends of the container which will facilitate deception or misrepresentation.

Stats 1939, p. 465

SEC. 3. Section 12614 of the Business and Professions Code is hereby amended to read as follows:

Permissible discrepancies

12614. When a commodity in a container is sold and there is a discrepancy between the actual quantity of the commodities in the container and the net quantity of the contents thereof indicated on the container or between the fill of the commodity in the container and the capacity of the container there is no violation of this chapter:

(a) If such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or causes beyond the control of the seller acting in good faith.

(b) If the seller purchased the commodity in the container, in good faith, relying upon the indication of the net contents thereof, and sold the commodity in the container without altering the contents thereof or the indication of the contents thereof and the container had the name of a packer, manufacturer, wholesaler, or jobber thereon at the time the seller purchased it.

CHAPTER 257

Stats 1935, p. 248, amended

An act to add Section 22141 to the Streets and Highways Code, relating to assessments levied to defray the cost of the planting, maintenance and removal of trees.

In effect September 13, 1941

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

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

New section

SECTION 1. A new section, to be numbered 22141, is hereby added to the Streets and Highways Code, to read as follows:

Annual installment payment

22141. The city council shall have the power, in its discretion, to determine that the payment of such assessments may be made in annual installments, in any event not to exceed five, and that the payments of assessments so deferred shall bear interest on the unpaid balance at a rate to be determined by the city council, not to exceed 5 per cent per annum.

All such determinations shall be expressed in the resolution of intention.

In the event that it is determined that such assessments may be paid in installments, the notice required in Section 22136 of this code shall so state, and the unpaid assessments shall not be delinquent until the expiration of a period of 30 days from the date upon which such installment was due and payable.

CHAPTER 258

An act to add a section, to be known as Section 1.124, to the School Code, relating to absence of pupils from school for dental services.

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.] In effect September 13, 1941

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

SECTION 1. A new section, to be numbered Section 1.124, is hereby added to the School Code, to read as follows: New section

1.124. No absence of a pupil from school for the purpose of having dental service rendered shall be deemed absent in computing average daily attendance. Absence for dental service

CHAPTER 259

An act to add Section 172.5 to the Penal Code, relating to selling, giving away, or exposing for sale alcoholic beverages.

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 172.5 is hereby added to the Penal Code, to read as follows: New section

172.5. The provisions of Sections 172 and 172a of this code shall not apply to the sale, gift or exposing or offering for sale of alcoholic beverages by a licensee under the Alcoholic Beverage Control Act within the premises occupied by any bona fide club which is situated within one mile of the grounds belonging to the University of California at Berkeley, if the club meets all of the following requirements: Exception Stats 1935, p 1123

(a) The membership in the club shall be limited to male American citizens over the age of 21 years.

(b) The club shall have been organized and have existed in the City of Berkeley for not less than 35 years continuously.

(c) The club shall have a bona fide membership of not less than 500 members.

(d) The premises occupied by the club are owned by the club, or by a corporation, at least 75 per cent of whose capital stock is owned by the club, and have a value of not less than one hundred thousand dollars ($100,000).

CHAPTER 260

Stats 1939, p 1505, amended

An act to add Section 4.5 to an act entitled "An act authorizing the governing bodies of counties, school districts, municipal corporations, political subdivisions, public corporations and other public agencies of the State of California to adopt a system of group life, health and accident insurance and health services for the benefit of officers and employees and to deduct from the compensation thereof the premiums upon such insurance," approved May 25, 1939, relating to group insurance of public employees.

In effect September 13, 1941

[Approved by Governor May 13, 1941 Filed with Secretary of State May 13, 1941.]

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

New section

SECTION 1. Section 4.5 is hereby added to the act cited in the title hereof, to read as follows:

Payment by governing body

Sec. 4.5. The governing bodies subject to this act may authorize payment from funds under their jurisdiction of not more than one-third of the premiums, for group life insurance authorized by this act on officers and employees subject to their jurisdiction, as they deem advisable. Expenditures for this purpose shall be a proper charge against such funds. Where the employer pays any portion of such life insurance premiums any dividends arising out of such insurance shall be the property of the employer.

CHAPTER 261

Stats 1935, p 496, amended

An act to add Section 12977 to the Insurance Code, relating to fees.

In effect September 13, 1941

[Approved by Governor May 13, 1941 Filed with Secretary of State May 13, 1941.]

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

New section

SECTION 1. Section 12977 is hereby added to Article 4, Chapter 2, Division 3, of the Insurance Code, to read as follows:

Refund

12977. The commissioner may authorize the refund of money received or collected by the division in payment for

the filing of applications for licenses, permits or certificates, or for the rendering of other services:

(a) Where the receipt or collection has resulted in an overpayment or duplicate payment.

(b) In cases where no payment is required for filing the application for the license, permit or certificate sought, or for rendering the other service.

(c) Where an insufficient fee is paid and for which reason the application for the license, permit or certificate can not be filed or the other service can not be rendered.

This section does not exclude the making of refunds under other appropriate provisions of law requiring the approval of the Director of Finance before such refunds may be made.

CHAPTER 262

An act to amend Section 1034 of the Political Code, relating to date of receipt of communications by mail.

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1034 of the Political Code is hereby amended to read as follows: Stats 1939, p 2315

1034. If a remittance to cover a payment required by law to be made to the State or to a State agency is sent through the United States mail, the State or the State agency shall treat the remittance as if it had been received on the date shown by the post-office cancellation mark stamped upon the envelope containing the remittance. Mailed remittances and applications

If an application required by law to be filed with a State agency is sent through the United States mail, the State agency shall treat the application as if it had been filed on the date shown by the post-office cancellation mark stamped on the envelope containing the application.

This provision shall not apply to any application or other documents required or permitted to be filed under the State Contract Act, and shall not apply to applications to appropriate water under the Water Commission Act. Exceptions Stats 1901, p 656. Stats 1913, p 1012

CHAPTER 263

An act to add Section 4154a to the Political Code, relating to the defense of county officers and employees.

In effect September 13, 1941

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.]

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

New section

SECTION 1. Section 4154a is hereby added to the Political Code, to read as follows:

Suits against county officers and employees

4154a. Whenever any suit for damages is brought against any county officer or employee on account of his official actions such officer or employee may, with the consent of the board of supervisors, have such action referred to the district attorney, and upon the determination of the district attorney that such officer or employee performed his official duty in good faith and without malice, it shall then be the duty of the district attorney to appear and defend such officer or employee in such action.

The costs and expenses involved in such action shall be a lawful charge against the funds of the county by which such officer or employee was employed, and for which he was acting officially; provided, however, that the county may recover from such officer or employee the amount of any costs or expenses paid out by it under the provisions of this section if it should develop that the officer or employee acted in bad faith or with malice.

In any county that has a county counsel the board of supervisors may direct him to perform the duties imposed by this section upon district attorneys.

CHAPTER 264

Stats 1935, p 93, amended

An act to amend Section 44 of the Vehicle Code, relating to authorized emergency vehicles.

In effect September 13, 1941

[Approved by Governor May 13, 1941 Filed with Secretary of State May 13, 1941.]

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

Stats 1939, p 2305

SECTION 1. Section 44 of the Vehicle Code is amended to read as follows, to wit:

"Authorized emergency vehicle"

44. "Authorized Emergency Vehicle." An "authorized emergency vehicle" is a vehicle of any of the following types:

(a) A vehicle publicly owned and operated by a police or fire department or traffic law enforcement officer in responding to emergency calls or in traffic patrol duty.

(b) A motorcycle, either publicly or privately owned, operated by a police or traffic law enforcement officer in enforcing the provisions of this code.

(c) A motor vehicle, either publicly or privately owned, operated by a State or county forest ranger, or a fire warden on salary and directly in charge of fire protection work upon behalf of the State or in any county, or the chief or assistant chief of an organized fire department, in responding to emergency fire calls.

(d) Any fire fighting equipment designed and operated exclusively as such by an oil company and used in responding to emergency fire calls and in combating fires.

(e) When used in responding to emergency calls, any privately owned ambulance, specially constructed and maintained exclusively for ambulance purposes, authorized by permit issued by the Chief of the California Highway Patrol, and any publicly owned ambulance.

(f) An emergency repair vehicle of a utility or public utility, whether privately, municipally or publicly owned, used in responding to emergency calls when authorized by the Chief of the California Highway Patrol.

(g) Any fire fighting equipment, emergency wrecking equipment or emergency repair equipment, owned and operated by a bridge and highway district for the purpose of extinguishing fires, removing wrecked motor vehicles, caring for injured persons, or repairing damaged lighting, or electrical equipment, of such bridge and highway district, when such vehicles are responding to emergency calls.

(h) A motor vehicle, owned by the State, and operated by a regularly employed special agent or investigator of the Attorney General's office in the performance of his duties under Section 476 of the Political Code.

CHAPTER 265

An act authorizing any county in the State of California to aid any city operating under a freeholders' charter, or otherwise, in the State of California, in the acquisition of real or personal property for the purpose of constructing and completing improvements thereon necessary and convenient to the maintenance of airports, the flying and landing of aircraft and the maintenance of same, to take effect immediately.

[Approved by Governor May 13, 1941. Filed with Secretary of State May 13, 1941.] In effect immediately

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

SECTION 1. The board of supervisors of any county may, by a resolution adopted by a four-fifths vote of its members, determine that the following activities, or any of them, are of City airport of general county interest

general county interest, and that county aid shall be extended therefor:

(a) The acquisition by purchase, condemnation, lease or otherwise, of real or personal property for the purpose of constructing and completing improvements thereon necessary and convenient to the maintenance of airports owned and operated by cities, including cities operating under freeholders' charters, the flying and landing of aircraft, and the maintenance of hangars, mooring masts, flying fields, and all places for flying, take-off and landing of aircraft and the storage of same when not in active use, together with signal lights, rádio equipment, service shops, conveniences, appliances, works, structures and other aircraft facilities now known or hereafter invented.

Resolution SEC. 2. Such resolution shall specify the general nature of the improvement proposed, the nature of the aid to be furnished by the county and any funds from which the aid is to be paid.

County aid SEC. 3. Thereafter and in accordance with such resolution the county may give aid in one or more of the following ways:

(a) Contribute money.

(b) Acquire and deliver material.

(c) Furnish labor or engineering services.

(d) Loan its road building machinery.

SEC. 4. The expense of such aid may be paid from one or more of the following:

(a) The county general fund.

(b) Any other fund available for such purposes.

Unused aid SEC. 5. The city shall use all aid which it receives in the activities described in the resolution and shall return to the county any portion of such aid which is not thus used.

Urgency SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Under the National Defense Program a principal endeavor is the rapid expansion of the air forces of this Nation. Every effort is being made to increase production of aircraft and to train pilots. This is succeeding to a noticeable degree. However, ground facilities to take care of the increased activity in the air are vitally necessary to the functioning of the latter and must keep pace with it Otherwise the development of a vital part of the defense program will be seriously hampered with resultant detriment to the public peace, health and safety of this State.

Therefore this act, which encourages the building of airports and ground facilities, should go into immediate effect.

CHAPTER 266

An act to amend Section 737s of the Political Code, relating to superior court judges.

[Approved by Governor May 13, 1941 Filed with Secretary of State May 13, 1941] In effect September 13, 1941

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

SECTION 1. Section 737s of the Political Code is hereby amended to read as follows: Stats 1933, p 2624

737s. The annual salary of each of the judges of the Superior Court in and for the County of Los Angeles is ten thousand dollars ($10,000). Superior judges Los Angeles County

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CHAPTER 267

An act making an appropriation for construction, improvements, equipment and the purchase of land for the San Diego State College, to take effect immediately.

[Approved by Governor May 14, 1941 Filed with Secretary of State May 14, 1941] In effect immediately

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

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of eighteen thousand dollars ($18,000) for construction, improvements, equipment and the purchase of approximately 93.79 acres of land consisting of 79.79 acres of land as described in Record of Surveys map No 872 as recorded in the office of the county recorder of the County of San Diego and approximately 14 acres immediately west and attached to said 79.79 acres hereinbefore described, for the San Diego State College. Appropriation San Diego State College construction

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows: Urgency

The rapid growth of population in San Diego and its vicinity in the past few years, now greatly augmented by defense preparations, has been reflected in the increased enrollment at San Diego State College. This growth has taxed the facilities of the college and will greatly strain its capacity this coming fall semester unless additional funds are made immediately available to care for this expansion. Insufficient educational facilities result in the inadequate training of students or the turning away of students, both of which adversely affect the welfare of the State.

CHAPTER 268

Stats 1929, p 1 08, amended

An act to add Section 6¼ to the California Nautical School Act, relating to the State Nautical School, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 15, 1941 Filed with Secretary of State May 15, 1941.]

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

New section

SECTION 1. Section 6¼ is hereby added to the act cited in the title hereof, to read as follows:

Acceptance of gifts and bequests

SEC. 6¼. The board of governors is hereby authorized with the approval of the Director of Finance to accept on behalf of, and in the name of, the State of California, such gifts, donations, bequests and devises as may be made to the school, by whatever name the school may be known, which in the judgment of the board would be of benefit to the State of California and to the school. Such gifts, donations, bequests and devises may be made subject to such conditions or restrictions as the board of governors may deem advisable.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall therefore go into immediate effect. The following is a statement of the facts constituting such necessity:

The Federal Government has been compelled to order the California Maritime Academy from its present site. The academy has, therefore, no site at the present time and it is imperative that an adequate site and necessary buildings and improvements be immediately provided. It is therefore imperative that work on such buildings and improvements be started immediately before the training ship returns. The proposed new site is not entirely adequate as to size and contour and a gift of land adjacent to the proposed new site has been proposed in order to provide an adequate site. The nature of the plans for the use of the site is dependent upon whether the proposed gift will be accepted. There is now no provision of law which authorizes the acceptance of the proposed gift of land and it is therefore necessary that this act take effect immediately.

CHAPTER 269

An act to amend Section 726 of the Welfare and Institutions Code, relating to serving of notice of hearing by mail.

Stats 1937, p 1005 amended

[Approved by Governor May 15, 1941. Filed with Secretary of State May 15, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 726 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1035

726. Upon the filing of a petition alleging that a person comes within any of the provisions of Section 700 of this code, a citation shall issue, directing the parent, guardian or other person having the custody or control of the person, concerning whom the petition has been filed, and who resides within or is within the county and whose place of residence is known to the petitioner or to the probation officer to appear at the time and place for which hearing of the petition has been set. Such citation may further direct that such parent, guardian or other person bring with him the person concerning whom the petition has been filed. Service of the citation shall be made at least 24 hours before the time stated therein for such appearance.

Citation to appear

Service

In the event that personal citation within the county in which the petition has been filed can not be had on such parent, guardian or other person because of the absence of said parent, guardian or other person from the county, he shall be served with notice of the time and place set for the hearing of said petition by mail; provided, his address outside the county is known to the petitioner or to the probation officer.

The probation officer shall serve such notice by depositing a duplicate copy of said notice in the United States post office, registered mail, with return receipt requested, addressed to the person on whom it is to be served at his address or residence outside the county known to the petitioner or probation officer. Service is complete at the time of deposit which must be at least five days prior to the time set for hearing if such service is made within the State of California and at least 10 days if made elsewhere.

If the return receipt is not returned, the probation officer shall make proof of such service by affidavit affixed to the original copy of such notice, showing the date and place of deposit in the mail, the name and address of the person as shown on the envelope and also showing that the envelope was sealed and deposited in the mail with postage thereon fully prepaid, and that there is delivery service by United States mail at the place so addressed.

In the absence from the county of any such parent, guardian or other person and the presence within the county of some relative of the person concerning whom the petition has been

filed, whose address is known to the petitioner or probation officer, citation shall issue to and be served on such relative. Service of citation may be waived by any person by a voluntary appearance entered in the minutes of the court or by a written waiver of service of citation filed with the clerk of the court at or prior to the hearing. In any case, the court may appoint some suitable person to act in behalf of the person concerning whom the petition has been filed and may order such further notice of the proceedings to be given as the court may deem proper.

CHAPTER 270

Stats 1935, p 496, amended

An act to amend Sections 1392 and 1401 of the Insurance Code, relating to reciprocal insurance.

In effect September 13, 1941

[Approved by Governor May 15, 1941. Filed with Secretary of State May 15, 1941.]

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

Stats 1939, p 2636

SECTION 1. Section 1392 of the Insurance Code is hereby amended to read as follows:

Liability of subscriber

1392. Except as provided by Sections 1397, 1398, 1400 and 1401, every subscriber of an exchange subject to this article shall be liable to pay, and shall pay, his proportionate part of any such assessment, in accordance with law and his contract covering any such deficiency assessment (a) if he is notified by either the attorney or the commissioner of intention to levy such assessment within one year after the expiration or cancellation of his policy, or, (b) if an order appointing a conservator or liquidator of such exchange is entered, within one year after such expiration or cancellation.

The period to be covered by the assessment shall be the period of one year immediately preceding (a) the date of notification by either the attorney or the commissioner of the intention to levy such assessment, or, (b) the date of entry of an order appointing a conservator or liquidator of such exchange, as the case may require.

Stats 1935, p 371

SEC. 2. Section 1401 of the Insurance Code is hereby amended to read as follows:

Surplus certified by commissioner

1401. If an exchange subject to this article has a surplus of admitted assets over all liabilities in a sum equal to one and one-half times the minimum paid-in capital required of incorporated insurers issuing policies on a reserve basis and doing the same classes of insurance, then the Insurance Commissioner, upon written request, shall issue his certificate stating such fact. Subscribers at an exchange so certified shall have no liability for assessment on policies issued while such certificate remains in effect. Whenever the commissioner

finds such fact does not exist, he shall revoke and require the surrender of his certificate. Upon revocation of such certificate no policy shall thereafter be issued nor be permitted to remain in force beyond the date fixed for the next payment of premium without written indorsement thereon providing for assessment liability in accordance with the terms of this chapter.

CHAPTER 271

An act to amend Section 1020 of, and to add Section 1026.1 to, the Insurance Code, relating to claims against and property of insolvent or delinquent insurers.

Stats. 1935, p. 496, amended

[Approved by Governor May 15, 1941. Filed with Secretary of State May 15, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1020 of the Insurance Code is hereby amended to read as follows:

Stats. 1935, p. 542

1020. Upon the issuance of an order either under Section 1011 or 1016, or at any time thereafter, the court shall issue such other injunctions or orders as may be deemed necessary to prevent any or all of the following occurrences:

Injunctive power

(a) Interference with the commissioner or the proceeding.

(b) Waste of assets of such person.

(c) The institution or prosecution of any actions or proceedings.

(d) The obtaining of preferences, judgments, attachments, or other liens against such person or its assets.

(e) The making of any levy against any such person or its assets.

(f) The sale or deed for nonpayment of taxes or assessments levied by any taxing agency of property:

(1) Owned by such person.

(2) Upon which such person has prior thereto commenced an action to foreclose any deed of trust or mortgage or has exercised the power of sale under any trust deed or mortgage which sale or foreclosure proceedings have not yet been completed or upon which no trustee's deed or judgment of court or sheriff's certificate of sale has been issued. "Taxing agency" as used in this section has the meaning ascribed to it by Section 121 of the Revenue and Taxation Code. The injunctions or orders authorized by this subdivision may be modified, dissolved or rescinded by the court on motion of the commissioner, the State Controller, the person charged with the collection of taxes or assessments on such property, or any person beneficially interested in the property.

New section SEC. 2. Section 1026.1 is hereby added to the Insurance Code, to read as follows:

Third party liability claims Subrogation 1026.1. Where a claim arising out of a policy of insurance has been filed by a third party and approved by the liquidator and such claim has subsequently been paid or satisfied, either wholly or in part, by the transfer of anything of value, either voluntarily or by process, from the insured of the person in liquidation to such third party, then upon the filing with the liquidator of proof of the making and value of such transfer, to the extent and in the manner required by the liquidator, the insured shall be subrogated to the rights of the third party claimant to the extent that the claim has been satisfied and discharged, but the rights of the insured shall not exceed the face value of such claim and if the insured has theretofore filed a claim covering the same subject matter, he is entitled to only one recovery.

CHAPTER 272

Stats 1935, p 496, amended *An act to amend Sections 10129 and 10172 of, and to add Sections 10173, 10174, 10175 and 10291.5 to, the Insurance Code, to amend and renumber the article heading of the second Article 5 of Chapter 4, Part 2, Division 2 of said code, and to add Article 5.5, comprising Sections 10370 to 10374, inclusive, to said Chapter 4, all relating to insurance.*

In effect September 13, 1941 [Approved by Governor May 15, 1941. Filed with Secretary of State May 15, 1941.]

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

New section SECTION 1. Section 10129 is hereby added to Article 2, Chapter 1, Part 2, Division 2 of the Insurance Code, to read as follows:

Group policies exempt 10129. Sections 10130 and 10131 do not apply to group life or group disability policies which expressly provide that benefits payable under such policies are not assignable, and in such case the benefits shall be paid only as provided in the policy.

Stats 1935, p 639 SEC. 2. Section 10172 of the Insurance Code is hereby amended to read as follows:

Payment to discharge insurer Notwithstanding the provisions of Sections 161a and 172 of the Civil Code, when the proceeds of, or payments under, a life insurance policy become payable and the insurer makes payment thereof in accordance with the terms of the policy, or in accordance with the terms of any written assignment thereof if the policy has been assigned, such payment shall fully discharge the insurer from all claims under such policy unless, before such payment is made, the insurer has received,

at its home office, written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy.

SEC. 3. Section 10173 is hereby added to Article 4, Chapter 1, Part 2, Division 2, of the Insurance Code, to read as follows: New section

10173. When a policy of life insurance is assigned in writing the insurer may deal with the assignee in any manner not inconsistent with the terms of said assignment until the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to some interest in such policy. Effect of assignment

SEC. 4. Section 10174 is hereby added to said Article 4 of the Insurance Code, to read as follows: New section

10174. Policies of disability insurance which provide for death benefits, shall, as to such death benefits, be subject to Sections 10172 and 10173. Application to disability policies

SEC. 5. Section 10175 is hereby added to said Article 4 of the Insurance Code, to read as follows: New section

10175. Nothing contained in Sections 10172, 10173 or 10174 shall affect any claim or right to any policy or the proceeds thereof, or payments thereunder, as between all persons other than the insurer. Effect on person other than insurer

SEC. 6. Section 10291.5 is hereby added to the Insurance Code, to read as follows: New section

10291.5 The commissioner shall not approve any disability policy for issuance or delivery in this State if he finds that it contains any provision, or has any title, heading, backing, or other indication of its provisions which is likely to mislead a person to whom the policy is offered, delivered, or issued. Misleading policy

SEC. 7. The article heading of the second Article 5 of Chapter 4, Part 2, Division 2, of the Insurance Code, comprising Sections 10380 to 10390, inclusive, is hereby amended and renumbered, to read as follows: Stats 1935, p 649

Article 6. Interpretation of Policy

SEC. 8. Article 5.5, comprising Sections 10370 to 10374, inclusive, is hereby added to Chapter 4, Part 2, Division 2 of the Insurance Code, to read as follows: New article

Article 5.5. Special Provisions

10370. Any provision in a disability policy which affects the liability of the insurer because of a misstatement of age of Age Misstatement

the insured shall provide in substance that if the age of the insured has been misstated the indemnities payable under the policy shall be such as the premium specified in the policy would have purchased at the correct age but within the limits fixed by the insurer in its classification of risks and premium rates on file with the commissioner.

Violation of law by insured

10371. Any provision in a disability policy which affects the liability of the insurer because of any violation of law by the insured shall provide in substance that the insurer shall not be liable for death, injury incurred or disease contracted, to which a contributing cause is the insured's commission of, or attempt to commit an assault or felony or which occurs while the insured is engaged in an illegal occupation.

Use of intoxicants or narcotics

10372. Any provision in a disability policy which affects the liability of the insurer because of the insured's use of intoxicating liquor or narcotics during the term of the policy shall provide in substance that the insurer shall not be liable for death, injury incurred or disease contracted while the insured is under the influence of narcotics unless administered on the advice of a physician, or intoxicated.

Approval by commissioner

10373. Policies containing provisions, which, in the opinion of the commissioner, are more favorable to the insured than those required by this article may be approved by him.

Concurrent insurance

10374. A policy of disability insurance, which provides in substance that the insured may continue the policy in force for a period of not less than five years after its effective date, during which period the insurer can not terminate it, may, in lieu of Standard Provision 17 set forth in Section 10364, provide in substance that if the total monthly amount of benefits promised in all policies or certificates of accident, health or disability insurance upon the insured, whether payable weekly or monthly, exceeds the average monthly earnings of the insured for the period of two years immediately preceding a disability for which claim is made, then the insurer will be liable only for such proportionate amount of the promised benefits specified in the policy as the amount of such average monthly earnings of the insured bears to the total amount of monthly benefits promised under all such policies or certificates upon the insured at the time of such disability, and that such part of the premiums paid during such two years as exceeds the pro rata amount of the premiums for the benefits actually paid thereunder will in such case, be returned; but that:

(a) Such proration shall not reduce the total monthly amount of benefits payable, under all such policies or certificates upon the insured, below the sum of one hundred dollars ($100) or the sum of the monthly benefits specified in such policies or certificates, whichever is the lesser.

(b) Such proration shall not apply to benefits payable in the event of the entire and irrecoverable loss of sight of both

eyes, or the severance of both hands or both feet, or one hand and one foot.

(c) If payments have been made under the policy for previous disability which existed within three calendar years prior to commencement of the disability for which claim is made, and the average monthly earnings of the insured for the period of two years immediately preceding the previous disability were greater in amount than the average monthly earnings for the period of two years immediately preceding the current disability, then the proportion of the average monthly earnings for the earlier period in lieu of such earnings for the later period will be taken as the basis for computing the proportion of the benefits to be paid the insured under this provision of the policy.

CHAPTER 273

An act to amend the heading of Division 4 and Sections 452, 455, 456, 466, 467, 470, 471, 476, 478, 481, 482, 483, 484, 485, 486, 498, 500, 501, 511, 513, 523, 526, 542, 543, 545, 546, 551, 616, 618, 619, 620, 621, 631, 635, 636, 641, 642, 643, 644, 645, 661, 662, 666, 676, 681, 722 and 723 of, and to add Sections 472, 590, 640 and 640.5 to, the Agricultural Code, relating to the dairy industry and milk, milk products, and imitation milk products, processing plants and factories, and retail establishments, milk products, and imitations of milk products, and providing for the taking effect hereof.

Stats. 1933, p. 60, amended

[Approved by Governor May 15, 1941. Filed with Secretary of State May 15, 1941.]

In effect September 13, 1941

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

SECTION 1. The heading of Division 4 of the Agricultural Code is hereby amended to read as follows:

Stats. 1933, p. 130

DIVISION 4. MILK AND MILK PRODUCTS

SEC. 2. Section 452 of the said code is hereby amended to read as follows:

Stats. 1941, p. 476

452. The director may:

Powers of director

(a) Enter and inspect any premises or conveyances where any provision of this division is applicable.

(b) Take samples of milk, cream or products thereof or of imitation milk products.

(c) Impound and hold for analysis or as evidence any milk, cream, products or containers thereof, or imitation milk products.

Stats 1941, p. 476

SEC. 3. Section 455 of the said code is hereby amended to read as follows:

Score cards, etc

455. The director shall adopt a dairy farm score card and shall either directly or indirectly through his authorized agents or those of an approved local milk inspection service:

(a) Inspect dairy farms and milk products plants.

(b) Examine and test cows, and exclude reacting animals from the herds.

(c) Conduct or supervise milk scoring or other contests when deemed advisable.

Stats 1941, p. 477

SEC. 4. Section 456 of the said code is hereby amended to read as follows:

Dairy score cards

456. The score cards used for official scoring of dairy farms or milk products plants shall be established by regulation of the director.

Stats 1941, p. 477

SEC. 5. Section 466 of the said code is hereby amended to read as follows:

Milk

466. (a) Milk is the lacteal secretion obtained from the udders of cows.

(b) Milk shall be produced from nonreacting tuberculin tested cows and shall conform to the rules and regulations adopted by the department. Milk shall be obtained by the complete milking of healthy cows, properly fed and kept, and shall not be obtained for human consumption within 15 days prior to or five days after parturition. Milk must contain not less than 8.15 per cent of solids not fat and must contain and may be standardized to a uniform milk fat content of not less than 3 per cent.

(c) Manufacturing milk is milk that does not necessarily conform to the requirements of market milk. Manufacturing milk is milk free from foreign substances; contains no undesirable flavors or odors; and contains per cubic centimeter not more than 2,000,000 individual bacteria as found by the direct microscopic count. Manufacturing milk may be repasteurized once.

(d) Goat's milk is the lacteal secretion obtained from the udders of goats. It must be obtained by the complete milking of healthy goats and shall not be obtained during the period when it contains colostrum.

(e) Sheep's milk is the lacteal secretion obtained from the udders of ewes. It must be obtained by the complete milking of healthy ewes, and shall not be obtained during the period when it contains colostrum.

(f) Milk, goat's milk, or sheep's milk which does not conform to the requirements respectively for milk, goat's milk or sheep's milk, or which has been produced or handled in an insanitary dairy farm or milk products plant, or other insanitary place, or handled in an insanitary manner is unfit for human consumption.

SEC. 6. Section 467 of the said code is hereby amended to read as follows: Stats 1941, p 478

467. Except as otherwise provided in this code or in the rules and regulations of the director, all of the provisions of this code applying to milk, dairy farms and cows shall apply to goat's milk, goat dairy farms and goats. Goat's milk, etc

SEC. 7. Section 470 of the said code is hereby amended to read as follows: Stats 1941, p 478

470. It is unlawful to sell any milk, or products of milk, from cows or goats that have not negatively passed a tuberculin test applied regularly in accordance with regulations of the department by a veterinarian in the employ of the department, or a veterinarian of the United States Bureau of Animal Industry, or a veterinarian approved by the department and accredited by the United States Bureau of Animal Industry, or unless such milk or milk products have been produced in a modified accredited area within the United States, or unless in the case of milk products produced in a foreign country satisfactory evidence is presented indicating their origin from non-reacting tuberculin tested animals. In the case of cows or goats producing milk to be used as raw market milk, the term "tuberculin test applied regularly" shall mean at least once annually. If reacting animals are found they must be removed from the herd immediately by the owner and kept separate and apart from other cattle and disposed of in accordance with the provisions of Article 3, Chapter 3, of Division 2 of this code. Sale of milk not tuberculin tested; Tuberculin test

SEC. 8. Section 471 of the said code is hereby amended to read as follows: Stats 1941, p 479

471. (a) Cream is that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. It shall be fresh and clean, and shall contain not less than 20 per cent of milk fat and not more than $7\frac{8}{10}$ per cent of milk solids not fat in cream containing 20 per cent of milk fat and correspondingly less solids for greater percentages of milk fat. Cream

The ratio of fat and solids not fat in cream shall be in the following proportions: Ratio of fat and solids not fat

Fat, per cent	Solids not fat, per cent, not more than
20.0 to 30.0	7.8
30.1 to 35.0	7.5
35.1 to 40.0	7.0
40.1 and above	6.5

Manufacturing cream

(b) Manufacturing cream is cream that does not necessarily conform to the requirements of market cream. Manufacturing cream may be repasteurized once.

Grades

(c) Manufacturing cream shall be classified into the following grades:

(1) First grade cream is cream which is clean, smooth, free from undesirable flavors or odors, sweet or acid not more than three-tenths of 1 per cent acid (figured as lactic acid), contains at least 30 per cent of milk fat and lends itself readily to the manufacture of first quality butter.

(2) Second grade cream is cream which is somewhat fermented, has some undesirable flavors or odors, contains more than three-tenths and not more than six-tenths of 1 per cent acid (figured as lactic acid), and lends itself readily to the manufacture of second quality butter.

(3) Third grade cream is cream which may be slightly foamy or curdy, has a distinct off-flavor, is old, contains more than six-tenths of 1 per cent acid (figured as lactic acid), and lends itself readily to the manufacture of third quality butter.

(d) Manufacturing cream which does not conform to the minimum requirements for third grade cream is not fit for human consumption, and shall be condemned and marked for identification by the addition of a suitable amount of charcoal paste or rennet.

(e) Manufacturing cream, when pasteurized, may be sold by a milk products plant to persons from whom the milk products plant purchases cream, and such cream, so sold, shall not be considered market cream. Such cream shall not be resold by such purchasers.

New section

SEC. 8.5. Section 472 is hereby added to the said code, to read as follows:

Prohibitions

472. It is unlawful to sell, purchase, or use as market milk or market cream, milk or cream which does not meet the requirements and standards of market milk and market cream.

Stats 1941, p 479

SEC. 9. Section 476 of the said code is hereby amended to read as follows:

Market milk

476. (a) "Market milk" is milk which is supplied to the consumer in the natural fluid state, or prepared for human consumption without being converted into any other form or product. Except as provided herein, market milk shall contain not less than 3.3 per cent of milk fat and "market milk" includes "market cream" except as otherwise specifically provided.

Sale

(b) It is unlawful to sell or otherwise dispose of market milk to the retail trade, unless said milk is contained in standard milk bottles or single service containers which have been

mechanically filled and capped or sealed in a milk room properly designed and equipped as approved by the department. All receptacles, except single service containers, used to contain market milk shall be properly washed and sterilized on the premises where filled, in a separate room designed and equipped for said washing and sterilizing. For the purpose of this section "single service containers" are those which are only used once and are not refilled, shall be made of sanitary material, in a sanitary manner and shall be kept in a sanitary condition free from contamination until actually filled with market milk. Transferring of any market milk or of any buttermilk from one receptacle to another upon any highway, any street or sidewalk, or upon any vehicle or in any place except a milk room as specified above, is prohibited. Containers "Single service"

This subsection shall not apply to any person or dairy farm producing and marketing less than 10 gallons of milk or three gallons of goat's milk per day. Exception

SEC. 10. Section 478 of the said code is hereby amended to read as follows: Stats 1941, p 180

478. Pasteurized market milk shall be bottled only in the plant where it is pasteurized. Bottling

The provisions of this section do not apply to market cream. Raw market milk and pasteurized market milk shall not be bottled for sale and distribution within a city or county maintaining an approved milk inspection service in the same milk products plant, except where an official representative of such approved milk inspection service is maintained during the period of handling, processing or bottling such market milk, or except in those milk products plants where all market milk received meets the requirements for grade "A" raw milk.

SEC. 11. Section 481 of the said code is hereby amended to read as follows: Stats 1941, p 481

481. All cream, skimmed milk, buttermilk, ice cream, butter, cheese, or other milk products sold, designated or advertised as certified shall be conspicuously marked with the name of the commission certifying it and certifying the milk from which such cream, skimmed milk, buttermilk, ice cream, butter, cheese and other milk product is obtained. Marking

SEC. 12. Section 482 of the said code is hereby amended to read as follows: Stats 1941, p 481

482. It is unlawful to sell any cream, skimmed milk, buttermilk, ice cream, butter, cheese, or other milk products as certified, or use the word "certified" in connection with the sale, designation, advertising, labeling or billing thereof unless the same and all products of milk contained therein or used in the manufacture thereof are obtained exclusively from milk which conforms to the requirements of this division for Use of word "certified"

certified milk, and unless in addition thereto the methods and conditions under which such cream, skimmed milk, buttermilk, ice cream, butter, cheese and other milk products, as the case may be, have been prepared or manufactured, as regards cleanliness and sanitation, conform to the requirements of the milk commission whose certification is sought.

Stats 1941, p. 481

SEC. 13. Section 483 of the said code is hereby amended to read as follows:

Guaranteed raw milk

483. (a) Guaranteed raw milk is market milk which conforms to the following minimum requirements:

(1) The health of the cows shall be determined by physical examination at least once each month by an official representative of an approved milk inspection service and by a tuberculin test;

(2) It shall be produced on dairy farms which score not less than 90 per cent on the dairy farm score card;

(3) It shall be bottled on the premises where produced and delivered in containers having the pouring lip completely protected from contamination;

Bacteria count

(4) It shall be cooled immediately after being drawn from the cow to 50 degrees Fahrenheit or less, and so maintained until delivered to the consumer, at which time it shall contain not more than 10,000 bacteria per milliliter, and not less than 3½ per cent of milk fat;

(5) It must be sold to the consumer within 30 hours after production and labeled to indicate the date of sale to the consumer. All persons who come in contact with the raw guaranteed milk must exercise scrupulous cleanliness and not be afflicted with any communicable disease or in a condition to disseminate the germs of typhoid fever, tuberculosis, diphtheria or any other communicable disease liable to be conveyed by the milk. The absence of such germs in all such persons shall be determined by bacteriological and physical examination by a health department maintaining an approved milk inspection service, or other person or laboratory approved in writing by the department, conducted at the time of employment and every six months thereafter in a manner approved by the director.

Guaranteed pasteurized milk

(b) Guaranteed pasteurized milk shall conform to all the requirements for raw guaranteed milk, except it need not be bottled where produced and except it shall contain not more than 3,000 bacteria per milliliter at the time of delivery to the consumer.

Stats 1941, p. 482

SEC. 14. Section 484 of the said code is hereby amended to read as follows:

Grade A raw milk

484. (a) Grade A raw milk is market milk which conforms to the following minimum requirements:

(1) The health of the cows and goats shall be determined by physical examination at least once in two months by an official

representative of an approved milk inspection service and by a tuberculin test;

(2) It shall be produced on dairy farms that score not less than 80 per cent on the dairy farm score card;

(3) It shall be cooled immediately after being drawn from the cow or goats to 50 degrees Fahrenheit or less, and so maintained until delivered to the consumer, at which time it shall contain not more than 15,000 bacteria per milliliter. All persons who come in contact with grade A raw milk must exercise scrupulous cleanliness and must not be afflicted with any communicable disease or be in a condition to disseminate the germs of typhoid fever, tuberculosis, diphtheria or other communicable diseases liable to be conveyed by milk. The absence of such germs in all such persons may at the discretion of an approved or established milk inspection service be determined by bacteriological and physical examination in such manner as may be prescribed by the director and by such person or laboratory approved in writing by the department, conducted at the time of employment and every six months thereafter in a manner approved by the director.

Grade A pasteurized milk

(b) Grade A pasteurized milk is market milk which conforms to the following minimum requirements: The health of the cows or goats shall be determined by physical examination at least once in six months by an official representative of an approved milk inspection service; it shall be produced on dairy farms that score not less than 70 per cent on the dairy farm score card adopted by the department and it shall contain not more than 75,000 bacteria per milliliter before pasteurization and not more than 15,000 bacteria per milliliter at the time of delivery to the consumer.

Stats 1941, p 483

SEC. 15. Section 485 of the said code is hereby amended to read as follows:

Restrictions on sale of certain milk

485. It is unlawful to sell any milk as, or under the representation of, guaranteed or grade A milk, except under the supervision of a milk inspection service approved by the director or established and conducted by the director. A person authorized to sell market milk within the jurisdiction of a milk inspection service may sell market milk from the same supply, of the same quality, in similar containers, and under the same label in territory outside the jurisdiction of any milk inspection service, if local ordinances, not in conflict with the provisions of this division, are not thereby violated, and also in territory within the jurisdiction of any other milk inspection service; provided, that a permit in accordance with Section 501 has been previously obtained from such other milk inspection service. It is unlawful to sell in any city or county or any combination of cities and counties, in which a milk inspection service has been established, either by or with the approval of the director, any market milk other than graded milk as provided in this division.

Stats 1941, p 483

SEC. 16. Section 486 of the said code is hereby amended to read as follows:

Change of dairy score

486. Any milk delivered by the producer thereof, to be sold as any grade of market milk, shall not be degraded or excluded from the market when a score of the dairy farm on which said milk is produced is below the specified minimum legal requirement:

(a) Unless a copy of said score shall be promptly given to the proprietor or operator of the dairy farm and when milk is sold in bulk to a distributor or processor, a copy of said notice shall also be given to such distributor or processor.

(b) Unless a rescore, after 10 days, shows the score of said dairy farm to be still or again below the specified minimum legal requirements and a copy of such rescore is promptly given to the proprietor or operator of said dairy farm and the purchaser of the milk produced by said dairy farm and until 60 hours elapses after the rescore. If, during the 60 hours, following the rescoring, a protest is filed with the head of the milk inspection service under whose jurisdiction the milk of such dairy farm is sold, the milk produced on said dairy farm shall not be degraded or excluded from the market until after a third score has been made and concurred in by the representative of said milk inspection service and the director.

Stats 1941, p 486

SEC. 17. Section 498 of the said code is hereby amended to read as follows:

Duties of director

498. The director shall either directly or indirectly through his authorized agents:

Supervise milk inspection services

(a) Supervise the operation of all approved milk inspection services in the enforcement of the provisions of this division and the rules and regulations promulgated by him.

Establish standards

(b) Establish rules and regulations and provide plans and specifications at cost for the construction of sanitary milk barns and milk houses used in the production of market milk, which rules and regulations, plans and specifications shall provide that said buildings shall be sound, readily cleanable, and of sanitary construction; that said buildings shall afford the proper working space and be constructed to admit sufficient light and ventilation. The rules, regulations, plans and specifications herein provided may be varied to suit the climatic and other differences in the various sections of the State, and when such rules, regulations, plans and specifications shall have been adopted or established by the director, they shall be the standard building requirements of all market milk dairy farms operating in the same geographical area of the State. After the effective date of this act, minimum construction standards for new market milk dairy farms shall not be less than those established by the director under the authority hereby conferred upon him; provided, that any dairy farm buildings heretofore or hereafter constructed in accordance

with the rules, regulations, plans and specifications heretofore or hereafter promulgated by the director shall not be required to be rebuilt to conform to any future change thereof; and provided further, that no authority is conferred upon the director or any approved milk inspection service to require the rebuilding of any existing dairy farm buildings unless the owner thereof is making repairs thereto to the extent of 75 per cent of the value of such building; provided, all existing structures used in the production of market milk shall be kept in repair in accordance with the sanitary requirements and standards of Division 4 of this code.

Employee qualifications

(c) The State Personnel Board shall hold examinations in various parts of the State for the purpose of determining the qualifications of persons desiring to become employed by the department in the enforcement of the provisions of this division and the rules and regulations of the director, and shall establish an eligible list therefor; provided, however, that persons in the employ of the State of California or any county or city or city and county in California may be eligible for employment by any county or city without being on such eligible list if such person was in the employ of the State of California or any county or city or city and county in California, and while so employed, enforcing laws, rules, regulations and ordinances pertaining to milk and milk products within two years immediately preceding date of such subsequent employment.

(1) No person shall be eligible to take such examination unless he possesses one of the following qualifications:

Either (1) graduation from an agricultural or veterinary college of recognized standing with specialization in studies relating to the dairy industry, or (2) completion of the twelfth grade, supplemented by a nondegree course in an agricultural college of recognized standing with specialization in studies relating to the dairy industry and two years of experience in the dairy industry involving work in dairy inspection, dairy bacteriology, market milk supply and/or manufacturing milk products, or (3) some other equivalent combination of education and similar dairy industry experience.

Eligible list

(2) The State Personnel Board shall, upon the written request of any county or city, certify to it a complete list of all persons upon such eligible list. No person shall be hereafter employed by the department or any county or city for the purpose of the enforcement of the provisions of this division or the rules and regulations of the director or any ordinance of a county or city relating to the inspection of dairy farms, milk products plants, or milk products, unless he was at the time of such employment on such eligible list or previously employed as provided for in subdivision (c) of this section.

(3) In case the employees of any county or city inspecting dairy farms, milk products plants, or milk products are subject to qualification by a civil service board or commission, it shall

be a condition prerequisite to the taking of such examination that such person shall be upon such eligible list or previously employed as provided for in subdivision (c) of this section; in the event that a county or city charter provision requires local residence as a prerequisite to employment, and the number of persons upon such eligible list who can meet such residence requirement is less than three, or if there be less than three persons upon such eligible list, the State Personnel Board shall prepare and certify to each county and city requesting the same, a list of persons eligible for temporary appointment pending the establishment of a suitable eligible list.

Training courses

(4) The director shall at least annually conduct special training courses, not to exceed five days, at various convenient places in the State for the purpose of training persons in the employ of the department and of each county and city in the enforcement of the provisions of this division, and the rules and regulations of the director, or the ordinance of any county or city relating to the inspection of dairy farms, milk products plants, or milk products, in dairy science, in uniform methods of enforcement of the provisions of this division, the rules and regulations of the director, ordinances of counties and cities, and other pertinent information concerning dairy farms, milk products plants, and milk products. Attendance at such training course shall be mandatory, in the discretion of the director, upon any or all persons employed by the department and each county and city in the inspection of dairy farms, milk products plants, and milk products.

(5) Any person employed by the department or any county or city, while attending such special training courses shall be paid his salary or compensation while so engaged.

Application to clerical employees, etc

(6) None of the provisions of subdivision (c) of this section shall apply to clerical employees, nor to any person employed in a laboratory.

Stats 1911, p 488

SEC. 18. Section 500 of the said code is hereby amended to read as follows:

Designation of approved inspection services

500. (a) Whenever a producer or distributor delivers or sells market milk within the jurisdiction of two or more cities or counties, the director, after an investigation and consultation with the health officer of each county and city involved, shall designate the county or city which shall conduct the dairy farm and milk products plant inspection. The director, in making such designation, shall, in addition to other matters considered by him, take into consideration the geographical convenience of each county and city rendering such inspection, and the percentage of market milk and milk products sold or delivered within each. All market milk and milk products so inspected may be sold and delivered within the jurisdiction of any county and city; provided, that applicable local ordinances of such county or city are not thereby violated. The county or city designated by the director to

render such inspection shall enforce all applicable local ordinances of each county and city into which such market milk and milk products are sold or delivered.

Protests

(b) In case of a written protest from any producer, distributor or health officer of any county or city, concerning the improper enforcement of any provision of this division, or any of the rules and regulations of the director, or any provision of any applicable local ordinance, the director or a member of the department appointed by the director for that purpose shall, within 30 days after the receipt of such protest and after at least five days' written notice to the health officer of the county or city rendering such inspection service, hold a hearing on the same. Upon the completion of such hearing the director may reconsider the order of assignment of the inspection, and may revoke such order, or he may assign another approved inspection service to perform the inspection.

Approved inspection service fees

(c) A city or county or group of either or both may, for the purpose of maintaining an approved milk inspection service levy and collect an inspection or license fee from those who come under the provisions of this division; provided, that no producer and no distributor shall be required to pay an inspection or license fee to more than one city or county on the same market milk; and provided, that in no case shall the total of said inspection or license fees be more than sufficient to maintain the cost of the approved milk inspection service for which such inspection or license fees are levied.

Contracts between services

(d) Counties and cities may, subject to the approval of the director, contract, one with the other, for the maintenance by one, or some of them, of such approved milk inspection service and laboratory within the limits of the other as will best carry out the provisions of this division and avoid duplication.

Grading

(e) Upon approval in writing of such milk inspection service by the director, any such approved milk inspection service shall grade market milk as produced or sold under its jurisdiction and require the use of the respective grade designations as prescribed in this division.

Stats 1941, p 489
See also Stats 1941, p 1708

SEC. 19. Section 501 of the said code is hereby amended to read as follows:

Permit for dairy, etc

501. Every person, engaged in the business of producing, processing, selling or distributing any grade of market milk, shall obtain a permit from the director or from the approved milk inspection service in whose jurisdiction the market milk is sold for each separate dairy farm, milk products plant or place of business. Upon receipt of application for such permit, the director or approved milk inspection service shall cause an investigation to be made of the dairy farm, milk products plant or place of business where milk is produced, sold or distributed and, in the case of a dairy farm, of the herd producing the milk.

Investigation

Minimum construction standards

Minimum construction standards for new dairy farms and extensive repairs to existing dairy farms shall not be less than the requirements established by the director in accordance with Section 498, subdivision (b) of this division.

Issuance of permit

If the provisions of this division and the standards established by or adopted pursuant to the authority granted in this division are complied with a permit shall be issued by the director or the approved milk inspection service, if the applicant's milk is to be sold or distributed within a city or county or combination thereof maintaining an approved milk inspection service, to such dairy farm, milk products plant or place of business. Such permit shall expire at the end of the calendar year in which it is issued.

Expiration

Inspection fee

Every person engaged in the production, sale or distribution of market milk, outside the jurisdiction of any approved milk inspection service, shall pay an inspection fee to the director. Said inspection fee shall be payable three months in advance during the first week of January, April, July and October of each year. Said inspection fee is hereby fixed at:

(a) For producers who sell market milk at wholesale to be sold as graded market milk or for producers who distribute their own graded market milk, two mills for each gallon of graded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(b) For distributors who purchase market milk from producers to be sold as graded market milk or who distribute their own graded market milk, two mills for each gallon of graded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(c) For producers who sell market milk at wholesale or for producers who distribute their own milk, one mill for each gallon of ungraded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(d) For distributors who purchase market milk from producers or who distribute their own market milk, one mill for each gallon of ungraded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable.

Milk inspection service

Whenever applications for permits to be issued by the director are received from applicants totaling fifty-one per cent (51%) or more in number of the persons desiring to engage in the business of producing, processing, selling or distributing any grade of market milk in an area in which no inspection service has been established by the director, then the director shall establish a milk inspection service in accordance with the provisions of Section 485; provided, however, that whenever the funds derived under the provisions of this section are inadequate to maintain the milk inspection service subject to establishment by the director, then the establishment of such milk inspection service shall not be required and the producers of market milk in that area shall be required to pay

only the inspection fee or fees specified in paragraphs (c) and (d) of this section.

The director, at least once each month, shall report to the State Controller the total amount of moneys collected under the provisions of paragraphs (a), (b), (c) and (d) of this section and at the same time shall pay into the State Treasury the entire amount of such receipts which shall be credited to the Department of Agriculture Fund and expended in carrying out the provisions of the division relating to the inspection of market milk. Report to State Controller and disposition of moneys

The director shall, within 30 days prior to each regular session of the Legislature, submit to the Governor a full and true report of all transactions under this chapter during the current biennium, including a complete statement of receipts and expenditures during the period. Report to Governor

SEC. 20. Section 511 of the said code is hereby amended to read as follows: Stats 1941, p. 493

511. Pasteurized cream when sold or used for ice cream, ice milk or sherbet manufacture shall be clean, sweet, free from undesirable flavors and odors, and shall contain not more than 75,000 bacteria per milliliter, official plate count. Ingredients Standards

SEC. 21. Section 513 of the said code is hereby amended to read as follows: Stats 1941, p 493

513. Ice cream or ice milk sold in package form shall be labeled with the name and address of the manufacturer, the wholesale distributor or the retailer. The word "manufactured by" shall appear above the name when the name of the manufacturer is given; the words "distributed by" shall appear above the name when the name of the wholesale distributor is given; and the words "put up for" or "put up by," as the case may be, shall appear above the name when the name of the retailer is given. Labeling of ice cream

SEC. 22. Section 523 of the said code is hereby amended to read as follows: Stats 1941, p 494

523. Butter when sold to the retail trade shall be labeled with the name and address of the manufacturer, the wholesale distributor, or the retailer. The words "manufactured by," shall appear above the name, when the name of the manufacturer is given; the words, "distributed by," shall appear above the name when the name of the wholesale distributor is given; and the words, "put up for" or "put up by," as the case may be, shall appear above the name when the name of the retailer is given. Labeling of butter

Butter when received in California by brokers, jobbers and other receivers of butter in cubes, tubs, firkins or other bulk packages shall be labeled with the name and address of the

manufacturer, the date on which the butter was manufactured, together with the original lot or churn number. Such markings shall remain on said packages until the butter contained therein is cut and wrapped for the retail trade. The name of any city, county or other geographical designation or any word which may be pronounced the same as any city, county, or other geographical designation, other than the address of the manufacturer, wholesale distributor or retailer, whose name is printed on any package or wrapper, shall not appear thereon.

Nothing in this section prohibits the use of a trade-mark or brand having a geographical name, copyrighted or registered in the office of the Secretary of State of this State prior to the first day of January, 1923.

Stats 1941, p 496

SEC. 23. Section 526 of the said code is hereby amended to read as follows:

Method of scoring

526. All scoring of butter shall be in the manner specified in the regulations promulgated by the director, which shall conform as closely as possible to the methods outlined in the Service and Regulatory announcements issued for the inspection of butter under the food products inspection laws by the Bureau of Agricultural Economics of the United States Department of Agriculture.

Stats 1941, p 498

SEC. 24. Section 542 of the said code is hereby amended to read as follows:

Pasteurized and pasteurized-blended cheese

542. (a) Pasteurized cheese, pasteurized-blended cheese, is the clean, sound, pasteurized product made by comminuting and mixing, with the aid of heat and water, one or more lots of cheese into a homogeneous, plastic mass. Pasteurized cheese, pasteurized-blended cheese, bearing a varietal name, is made from cheese of the variety indicated by the name and conforms to the limits for fat and moisture for cheese of that variety.

(b) Emulsified cheese, "process cheese," is the modified cheese made by comminuting and mixing one or more lots of cheese into a homogeneous, plastic mass, with the aid of heat, with or without the addition of water, and with the incorporation of not more than 3 per cent of a suitable emulsifying agent.

Stats 1941, p 498

SEC. 25. Section 543 of the said code is hereby amended to read as follows:

Labeling

543. The labeling, and the advertising of pasteurized cheese, pasteurized-blended cheese, emulsified or process cheese, shall be in accordance with the provisions of this division and the regulations promulgated by the director.

The standards of composition for pasteurized cheese, pasteurized-blended cheese, emulsified cheese, and "process

cheese," shall be fixed by the director and shall conform as nearly as possible to those proclaimed and established by the Secretary of the United States Department of Agriculture.

SEC. 26. Section 545 of the said code is hereby amended to read as follows: Stats 1911, p 1153

545. Established varieties of cheese are as follows:

(a) All varieties of cheese made by the so-called cheddar process which consists, in part, of subjecting the curd to a matting and milling process and molded under pressure, into characteristic forms approved by the director, with or without bandage, are classified as cheddar cheese. Cheddar cheese shall contain not more than 39 per cent of moisture. Cheddar

(b) Granular cheese is made by the so-called stirred curd or granular process and molded, under pressure, into characteristic forms similar to those for cheddar cheese, and containing not more than 42 per cent of moisture. Except as provided in the rules and regulations promulgated by the director, granular cheese shall have a red bandage or a red coating. Granular

(c) Monterey cheese is made by the so-called stirred curd or granular process, without added color, and molded, under pressure, into characteristic forms, and containing not more than 44 per cent of moisture. Monterey

(d) High moisture jack cheese is made by the so-called stirred curd or granular process, without added coloring, and molded in bags under pressure into a characteristic form or shape, and containing not more than 50 per cent of moisture. It shall be labeled on both flat surfaces with the name, the grade, whether whole milk, part skim milk or skim milk, and the factory number in letters not less than one inch in height nor less than one-fourth inch in width. Jack

(e) Cream cheese is an unripened cheese made by the neufchatel process or variations thereof, from cream, milk or skim milk enriched with cream or milk fat sufficient so that the resultant cheese shall contain in its water-free substance not less than 65 per cent of pure milk fat. It shall contain not more than 56 per cent of moisture. All manufacturers of cheese who manufacture cream cheese from butter shall first secure from the department a permit to do so. Said permit shall be issued subject to the rules and regulations of the director, and may be revoked for violation thereof after hearing. Cream

(f) Uncreamed cottage cheese shall be made from pure, fresh milk or skim milk which has been pasteurized, with or without harmless coloring matter, and sold fresh without molding into forms. Uncreamed cottage

(g) Creamed cottage cheese is uncreamed cottage cheese to which a sufficient quantity of pure fresh, pasteurized sweet cream is added so that the finished product contains not less than 4 per cent of pure milk fat. The addition of cream, milk or other fluids to uncreamed or creamed cottage cheese shall Creamed cottage

take place only in milk products plants licensed under the provisions of Section 671 of the Agricultural Code.

Stats 1941, p 500

SEC. 27. Section 546 of the said code is hereby amended to read as follows:

Special varieties

546. All varieties of cheese other than established varieties are special varieties and shall be made or sold under written permit from the director. The standards of composition and labeling requirements shall be promulgated by the director and designated in the special permit issued for their manufacture.

Stats 1941, p 500

SEC. 28. Section 551 of the said code is hereby amended to read as follows:

Butter fat

551. Milk fat or butter fat is the fat of milk and has a Reichert-Meissl number not less than 24 and a specific gravity not less than 905/1000 (milk fat at 40 degrees Centigrade compared with water at 40 degrees Centigrade). By "Reichert-Meissl number" is meant the number of milliliters of decinormal alkali required to neutralize the acidity of the distillate from five grams of fat treated in the manner specified in the regulations promulgated by the director which shall conform as closely as possible to the methods described in the book entitled, "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," published from time to time by that association.

New section

SEC. 30. A new section, to be numbered 590, is hereby added to Article 2 of Chapter 3 of Division 4 of the said code, to read as follows:

Imitation milk product

590. As used in this division, "imitation milk product" means any substance, mixture or compound made in imitation of, or having the appearance or semblance of, milk or any product thereof, which substance, mixture or compound contains any edible oil or fat other than milk fat.

Stats 1941, p 512

SEC. 31. Section 616 of the said code is hereby amended to read as follows:

Oleomargarine reports Warehouses, etc

616. Every person engaged in the warehouse, cold storage or transportation business shall keep a correct record of all oleomargarine, renovated butter, substitute for butter, substitute for cheese or other imitation milk products, which at any time may be in their possession, or which may be transported or stored by them, showing the owner, the quantity and kind of goods, the date when stored, and when removed, in case of warehouses and cold storage companies, and showing the character of goods billed, the quantity, the name and

address of consignor and consignee, and the date of transportation, in case of boats and railroad companies.

SEC. 32. Section 618 of the said code is hereby amended to read as follows: Stats 1941, p 512

618. All manufacturers of imitation milk products shall furnish the department at the end of each calendar month the names and specific locations of all persons who purchase or receive any imitation milk products for the purpose of selling to the public in any form. Imitation dairy products Manufacturer's reports

SEC. 33. Section 619 of the said code is hereby amended to read as follows: Stats 1941, p 512

619. All manufacturers of imitation milk products shall submit to the department at the end of each month a report of the quantity sold or purchased, the name and the address of the buyers, the dates and the places to which they were shipped or delivered. Same

SEC. 34. Section 620 of the said code is hereby amended to read as follows: Stats 1941, p 512

620. Except as otherwise provided in this division it is unlawful to manufacture or sell any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them or any ice cream, ice milk, cheese or any other milk product to which has been added any fat or oil other than milk fat, or the fat naturally contained in chocolate and not separated therefrom either under the name of said products, articles or the derivatives thereof, or under any fictitious or trade name. The addition to the products commonly known as condensed skim milk, condensed buttermilk, or semisolid buttermilk of not more than 5 per cent of pure cod liver oil is not a violation of this section, if the product is sold for poultry or stock feed. Addition of fats

SEC. 35. Section 621 of the said code is hereby amended to read as follows: Stats 1941, p 513

621. No imitation milk product shall be used in any of the charitable or penal institutions that receive assistance from the State. Use in State institutions

SEC. 36. Section 631 of the said code is hereby amended to read as follows: Stats 1941, p 513

631. Pasteurization of milk or products thereof, is a process for the elimination therefrom of organisms harmful to human beings It shall consist of uniformly heating such Pasteurization

products to a temperature of not less than 140 degrees Fahrenheit and of holding the same at a temperature between 140 and 145 degrees Fahrenheit for not less than 30 minutes, nor more than one and one-half hours, and immediately thereafter cooling the same to a temperature of not above 50 degrees Fahrenheit.

Stats 1941, p 514
See also Stats 1941, p 410

SEC. 37. Section 635 of the said code is hereby amended to read as follows:

Care of apparatus

635. All apparatus used for the pasteurization of milk or products thereof shall be kept in strictly clean and sanitary condition and every pasteurizing plant shall be equipped with sufficient recording thermometer devices to accurately record the temperature to which, and the length of time for which the pasteurized product has been heated.

Thermometer records

All recording thermometer devices used in pasteurization shall be of a type approved by, and the use thereof shall at all times be subject to the approval of the director. All persons using pasteurizing apparatus within the State shall date, preserve and keep on file for not less than two months after the same are made, all records made by such thermometer, or in lieu of such preservation may deliver such records to any public officer authorized by law or ordinance to receive the same, and said records shall, at all times, be open to the inspection of the director, the State Board of Health, and all State, county, and municipal officers charged with the enforcement of the laws and ordinances respecting milk products or the public health.

Stats 1941, p 514

SEC. 38. Section 636 of the said code is hereby amended to read as follows:

Use of word "pasteurized"

636. It is unlawful to sell any milk or product thereof as and for pasteurized milk or a product thereof, or to use the word "pasteurized," or any of its derivatives in connection with the sale, designation, advertising, labeling or billing of any milk or product thereof unless the milk and all products thereof contained therein or used in the manufacture thereof consist exclusively of milk, skim milk or cream which has been pasteurized.

New section

SEC. 39. A new section, to be numbered 640, is hereby added to Article 2 of Chapter 4 of Division 4 of the said code, to read as follows:

"Dairy farm"

640. "Dairy farm" means any place or premises upon which milk, goat's milk, or sheep's milk is produced for sale or other distribution and where more than two cows, six goats, or six sheep are in lactation.

SEC. 40. A new section, to be numbered 640.5, is hereby added to Article 2 of Chapter 4 of Division 4 of the said code, to read as follows: New section

640.5. "Milk products plant" means a building wherein milk, goat's milk, sheep's milk, or any products thereof are processed, manufactured, handled, stored, or kept for sale, except a store or salesroom where milk, goat's milk, sheep's milk, or any products thereof are sold at retail in final packaged form. Milk products plant

SEC. 41. Section 641 of the said code is hereby amended to read as follows: Stats. 1941, p. 515

641. It is unlawful to sell, give away, or deliver, or to knowingly purchase or receive any impure, polluted, tainted, unclean, unwholesome, stale or adulterated milk, goat's milk, sheep's milk, or cream, or any product manufactured wholly or in part therefrom, or other milk, or cream, or products thereof or imitation milk products or substitutes for milk products which do not conform to the standards established by this division, or to sell, give away, or deliver, or to knowingly purchase or receive as or for milk or cream any product prepared or manufactured by the mixing or blending of milk, skim milk or any of the derivatives thereof, with butter. Impure dairy products

SEC. 42. Section 642 of the said code is hereby amended to read as follows: Stats. 1941, p. 515

642. It is unlawful to sell, give away, deliver, or to knowingly purchase or receive any milk, goat's milk, sheep's milk, or product thereof which has been produced in or by a dairy farm or milk products plant in an insanitary condition, or that is handled by any carrier of milk or products thereof or in any store or depot that is in an insanitary condition; or that is produced from animals affected by any disease, except as hereinafter provided. Sale of insanitary milk products

SEC. 43. Section 643 of the said code is hereby amended to read as follows: Stats. 1941, p. 515

643. A dairy farm is insanitary in the following cases: Insanitary dairy farm

(a) If the pails, cans, bottles or other containers for milk or its products, or the strainers, coolers or other utensils, appliances, apparatus or equipment coming in contact with the milk or its products are not thoroughly washed and afterwards sterilized by exposing them to water or water vapor at a temperature above 170 degrees Fahrenheit for a period of at least 15 minutes, or by boiling water or by superheated steam each time the same are used; or if the containers, utensils, appliances or equipment after sterilization are not adequately dried and protected from flies and dust and other

contamination; or if any containers, utensils, appliances or equipment are used for any purpose other than that of handling milk or the products of milk.

(b) If the udders, flanks, hind legs and tails of cows are not reasonably clean during milking.

(c) If the milk or cream is not protected from contamination by dust and flies.

(d) If the person or wearing apparel of the dairyman, his employees or other persons who handle the milk or its products are soiled or not washed with reasonable frequency, or if the hands of milkers are not clean during the entire period of milking.

(e) If the milk or cream is not cooled to as low a temperature as practicable within one hour after it is drawn from the cows, and kept as cool as conditions will permit until delivery to the plant or consumer.

(f) If a suitable milk house or room, properly screened to exclude flies and insects is not provided and maintained for the separating, cooling, mixing, canning and keeping, or otherwise caring for the milk or cream. Said milk house or room shall not be located in or be a part of any dwelling house, barn, or poultry house, and shall not be used for any other purpose; and if any milk or cream is separated, cooled, mixed, canned or kept in any room or place which is occupied by any person as a sleeping or living apartment, or occupied by fowls, or animals.

(g) If any urinal, privy vault, open cesspool, pigpen, stagnant water, accumulation of manure or other filth is permitted within 100 feet of the milk house or room, or within 50 feet of any cow stables, or stanchions or other place where milking is done.

(h) If to the interior of cattle stables, barns, milking sheds, milk house or room, an application of lime whitewash or paint is not made, if in the judgment of an authorized inspector it is needed.

(i) If the walls become soiled with manure, urine or other filth.

(j) If the yards or inclosures are filthy or insanitary, or if any part of such yards or inclosures, other than pastures, are made the depositories of manure in heaps or otherwise, where it is allowed to ferment and decay.

(k) If the water supply for use around the dairy farm or for drinking by live stock is stagnant, polluted with manure, urine drainage, decaying vegetable or animal matter or pathogenic bacteria from any source.

(*l*) If the feed is spoiled, or otherwise unfit for feeding cows for the production of milk.

SEC. 44. Section 644 of the said code is hereby amended to read as follows: Stats 1941, p 517

644. A milk products plant is insanitary in the following cases: Insanitary milk products plant

(a) If milk or cream or any product of either is received that has reached an advanced stage of fermentation, or that shows a state of putrefactive fermentation, or contains foreign substances detrimental to the quality of the manufactured product.

(b) If the utensils and apparatus that come in contact with milk or its products are not thoroughly washed and sterilized by means of boiling water or superheated steam or other means equally effective and acceptable to the department, immediately following the completion of any processing operations and if the cans or containers in which the milk or cream or products of either is received, transported or delivered are not thoroughly washed, sterilized and dried after emptying and before being sent out to be used again or if any containers, utensils, or apparatus, or equipment are used for any purpose other than that of handling milk and the products of milk.

(c) If the floor is not constructed of nonabsorbent material acceptable to the department or if the floor is so constructed as to permit the flowing of water, milk or other liquids underneath or among the interstices of such floor, where fermentation and decay can take place, or if such floor can not be readily kept free from dirt.

(d) If floor drains are not provided that will convey refuse milk, water and sewage away to a point at least 50 yards distant from such milk products plant or if any cesspool, privy vault, hog yard, slaughterhouse, manure or any decaying vegetable or animal matter shall be so located as to permit foul odors to reach such milk products plant or storeroom or depot where milk or its products are sold or handled; or if such milk products plant is not adequately and conveniently supplied with water free of pollution with sewage or contamination with pathogenic bacteria unless said water be subjected to efficient chlorination or otherwise treated to make it safe for use in connection with the manufacture of food products.

(e) If such milk products plant does not permit access of light and air sufficient to secure good ventilation.

(f) If in any building used in connection with any milk products plant any species of animal life are permitted. If upon the floor or walls any milk or its products or any filth is allowed to accumulate or ferment, or decay, or if the bodies or wearing apparel of persons employed, or coming in contact with any milk or its products in any milk products plant are unclean and not washed from time to time with reasonable frequency, or if suitable toilet and lavatory facilities and clean towels are not provided for employees.

(g) If tight, sound and cleanable walls and ceilings are not provided so as to exclude flies, insects and dust.

Stats 1941, p 518

SEC. 45. Section 645 of the said code is hereby amended to read as follows:

Fruit juice containers

645. Notwithstanding any provision of subdivision (a) of Section 643 or subdivision (b) of Section 644, containers, utensils, appliances and equipment used for handling or bottling milk or milk products may be used for handling and bottling fruit juices or fruit juice base beverages in accordance with rules and regulations of the director.

Stats 1941, p 519

SEC. 46. Section 661 of the said code is hereby amended to read as follows:

Dairy statistics Publication

661. The director may compile and publish statistics relative to the dairy industry, oleomargarine and imitation milk products, and disseminate the same and other information useful to the general good and development of the dairy industry of the State, and make a suitable charge or charges for publications issued under authority of this chapter.

Stats 1941, p 520

SEC. 47. Section 662 of the said code is hereby amended to read as follows:

Forms for reports

662. The director shall provide blanks for reporting milk and milk products statistics, and shall, on or before the last day of December of each year, cause to be mailed to each person engaged in operating any milk products plant and market milk distributor when necessary, one or more of such blanks and each such person shall, on or before the first day of February following transmit to the director a full and accurate report of the amount of milk, cream, condensed or evaporated milk, butter, cheese, ice cream or other milk products produced, purchased or manufactured or distributed during the year ending December 31st, just preceding. All milk products plants purchasing milk and cream direct from farmers shall report a complete list of all persons from whom their product is obtained, giving the name and address, whenever possible, in each case. In addition to said annual reports the director may require semiannual, quarterly, or monthly reports of the same general character as the annual reports. Said reports shall be mailed to the director not later than 30 days after the date of the department's written request, upon blanks furnished by the director.

Stats 1941, p 521

SEC. 48. Section 666 of the said code is hereby amended to read as follows:

Labeling regulations

666. All milk products or imitations thereof when sold to the retail trade shall be labeled or billed with the correct name

of the product and shall conform to all other requirements for special labeling of the products provided in this division, or in the rules and regulations for its enforcement. No person shall use the name of any such product, either orally, printed, or written, in connection with the sale of any product or substance unless said product or substance conforms to the definitions and standards prescribed by this division. No person shall make or cause to be made any statement either oral, written, or printed, nor make or print, or cause to be made or printed any design, symbol, picture, or illustration in connection with the advertising or sale of any product, article, or compound defined in this division, which statement, design, symbol, picture or illustration shall be false, deceptive or misleading in any manner.

SEC. 49. Section 676 of the said code is hereby amended to read as follows: Stats 1941, p 523

676. (a) Persons who test milk or cream or fluid derivatives thereof, purchased, received or sold on the basis of milk fat contained therein must hold a tester's license. Methods or processes of testing must be approved by the department. A separate license is required for each method or process used by any one person. Licenses —Tester's

(b) Persons, other than licensed testers, who take samples of milk or cream or fluid derivatives thereof purchased, received or sold on the basis of milk fat contained therein, on which sample tests are to be made as a basis of payment, and all persons who weigh milk or cream or fluid derivatives thereof, the weight to be used as a basis of payment must hold a sampler's and weigher's license. When one person does both sampling and weighing only one license is required. In cases of emergency a person may weigh or sample for a period not exceeding one week, without a license. Any person who takes samples of milk or cream or fluid derivatives thereof for testing shall hold the same in an unchanged condition until delivered to a licensed tester. —Sampler's and weigher's

(c) Persons who make bacteriological determinations of milk or cream to be used as a basis of payment or determining value must hold a technician's license. —Technician's

SEC. 50. Section 681 of the said code is hereby amended to read as follows: Stats 1941, p 524

681. No person shall fraudulently manipulate the measure or weight or underread or overread or otherwise manipulate any test used for determining the grade or quality of milk or cream or fluid derivatives thereof, or the per cent of milk fat in milk or cream or fluid derivatives thereof, nor take an unfair sample of milk or cream or fluid derivatives thereof on which a test is to be made, nor fraudulently manipulate such samples, False tests

Records or the records of any measurement, weight, or test, or combination thereof. A permanent record in duplicate of all tests of milk or cream or fluid derivatives thereof purchased, received, or sold on the basis of the amount of milk fat contained therein, must be made by a licensed tester on standard forms supplied by, or in accordance with the specifications for such records, adopted by the department. Each test shall be legibly recorded with indelible pencil, or ink in such a manner as to correctly identify the test obtained upon the milk or cream or fluid derivatives thereof. Each sheet or page shall be authenticated by the signature of the licensed tester, and a duplicate record shall be deposited by the licensed tester immediately after completing the test on the day's samples, in a box provided by the purchaser or receiver or seller of milk or cream or fluid derivatives thereof, as the case may be, said box to be constructed, sealed and maintained in accordance with the rules and regulations of the director. The original record shall be immediately delivered to the purchaser or receiver or seller of said milk or cream or fluid derivatives thereof, to be

Retention of samples retained by him for at least three months. The licensed tester shall retain an unmodified sample of all milk or cream or fluid derivatives thereof tested by him for not less than 48 hours after tests of said milk or cream have been made and said purchaser or receiver or seller of milk or cream or fluid derivatives thereof shall provide a suitable place where such samples so retained may be kept and such place shall be acceptable to the department. When payment for milk or cream or fluid derivatives thereof is made on the basis of the milk fat contained therein, samples shall be taken from each lot of said milk or cream or fluid derivatives thereof upon delivery, and payment shall be made in accordance with the percentage of milk fat actually found in said samples. Nothing in this section prohibits weighing and sampling on a route, or the use of composite samples of milk.

Stats 1941, p 530 SEC. 51. Section 722 of the said code is hereby amended to read as follows:

Penalty 722. The operation of a milk products plant without a license to do so is a misdemeanor.

Stats 1941, p 530 SEC. 52. Section 723 of the said code is hereby amended to read as follows:

Revocation of licenses 723. The licenses or permits issued in accordance with the provisions of Articles 5 and 7 of Chapter 2, Article 4 of Chapter 3, Articles 5 and 6 of Chapter 4, and Section 501 of this division, upon a hearing before the director of which the licensee or permittee shall have a written notice of the time and place of said hearing and the charges made against him may be suspended or revoked by the director if, after written notice, the licensee or permittee fails, after 30 days, to comply

with the laws, rules and regulations under which the license or permit was granted. No such 30 days' notice will be required where the premises or appurtenances are in a manifestly insanitary condition nor in cases of manipulation of measures, weights, samples or tests for milk fat content or bacterial counts of milk or cream upon which payment is based, or the record thereof.

Effect· Stats 1941, p 475

SEC. 53. This act shall not go into effect unless the Milk and Milk Products Act of 1941, introduced in the Fifty-fourth Session of the Legislature is enacted at that session.

CHAPTER 274

An act to add Section 845.2 to the Fish and Game Code, relating to nets seized for violations of law, declaring the urgency of this act, to take effect immediately.

Stats 1933, p 394, amended

[Approved by Governor May 16, 1941 Filed with Secretary of State May 16, 1941]

In effect immediately

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

New section

SECTION 1. Section 845.2 is hereby added to the Fish and Game Code, to read as follows:

Application for regaining possession

845.2. When any net is seized pursuant to Section 845, the owner or any other person otherwise entitled to possession of the net may apply to the superior court of the county or city and county in which the seizure was made for leave to file bond and regain possession of the net during the pendency of the proceedings. The bond shall be in an amount determined by the judge to be the actual value of the net at the time of its release. Upon giving said bond conditioned upon the return of the net to the custody of the court in the event the net is ordered forfeited, the person on whose behalf such bond is given shall be put in possession of the net and may use the net until it is finally ordered delivered up and forfeited, if such be the judgment of the court.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution and therefore shall take effect immediately. The facts constituting such necessity are as follows:

Under the present provisions of law applicable thereto when nets of fishermen are seized on a charge of violating the laws relating to fish and game the nets must be held until the final disposition of the charge against the fisherman. The result of this is to deprive the accused of the use of the nets for an indefinite period regardless of his ultimate guilt or innocence,

and, in all cases, prevents the use of the net by anyone during such period. The provisions of this act will permit the continued use of the nets and will serve the public purpose of keeping valuable nets in operation and thereby increasing the available supply of fish for human consumption, thus materially adding to the food resources of the people of this State, and will further serve to prevent the impairment of earning power of the fishermen involved.

CHAPTER 275

Stats 1933, p 60, amended

An act to amend Section 635 of the Agricultural Code, relating to equipment used in the pasteurization of milk.

In effect September 13, 1941

[Approved by Governor May 16, 1941. Filed with Secretary of State May 16, 1941.]

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

Stats 1941, p 1402

SECTION 1. Section 635 of the Agricultural Code is hereby amended to read as follows:

Care of apparatus

635. All apparatus used for the pasteurization of milk, or products thereof shall be kept in strictly clean and sanitary condition, and each vat, tank or other receptacle in which milk or milk products is pasteurized shall be equipped with a recording thermometer device to accurately record the temperature to which, and the length of time for which the pasteurized product has been heated and each vat, tank or other receptacle in which milk or milk products is pasteurized shall also be equipped with an indicating thermometer.

Thermometer records

All recording thermometer devices and all indicating thermometers used in pasteurization shall be such type or types approved by, and the use thereof shall at all times be subject to the approval of the director. All persons using pasteurizing apparatus within the State shall date, preserve and keep on file for not less than two months after the same are made, all records made by such thermometer, or in lieu of such preservation may deliver such records to any public officer authorized by law or ordinance to receive the same, and said records shall, at all times, be open to the inspection of the director, the State Board of Health, and all State, county, and municipal officers charged with the enforcement of the laws and ordinances respecting milk products or the public health.

CHAPTER 276

An act to amend Section 651.6 of the Fish and Game Code, relating to fish, including salmon.

Stats 1933, p 394, amended

[Approved by Governor May 16, 1941 Filed with Secretary of State May 16, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 651.6 of the Fish and Game Code is amended to read as follows:

Stats 1935, p 1552

651.6. In that portion of the San Joaquin River lying within the boundaries of San Joaquin, Stanislaus and Merced counties, in that portion of the Tuolumne River from its mouth to the highway bridge opposite Waterford, in that portion of the Stanislaus River from its mouth to the Santa Fe Railroad bridge opposite Riverbank, and in that portion of the Merced River from its mouth to the point where the Oakdale-Merced branch of the Southern Pacific Railroad crosses the Merced River, salmon may be taken with hook and line or with spear between April 1st and December 31st.

San Joaquin and Stanislaus rivers

CHAPTER 277

An act to amend Section 986 of the Insurance Code and to add Section 10486.9 thereto, all relating to insurance.

Stats 1935, p 496, amended

[This bill having remained with the Governor ten days (Sundays excepted), and the Legislature being in session, it has become a law this seventeenth day of May, 1941. PAUL PEEK, Secretary of State.]

[Filed with Secretary of State May 17, 1941.]

In effect September 13, 1941

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

Stats 1935, p 538 See also Stats 1941, p 2453

SECTION 1. Section 986 of the Insurance Code is hereby amended to read as follows:

986. A life insurer issuing policies on a reserve basis is insolvent whenever its assets are exceeded by the amount necessary to provide for its liabilities and for reinsurance of all its outstanding risks at the following rates:

Life insurer

(a) In the case of contracts issued in a foreign country, upon the lives of residents thereof, by a domestic insurer authorized to and doing business in that foreign country, the rates shall be in accordance with the standard of mortality approved by the commissioner, as provided by law.

(b) In the case of group insurance, at the rates required by law for valuation thereof.

(c) In the case of all other outstanding risks written prior to January 1, 1892, at the rates based upon the American Experience Table of Mortality with interest at the rate of 4½ per cent per annum.

(d) In the case of all its other outstanding risks written from and after December 31, 1891, up to and including December 31, 1907, at rates based upon the Combined Experience or Actuaries' Table of Mortality with interest at the rate of 4 per cent per annum.

(e) In the case of all its other outstanding risks written from and after December 31, 1907, at rates based upon the American Experience Table of Mortality with interest at the rate of 3½ per cent per annum, in accordance with Section 10486.9.

New section

SEC. 2. Section 10486.9 is hereby added to the Insurance Code, to read as follows:

Preliminary term policies

10486.9. (a) As prescribed in subdivision (b), an insurer may maintain reserves on a one year preliminary term basis on a life, term or endowment policy if by its terms such policy expressly provides that the first year's insurance under such policy is term insurance purchased by part or the whole of the premium to be received during the first year.

(b) If the actuarial net preliminary term renewal premium in the case of

(1) insurance under a limited-payment life preliminary term policy providing for the payment of all premiums thereon within less than 20 years from the date thereof; or

(2) endowment insurance under an endowment preliminary term policy,

exceeds the actuarial net preliminary term renewal premium, calculated on the same table of mortality and rate of interest, for a 20-payment life policy, the reserve on such policy specified under (1) or (2) of this subdivision (b), as the case may be, at the end of any year, including the first, shall not be less than the sum of the reserve on a 20-payment life preliminary term policy issued at the same time on a life of the same age, and the actuarial net level premium reserve for a pure endowment maturing at the end of the premium payment period, equal to the excess of the full net level premium reserve, at the end of such premium payment period, on such policy specified under (1) or (2) of this subdivision (b), as the case may be, over the reserve, at the end of such premium payment period, of such 20-payment life preliminary term policy.

The premium payment period herein referred to is 20 years or the period, if less, during which premiums are actually payable under such policy specified in (1) or (2) of this subdivision (b), as the case may be.

"20-payment life preliminary term policy"

(c) As used in this section, the term "20-payment life preliminary term policy" means a life insurance policy embodying all of the following attributes:

(1) It is whole-life insurance;

(2) The premium charged is payable annually or at lesser intervals until 20 annual premiums or a proportionately greater number of premiums payable at intervals less than

one year shall have been paid, or until the prior death of the insured;

(3) The first year's insurance is term insurance purchased by the whole or part of the premium to be received during the first contract year.

CHAPTER 278

An act to amend Section 392 of the Penal Code, relating to the running of railroad trains with passenger cars ahead of freight cars.

[Approved by Governor May 16 1941 Filed with Secretary of State May 17, 1941.] In effect immediately

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

SECTION 1. Section 392 of the Penal Code is hereby amended to read as follows: 1872 Code

392. Every person who, in making up or running railroad trains, places or runs, or causes to be placed or run, any freight car in the rear of passenger cars, is guilty of a misdemeanor, and if loss of life or limb results from such placing or running, is guilty of a felony; provided, however, that this section shall not apply where railroad trains are carrying only personnel and equipment in connection with military or naval movements. The term "freight car," as used in this section, does not include a baggage, express, or mail car. Placing passenger cars in front of freight cars

SEC. 2. This act is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall, therefore, go into immediate effect. A statement of the facts constituting such necessity is as follows: Urgency

Under the National Defense Program there is a substantial movement of troop trains between points within the State of California and between points within the State of California and without the State of California. It is necessary that the Army and Navy personnel and their equipment in such movements move in the same train and that the personnel move in passenger cars and the equipment move in freight cars. It is necessary that such personnel and equipment move with expedition and dispatch. Passenger cars are heated and otherwise serviced by the locomotive of the train of which they are a part. Freight cars are not equipped with facilities and through which the passenger cars behind freight cars can be heated and otherwise serviced from the locomotive. For such passenger cars to be properly heated and otherwise serviced, it is necessary, therefore, that they be placed in trains consisting of both freight and passenger cars, ahead of freight cars. The Army and Navy of the United States require that

the railroads move personnel and their equipment in one train. Otherwise, the movement of such personnel and equipment is delayed and results in seriously hampering the National Defense Program with resultant detriment to the public health, peace and safety of this State. Therefore, this act should go into immediate effect.

CHAPTER 279

Stats 1935, p 93, amended

An act to amend Section 500 of the Vehicle Code, relating to negligent homicide.

In effect September 13, 1941

[Approved by Governor May 18, 1941. Filed with Secretary of State May 18, 1941.]

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

Stats 1935, p 173

SECTION 1. Section 500 of the Vehicle Code is hereby amended to read as follows:

Negligent homicide

500. When the death of any person ensues within one year as the proximate result of injuries caused by the driving of any vehicle with reckless disregard of, or wilful indifference to, the safety of others, the person so operating such vehicle shall be guilty of negligent homicide, a felony, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than one year or in the State prison for not more than three years. Hereafter, the provisions of the Penal Code, defining involuntary manslaughter, shall not apply to homicide caused by the driving of any vehicle.

CHAPTER 280

An act to amend Section 6.771 of the School Code, relating to the use of school buildings or grounds.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

Stats 1933, p 1690

SECTION 1. Section 6.771 of the School Code is hereby amended to read as follows:

Charge made for use

6.771. In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts of such admission fees or contributions are not expended for the welfare of the pupils of the district or for charitable purposes a charge must be made for the use of said schoolhouses, property and grounds.

The governing board may, however, in their discretion, permit such use, without charge, by organizations, clubs or associations organized for general character building or welfare purposes, when membership dues or contributions solely for the support of such organization, club or association, or the advancement of its character building or welfare work, are accepted.

CHAPTER 281

An act to add Chapter 3 to Division 4a of the Fish and Game Code, relating to trapping wild boar.

Stats 1933, p. 394, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

SECTION 1. Chapter 3, consisting of Section 1405, is hereby added to Division 4a of the Fish and Game Code, to read as follows:

New chapter

CHAPTER 3. WILD BOAR

1405. It is unlawful to take wild boar by means of a trap in Monterey County.

Wild boar

CHAPTER 282

An act to amend Section 1395 of the Labor Code, relating to the employment of minors in radio broadcasting and television studios.

Stats 1937, p. 185, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1395 of the Labor Code is hereby amended to read as follows:

Stats 1937, p. 225

1395. If the written consent of the Labor Commissioner is first obtained, or if such consent is not required for radio or television by the provisions of subdivision (c) of Section 1394, nothing in this article or Article 2 of Chapter 2 of this part shall prohibit or prevent:

Employment of minors

Exceptions

(a) The employment of any minor, in the presentation of any drama, legitimate play, or in any radio broadcasting or television studio.

(b) The employment of any minor 12 years of age or over in any other performance, concert, or entertainment.

(c) Any minor over the age of eight years from appearing in any performance, concert, or entertainment during the public school vacation.

CHAPTER 283

Stats. 1933, p. 394, amended

An act to amend Section 161 of the Fish and Game Code, relating to Game Refuge 4B.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

Stats. 1937, p. 529

SECTION 1. Section 161 of the Fish and Game Code is hereby amended to read as follows:

District 4B

161. District 4B. The following shall constitute Fish and Game District 4B. All that area within the counties of Los Angeles and San Bernardino within the following boundaries: Beginning at the junction of the Tujunga Canyon Road and the Angeles National Forest boundary in the northeast corner of T. 2 N., R. 14 W., thence following the easterly side of said road to the Mount Gleason Trail near Ybana Ranch, thence northerly following the said trail to the summit of Mount Gleason, thence easterly following the summit of the divide between the Los Angeles River watershed and the Santa Clara River watershed to its intersection with the Pacifico Road approximately on west township line of T. 4 N., R. 11 W., thence following said Pacifico Road easterly and southerly to its intersection with junction of the Sulphur Springs Road in Sec. 10, T. 3 N., R. 11 W., thence following the southerly side of Sulphur Springs Road to Squaw Canyon, thence easterly along the bed of the creek of Squaw Canyon to Cloudburst Canyon, thence southerly following Cloudburst Canyon to the Pacifico Road in Sec. 17, T. 3 N., R. 10 W., thence following said Pacifico Road to the summit of North Baldy near the range line between R. 8 and 9 W., thence north approximately one-half mile, thence east one-half mile, thence north approximately one mile, east one-half mile, north one and one-half miles, east two and one-half miles, south one-half mile, east three and one-half miles to the northeast corner of Sec. 31, T. 4 N., R. 7 W., thence south following the section line through T. 4 N., R. 7 W., and T. 3 N., R. 7 W., approximately six miles to the summit of Pine Mountain and the east boundary of the Angeles National Forest as it was established January 1, 1929, thence southerly and westerly following said National Forest boundary to the point of beginning. All townships and ranges specified in this section are referred to the San Bernardino Base and Meridian.

CHAPTER 284

An act to amend Section 1299.18 of the Agricultural Code, relating to liens of producers of farm products sold to processors.

Stats 1933, p 60, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

Stats 1939, p 2402 See also Stats 1941, p 1917

SECTION 1. Section 1299.18 of the Agricultural Code is hereby amended to read as follows:

Definitions

1299.18. Definitions. As used in this chapter:

(a) The term "person" includes any individual, firm, association, partnership or corporation.

(b) The term "producer" designates any person engaged in the business of growing or producing any farm product.

(c) The term "farm products" includes all agricultural, horticultural, viticultural and vegetable products of the soil, but shall not include timber and timber products, milk and milk products, hay, field grains, dried beans, and seeds.

(d) The term "processor" means any person who buys, or otherwise takes title to or possession of, farm products from the producer thereof for the purpose of processing or manufacturing the same or selling, reselling or redelivering the same in dried, canned, extracted, fermented, distilled, or other preserved form, and shall include (1) any person or exchange conducting such business, and (2) any person or exchange buying farm products from the producer thereof and reselling them to any person or exchange conducting such business, and (3) any person or exchange who buys or otherwise takes title to or possession of farm products from the producer thereof after said farm products have been dried, canned, extracted, fermented, distilled or otherwise preserved by said producer, and before sale or delivery by said producer, and (4) any person engaged in the business of soliciting or negotiating the sale of any farm products which are processed or intended for processing purposes.

Retail merchants having a fixed or established place of business in this State shall not be included within the term "processor"; provided, however, that such exemption shall apply only to retail merchants who do not also sell at wholesale farm products already processed or for processing purposes purchased from the producers thereof.

(e) The term "agent" designates any person who on behalf of any processor contracts for or solicits any farm product from a producer thereof, or who negotiates the purchase of any farm product on behalf of any processor.

(f) The term "lender" includes any individual, firm, association, partnership or corporation who advances new value to a processor.

(g) The term "new value" includes new advances or loans, whether in money or other property, made by a lender to a processor, but shall not be construed to include extensions or renewals of existing obligations of the processor, nor obligations substituted for such existing obligations.

CHAPTER 285

Stats 1933, p 394, amended

An act to amend Sections 883 and 924 of the Fish and Game Code, relating to gill nets and round haul nets.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

Stats 1937, p 1396

SECTION 1. Section 883 of the Fish and Game Code is hereby amended to read as follows:

Nets and lines

883. In that part of District 16 lying north and west of a line drawn from the light on the end of the Monterey Breakwater due east to the shore line, drift gill nets and set gill nets may be used. In District 15 it shall be unlawful to use set lines or trawls or any line with more than five (5) hooks.

The possession upon board of any boat in District 15, of any purse seine net, drift gill net or round haul net, when such boat shall have drifted by force of current, tide or wind into the waters of said district, shall not be deemed a violation of this code.

Stats 1933, p 477

SEC. 2. Section 924 of the Fish and Game Code is hereby amended to read as follows:

Purse and round nets

924. In that part of District 16 lying north and west of a line drawn from the light on the end of the Monterey Breakwater due east to the shore line, purse and round haul nets may be used.

CHAPTER 286

Stats 1933, p. 60, amended

An act to amend Section 212 of the Agricultural Code, relating to bringing goats into this State.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

Stats 1933, p 96

SECTION 1. Section 212 of the Agricultural Code is hereby amended to read as follows:

Importation of animals

212. It is unlawful to bring into this State any horses, mules, dairy cattle, breeding bulls, goats, or sheep except as hereinafter provided.

(a) Dairy cattle and breeding bulls shall be accompanied by a certificate of health and tuberculin test record, signed by a qualified veterinarian, showing that each of said animals is free from tuberculosis and other communicable diseases, or by a signed statement issued by the official in charge of live stock sanitary work in the State from which such animals are transported, stating that the animals in the shipment originated in herds which are free from tuberculosis and are not affected with any communicable disease. A copy of the certificate or statement shall be mailed to the department on the day of shipment. Cattle

(b) Horses and mules must be accompanied by a certificate of health signed by a qualified veterinarian, stating that each animal in the shipment is free from communicable diseases, or a signed statement issued by the official in charge of live stock sanitary work in the State from which said animals are transported, stating that each animal in the shipment is free from communicable diseases, and has not recently been exposed to any communicable diseases. A copy of the certificate or statement shall be mailed to the department on the day of shipment. Horses, etc.

(c) Any person desiring to ship buck sheep into this State shall notify the department by registered mail before said importation shall be made. Said notice shall give the names and addresses of consignor and consignee, the number of animals shipped, and the origin and destination of the shipment. If said buck sheep are not shipped in crates or in railroad cars which have been cleaned and disinfected prior to loading, or if they have been unloaded in corrals while en route to destination, they may be dipped one or more times by the department. Sheep · Male

(d) Dairy goats shall be accompanied by a certificate of health and agglutination test record, signed by a qualified veterinarian showing that each of said animals is free from Brucelliasis and other communicable diseases, or by a certificate of a qualified veterinarian or a signed statement issued by the official in charge of live stock sanitary work in the State from which said animals are transported, stating that Brucelliasis is not prevalent in the area from which the animals are transported and that each animal is free from communicable diseases and has not recently been exposed to any communicable diseases. A copy of the certificate or statement shall be mailed to the department on the day of shipment. Dairy goats

(e) Any person desiring to import sheep, other than buck sheep, or goats, other than dairy goats, into this State except sheep or goats for immediate slaughter, shall notify the department by registered mail before said importation shall be made, which notice shall include the name and address Female sheep Goats

of the consignor and consignee, the owner of said sheep or goats, the place of entrance into the State, and such description of the destination as will enable the department to readily locate said sheep or goats upon their arrival.

CHAPTER 287

Stats 1937, p 185, amended

An act to amend Section 1394 of the Labor Code, relating to the hours and places of work of minors.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

Stats 1937, p 225

SECTION 1. Section 1394 of the Labor Code is hereby amended to read as follows:

Employment of minors

1394. Nothing in this article or Article 2 of Chapter 2 of this part shall prohibit or prevent:

Exceptions

(a) The employment of minors 16 years of age or over in agricultural, horticultural, viticultural, or domestic labor for more than eight hours in one day or more than 48 hours in one week.

(b) The employment of minors at agricultural, horticultural, viticultural, or domestic labor during the time the public schools are not in session, or during other than school hours, but nothing herein shall permit children under school age to work in such occupations while the public schools are in session.

(c) Any minor between the ages of eight and 18 years, who is by any law of this State permitted to be employed as an actor, actress, or performer in a theater, motion picture studio, radio broadcasting studio, or television studio, before 10 o'clock p.m., in the presentation of a performance, play, or drama, continuing from an earlier hour till after 10 o'clock p.m., from performing his part in such presentation between the hours of 10 and 12 o'clock p.m., if the written consent of the Labor Commissioner is first obtained.

(d) The appearance of any minor in any church, school, lodge, community, charity entertainment, or performance arranged for the entertainment of children where no admission fee is charged.

(e) The appearance of any minor in any radio or television broadcasting exhibition, where the minor receives no compensation directly or indirectly therefor, and where the engagement of the minor is limited to a single appearance lasting not more than one hour, and where no admission fee is charged for the radio broadcasting or television exhibition.

CHAPTER 288

An act to amend Section 12409 of the Business and Professions Code, relating to bushel weights. Stats 1937, p 1229, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.] In effect September 13, 1941

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

SECTION 1. Section 12409 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 454

12409. Whenever wheat, rye, shelled Indian corn, barley, buckwheat, flaxseed, or oats, are sold by the bushel, and no special agreement as to the weight or measurement is made by the parties, the bushel consists of 60 pounds of wheat, of 56 pounds of rye, of 56 pounds of shelled Indian corn, of 48 pounds of barley, of 48 pounds of buckwheat, of 56 pounds of flaxseed, and of 32 pounds of oats. Bushel-Agricultural commodities

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CHAPTER 289

An act to repeal Section 3616 of, to add Sections 3602.5, 3614.5 and 3616 to, and to amend Sections 3606 and 3615 of the Revenue and Taxation Code, relating to property taxation including redemption of tax-delinquent property and the termination of the right of redemption thereto, suits to quiet title to tax-delinquent property; declaring the urgency thereof, to take effect immediately. Stats 1939, p 1274, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.] In effect immediately

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

SECTION 1. Section 3606 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1330

3606. If the tax deed or taxes for any year since the sale are determined to be invalid, the court shall order any necessary steps taken to correct any cause of invalidity other than a cause of invalidity which affects the amount of taxes due for the year of sale or any year since the sale. The same officials shall comply with this order as would have taken such steps in the first instance. Correction of errors

SEC. 2. Section 3602.5 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3602.5. If the answer or other pleading of any defendant alleges the invalidity of or contests the validity of taxes of a taxing agency or revenue district, the answer or pleading of the defendant shall be served upon the legal representative Service upon legal representative

of the taxing agency or revenue district. The legal representative may appear and defend the validity of the taxes.

New section SEC. 4. Section 3614.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Termination of right of redemption 3614.5. The final decree entered in accordance with either Section 3605 or 3613 shall terminate the right of redemption.

Stats. 1939, p. 1331 SEC. 4.5. Section 3615 of the Revenue and Taxation Code is hereby amended to read as follows:

Other property affected 3615. If, in any action under this chapter, it is determined that an invalidity exists in the taxes for any year, and the invalidity affects in the same manner any property, not directly affected by the interlocutory decree, sold to the State for taxes in such year, redemptioners of such other property may redeem their property in full by paying the amount of sold taxes, computed as of the time of payment, if the right or privilege of redemption has not been terminated. The procedure for this invalidity redemption shall otherwise be the same as an ordinary redemption. The estimate of the amount to be paid shall, as to the years covered by the action, be based on the interlocutory decree of the court in the action.

Stats. 1939, p. 1332 SEC. 5. Section 3616 of the Revenue and Taxation Code is hereby repealed.

New section SEC. 6. Section 3616 is hereby added to the Revenue and Taxation Code, to read as follows:

Corrected redemption 3616. This invalidity redemption may be made within one year after the interlocutory decree establishing the invalidity becomes a final judgment. At any time after one year, if the right or privilege of redemption has not been terminated, redemption may be made with the usual penalties and costs, except that the estimate of the amount to be paid shall be based on the correct method of determining the taxes due, as determined by the judgment.

Urgency SEC. 8. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows:

After the enactment of Sections 3859 to 3859.20, inclusive, of the Political Code and Sections 3591 to 3617 of the Revenue and Taxation Code, it was discovered that if proceedings to quiet the State's title were brought thereunder it might interfere with sales to cities and other governmental agencies under Sections 3897d and 3897.3 of the Political Code and under Sections 3791 to 3810 of the Revenue and Taxation Code and

might also interfere with sales by the State to private persons under Sections 3833 to 3836.2 of the Political Code and Sections 3691 to 3730 of the Revenue and Taxation Code. By reason of the large number of tax-deeded properties throughout the State of California it is essential that all means for the restoration to the active tax rolls be utilized to the fullest extent and that there should be no delay in conducting sales or bringing proceedings under any of such provisions and that sales and proceedings under each and all of the above mentioned sections be conducted simultaneously. The provisions of this act will eliminate any conflict between the above mentioned provisions and will permit the immediate institution of suits to quiet title under Sections 3591 to 3617 of the Revenue and Taxation Code. It is therefore imperative that this act take effect immediately.

CHAPTER 290

An act to repeal Sections 124, 127, 3511.5, 3521, 3543, 3550, 3552, 3571, 3572, 3574, 3651, 3661, 3691, 3807, 4101, 4111, 4112, 4113 and 4147 of, to amend Section 3355 of, and to add Sections 124, 127, 133, 3511.3, 3511.5, 3521, 3543, 3546.5, 3550, 3550.5, 3552, 3571, 3571.3, 3571.5, 3572, 3574, 3651, 3661, 3691, 3707.5, 3807, 4101, 4108.5, 4111, 4112, 4113 and 4147 to the Revenue and Taxation Code, and to repeal Sections 3773.1, 3785.4, 3785.5, 3785.6, 3833.3, 3857.2, 3859.20, 3860.05, 3860.07, 3860.08, 3860.09, 3860.10, 3860.11, 3860.12, 3860.13, 3860.14, 3860.15, 3860.16, 3860.17, 3860.18, 3860.19, 3860.20, 3860.21, 3860.22, 3860 24, 3860.25, 3860.26, 3860.27, 3860.28, 3860.29, 3860.30, 3860.31 and 3860.32 of, and to repeal Chapter 9c, consisting of Sections 3861.1 to 3861.8, inclusive, of Title 9 of Part 3 of the Political Code, relating to property taxation and tax-delinquent property, including redemption of tax-delinquent property and the termination of the right of redemption thereto, distressed assessment districts and the right of redemption of property therein, the classification and control of tax-delinquent property, contracts for the purchase thereof, and making an appropriation, to take effect immediately.

Stats 1939, p 1274, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

In effect immediately

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

SECTION 1. Section 124 of the Revenue and Taxation Code is hereby repealed.

Stats 1941, p 131

SEC. 2. Section 124 is hereby added to the Revenue and Taxation Code, to read as follows:

New section

124. "Current taxes" means taxes which are a lien on property, but which are not included in "amount of sold

"Current taxes"

taxes" except that, between a lien date and the time in the same calendar year when property is sold to the State for taxes, the taxes becoming a lien on this lien date in such calendar year are not yet "current taxes."

As used in this section, "taxes which are a lien" or "taxes becoming a lien" includes taxes which would be a lien on tax-deeded property if the property were not deeded to the State.

Stats 1941, p 131

SEC. 3. Section 127 of the Revenue and Taxation Code is hereby repealed.

New section

SEC. 4. Section 127 is hereby added to the Revenue and Taxation Code, to read as follows:

"Tax-deeded property"

127. "Tax-deeded property" is property which has been deeded to the State for taxes and which has not been sold to a private purchaser or a taxing agency, or to an administering agency after being classified for public use, and has not been redeemed.

New section

SEC. 4.3. Section 133 is hereby added to the Revenue and Taxation Code, to read as follows:

"Distressed assessment district"

133. "Distressed assessment district" means an ad valorem or direct assessment district:

(a) Formed for public purposes, the assessments or bonds of which were levied or issued to pay the cost of accomplishing such purposes,

(b) The assessments or bonds of which have become a lien upon real property, and

(c) In which, if it is an ad valorem district, 30 per cent or more of the assessments levied for the fiscal year 1939-1940 were delinquent on June 30, 1940, or, if it is a direct assessment district, 30 per cent or more of the original number of assessment parcels were delinquent on June 30, 1940.

Prior to April 1, 1942, the officer charged with the collection of assessments under an ad valorem district or direct assessment district formed for public purposes shall certify to the board of supervisors of the county wherein the district is located the amount of the assessments levied for the fiscal year 1939-1940 which were delinquent on June 30, 1940, if the district is an ad valorem district, or the number of the original parcels which were delinquent on June 30, 1940, if it is a direct assessment district.

Within two weeks after the receipt of the certification as to any district, the board of supervisors shall expressly find by resolution whether such district comes within the definition of "distressed assessment district" contained in this section, and if so, shall declare by resolution that such district is a distressed assessment district. A copy of the resolution shall

be sent to the Land Classification Commission and such resolution shall be conclusive as to whether the district is or is not a distressed assessment district.

SEC. 4.5. Section 3355 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1321

3355. The published notice of sale of tax-sold property shall show: Contents of notice

(a) A list of descriptions of the property. The assessments contained in this notice of sale shall be numbered in regular sequence.

(b) That five years will have elapsed on the date of sale at public auction since the property was sold to the State.

(c) The year of sale to the State and the fiscal year for which the taxes were levied.

(d) That the property will be sold at public auction to the highest bidder for cash, in lawful money of the United States, unless sooner redeemed.

(e) The time and place at which the property will be sold.

(f) That the minimum acceptable bid will be the amount of taxes, delinquent penalties, and costs for which it was sold to the State.

(g) The amount of the minimum bid, opposite the description of the property.

(h) The time within which the successful bidder must redeem the property.

(i) That, after a bid is made and accepted at the sale, the right of redemption, except by the purchaser, ceases.

(j) That if no bid is made and accepted at the sale, and the property is deeded to the State, the right of redemption ceases as provided in Sections 3511.3 and 3511.5.

(k) The date of the notice.

SEC. 4.6. The provisions of Section 4.5 are not operative until August 1, 1941, on and after which date they become and continue operative and applicable. Operative date

SEC. 4.8. Section 3511.3 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3511.3. On and after June 1, 1942, and prior to January 1, 1947, on execution of the deed to the State, the right of redemption is terminated as to all property other than property in distressed assessment districts. This section is indivisible. Termination of right of redemption

SEC. 5. Section 3511.5 of the Revenue and Taxation Code is hereby repealed. Stats 1941, p 132

New section SEC. 6. Section 3511.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Same 3511.5. On and after January 1, 1947, on execution of the deed to the State the right of redemption is terminated as to all property.

Stats. 1941, p. 132 SEC. 7. Section 3521 of the Revenue and Taxation Code is hereby repealed.

New section SEC. 8. Section 3521 is hereby added to the Revenue and Taxation Code, to read as follows:

Time for commencing proceedings 3521. A proceeding based on an alleged invalidity or irregularity of any deed to the State for taxes or of any proceedings leading up to the deed can only be commenced within one year after the date of recording of the deed to the State in the county recorder's office or within one year after June 1, 1941, whichever is later.

Sections 351 to 358, inclusive, of the Code of Civil Procedure do not apply to the time within which a proceeding may be brought under the provisions of this section.

Stats. 1941, p. 133 SEC. 9. Section 3543 of the Revenue and Taxation Code is hereby repealed.

New section SEC. 10. Section 3543 is hereby added to the Revenue and Taxation Code, to read as follows:

Classification 3543. The classifying agency shall, as prescribed by the Land Classification Commission, tentatively classify each parcel of tax-deeded property so as to indicate the best use for each parcel.

New section SEC. 11. Section 3546.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Effect of classification 3546.5. When any State or local agency applies to the classifying agency to have tax-deeded property classified for public use, such property is not subject to sale to private persons until it is finally classified for private ownership. An application of a State or local agency shall not prevent the redemption of such property if the right of redemption thereto has not been terminated.

Stats. 1941, p. 134 SEC. 12. Section 3550 of the Revenue and Taxation Code is hereby repealed.

New section SEC. 13. Section 3550 is hereby added to the Revenue and Taxation Code, to read as follows:

Rental and sale 3550. Until final classification is completed, tax-deeded property is subject to rental and, as provided in Section 3550.5, to sale.

SEC. 13.5. Section 3550.5 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3550.5. If property proposed to be sold under Chapter 7 or 8 of this part has not been finally classified, at the time the tax collector forwards to the Controller a copy of the resolution of the board of supervisors approving a sale under the provisions of Chapter 7, or at the time the agreement entered into under Chapter 8 is submitted to the Controller for his approval, the tax collector shall send a copy of the resolution or agreement to the Land Classification Commission. Along with the resolution or agreement there shall be transmitted to the Land Classification Commission a description of the property proposed to be sold, a description of the improvements thereon, the present use made of the property, the character of the surrounding neighborhood, and any other information which in the opinion of the tax collector will aid the Land Classification Commission in classifying the property. Sale of unclassified lands

If the resolution or agreement is received before the sixteenth day of the month, then on or before the last day of the month, or if the resolution or agreement is received after the fifteenth day of the month and on or before the last day of the month, then before the sixteenth day of the next month, the Land Classification Commission shall proceed to classify the property proposed to be sold. If the commission expressly refuses to classify the property for private use within such period and so notifies the Controller, the Controller shall not authorize or approve the sale of the property. If the property is classified within such period as suitable for private use, or if the commission fails to notify the Controller within such period of any action taken by it, the property is finally classified for private use and further proceedings for sale may be had accordingly.

SEC. 14. Section 3552 of the Revenue and Taxation Code is hereby repealed. Stats. 1941, p. 131

SEC. 15. Section 3552 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3552. After tax-deeded property has been finally classified as to use, the property classified for private ownership is subject to sale under Chapters 7 and 8 of this part, and to rental in the manner provided by law. Private use

SEC. 16. Section 3571 of the Revenue and Taxation Code is hereby repealed. Stats. 1941, p. 136

SEC. 17. Section 3571 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3571. The right of redemption of property which was deeded to the State before June 1, 1942, shall be terminated as Right of redemption

provided under this chapter, if such right of redemption has not already been terminated.

New section SEC. 18. Section 3571.3 is hereby added to the Revenue and Taxation Code, to read as follows:

Termination of right of redemption 3571.3. No right of redemption of tax-deeded property in distressed assessment districts shall be terminated, and no notice of the termination of the right of redemption of such property shall be sent under this chapter until after January 1, 1947. After that date, notice shall be given as to property deeded to the State for taxes before January 1, 1947, in such districts in the same manner and within the same time limits after January 1, 1947, as is provided in this chapter as to other property for the giving of notices on June 1, 1942, or within a fixed period thereafter.

New section SEC. 19. Section 3571.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Constitutionality 3571.5. Should Section 3511.3 or Section 3571.3 be held unconstitutional by a final decision of a court of appellate jurisdiction, then the right of redemption of all property which was deeded to the State before January 1, 1947, shall be terminated after that date as provided under this chapter, if such right of redemption has not already been terminated. In such event, in place of June 1, 1942, wherever used in this chapter, there shall be substituted the date of January 1, 1947, and any termination of a right of redemption purported to be made under this chapter prior to January 1, 1947, is hereby declared to be invalid and ineffective, and unless such right of redemption has been or is terminated under other provisions of this code, such right shall continue to exist until terminated under this chapter. Also, in such event, tax-deeded property in distressed assessment districts shall be treated like all other property tax-deeded prior to January 1, 1947.

Stats 1941, p. 136 SEC. 20. Section 3572 of the Revenue and Taxation Code is hereby repealed.

New section SEC. 21. Section 3572 is hereby added to the Revenue and Taxation Code, to read as follows:

Notice of termination 3572. Within one year after June 1, 1942, or within six months after default under any plan for payment of delinquent taxes in installments, whichever is later, the tax collector shall send a notice of termination of right of redemption to the last assessee of every assessment of tax-deeded property which was deeded to the State before June 1, 1942, except as provided in Section 3571.3. The notice shall be sent by registered mail to the assessee at his last known address, and if no address is known for him, or if the property was assessed to

unknown owners, the tax collector shall make an affidavit of such fact and file the affidavit with his record of notices sent. The notice need not be mailed if the assessee files with the tax collector a waiver of the notice.

The auditor shall cooperate with the tax collector in the performance of the duties required of the tax collector by this chapter.

SEC. 22. Section 3574 of the Revenue and Taxation Code is hereby repealed. Stats 1941, p 136

SEC. 23. Section 3574 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3574. The tax collector shall also publish the notice of termination of right of redemption once in a newspaper of general circulation published in the county, or, if none, by posting in three conspicuous places in the county, as to every last assessee for whom no address is known, and for all property assessed to unknown owners. He may also publish all notices sent by registered mail in the same manner. The publication by the tax collector of the notice of termination of the right of redemption of any property shall be made within 10 days after the notice as to such property is mailed or within 10 days after the affidavit is made, as the case may be. Publication

SEC. 24. Section 3651 of the Revenue and Taxation Code is hereby repealed. Stats 1941, p 137

SEC. 25. Section 3651 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3651. After the recording of the deed to the State, the State has exclusive power through the Controller to rent tax-deeded property and to receive all proceeds arising in any manner from the property except proceeds from a transaction terminating the right of redemption, if the right of redemption has not been terminated, or from a sale of a parcel of tax-deeded property. Renting, etc., by Controller

SEC. 26. Section 3661 of the Revenue and Taxation Code is hereby repealed. Stats 1941, p 137

SEC. 27. Section 3661 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3661. The Legislature hereby declares that it is the policy of this State to use the revenues received from the administering of tax-deeded property, and placed in the Tax-deeded Land Rental Fund, for the primary purpose of restoring tax-deeded property to the rolls and for all other purposes incident to the administration and classification of tax-deeded property. Appropriation to Land Classification Commission

Out of any money in the Tax-deeded Land Rental Fund there is hereby appropriated to the Land Classification Commission to be expended for the purposes specified in this section such sums as may be necessary.

Stats 1941, p 138

SEC. 28. Section 3691 of the Revenue and Taxation Code is hereby repealed.

New section

SEC. 29. Section 3691 is hereby added to the Revenue and Taxation Code, to read as follows:

Power to sell

3691. The tax collector may sell for lawful money of the United States all or any portion of tax-deeded property as provided in this chapter, subject to the provisions of Sections 3550.5 and 3554.

New section

SEC. 30. Section 3707.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Termination of right of redemption

3707.5. If not previously terminated, on completion of any sale under this chapter the right of redemption is terminated.

Stats 1941, p 139

SEC. 32. Section 3807 of the Revenue and Taxation Code is hereby repealed.

New section

SEC. 33. Section 3807 is hereby added to the Revenue and Taxation Code, to read as follows:

Interest conveyed

3807. If not previously terminated, all rights to redeem the property from sale to the State are terminated on the execution of the deed. The deed conveys to the purchaser all the State's interest in the property.

Stats 1941, p 139

SEC. 34. Section 4101 of the Revenue and Taxation Code is hereby repealed.

New section

SEC. 35. Section 4101 is hereby added to the Revenue and Taxation Code, to read as follows:

Right to redeem

4101. Tax-sold property and, if the right of redemption has not been terminated, tax-deeded property may be redeemed by the redemptioner until the right of redemption is terminated. The "redemptioner" is the person whose estate has been sold or his successor in interest.

New section

See also Stats 1941, p 3217

SEC. 36. Section 4108.5 is hereby added to the Revenue and Taxation Code, to read as follows:

State lands sold by State

4108.5. If the property to be redeemed is State lands sold by the State on which the full purchase price has not been paid and the deed to the State for taxes has been filed with the State Lands Commission, the redemption officer shall not

issue certificates of redemption until he first ascertains from the State Lands Commission that the State has not disposed of the lands. On redemption of such lands, the redemption officer shall make the certificates in quadruplicate and transmit one of the receipts to the State Lands Commission, which shall issue its receipt to the redemptioner.

SEC. 37. Section 4111 of the Revenue and Taxation Code is hereby repealed. Stats 1941, p 139

SEC. 38. Section 4111 is hereby added to the Revenue and Taxation Code, to read as follows: New section

4111. Without charge, the recorder shall note on the margin of the record of the deed, if issued, the following: Recorder's notation

(a) The fact and date of redemption.

(b) The name of the person redeeming.

SEC. 39. Section 4112 of the Revenue and Taxation Code is hereby repealed. Stats 1941, p 139

SEC. 40. Section 4112 is hereby added to the Revenue and Taxation Code, to read as follows: New section

4112. On redemption, the deed becomes null and any interest acquired by virtue of the sale to the State ceases. Effect on sale

SEC. 41. Section 4113 of the Revenue and Taxation Code is hereby repealed. Stats 1941, p 139

SEC. 42. Section 4113 is hereby added to the Revenue and Taxation Code, to read as follows: New section

4113. Whenever tax-sold or tax-deeded property is redeemed, the redemptioner or any other person claiming through him may bring suit against the State to quiet title to all or any portion of the property and prosecute it to final judgment. Quieting title against State

SEC. 43. Section 4147 of the Revenue and Taxation Code is hereby repealed. Stats 1941, p 139

SEC. 44. Section 4147 is hereby added to the Revenue and Taxation Code, to read as follows: New section

4147. As provided in this chapter, any parcel of tax-sold property, or of tax-deeded property to which the right of redemption has not been terminated, contained in an assessment and having a separate valuation on the roll for the year of sale to the State and all subsequent rolls may be redeemed separately from the whole assessment. Separate redemption of parcel

Repeals SEC. 45. Sections 3773.1, 3785.4, 3785.5, 3785.6, 3833.3, 3857.2, 3859.20, 3860.05, 3860.07, 3860.08, 3860.09, 3860.10, 3860.11, 3860.12, 3860.13, 3860.14, 3860.15, 3860.16, 3860.17, 3860.18, 3860.19, 3860.20, 3860.21, 3860.22, 3860.24, 3860.25, 3860.26, 3860.27, 3860.28, 3860.29, 3860.30, 3860.31 and 3860.32 of the Political Code are hereby repealed.

Repeal SEC. 46. Chapter 9c, consisting of Sections 3861.1 to 3861.8, inclusive, of Title 9 of Part 3 of the Political Code is hereby repealed.

Effect of repeal SEC. 47. The repeal of any section of the Revenue and Taxation Code by this act includes the repeal of any amendment of such section made by the Tax Redemption Termination Act, and the repeal by this act of any section or chapter added to the Revenue and Taxation Code by the Tax Redemption Termination Act is hereby declared to repeal, nullify, and make ineffective the addition of such section or chapter to the Revenue and Taxation Code by the Tax Redemption Termination Act. Any section added to the Revenue and Taxation Code by this act which bears the same section number as a section added to the Revenue and Taxation Code by the Tax Redemption Termination Act, or the same section number as a section of the Revenue and Taxation Code amended by the Tax Redemption Termination Act, controls over the section added to or amended by the Tax Redemption Termination Act.

The repeal of any section of the Political Code by this act includes the repeal of any amendment of such section made by the Tax Redemption Termination Act, and the repeal by this act of any section or chapter added to the Political Code by the Tax Redemption Termination Act is hereby declared to repeal, nullify, and make ineffective the addition of such section or chapter to the Political Code by the Tax Redemption Termination Act. The addition of any section or chapter to, and the repeal of any section or chapter of, the Political Code by the Tax Redemption Termination Act, which section or chapter is not specifically referred to in this act, shall not in any way be affected by the provisions of this act.

Operative date SEC. 48. Except for the provisions of Sections 4.5 and 4.6, the provisions of Sections 1 to 47, inclusive, of this act are not operative until June 1, 1941, on and after which date they become and continue operative and applicable.

Urgency SEC. 49. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

The Tax Redemption Termination Act makes a fundamental change in the law of property taxation as administered

in this State. It will terminate the right of redemption both as to property deeded to the State for delinquent taxes prior to the effective date thereof as well as property deeded to the State for taxes subsequent thereto. After its enactment it was discovered that if its provisions as enacted were allowed to become effective without amendment, great suffering would befall the citizens of the State of California whose property has become tax delinquent through no fault of their own, due to the tremendous burden of assessments of assessment districts. These districts may now be refunded, and in this way the property may be expeditiously returned to the tax rolls. To allow the provisions of the Tax Redemption Termination Act to become effective in their present form will ultimately result in the losing of large amounts of taxes, interest, and penalties which would otherwise be recovered, in the hamstringing of the orderly processes of tax collection as well as imposing great hardship on the citizens of the State of California. The inevitable result would be the thwarting of the purposes of the Tax Redemption Termination Act by preventing the return of property to the tax rolls. It is therefore imperative that this act take effect immediately.

Constitutionality

SEC. 50. If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be not in immediate effect or unconstitutional, it is the express legislative intent that such decision shall not affect the immediate operation or validity of the remaining portions of this act.

The Legislature hereby expressly declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared inoperative, unconstitutional or not in immediate effect.

The Legislature hereby expressly declares, in addition, that each section, subsection, subdivision, sentence, clause and phrase of this act which would have gone into immediate effect but for such decision, shall go into effect upon the ninety-first day after the final adjournment of the session of the Legislature at which this act was enacted.

There are specifically exempted from the provisions of this section the provisions of Sections 4 8 and 18 of this act, which sections add Sections 3511.3 and 3571.3, respectively, to the Revenue and Taxation Code. The Legislature hereby expressly declares that it is its intent not to terminate the right of redemption of property in distressed assessment districts, as defined, until after January 1, 1947, in order to permit refunding of such districts. If the exception of property in delinquent assessment districts from the provisions of Section 4.8 of this act, or from the provisions of Chapter 4.6 of Part 6, Division 1 of the Revenue and Taxation Code until after January 1, 1947, as provided in Section 18 of this act, is declared unconstitutional, then both entire sections shall be ineffective.

CHAPTER 291

Stats 1933, p 60, amended

An act to add Sections 802.3 and 802.4 to the Agricultural Code, relating to grapes, declaring the urgency thereof, and that this act take effect immediately.

In effect immediately

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941.]

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

New section

SECTION 1. Section 802.3 is hereby added to the Agricultural Code, to read as follows:

Statement on grape containers

802.3. All containers of grapes, shall bear upon them in plain sight and in plain letters on one outside end all of the following information:

(a) The name of the person who first authorized the packing of the grapes or the name under which he is engaged in business.

(b) A sufficiently explicit address to permit ready location of such person.

(c) The name of the variety of grapes, if known, and when not known, the words "unknown variety" or when two or more varieties are placed in the same container, the words "mixed varieties."

The provisions of this section do not apply to picking boxes which are not closed and which have a capacity of 50 pounds or more of grapes.

New section

SEC. 2. Section 802.4 is hereby added to said code, to read as follows:

"Girdled"

802.4. The term "girdled" or any designation implying that grapes have come from vines or members thereof which have been girdled shall not appear on any container of grapes unless it is a correct and true statement. "Girdled" or "girdling" means the removal of a ring of bark from entirely around the trunk or some member of the vine, during the early development of the grapes.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

Since the value of the Thompson seedless grapes in the markets of the United States is considerably more when such grapes have been girdled during the growing season, causing them to be of a more desirable quality, abuses in the mislabeling and sale of grapes as girdled which are not so girdled have taken

place during the past several years in this branch of the agricultural industry. In addition, grapes which are improperly labeled as to variety are offered in the various markets as varieties which oftentimes have a greater value. Both of these situations constitute unfair practices and threaten to cause serious and unnecessary losses to the grape growers of this State who follow ethical practices. The grape shipping season starts before this act would normally take effect and therefore, in order to prevent great loss, distress and hardship to a large number of people, it is necessary that this act take immediate effect.

CHAPTER 292

An act to add Sections 6953, 6954, 6955 and 6956 to the Labor Code, relating to the use of laminated safety glass on electric cars and electric locomotives.

Stats 1937, p 185, amended

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 6953 is hereby added to the Labor Code, to read as follows:

New section

6953. Any electric car operated in interurban service and any electric locomotive shall be equipped exclusively with laminated safety glass in the compartment of the motorman or engineer, or if there is no compartment, the window in front of the motorman shall be so equipped, if the following conditions concur:

Safety glass in electric cars and locomotives

(a) The car or locomotive is built after the effective date of this section.

(b) The car or locomotive is operated by an overhead wire.

(c) The car or locomotive can exceed a speed of 45 miles per hour.

SEC. 2. Section 6954 is hereby added to said code, to read as follows:

New section

6954. On and after the first day of September, 1946, it shall be unlawful to operate any electric car in interurban service or any electric locomotive which is not so equipped with laminated safety glass.

Operative date

SEC. 3. Section 6955 is hereby added to said code, to read as follows:

New section

6955. Laminated safety glass is glass so treated or combined with other materials as to reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury

Laminated safety glass

to persons, by objects from external sources, or by glass when the glass is cracked or broken.

New section SEC. 4. Section 6956 is hereby added to said code, to read as follows:

Penalty 6956. Any common carrier violating Sections 6953 or 6954 is guilty of a misdemeanor for each violation, punishable by a fine of not less than one hundred dollars ($100) for each offense. Each day that any electric car is operated in interurban service or that any electric locomotive is operated, is a separate offense.

CHAPTER 293

Stats 1939, p 1274, amended *An act to add Chapter 5.7, consisting of Sections 3618 to 3637, inclusive, to Part 6, of Division 1 of the Revenue and Taxation Code, relating to property taxation, including actions to contest the validity of tax deeds to the State and quieting title against tax deeds and the interests of taxing agencies and revenue districts, providing a procedure therefor, and the effect thereof, terminating the right of redemption, and declaring the urgency hereof, to take effect immediately.*

In effect immediately [Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

SECTION 1. Chapter 5.7, consisting of Sections 3618 to 3637, inclusive, is hereby added to Part 6, of Division 1 of the Revenue and Taxation Code, to read as follows:

New chapter CHAPTER 5.7. TAXPAYER'S ACTION TO CONTEST THE VALIDITY OF TAX DEED

"Taxes" 3618. As used in this chapter "taxes" means:

(a) All taxes and assessments which were a lien on the real property at the time of the sale of the property to the State for taxes.

(b) All other unpaid taxes of every description and special assessments collected on the roll which were a lien on the property for the year of sale and for each year since the sale, as shown on the delinquent lists for which the time of sale to the State is passed, or, if the property was not assessed for any year, which would be shown on such delinquent list if it had been assessed in that year. The amount of taxes for any year not assessed shall be based on the valuation required to be made by the assessor on redemption of unassessed property.

"Taxes" does not include any penalties, interest or costs.

"District attorney" 3619. As used in this chapter, "district attorney" includes county counsel, city attorney, and any other term by which the civil legal adviser of the county is known.

Contest of validity of tax deed 3620. The owner of any real property deeded to the State for taxes, or any other person who may redeem such property, may bring an action in the superior court of the county wherein the real property is located to contest the validity of the tax deed to the State.

Service, etc 3621. The State shall be made a party defendant in the action. Service may be made on the State by serving the State Controller, or a Deputy State Controller, or a district manager of tax-deeded lands All other taxing agencies or revenue districts claiming any interest in or lien on the property shall be served in the manner provided by law. The Attorney General, district attorneys and legal advisers of taxing agencies or revenue districts claiming any interest in or lien on such property are authorized to waive service and to make appearance in the action without prior service. Section 160 of this code shall not apply to actions under this chapter.

Joining parcels 3622. Any number of parcels of real estate located within the same city or revenue district may be joined in the action. If substantially the same defendants are involved in an action, any persons authorized to bring such action may be joined as plaintiffs although their interest in separate parcels is separate and distinct from other plaintiffs in the action. The interlocutory and final decree, as provided for in this chapter, may be entered separately as to separate parcels.

Complaint Contents 3623. The complaint in such action shall name as defendants all taxing agencies or revenue districts claiming any interest or lien on any of the real property therein described by virtue of taxes, or by virtue of a tax deed, and shall describe each parcel of real property affected.

Procedure 3624. Summons shall issue and all procedure in the action, except as in this chapter provided, shall be in accordance with the Code of Civil Procedure.

Default, stipulation, etc 3625. No decree quieting title to any real property shall be granted on default of any defendant but the court shall require proof of the facts alleged unless such facts be stipulated. The Attorney General, district attorney and legal advisers of all taxing agencies and revenue districts interested in the proceedings are expressly authorized to stipulate both as to facts and for entry of a judgment in accordance with the court's determination on such facts and as the court finds the law relevant thereto to be. The authority hereby granted includes authority on the part of the Attorney General, district attorney and legal adviser of any taxing agency or

revenue district interested in such proceeding to waive entry therein of express findings of fact and conclusions of law.

Determination of court

3626. On the trial of the action the court shall determine whether the tax deed or any taxes are for any reason invalid in whole or in part.

Right of redemption

3627. If the tax deed and the taxes are determined to be valid in all respects, the court shall enter its interlocutory decree quieting the title of the State under the tax deed. Within 90 days thereafter, if the right or privilege of redemption has not previously been terminated, redemption may be made with the usual penalties and costs. If redemption is not made within such period all further right or privilege of redemption shall thereupon cease and terminate. The final decree shall recite whether or not the property has been redeemed within the 90-day period, and if not so redeemed, shall provide that all right or privilege of redemption has been terminated.

Correction of error

3628. If the tax deed or taxes are determined to be invalid, the court shall order any necessary steps taken to correct any cause of invalidity other than a cause of invalidity which affects the amount of taxes. The same officials shall comply with this order as would have taken such steps in the first instance.

New publication of notice

3629. If a cause of invalidity is omission of or defect in publishing or sending any notice, the court shall order a notice published or sent in the manner originally required, stating the facts requiring the new notice and the time within which any party plaintiff shall do any acts dependent upon the notice.

New assessment

3630. If a cause of invalidity is in the assessment, computation, levy or any other proceeding which affects the amount of taxes, the court shall determine in its interlocutory decree the correct method of computing the taxes as if the assessment, computation, levy or other proceeding were valid.

Interlocutory decree

3631. After all necessary steps ordered by the court have been taken, the court shall render its interlocutory decree requiring the payment within six months after the interlocutory decree becomes a final judgment of the amount of taxes, computed as of the date of payment, without interest, penalties or costs thereon. The interlocutory decree shall declare that if payment is not made within such six months period a final decree shall be rendered quieting the State's title under the tax deed. This interlocutory decree is an appealable judgment. No costs shall be awarded to either party in any action under this chapter.

Payment of taxes

3632. Payment by any plaintiff in such action of the taxes determined in the interlocutory decree to be payable shall be made in accordance with the procedure set forth for a redemption.

Distribution of tax money

3633. Taxes so paid shall be distributed in the same manner as money received on redemption.

Final decree Taxes paid

3634. If the taxes are paid in accordance with the provisions of the interlocutory decree or if it is determined therein that no taxes are due, the court shall render its final decree so reciting, and declaring the tax sale and deed to be void, and ordering the proper entries to be made as in the case of a redemption. A final judgment may be entered as to any separate parcel.

Same Quieting title

3635. If the taxes are not paid within the time prescribed the court shall make its final decree quieting the title of the State. After the final decree has become a final judgment the tax sale and deed are conclusively presumed to be valid. In the event the taxes are not paid within the time prescribed, all right or privilege of redemption shall thereupon cease and terminate and the final decree entered therein shall so expressly provide.

Affecting other property

3636. It is expressly declared that the interlocutory decree and final decree entered in any such action shall not affect any property other than that referred to in such interlocutory or final decree, or afford any rights to persons other than the parties to such interlocutory or final decree, or those deriving title to property designated therein from such parties.

Time for commencing proceeding

3637. Any proceeding brought in accordance with the provisions of this chapter can only be commenced within one year after the date of execution of the tax deed, or within one year after the effective date of this chapter, whichever is later.

Constitutionality

SEC. 2. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, even though any one or more sections, subsections, sentences, clauses or phrases be declared invalid or of postponed operation.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1, of Article IV, of the Constitution of the State of California, and shall take effect immediately.

Following is a statement of the facts constituting such necessity:

Numerous tax-levying bodies throughout this State have heretofore levied taxes for county, city and county, city,

school and district purposes, which levies have, directly or indirectly, been held to have been invalidly levied by decisions of the courts of the State of California. Many taxpayers are willing to pay these delinquent taxes and to redeem properties from tax sale if a quick and immediate remedy can be afforded for so doing. No such remedy now exists which has met with the approval of title companies and attorneys for public bodies. It is estimated that large amounts of delinquent taxes, necessary to the continued welfare of the fiscal systems of local governments, will be immediately paid upon the adoption of a quick and simple remedy by which such tax liabilities can be determined in an action brought by the taxpayer. It is essential that such remedy be adopted and become effective at the earliest possible time.

CHAPTER 294

Stats 1939, p 1274, amended

An act to amend Sections 3803 and 3804 of, and to add Sections 3793.5, 3793.6, 3807.5 and 3807.8 to, the Revenue and Taxation Code, relating to property taxation, including purchases from the State by taxing agencies and the division of the proceeds of the sales of such property, the allowing of deductions prior to division, termination of the right of redemption, and declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

New section

SECTION 1. Section 3793.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Pro rata division of proceeds

3793.5. The terms of any agreement under this chapter may include but are not limited to provisions for the pro rata division to all the taxing agencies entitled thereto, after deduction of the taxing agency's expenses of purchase and sale, of the proceeds of a sale of the property by the taxing agency. If provisions for the pro rata division of the proceeds of a sale of the property by the taxing agency are included in an agreement under this chapter, the agreement shall require the taxing agency to sell the property to a private purchaser within two years after the execution of the deed to the taxing agency, which period may be extended by resolution for a reasonable length of time by the board of supervisors.

In instances where the contracting taxing agency is one which collects its own taxes it shall be permitted to deduct its pro rata portion of the net proceeds of sale prior to the payment of such proceeds to the county for division among the other taxing agencies.

By "pro rata division" is meant the division of the net proceeds in the proportion that the total tax liens, exclusive of penalties, interest and costs, and inclusive of taxes for unassessed years, of each agency bears to the total tax liens of all agencies. "Pro rata division"

SEC 2. Section 3793.6 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3793.6. "Taxing agency's expenses of purchase and sale" may include but is not limited to: "Expenses of purchase and sale"

(a) The cost of any publications and any expenses incidental to the purchase and sale by the taxing agency.

(b) The cost of a guaranty of title.

(c) The cost of proceedings to obtain a clear title to the property.

(d) Expenses incurred in the payment, compromise or other method of removal of any liens or adverse claims against the property.

The agreement may limit the deductible expenses in any manner mutually agreed to.

SEC. 3. Section 3803 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p. 1344

3803. If all or any portion of the property is redeemed within 21 days after the first publication and the mailing of the notice of agreement or prior to the execution of a deed by the tax collector, the agreement is null as to the property redeemed. Redemption

SEC. 4. Section 3804 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1344

3804. If any portion of the property is not so redeemed, the tax collector shall, without charge, execute to the purchaser a deed of the unredeemed property as to which either: Deed to purchaser

(a) The agreement provides that, even though no payment is made by the purchaser, the tax collector shall execute a deed to all or any portion of the property not redeemed within 21 days after the first publication and the mailing of the notice of agreement, or

(b) There has been paid the purchase price in compliance with the terms of the agreement.

SEC 5. Section 3807.5 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3807.5. If the agreement contained provisions for the pro rata division of the proceeds of a sale of the property, and the property is not sold by the taxing agency within two years after the execution of the deed, and not within any extension Unsold property

of such period approved by the board of supervisors, the taxing agency shall execute a deed to the State reconveying to the State all the right, title and interest of the State in the property which such taxing agency obtained by the deed of the tax collector under the provision of this chapter. Thereafter, such property shall be held as tax-deeded property by the State.

The Controller shall provide uniform blanks on which such reconveyances shall be made. There shall be the same number of duplicates as is required for deeds to the State for taxes, and the same procedure shall be followed in recording such deeds as is provided by law for the recording of deeds to the State for taxes.

New section

SEC. 6. Section 3807.8 is hereby added to the Revenue and Taxation Code, to read as follows:

Notice to Land Classification Commission

3807.8. If provisions for the pro rata division of the proceeds of a sale of the property by the taxing agency are included in an agreement under this chapter, the following notices shall be transmitted to the Land Classification Commission:

(1) On execution of the deed to the taxing agency, notice of the execution of the deed shall be given by the tax collector.

(2) On resale of the property by the taxing agency, notice of such resale shall be given by the tax collector.

(3) On extension of the two-year period by the board of supervisors, notice of such extension shall be given by the clerk of the board.

(4) On reconveyance to the State by the taxing agency of all the right, title and interest of the State in the property which such taxing agency obtained by the deed of the tax collector, notice of such reconveyance shall be given by the tax collector.

Urgency

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. The facts constituting the necessity are as follows:

Due to the widespread depression and consequent slump in real estate values, little or no development occurred for many years. As a result several hundred thousand parcels of property within this State have been deeded to the State for delinquent taxes and assessments and as a consequence are off the current tax rolls. With so much taxable property off the current tax rolls, it has narrowed the tax base and caused the rate on the property still on the rolls to be pyramided accordingly.

Much of this tax-deeded property lies within the corporate limits of cities. Therefore it is distinctly a municipal problem and one which the cities themselves have to meet. A large number of cities are working on programs to restore this property to the tax rolls and it is necessary for the successful completion of said programs that the cities have the right to sell tax-deeded property. Unless this bill goes into immediate effect much delay will be caused and the program of restoring the property to the rolls will be seriously jeopardized. Therefore revenue which is sorely needed for the operation and maintenance of civil government would not be received.

CHAPTER 295

An act to amend Section 6.224 of the School Code, relating to the sale of property of a school district.

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.] In effect September 13, 1941

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

SECTION 1. Section 6.224 of the School Code is hereby amended to read as follows: Stats 1935, p 921

6.224. The governing board of any school district shall have power to, and may in its discretion, when calling for bids and letting contracts for constructing new school buildings, or repairing, altering, adding to or reconstruction of existing school buildings, or demolishing existing school buildings, require each bidder for the performance of said work to agree in his bid to purchase and to remove from the school grounds all old materials required by the specifications to be removed from any existing school building or buildings on the same school grounds and not required for school purposes and to state in his bid the amount which he will deduct from the price bid for the work as the purchase price of said old materials, and the board shall let said contract to the bidder whose net bid is the lowest after deducting the amount bid for the purchase of said old materials, provided said bidder is a responsible person. School district board. Disposal of material not needed in new work

CHAPTER 296

An act to repeal Section 3085 of the Elections Code, relating to signatures to nomination papers. Stats 1939, p 49, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.] In effect September 13, 1941

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

SECTION 1. Section 3085 of the Elections Code is hereby repealed. Stats 1939, p 164

CHAPTER 297

Stats 1937, p 1898, amended

An act amending Sections 26 and 28 of the County Employees Retirement Act of 1937, relating to retirement, declaring the urgency thereof and that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

Stats 1937, p 1900

SECTION 1. Section 26 of the County Employees Retirement Act of 1937 is hereby amended to read as follows:

Definitions "Service"

Sec. 26. "Service" means uninterrupted employment of any person appointed or elected who is receiving compensation from the county or district for such service while he is a member of the retirement association, and also for that period of time covered by Section 43.5, except that a temporary layoff on account of illness or for purposes of economy, suspension or dismissal, each of the foregoing followed by reinstatement or reemployment within one year, a leave of absence followed by reinstatement or reemployment within one year after the termination of such leave of absence, a resignation to enter followed by entrance into the armed forces of the United States during war or National emergency proclaimed by the President or the Congress of the United States or entrance into such service under Act of Congress providing for peace-time induction or conscription followed by reemployment by the county within 90 days after the termination of such service during such war or emergency, shall not be considered as breaking the continuity of service.

Stats 1937, p 1900

SEC. 2. Section 28 of the County Employees Retirement Act of 1937 is hereby amended to read as follows:

"Prior service"

Sec. 28. Upon the adoption of a system by any county pursuant to this act, "prior service" shall mean employment of a member prior to the effective date of adoption for not less than 200 days in each calendar year while he received compensation from the county or district. Such employment includes days during which the member works, or is on a duly granted leave of absence, vacation, or sick leave. Credit for any fractional part of the first calendar year of service shall be allowed on a pro rata basis of days of actual service to the 200 days of required service.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Numerous employees from counties which have adopted the provisions of this act and who were members of the retirement associations set up pursuant thereto have now entered the

military, naval, or marine service of their country. If this act does not go into immediate effect many of these employees will have been in such military, naval, or marine service for more than one year upon the taking effect hereof and will thereby most unjustly be deprived of their retirement rights by reason of their response to their country's needs.

CHAPTER 298

An act to amend Sections 342 and 367 of the Agricultural Code, relating to live stock marks and brands.

Stats 1933, p 60, amended

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941]

In effect September 13, 1941

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

SECTION 1. Section 342 of the Agricultural Code is hereby amended to read as follows:

Stats 1933, p 116

342. Inspection of carcasses of cattle with the hides attached, and of hides, shall be made in the same manner as inspection of cattle, except that the inspector, before issuing a certificate of inspection, shall tag the same with the official tag of the department. No new inspection need be made of the hide or carcass of any animal which was inspected at the place of shipping or of slaughter within 15 days prior to slaughter, or when such animals, owned by the slaughterer, are held in inclosures which are used exclusively by the slaughterer and located within one mile of the slaughterhouse; provided, the cattle are driven, not transported, from said inclosures to said slaughterhouse.

Inspection of carcasses and hides

SEC. 2. Section 367 of the Agricultural Code is hereby amended to read as follows:

Stats 1937, p. 2460

367. No cattle, except cattle shipped for slaughter which have been inspected as herein provided prior to shipment, shall be slaughtered until they have been inspected as herein provided, and any slaughterer claiming the right to slaughter cattle because of an inspection at time of shipment must before slaughter, have such cattle reinspected by an inspector of the department, and shall keep on file and produce on demand, the certificate of inspection thereof, made and forwarded to him at the time of shipment. When a certificate of inspection is produced, cattle shall be rechecked and no charge made for the recheck, if the inspection certificate was issued within 15 days prior to slaughter, or if the cattle, owned by the slaughterer, are held in inclosures which are used exclusively by the slaughterer and located within one mile of the slaughterhouse; provided, the cattle are driven, not transported, from

Inspection before slaughter

said inclosures to said slaughterhouse. When cattle, originating in other States are shipped to California for slaughter and unloaded in inclosures which are used exclusively by the slaughterer and located within one mile of the slaughterhouse, such cattle shall be inspected prior to slaughter, and a fee of five cents ($0.05) per head charged for the inspection; provided, the cattle are driven, not transported, from said inclosures to said slaughterhouse. Every licensed slaughterer who slaughters cattle where it is impossible or impracticable to have such animals inspected by a brand inspector before slaughter, shall keep a record of all cattle slaughtered. Such record shall set forth the name of the party from whom said cattle were purchased and identify them as to color, age, weight, sex, brands or brands and marks, if any. Such record shall be open to inspection by any agent of the department or peace officer. The slaughterer shall retain the hides of such animal or animals until inspected as herein provided, or released by the director.

CHAPTER 299

Stats 1933, p 60, amended

An act to amend Section 552 of the Agricultural Code, relating to skim milk.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

Stats 1941, p 501

SECTION 1. Section 552 of the Agricultural Code is hereby amended to read as follows:

Skim milk

552. Skim milk is milk from which a part of the milk fat has been removed and which contains less than 3 per cent of milk fat and not less than 8.8 per cent of milk solids not fat. All fluid skim milk sold for human consumption as such and/or skim milk which is used in the manufacture of buttermilk, cultured buttermilk, or any mixed milk drinks, shall be derived from market milk. All containers in which skim milk is sold for human consumption in fluid form shall be labeled with the words skim milk together with the name and address of the distributor.

CHAPTER 300

An act to add a new section to the Agricultural Code, to be numbered Section 644.5, relating to milk products plants. Stats 1933, p 60, amended

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941] In effect September 13, 1941

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

SECTION 1. A new section is hereby added to the Agricultural Code, to be numbered 644.5 and to read as follows: New section

644.5. It shall be unlawful to operate a milk products plant unless said plant scores a minimum of 80 per cent on the official score card for milk products plants established by regulation of the director. None of the provisions for scoring as set forth herein shall be applied to a dairy farm. Minimum score

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CHAPTER 301

An act to add Section 19123 to the Health and Safety Code, to add Article 2a to Chapter 2, Part 3, Division 13 of said code, consisting of Sections 19130 to 19138, inclusive, and to amend Section 19170 of said code, relating to requirements for earthquake protection in the design and construction of buildings, including the enforcement thereof, the securing of building permits, and the violation thereof. Stats 1939, p 482, amended

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941.] In effect September 13, 1941

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

SECTION 1. Section 19123 is hereby added to the Health and Safety Code, to read as follows: New section

19123. In any city where there is no department or officer charged with or designated for the enforcement of this chapter, the appropriate department, officer, or officers of the county in which such city is located shall enforce this chapter. Enforcement

In any county where there is no department or officer charged with or designated for the enforcement of this chapter, this chapter shall be enforced by the county engineer, if there is a county engineer, and if not, then by the county surveyor.

SEC. 2. Article 2a, consisting of Sections 19130 to 19138, inclusive, is hereby added to Chapter 2, Part 3, Division 13 of the Health and Safety Code, to read as follows: New article

Article 2a. Building Permits

19130. No person shall construct a building subject to this chapter unless he has obtained a written permit for that purpose from the appropriate enforcement agency. Permit

Application

19131. Any person desiring a permit shall file an application therefor with the appropriate enforcement agency, which application shall contain:

(a) The name and address of the applicant.

(b) A detailed written statement of the work to be done.

Plans and specifications

19132. The applicant shall file with his application:

(a) A complete set of the plans of the work proposed.

(b) A set of specifications describing the materials to be used in the work.

Approval

19133. The enforcement agency shall examine the application, plans, and specifications filed with it by an applicant, and if it appears that the work to be done will not result in a violation of this chapter, shall approve them and issue a permit to the applicant.

Changes

19134. The enforcement agency may approve changes in any application, plans, or specifications previously approved by it.

Revocation

19135. The enforcement agency may revoke any permit if the permittee refuses, fails, or neglects to comply with any provision of this chapter, or if it finds that any false statement or misrepresentation was made in the application, plans, or specifications filed by the permittee.

Performance of work

19136. The work authorized by a permit shall be performed only in accordance with the application, plans, and specifications filed by the permittee.

Effect of issuance

19137. The issuance of a permit does not constitute approval of any violation of any provision of this chapter.

Duplicate filings

Part 1, Div 13, H & S Code

19138. In any case where a building subject to this chapter is also subject to the permit provisions of the State Housing Act, it shall not be necessary to make duplicate filings of plans and specifications hereunder, nor shall it be necessary to include in the application a detailed statement of the work to be done. In such cases, the application hereunder may contain a general statement of the work to be done, with a specific reference to the application, plans, and specifications filed under the State Housing Act.

Stats. 1939, p 947

SEC. 3. Section 19170 of the Health and Safety Code is hereby amended to read as follows:

Penalty

19170. Any person who violates, or causes or permits another person to violate, any provision of this chapter is guilty of a misdemeanor.

CHAPTER 302

An act to amend Sections 541 and 542 of the Political Code, relating to State printing and the preparation of copy therefor.

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.] In effect September 13, 1941

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

SECTION 1. Section 541 of the Political Code is hereby amended to read as follows: Stats 1929, p 612

541. The statutes of each session of the Legislature shall be prepared for printing and publication, in the manner hereinafter provided, by such State department, officer, board or commission as the Department of Finance shall, from time to time, in writing, and as often as the said statutes are hereunder required to be so prepared, see fit to direct or request. The Department of Finance shall so direct the said preparation of the said statutes after each regular and each extra session of the Legislature; provided, however, that the Department of Finance need not so direct the said preparation of the said statutes after each extra session of the Legislature, if, in its judgment, the same is not necessary or desirable; provided, further, that if the Department of Finance does not so direct the said preparation of the said statutes after each extra session of the Legislature, it shall so direct the said preparation of the said statutes for each such extra session after the next succeeding regular session of the Legislature, in which case said statutes for such extra session shall be cumulated and prepared with the statutes for said next succeeding regular session. The said preparation of the said statutes shall consist of the making of an index therefor and marginal notations and section headings thereto and the delivery thereof to the Superintendent of State Printing as soon as practicable after the final adjournment of the Legislature for each regular or extra session, as the case may be, and the cost of said preparation shall be paid out of the same appropriation or fund as the cost of printing and publishing said statutes is paid. Printing and publication of statutes

SEC. 2. Section 542 of the Political Code is hereby amended to read as follows: Stats 1929, p 613

542. Whenever the compilation, printing and publication of any volumes or pamphlets of laws or other matter may be required by any State department, officer, board, or commission for his, their, or its use or information in the discharge of his, their, or its official duties, or for the general use or information of the people of the State, such State officer, board, or commission shall present all the pertinent facts regarding the same, including a statement of the necessity therefor, the estimated cost thereof, and the funds or appropriations which may be available, as hereunder provided, for Compilation for State departments, etc

the payment of the cost of the printing thereof, to the Department of Finance for its approval. The Department of Finance, if it approves thereof, shall thereafter, direct or request, in writing, such State department, officer, board, or commission, as it may see fit, to compile such volumes and pamphlets for printing and publication, and to deliver the same upon completion to the Superintendent of State Printing. It shall be the duty of the State department, officer, board or commission, requiring the compilation of such volumes or pamphlets for printing and publication, to furnish to the State department, officer, board or commission compiling the same upon such direction or request, such data and information as he, they, or it may have available, or may be able, conveniently, to obtain, concerning the same. The cost of compiling, printing and publishing such volumes or pamphlets so required by such State department, officer, board, or commission, must, if for his, their, or its use or information in the discharge of his, their, or its official duties, be paid for out of the fund or portion thereof, appropriated, allocated, set aside or otherwise made available for printing purposes for such State department, officer, board, or commission. The cost of compiling, printing and publishing such volumes or pamphlets, as may be required by such State department, officer, board, or commission for the general use or information of the people of the State, shall be paid for out of the funds appropriated for that purpose by the Legislature.

CHAPTER 303

Stats 1937, p 1229, amended

An act to add Section 12209.5 to the Business and Professions Code, relating to the duties of sealers of weights and measures.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

New section

SECTION 1. Section 12209.5 is hereby added to the Business and Professions Code, to read as follows:

Distribution of illustrative material

12209.5. Each sealer may, when so directed by the board of supervisors, issue and cause to be distributed to such persons as he may deem proper illustrative material or statements best adapted to insure the correct use of weights and measures and weighing and measuring devices and may prepare exhibits designed to inform the public for its protection of the duties performed by weights and measures officials.

CHAPTER 304

An act to amend Section 12107 of the Business and Professions Code, relating to tolerances and specifications for commercial weighing and measuring apparatus.

Stats 1937, p 1229, amended

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941]

In effect September 13, 1941

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

SECTION 1. Section 12107 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 448

12107. The department may establish tolerances and specifications for commercial weighing and measuring apparatus for use in the State similar to the tolerances and specifications recommended by the National Bureau of Standards, and it may establish a standard or standards of net weight or net measure, or net count of any commodity, except any manufactured commodity consisting of four or more staple ingredients, and prescribe such tolerances for the same as may be necessary for the proper protection of the public. The department may establish a tare or tares for each of the several types of containers used in making deliveries of edible agricultural commodities to shippers, processors or other handlers and prescribe such tolerances as may be necessary for the proper protection of persons engaging in transactions wherein the computation of tares affects the purchase price. Violation of such standards or tolerances is a misdemeanor.

Tolerances and specifications

CHAPTER 305

An act to amend Section 12507 of the Business and Professions Code, relating to testing, correcting and repairing weighing or measuring instruments.

Stats 1937, p 1229, amended

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 12507 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 462

12507. The owners or users of any weights or measures or weighing or measuring instruments which have been marked "Out of Order," shall have them repaired or corrected within 30 days, but until they have been repaired or corrected and tested the owners or users thereof may neither use nor dispose of them in any way.

Repair of instruments

In the event that the owner or user of any weights or measures or weighing or measuring instruments marked "Out

Seizure

of Order" shall have refused or neglected to have them repaired or corrected within thirty (30) days they shall be subject to seizure by the sealer. Any weights or measures or weighing or measuring instruments which have been seized by the sealer under the provisions of this section shall be subject to such disposition as shall be ordered by a court of competent jurisdiction upon petition for a disposition order by the sealer. The sealer shall petition the court for such disposition order periodically, but not more often than once in each calendar year.

A notice of such petition shall be given to the owner or user from whom the equipment was seized in the same manner as a summons in a civil action.

CHAPTER 306

Stats 1937, p 1229, amended

An act to amend Sections 12021 and 12022 of the Business and Professions Code, relating to falsity in weights and measures.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

Stats 1939, p 446

SECTION 1. Section 12021 of the Business and Professions Code is hereby amended to read as follows:

False marking

12021. Every person who knowingly marks or stamps false or short weight or measure, or knowingly takes false tare, on any container, or knowingly sells any container so marked, is guilty of a misdemeanor.

Stats 1939, p 446

SEC. 2. Section 12022 of the Business and Professions Code is hereby amended to read as follows:

False weight increase

12022. Every person who, in putting up in any container, goods usually sold by weight, puts in or conceals therein any other substance including moisture, except such moisture as may be included or absorbed by the goods or commodity contained therein during preparation for market or processing in accordance with ordinary commercial practice, for the purpose of increasing the weight of such container with intent thereby to sell the goods therein or to enable another to sell the same, for an increased weight, is punishable by fine of not less than twenty-five dollars ($25) for each offense.

CHAPTER 307

An act to add a new section to Chapter 6 of Division 4 of the Agricultural Code, to be numbered 721.5, relating to proceedings to enjoin violation of certain provisions thereof.

Stats 1933, p 60, amended

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

SECTION 1. A new section is hereby added to Chapter 6 of Division 4 of the Agricultural Code, to be numbered 721.5, to read as follows:

New section

721.5. The director may bring an action to enjoin the violation or threatened violation of any provision of Chapter 1 to Chapter 6, both inclusive, of Division 4 of this code, in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

Injunction

CHAPTER 308

An act transferring to the United States of America an easement over certain lands of the State of California for lighthouse purposes.

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

SECTION 1. An easement for lighthouse purposes is hereby transferred to the United States of America over those certain filled tidelands in Ventura County, California, adjacent to and seaward of the United States Coast Guard Reservation on which is located the Point Hueneme Lighthouse and which filled tidelands occupy an area with boundaries as follows:

Lighthouse easement

On the north, that portion of the ordinary high water mark of the Pacific Ocean coincident with the south boundary of the said United States Coast Guard Reservation; on the south, the day-to-day line of ordinary high water mark of the Pacific Ocean; on the west, a line bearing due south which passes through the most westerly point of the above described north boundary; and on the east, a line bearing due south which passes through the most easterly point of the above described north boundary.

Boundaries

Jurisdiction

The United States of America shall have jurisdiction over the hereinbefore described real property, subject to the right of the State to have concurrent jurisdiction so far that all processes, civil or criminal, issued under authority of the State may be executed by the proper officials thereof upon the hereinbefore described real property, upon any person or persons amenable to the same, in like manner and with like effect as if this transfer had not been made. This easement shall terminate whenever the United States of America shall discontinue the maintenance of a lighthouse upon the real property now owned by the United States of America contiguous to the hereinbefore described real property.

CHAPTER 309

Stats 1937, p. 1229, amended

An act to amend Section 12710 of the Business and Professions Code, relating to public weighmasters and double draft weights.

In effect September 13, 1941

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941.]

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

Stats 1939, p 2771

SECTION 1. Section 12710 of the Business and Professions Code is hereby amended to read as follows:

True net weight, etc

12710. When any commodity is sold subject to public weighmaster weights, such weights shall be the true net weight. Net weight is the correct or actual weight of the commodity excluding the weight of the container or conveyance. Actual weight shall mean the weight obtained from one draft of vehicle loads. In determining the net weight of any commodity, the entire weight of the vehicle and load must rest on the scale at one time. Until December 31, 1943, double draft (two-spot) weights may be recorded on "State certificate of weights and measures" provided the words "two-spot" or "double draft" are stamped thereon, and when so stamped shall not be construed a violation of Section 12706 of this code.

CHAPTER 310

An act to amend Section 559 of the Agricultural Code, relating to acidophilus milk.

Stats 1933, p 60, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 559 of the Agricultural Code is hereby amended to read as follows:

Stats 1941, p 502

559. Acidophilus milk is market milk, skim milk derived from market milk, or a combination thereof, which has been pasteurized and afterward fermented by a pure culture of a strain, or strains, of Lactobacillus acidophilus. The manufacture, labeling and sale of acidophilus milk shall be in accordance with regulations promulgated by the director after hearing duly called and interested parties notified thereof.

Acidophilus milk

CHAPTER 311

An act to add Sections 11343, 11344, 11345 and 11346 to, to amend Sections 704, 1659, 11021, 11360, 11392, 11502, 11503 and 11508, and to repeal Sections 985 and 12929 of the Insurance Code, to repeal Section 596 of the Political Code and Sections 453i and 453.14 of the Civil Code, all relating to insurance.

Stats 1935, p 496, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 704 of the Insurance Code is hereby amended to read as follows:

Stats 1935, p 513

704. The commissioner may suspend the certificate of authority of an insurer for not exceeding one year whenever he finds, after proper hearing following notice, that such insurer engages in any of the following practices:

Suspension

(a) Conducting its business fraudulently.

(b) Not carrying out its contracts in good faith.

(c) Habitually and as a matter of ordinary practice and custom compelling claimants under policies to either accept less than the amount due under the terms of the policies or resort to litigation against such insurer to secure the payment of the amount due.

The order of suspension shall prescribe the period of such suspension.

Action shall not be taken by the commissioner under this section unless he first gives notice to such insurer and cites

Notice and hearing

it to appear at a specified time and place and show cause why its certificate of authority should not be suspended.

Stats 1935, p 579

SEC. 2. Section 1659 of the Insurance Code is hereby amended to read as follows:

Licensing in different capacities

1659. Any insurance agent, broker or solicitor, upon paying the fee therefor and filing the proper bond, statement of employment, or appointment, as the case may be, is entitled to be licensed to act in one of the other two specified capacities. But only a natural person may act as a solicitor, and a person shall not at the same time be licensed to act as a solicitor and also as an agent or as a broker.

Stats 1935, p 689

SEC. 3. Section 11021 of the Insurance Code is hereby amended to read as follows:

Handling advanced payments

11021. The advanced payments shall be held in trust during the period of organization. If the organization is not completed within the time specified in Section 11023, such payments shall be returned to the applicants.

New section

SEC. 4. Section 11343 is hereby added to the Insurance Code, to read as follows:

"Trusteed assets"

11343. An admitted foreign society organized under the laws of any jurisdiction other than a State of the United States shall at all times maintain with a trustee in the United States, in trust for the benefit and security of all its policyholders and creditors in the United States, assets as prescribed in Section 11344. Such assets are designated "trusteed assets."

New section

SEC. 5. Section 11344 is hereby added to the Insurance Code, to read as follows:

Amount of trusteed assets

11344. The trusteed assets referred to in Section 11343 shall be equal at least to the sum of

(a) All of the indebtedness of such society in the United States having a fixed maturity.

(b) That proportion of the reserve actually maintained by such society on its policies in force in the United States, which the reserve actually maintained by it on all its policies in force bears to the tabular reserve specified in Section 11247.

New section

SEC. 6. Section 11345 is hereby added to the Insurance Code, to read as follows:

Code provisions applicable

11345. The provisions of Sections 1596 to 1599, inclusive, shall apply to such society specified in Section 11343.

SEC. 7. Section 11346 is hereby added to the Insurance Code, to read as follows: New section

11346. The commissioner may require any society specified in Section 11343 to file with him annually and at such other times as he may determine, and in such form as he may prescribe, a statement showing the extent to which such society's policyholders and creditors in the United States are protected by trusteed assets in the United States. Statement

The requirements of Sections 11343, 11344 and 11345 shall not apply to any society specified in Section 11343 until one year after such sections become effective, but during this one-year period such insurers shall make diligent effort to comply with such requirements on or before the expiration of such period. If on the expiration of the year the commissioner finds that such a society is unable so to comply and is exercising reasonable diligence so to do, he may from time to time extend the time within which such society shall comply. Time for compliance

SEC. 8. Section 11360 of the Insurance Code is hereby amended to read as follows: Stats 1935, p 703

11360. A domestic fraternal benefit society shall neither consolidate nor merge nor reinsure any of its risks with any other fraternal benefit society, nor assume, nor reinsure any of the risks of any other fraternal benefit society except as provided in this article. Scope of article

SEC. 9. Section 11392 of the Insurance Code is hereby amended to read as follows: Stats 1935, p 705

11392. Any person not authorized pursuant to Section 11017 who solicits membership for, or in any manner assists in procuring membership in, any nonadmitted fraternal benefit society is guilty of a misdemeanor and punishable by fine not less than fifty dollars ($50) nor more than two hundred dollars ($200). Solicitation of non-admitted society

SEC. 10. Section 11502 of the Insurance Code is hereby amended to read as follows: Stats 1937, p. 2440

11502. The State Department of Public Health, before issuing its certificate authorizing any hospital to furnish hospital services under any hospital service plan, shall cause the hospital to be inspected by an inspector appointed by the said department. The report of such inspection shall be filed with the State Department of Public Health. If the State Department of Public Health shall find after such inspection that the hospital making application to render hospital services under the hospital service plan fully complies with and possesses the standards set forth in Section 11501, it shall issue its certificate of approval upon the payment of a registration fee, not to exceed twenty-five cents ($0.25) per bed, Health inspection

computed upon the daily average number of beds, other than bassinets, occupied during the preceding calendar year, but in no event less than fifteen dollars ($15) per hospital.

Stats 1937, p 2440

SEC. 11. Section 11503 of the Insurance Code is hereby amended to read as follows:

Power of Department of Public Health

11503. The State Department of Public Health shall have the right and power to investigate, regulate and enforce the hospital standards set forth in Section 11501 in respect to all hospitals furnishing and rendering hospital services under the provisions of this chapter and to revoke certificates of approval theretofore issued to any hospital, or any hospital service corporation. Upon complaint deemed by the department to be sufficient to warrant such action, or upon its own motion, the State Department of Public Health shall hold a hearing at which the corporation or hospital under investigation and against which action is proposed to be taken shall have the right to be heard. At least 10 days' written notice of the time and place of such hearing shall be served upon or mailed to said corporation and said hospital. At such hearing the department shall have the right to order and direct the corporation or the hospital, as the case may be, and within such period of time as the board may prescribe, to remedy and remove the causes complained of and in which to comply with the acts and things required in such order, and may continue the hearing until the expiration of said period of time. If the department upon final hearing shall find that its order has not been complied with, and that the hospital does not possess the hospital standards set forth in Section 11501, or that services are rendered by the hospital service corporation in and through hospitals not possessing said standards, the board shall enter its order revoking the certificate of approval to any such hospital or hospital service corporation and shall notify the Commissioner of Insurance in writing of the fact of such revocation and of the fact that the services rendered under the hospital service plan are not being rendered by hospitals holding certificates of approval. Upon receipt of such notice, it shall be the duty of the Commissioner of Insurance to revoke his certificate of authority to the establishment, maintenance and operation by such corporation of a nonprofit hospital service plan.

Stats. 1937, p 2442

SEC. 12. Section 11508 of the Insurance Code is hereby amended to read as follows:

Insolvency

11508. A corporation organized hereunder shall be deemed to be insolvent if its reserve fund shall be impaired so as to be less than the amounts set forth in Section 11507. In determining whether there has been an impairment of the reserve fund of the hospital service corporation the unexpired portions of all premiums, dues or other payments received by

and paid to the corporation on contracts then in force shall be deemed a liability.

SEC. 13. Sections 985 and 12929 of the Insurance Code are hereby repealed. Repeals

SEC. 14. Section 596 of the Political Code is hereby repealed. Stats 1929, p 373

SEC. 15. Sections 453i and 453.14 of the Civil Code are hereby repealed. Repeals

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CHAPTER 312

An act to amend Section 16d of the Bank Act, relating to orders stopping the payment of checks. Stats 1909, p 87, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.] In effect September 13, 1941

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

SECTION 1. Section 16d of the Bank Act is hereby amended to read as follows: Stats 1935, p 1654

Sec. 16d. No order stopping payment on a check shall be valid unless the same be in writing specifically describing the check ordered stopped and delivered to the particular office or branch of the bank on which said check was drawn. Stopping payment of checks

Any bank that pays a check, the payment of which has been ordered stopped as herein provided, shall be responsible to the person who so ordered the payment thereof stopped, for any actual loss incurred by such person because of the payment by such bank of such check.

The delivery to one office or branch of a bank of an order to stop payment on a check shall not constitute notice, actual or constructive, to any other office or branch of the same bank and shall not impair the right of such bank to be a holder in due course of such check, other than the office or branch to which such order to stop payment is delivered. Stop order to branch bank

Any bank which shall pay a check in good faith and without knowledge of any defect in the title of the holder thereof and prior to the delivery to it of an order stopping the payment thereof shall not be responsible to the person ordering the payment thereof stopped even though such payment may be made before or after regular banking hours. Payment in good faith

CHAPTER 313

Stats 1933, p 60, amended

An act to add a new section to the Agricultural Code, to be numbered 553.5, relating to sterilized milk and cream.

In effect September 13, 1941

[Approved by Governor May 19, 1941. Filed with Secretary of State May 19, 1941.]

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

New section

SECTION 1. A new section is hereby added to the Agricultural Code, to be numbered 553.5 and to read as follows:

Sterilized milk and cream

553.5. Sterilized milk and sterilized cream is milk or cream which has been subjected to a temperature high enough to sterilize the product. Such product may contain harmless edible stabilizer not to exceed five-tenths of 1 per cent but shall otherwise conform to the standards and requirements established for milk or cream, as the case may be. Such milk or cream shall not be used in this State, nor sold for use in this State unless such sterilized milk or sterilized cream is made from Grade "A" milk or Grade "A" cream, and, in any area in which a price stabilization and marketing plan is in effect, unless the milk or cream used in such sterilized milk or sterilized cream is purchased and such sterilized milk or sterilized cream is sold at the prices established for fluid milk and fluid cream in that area.

CHAPTER 314

Stats 1939, p 482, amended

An act to amend Sections 2248, 2270, 2274 and 2312 of the Health and Safety Code, and to add Section 2292 thereto, relating to mosquito abatement districts.

In effect September 13, 1941

[Approved by Governor May 19, 1941 Filed with Secretary of State May 19, 1941.]

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

Stats 1939, p 528

SECTION 1. Section 2248 of the Health and Safety Code is hereby amended to read as follows:

Compensation

2248. The members of the district board shall serve without compensation; but the necessary expenses of each member for actual traveling in connection with meetings or business of the board shall be allowed and paid. In lieu of expenses, the district board may by resolution provide for the allowance and payment to each member of the board of a sum not exceeding five dollars ($5) per month for expenses incurred in attending business meetings of the board.

SEC. 2. Section 2270 of said code is hereby amended to read as follows: Stats 1939, p 528

2270. The district board may:

(a) Take all necessary or proper steps for the extermination of mosquitoes, flies, or other insects either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other insects from such territory migrate into the district. Powers

(b) Subject to the paramount control of the county or city in which they exist, abate as nuisances all stagnant pools of water and other breeding places for mosquitoes, flies, or other insects either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other insects from such territory migrate into the district.

(c) Purchase such supplies and materials, employ such personnel and contract for such services as may be necessary or proper in furtherance of the objects of this chapter.

(d) If necessary or proper, in the furtherance of the objects of this chapter, build, construct, repair, and maintain, necessary dikes, levees, cuts, canals, or ditches upon any land, and acquire by purchase, condemnation, or by other lawful means, in the name of the district, any lands, rights of way, easements, property, or material necessary for any of those purposes.

(e) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the use or taking of property for dikes, levees, cuts, canals, or ditches.

(f) Enter upon without hindrance any lands, within or without the district, for the purpose of inspection to ascertain whether breeding places of mosquitoes, flies, or other insects exist upon such lands; or to abate public nuisances in accordance with this article; or to ascertain if notices to abate the breeding of mosquitoes, flies, or other insects upon such lands have been complied with; or to treat with oil or other larvicidal material any breeding places of mosquitoes, flies or other insects upon such lands.

(g) Sell or lease any land, rights of way, easements, property or material acquired by the district.

Every sale of real property pursuant to this subdivision shall be made to the highest bidder at public auction after five days' notice given pursuant to Section 2204 of this code, and at such place within the district as the district board shall specify.

(h) Do any and all things necessary or incident to the powers granted by, and to carry out the objects specified in, this chapter.

Stats 1939, p 529

SEC. 3. Section 2274 of said code is hereby amended to read as follows:

Notice to abate

2274. Whenever a nuisance specified in this chapter exists upon any property either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other insects from such territory migrate into the district, the district board may in writing notify the record owner, or person in charge or in possession of the property, of the existence of the nuisance.

New section

SEC. 4. Section 2292 is hereby added to said code, to read as follows:

Interference with officer or work

2292. Any person who obstructs, hinders, or interferes with the entry upon any land mentioned in this article of any officer or employee of the district in the performance of his duty, and any person who obstructs, interferes with, molests, or damages any work performed by the district, is guilty of a misdemeanor.

Stats 1939, p 533

SEC. 5. Section 2312 of said code is hereby amended to read as follows:

Withdrawal of funds

2312. The funds shall only be withdrawn from the county treasury depository upon the warrant of the district board signed by its president or acting president, and countersigned by its secretary. However, if the county in which the district is situated has adopted a requisition system covering the withdrawal of funds for the purchase of services or supplies, the district board may, by resolution, adopt such system and make withdrawals in accordance therewith.

CHAPTER 315

Stats 1935, p 1850, amended

An act to add Section 2.5 to the California Unemployment Relief Act of 1935, establishing a revolving fund for use in the operation of the Federal stamp plan, making an appropriation therefor, abolishing the revolving fund created by the Unemployment Relief Appropriation Act of 1940, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 20, 1941. Filed with Secretary of State May 20, 1941.]

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

New section

SECTION 1. Section 2.5 is hereby added to the California Unemployment Relief Act of 1935, to read as follows:

Revolving fund

Sec. 2.5. A revolving fund in the sum of one million two hundred fifty thousand dollars ($1,250,000) is hereby established for use by the Relief Administrator as a permanent

revolving fund where cash advances are necessary for the operation of any Federal stamp plan established for the distribution of food, commodities, goods, or other form of personal property.

Withdrawal may be made from the revolving fund without at the time furnishing vouchers and itemized statements therefor, but the Relief Administrator shall at any time on demand of the Controller account for any expenditures and substantiate them by vouchers and itemized statements.

The Relief Administrator, with the approval of the Department of Finance, may secure armored car service and provide means to safeguard the money and assets in the revolving fund from losses.

Appropriation

SEC. 2. Out of any money in the State Treasury not otherwise appropriated the sum of one million two hundred fifty thousand dollars ($1,250,000) is hereby appropriated for the revolving fund established by Section 2.5 of the California Unemployment Relief Act of 1935.

First revolving fund abolished

SEC. 3. (a) The revolving fund created by Sections 3.8 and 3.9 of the Unemployment Relief Appropriation Act of 1940 (hereinafter referred to as the first revolving fund) is hereby abolished.

(b) Except for the money transferred to the first revolving fund from the Emergency Fund established by Item 212 of the Budget Act of 1939, all money and assets in the first revolving fund shall be returned to the appropriation or appropriations from which the money for the first revolving fund was transferred and shall be available for the purposes for which it was appropriated. With the approval of the Board of Control, losses incurred by the first revolving fund may be paid from the Surplus Commodity Salvage Account.

(c) All money transferred to the first revolving fund from the Emergency Fund established by Item 212 of the Budget Act of 1939, shall revert to the General Fund in the State Treasury.

Stats 1939, p 1855

Transfers on books

SEC. 4. The Controller and the Relief Administrator may make the necessary transfers upon their books to accomplish the purposes of this act in order to avoid the unnecessary sale of registered General Fund warrants.

Urgency

SEC. 5 This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and as such shall take effect immediately. The facts constituting such a necessity are as follows:

The Federal Government has established a stamp plan for the distribution of food, goods, commodities and other forms of personal property to persons eligible for unemployment relief. Unless the revolving fund provided by this act and the money appropriated therefor, is made available immediately upon a permanent basis, it will not be possible for the State to continue the financing of the present Federal stamp

plan. This act, by taking effect immediately, will make money available for the continuance of complete, State-wide operations of the Federal stamp plan thereby reducing the cause of unrest throughout the State and removing dangers to the public peace, health and safety.

CHAPTER 316

Stats 1937, p 1229, amended

An act to add Chapter 12, consisting of Sections 22100 to 22132, inclusive, to Division 8 of the Business and Professions Code, relating to the marking of articles of merchandise made in whole or in part of platinum and other metals in the platinum group or their alloys.

In effect September 13, 1941

[Approved by Governor May 20, 1941. Filed with Secretary of State May 20, 1941.]

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

New chapter

SECTION 1. Chapter 12, consisting of Sections 22100 to 22132, inclusive, is hereby added to Division 8 of the Business and Professions Code, to read as follows:

CHAPTER 12. PRECIOUS METAL MARKING

Article 1. General Provisions

Construction

22100. Unless the context otherwise requires, the general provisions set forth in this article govern the construction of this chapter.

"Article"

22101. "Article" means any article of merchandise, and includes each and every portion of any such article whether or not such portion is separable or is a distinct part thereof.

"Mark"

22102. "Mark" means any mark, sign, device, imprint, stamp or brand applied to any article or to any tag, card, paper, label, box, carton, container, holder, package cover or wrapping attached to, used in conjunction with or to inclose any article, or to any bill, bill of sale, invoice, statement, letter, circular, advertisement, notice, memorandum or other writing or printing concerning any article.

"Apply"

22103. "Apply" or "applied" includes any method or means of application or attachment to or use on or in connection with or in relation to an article whether such application, attachment or use is to, on, by, in or with:

(a) The article itself, or
(b) Anything attached to the article, or
(c) Anything to which the article is attached, or
(d) Anything in or on which the article is, or

(e) Anything so used or placed as to lead to a reasonable belief that the mark on that thing is to be taken as a mark on the article itself.

"Person" 22104. "Person" includes firm, partnership, association and corporation.

Article 2. The Platinum Group

Application of article 22120. The provisions of this article shall apply exclusively to the following metals and to the alloys of each:

(a) Platinum
(b) Iridium
(c) Palladium
(d) Ruthenium
(e) Rhodium
(f) Osmium.

"Quality mark" 22121. "Quality mark" is any mark describing, identifying or referring to or appearing or seeming or purporting to indicate, describe, identify or refer to the partial or total presence or existence of, or the quality of, or the percentage of, or the purity of, or the number of parts of platinum, iridium, palladium, ruthenium, rhodium or osmium in any article.

Use of quality mark 22122. No more than one quality mark shall be applied to any article and such quality mark shall be applied to such article in only one place thereof, except as otherwise in this article specifically permitted. Each quality mark shall be legible, clear and distinct.

To what mark does not apply 22123. If an article is composed of mechanism, works or movements and of a case or cover containing the mechanism, works or movements, a quality mark applied to the article shall not apply to the mechanism, works or movements.

22124. A quality mark applied to any article shall not apply to springs, winding bars, sleeves, crown cores, mechanical joint pins, screws, rivets, dustbands, detachable movement rims, hat-pin stems, bracelet or necklace snap tongues.

22125. If a quality mark is applied to an article in accordance with the provisions of subdivision (e) of Section 22128, it shall not apply to pin tongues, joints, catches, lapel button backs and posts to which they are attached, scarf-pin stems, hat-pin sockets, shirt-stud backs, vest-button backs and any screw backs, if such parts are made of the same quality of gold as that used in the balance of the article.

Trade-mark 22126. If a quality mark is printed, stamped or branded on any article itself, the person so applying such mark shall also apply a trade-mark duly applied for or registered to him under the laws of the United States.

If the person so applying such quality mark is the manufacturer of the article and has sold or contracted to sell such article to a jobber, wholesale or retail dealer regularly engaged in the business of buying and selling similar articles, this section shall be deemed to be complied with if a trade-mark duly registered under the laws of the United States to such jobber, wholesale or retail dealer is applied to such article.

Numerals

A manufacturer of an article may also mark on the article, in addition to the marks herein specifically required, numerals intended to identify the article or the design or pattern used in such article if such numerals do not appear or purport to be a part of the quality mark and are not calculated to mislead or deceive any person into believing that they are a part of the quality mark.

Percentages

22127. Wherever in this article provision is made for marking the number of parts or percentage of metals in any article such number or percentage shall refer to weight and not to volume, thickness or any other standard of measurement.

Application of quality marks

22128. No quality mark shall be applied to any article except in accordance with the following provisions of this section:

(a) An article consisting of at least 985/1000ths parts of platinum, iridium, palladium, ruthenium, rhodium, or osmium, where solder is not used and at least 950/1000ths parts of said metal or metals where solder is used, may be marked "platinum"; provided, that the total of the aforementioned metals other than pure platinum shall amount to no more than 50/1000ths parts of the contents of the entire article.

(b) An article consisting of at least 985/1000ths parts of platinum, iridium, palladium, ruthenium, or osmium, where solder is not used and at least 950/1000ths parts of the said metal or metals where solder is used; and provided further, that at least 750/1000ths parts of said article are pure platinum, may be marked "platinum"; provided immediately preceding the mark "platinum" there is marked the name or abbreviation of either iridium, palladium, ruthenium, rhodium, or osmium, whichever of said metals predominates; and provided further, that such predominating other metal must be more than 50/1000ths parts of the entire article.

(c) An article consisting of at least 985/1000ths parts of platinum, iridium, palladium, ruthenium, rhodium, or osmium, where solder is not used and at least 950/1000ths parts of said metals where solder is used; provided, more than 500/1000ths parts of said article consists of pure platinum, may be marked with the word "platinum"; provided, that said word is immediately preceded by a decimal fraction in one-thousandths showing the platinum content of the entire article; and further provided, that said mark "platinum" be followed by the name or abbreviation as herein allowed, of such one or more of the

following metals, to wit: iridium, palladium, ruthenium, rhodium, or osmium, that may be present in the article in quantity of more than 50/1000ths parts of the entire article. The name of such other metal or metals other than platinum, however, shall each be immediately preceded by a decimal fraction in one-thousandths showing the content of such other metal or metals in proportion to the entire article, as for example, 600 plat., 350 pall., or 500 plat., 200 pall., 150 ruth., 100 rhod.

(d) An article consisting of 950/1000ths parts of the following metals: Platinum, iridium, palladium, ruthenium, rhodium, or osmium with less than 500/1000ths parts of the entire article consisting of pure platinum, may be marked with the name iridium, palladium, ruthenium, rhodium, or osmium, whichever predominates in the said article, but in no event with the mark "platinum"; provided, however, that the quantity of such metal other than platinum so marked, must be marked in decimal thousandths; and provided further, that the name of such metal other than platinum so used must be spelled out in full irrespective of any other provisions of this article to the contrary.

(e) An article composed of platinum and gold which resembles, appears or purports to be platinum, may be marked with a carat mark and the platinum mark; provided:

1. The platinum in such article shall be at least 985/1000ths parts pure platinum; and

2. The fineness of the gold in such article shall be correctly described by the carat mark of said gold; and

3. The percentage of platinum in such article shall be no less than 5 per cent in weight of the total weight of the article.

The mark shall be so applied that the carat mark shall immediately precede the platinum mark, as for example, "14 K & Plat.," "18 K & Plat.," as the case may be. If the percentage of platinum exceeds 5 per cent, the quality mark may also include a declaration of the percentage of platinum, as for example, "18 K & $\frac{1}{10}$ Plat.," or "14 K & $\frac{1}{8}$ Plat.," or as the case may be.

(f) An article composed of platinum and any other material or metal not resembling, appearing or purporting to be platinum, may be marked with the word "platinum"; provided, all parts or portions of such article resembling or appearing or purporting to be platinum, or reasonably purporting to be described as platinum by said quality mark, shall be at least 985/1000ths parts pure platinum.

Abbreviations

22129. Abbreviations. Whenever provided for in this article, and except as specifically excepted in paragraph (d) of Section 22128:

(a) The word "platinum" may be applied by spelling it out in full or by the abbreviation "plat."

(b) The word "iridium" may be applied by spelling it out in full or by the abbreviation "irid."

(c) The word "palladium" may be applied by spelling it out in full or by the abbreviation "pall."

(d) The word "ruthenium" may be applied by spelling it out in full or by the abbreviation "ruth."

(e) The word "rhodium" may be applied by spelling it out in full or by the abbreviation "rhod." and

(f) The word "osmium" may be applied by spelling it out in full or by the abbreviation "osmi.".

Assay certificate

22130. In any action relating to the enforcement of any provision of this article, a certificate duly issued by an assay office of the Treasury Department of the United States, certifying the weight of any article, or any part thereof, or of the kind, weight, quality, fineness or quantity of any ingredient thereof, shall be receivable in evidence as constituting prima facie proof of the matter or matters so certified.

Presumption of time manufactured

22131. In any action relating to the enforcement of any provision of this article, proof that an article has been marked in violation of the provisions of this article shall be deemed to be prima facie proof that such article was manufactured after this article became effective.

Penalty

22132. Any person or any officer, director, employee or agent of any person who makes, sells, or offers to sell, or dispose of, or has in his possession, with intent to sell or dispose of any article to which is applied any quality mark which does not conform to all of the provisions of this article, or from which is omitted any mark required by the provisions of this article, shall be guilty of a misdemeanor.

Defense

It shall be a defense to any prosecution under this article for the defendant to prove that the said article was manufactured and marked with the intention of and for purposes of exportation from the United States and that the said article was either actually exported from the United States to a foreign country within six months after the date of manufacture thereof with the bona fide intention of being sold in the said country and of not being reimported; or that it was delivered within six months after date of manufacture thereof, to a person whose exclusive customary business is the exportation of such articles from the United States.

CHAPTER 317

An act to add Article 4.5, comprising Sections 6551 to 6558, inclusive, and Sections 6594 and 6600.5 to Chapter 6 of Division 3 of the Business and Professions Code, relative to minimum price schedules for barbers.

Stats 1937, p 1229, amended

[Approved by Governor May 19, 1941. Filed with Secretary of State May 20, 1941.]

In effect September 13, 1941

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

Legislative declaration

SECTION 1. In enacting this statute the Legislature finds that unfair, unjust, destructive, demoralizing and uneconomic trade practices have been and are now being carried on in the operation of barber shops in the State of California, and that unfair competition exists between the individual barber shop owners and managers of this State to the extent that prices have been reduced by such unfair competition to the point where it is impossible for an average barber, although working regularly, to support and maintain reasonably safe and healthful barbering services to the public.

Such conditions constitute a menace to the health, welfare and reasonable comfort of the inhabitants of this State, and tend to the transmission of disease.

As the barber business affects the health, comfort and well-being of our citizens, and of the public which patronize the barbers of the State of California, in order to promote the public welfare, health and safety, and to prevent the transmission of disease, in view of the personal touch and contacts manifested and exercised in the barber business, and the need for well-nourished, strong and healthy persons to engage in the barber business, the barber profession is hereby declared to be a business affecting the public health, public interest and public safety.

In recent years social security, a ceiling for hours and a floor for wages, collective bargaining, prohibition against unfair trade practices including sales below cost, and validation of resale price maintenance agreements, together with many other reforms have been provided for many industries and businesses, resulting in an increased standard of living for persons engaged in them and a consequent raising of the standards of service of those industries and businesses to the public in terms of competency and sanitation.

These reforms do not generally apply to barbers. Barber shops are usually very small establishments, very often owned and operated entirely by one man. Barbers do not sell a trade-marked commodity; they are not in interstate commerce.

In order then, that the State may do its part in protecting the public and in insuring a nondiscriminatory application of the recent increased movement to achieve social progress, this statute is enacted.

New article SEC. 2. Article 4.5, consisting of Sections 6551 to 6558, is hereby added to Chapter 6 of Division 3 of the Business and Professions Code, to read as follows:

Article 4.5. Minimum Price Schedules

Powers of board 6551. For the purposes of this article, the board shall have all the powers of the head of a department under Political Code Section 353.

Compensation of witnesses 6551.5. No witness subpenaed at the instance of a party other than the board or one of its members, or its secretary or agents or employees, may be compensated unless the board shall certify that his testimony was material to the matter investigated.

Rules and regulations 6552. The board may adopt and enforce all rules and orders necessary to carry out the provisions of this article. Every rule or order of the board shall be posted for public inspection in the main office of the board, and a certified copy thereof shall be filed in the office of the secretary of the board and made available for publication in the trade papers of barbers. Upon such posting, filing and publishing such rules shall be in effect and binding.

"Barber" 6552.5. As used in this article, "barber" means any registered barber actively engaged in the practice of barbering.

Exception 6552.7. This article and Section 6594 of this code shall not apply to barber services performed by barbers on railroad passenger trains, or to barber services performed by students in barber schools.

Right of access 6553. Any member of the board, or any employee of the board designated by the board for that purpose, shall at all reasonable hours have access to all places where barbering is being carried on, for the purpose of administering this article.

Inspection 6553.5. Any member of the board, or any employee of the board designated by the board for that purpose, may inspect all books, papers, records or documents in any place within the State, for the purpose of ascertaining facts to enable the board to administer this article.

Records 6554. The board may require the licensee to keep any of the following records:

(a) A record of all barber work performed, and the price therefor.

(b) A record of all the expenses incident to the operation of the barber shop.

(c) A record of the net profits of the barber shop from month to month.

(d) Any other records and information which the board may deem necessary for the proper enforcement of this act.

Report

6554.5. Each licensee under this chapter shall, upon the order of the board, make and file a verified report upon such forms as the board shall require, of records which the board requires to be kept under this article, together with such other information or facts as may be pertinent and material within the scope of the purpose and intent of this article. Such report shall cover a period of time specified by order of the board.

Practice and procedure

6555. The practice and procedure of the board with respect to any investigation by the board under this article shall be in accordance with rules adopted by the board. Such rules shall provide for a reasonable notice to all persons likely to be affected by orders to be made by the board after such investigation, for opportunity to be heard either in person or by counsel, and for opportunity to introduce testimony in their behalf at a public hearing to be held for that purpose.

Minimum price schedules

6556. The board may establish minimum price schedules for the various items of barber services for any city or county upon its own motion, or upon the filing of a petition with it, requesting a minimum price schedule for that city or county, signed by 75 per centum of the barbers in that city or county.

Investigation

6556.4. Upon receipt of a petition under this article, the board shall investigate and ascertain those minimum prices which will enable barbers in that city or county to furnish modern and healthful services, using modern appliances and equipment, so as to minimize the danger to public health and safety incident to such services.

Factors to be considered

6556.5. In establishing a minimum price schedule, the board shall consider all conditions affecting the practice of barbering in that city and county, and the relation of those conditions to the public health and safety.

Necessary costs

6556.6. In establishing a minimum price schedule, the board shall consider the necessary costs incurred in that city or county in maintaining a barber shop in a clean, healthful and sanitary condition.

Establishing schedule

6556 7. At the conclusion of an investigation therefor, the board may establish a reasonable and just minimum price schedule conforming to the requirements of this article.

Modification of schedule

6557. If the board, after investigation made either upon its own initiative or upon the complaint of 51 per cent of the barbers in the city or county for which the minimum price

schedule is established, determines that the minimum prices so established, or any of them, are insufficient properly to provide healthful services to the public and to maintain a sanitary barber shop, or that any minimum price set creates an undue hardship on barber shop owners and operators, the board may vary or refix the minimum price for any barber service in that city or county.

Injunction

6558. Any person who violates a minimum price schedule established by the board may be enjoined by a court of competent jurisdiction upon the petition of the board.

New section

SEC. 3. Section 6594 is hereby added to Chapter 6 of Division 3 of the Business and Professions Code, to read as follows:

Disciplinary action

6594. A violation of any minimum price schedule established by the board under this chapter constitutes a ground for disciplinary action.

New section

SEC. 4. Section 6600.5 is hereby added to the Business and Professions Code, to read as follows:

Separate violation

6600.5. Each day's violation of a minimum price schedule established by the board under this chapter constitutes a separate violation of this chapter.

Declaration of intent

SEC. 5. In enacting this act it is the intent of the Legislature that in so far as may be compatible with the protection of the public health, the board shall act only upon the petition provided for herein.

CHAPTER 318

An act to amend Sections 3669c and 3669cc of the Political Code, relating to the revival and restoration of corporate powers, rights and privileges heretofore suspended or forfeited for nonpayment of taxes and penalties due the State.

In effect September 13, 1941

[Approved by Governor May 21, 1941. Filed with Secretary of State May 21, 1941.]

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

Stats 1941, p 1137
See also Secs 3 and 4

SECTION 1. Section 3669c of the Political Code is hereby amended to read as follows:

Right of suspended company to exercise corporate privileges

3669c. The corporate rights, privileges and powers of any domestic insurance company heretofore suspended pursuant to the provisions of this code shall be incapable of being exercised for any purpose or in any manner, except to defend any action brought in any court against said company, until such corporate rights, privileges and powers are restored as hereinafter provided. A foreign insurance company whose right and

privilege to transact intrastate business in this State have been forfeited may be relieved from such forfeiture and its right and privilege to transact intrastate business in this State restored as hereinafter provided.

Evidence of suspension

The certified copies of lists of corporations which have failed to pay the taxes imposed upon insurance companies heretofore transmitted by the State Controller to county clerks and county recorders for filing in their respective offices, or any copy of such lists certified by the Controller shall be received in evidence in any court in lieu of the original record of suspension or forfeiture on file with the Controller and shall be prima facie evidence of the truth of all statements contained therein.

Penalty

Every person who attempts or purports to exercise any of the rights, privileges or powers of any suspended domestic corporation or attempts to transact any intrastate business in this State in behalf of any forfeited foreign corporation shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars ($250) and not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not less than 50 days nor more than 500 days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in the county in which any part of such attempted exercise of such powers or any part of such transaction of business was had or occurred. Every contract made in violation of this section is hereby declared to be void.

Contracts

Restoration of privileges

All corporate powers, rights and privileges suspended or forfeited may be revived and restored to full force and effect by the payment of all accrued taxes due to the State under Sections 3664b and 3664b-1 of this code, together with the penalties thereon, and also, in addition thereto, a sum of money equal to the tax last assessed under the provisions of said sections of this code, together with the penalties thereon. Application for restoration shall be made by any stockholder, or by any member or policyholder of the corporation if the corporation is a nonstock company, or any creditor of the corporation or by a majority of the surviving trustees or directors of the corporation, and the application shall be filed with the State Controller.

Application

Restoration certificate

Upon payment of all such taxes and penalties the State Controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such Controller's certificates recorded by him. Upon presentation of such Controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation. of all previously suspended or forfeited

Record

rights, powers and privileges unless it appears from the records in the office of such county clerk or of the Secretary of State that subsequent to the date of such certificate of revivor the powers of said corporation have been suspended or its right to do intrastate business forfeited.

Actions for delinquent taxes

The Controller may, on or before the thirtieth day of April next following the delinquency of any tax imposed upon insurance companies under the provisions of Article XIII of the Constitution and sections of this code enacted to carry the same into effect bring an action in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, to collect any delinquent taxes, together with any penalties which have not been paid in accordance with the provisions of this code and appearing delinquent upon the record of assessment of insurance companies hereinbefore mentioned, and such actions shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General, order a change of place of trial.

Attorney General

The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required.

Service of summons

In the case of companies whose right to do business has been forfeited or corporate powers suspended, service of summons may be made upon the persons provided for by law to be served as agents or officers of any of such companies and such persons shall be deemed to be the agents of such companies for all purposes necessary in order to prosecute such action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors thereof shall have the power and right to defend such action. Payment of the amount of the judgment recovered in such action must be made to the State Controller.

Prima facie evidence

In such actions the Record of Assessments of Insurance Companies, or a copy of so much thereof as is applicable in said action, duly certified by the Controller, or by the secretary of the State Board of Equalization, showing unpaid taxes against any company, person or association assessed by the State Board of Equalization, is prima facie evidence of the assessment of such taxes, the delinquency thereof, the amount of the taxes and penalties due and unpaid to the State, and that the company, person, or association is indebted to the people of the State of California in the amount of taxes and penalties therein appearing unpaid, and that there has been compliance with all the requirements of law in relation to the assessment and levy of such taxes.

SEC. 2. Section 3669cc of the Political Code is hereby amended to read as follows: Stats 1937, p 15

3669cc. All corporate powers, rights and privileges of companies which have been suspended or forfeited for nonpayment of taxes and penalties due the State under the provisions of Sections 3664a, 3664c and 3664d of this code as said sections existed at any time prior to September 15, 1935, may be revived and restored to full force and effect by the payment to the State Controller of all accrued taxes and penalties due to the State under said sections, and also, in addition thereto, a sum of money equal to the tax last assessed under the provisions of said sections, together with the penalties thereon. Application for restoration shall be made by any stockholder, or by any member or policyholder of the corporation if the corporation is a nonstock company, or any creditor of the corporation or by a majority of the surviving trustees or directors of the corporation, and the application shall be filed with the State Controller. Revival and restoration of corporate powers

Application

Upon payment of all such taxes and penalties the State Controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such Controller's certificates recorded by him. Upon presentation of such Controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the Secretary of State that subsequent to the date of such certificate of revivor the powers of said corporation have been suspended or its right to do intrastate business forfeited. Restoration certificate

The revival and restoration of the corporate powers, rights and privileges of any company mentioned in this section which has heretofore paid the amount specified in this section as a condition of revivor is hereby validated and legalized to the same extent as if this section had been in effect at the time of such payment. Retroactive effect

SEC. 3. Section 3669c of the Political Code is hereby amended to read as follows: Stats 1941, p 1138

See Sec 4

3669c. All corporate powers, rights and privileges suspended or forfeited prior to June 12, 1939, may be revived and restored to full force and effect by the payment of all accrued taxes due to the State under Sections 3664b and 3664b-1 of this code as they read prior to their repeal, together with the penalties thereon, and also, in addition thereto, a sum of money equal to the tax last assessed under the provisions of said sections of this code, together with the penalties thereon. Rights of suspended company to exercise corporate privileges

Application Application for restoration shall be made by any stockholder, or by any member or policyholder of the corporation if the corporation is a nonstock company, or any creditor of the corporation or by a majority of the surviving trustees or directors of the corporation, and the application shall be filed with the State Controller.

Certificate of restoration Upon payment of all such taxes and penalties the State Controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of Record all such Controller's certificates recorded by him. Upon presentation of such Controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the Secretary of State that subsequent to the date of such certificate of revivor the powers of said corporation have been suspended or its right to do intrastate business forfeited.

Relief of foreign insurer A foreign insurer whose right and privilege to transact intrastate business in this State have been forfeited prior to June 12, 1939, may be relieved from such forfeiture and its right and privilege to transact business in this State restored upon complying with the provisions of this section.

Effect Stats. 1941, p. 1139 SEC. 4. The amendment which Section 3 hereof makes to Section 3669c of the Political Code takes effect only if Part 7 of Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fourth Session, and at the same time as Part 7 takes effect, in such case and at such time superseding the amendment which Section 1 hereof makes to Section 3669c.

CHAPTER 319

Stats. 1937, p. 1229, amended *An act to add Article 3, consisting of Sections 22175 to 22181, inclusive, to Chapter 12 of Division 8 of the Business and Professions Code, relating to the marking of articles of merchandise made in whole or in part of gold or its alloys.*

In effect September 13, 1941 [Approved by Governor May 21, 1941. Filed with Secretary of State May 21, 1941.]

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

New article SECTION 1. Article 3, consisting of Sections 22175 to 22181, inclusive, is hereby added to Chapter 12 of Division 8 of the Business and Professions Code, to read as follows:

Article 3. Gold

Application of article 22175. The provisions of this article shall apply exclusively to gold and to its alloys.

"Quality mark"

22176. As used in this article "quality mark" means any mark indicating or purporting to indicate that any article is composed of gold or of any of its alloys or indicating or purporting to indicate the quality, fineness, quantity, weight or kind of gold or its alloys in an article.

Use of quality mark

22177. A quality mark need not be applied to any article, but if a quality mark is applied to any article it shall be applied in accordance with the provisions of this article.

Content of gold

22178. A quality mark applied to any article shall indicate the number of twenty-fourth parts by weight of pure gold or its alloy contained in the article.

Tolerance

22179. The variation between the actual fineness of the gold or its alloy contained in any article and that indicated by the quality mark applied to such article shall not exceed the tolerances for fineness prescribed for articles made of gold and its alloys which are to be moved in interstate commerce by that act of the United States Government entitled "An act forbidding the importation, exportation or carriage in interstate commerce of falsely or spuriously stamped articles of merchandise made of gold or silver or their alloys, or for other purposes," approved June 13, 1906 (34 Stats. 260; 15 U. S. C. Secs. 294-300, inclusive).

Trade-mark

22180. Any person who applies or causes any quality mark to be applied to any article which is made in whole or in part of gold or of any of its alloys shall also apply a trade-mark duly applied for or registered to him under the laws of the United States or of this State to such article.

If the person so applying such mark is the manufacturer of the article and has sold or contracted to sell such article to a jobber, wholesale or retail dealer regularly engaged in the business of buying and selling similar articles, this section shall be deemed to be complied with if a trade-mark duly registered under the laws of the United States or of this State to such jobber, wholesale or retail dealer is applied to such article.

Penalty

22181. Any person or any officer, director, employee or agent of any person who makes, sells or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, any article to which is applied any quality mark which does not conform to all the provisions of this article or from which is omitted any mark required by the provisions of this article is guilty of a misdemeanor.

CHAPTER 320

Stats 1939, p 482, amended

An act to amend Section 13350 of the Health and Safety Code, relating to cleaning establishments.

In effect September 13, 1941

[Approved by Governor May 21, 1941. Filed with Secretary of State May 21, 1941.]

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

Stats 1939, p 800

SECTION 1. Section 13350 of the Health and Safety Code is hereby amended to read as follows:

Hazardous building. Performance of operations within

13350. No person shall establish or operate a clothes cleaning establishment, except one in which is used exclusively in the process of cleaning or dyeing a product designated as noncombustible and nonexplosive by a laboratory nationally recognized as properly equipped to make the designation, unless all the processes of cleaning, dyeing, renovating, drying, deodorizing, and solvent storage and treatment are carried on in a hazardous building located, constructed, equipped, and maintained pursuant to this article. However, nothing contained in this article shall prohibit the State Fire Marshal from licensing, under rules and regulations promulgated by him, the installation and use in any building of dry-cleaning machinery approved by a laboratory nationally recognized as properly equipped to make the designation, and utilizing a solvent with a flash point of not less than 138.5 degrees F., so long as such machinery is not used in a building occupied in whole or in part as a dwelling, apartment house, hotel, restaurant, or place of public assemblage.

CHAPTER 321

Stats 1921, p 245, amended

An act to amend Sections 1, 2, 5, 6, 6a, 6c, 6d, 6e, 7, 11, 12, 15, 15a, 18 and 19 of an act approved May 23, 1921, as amended, entitled "An act to provide for the organization, incorporation and government of municipal utility districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of works and property, and to levy and collect taxes to pay the principal and interest thereon," relating to the organization of and annexation to municipal utility districts; control of publicly owned utilities within utility districts; contest of annexation proceedings; powers and duties of a board of directors; powers of the district; special districts within municipal utility districts; incurring, refunding and retirement of indebtedness of special districts; levy and collection of taxes for special district operations and obligations; investment of funds; sale of by-products; loans, contributions and cooperative agreements; limitation of

indebtedness; payment of interest from bond funds; fixing and collecting rates, tolls and charges, and the levy and collection of taxes; contracts for the use of commodities or services, and to add Sections 1a, 6b.5, 6f to 6i, inclusive, 7a, 15d to 15q, inclusive, 29a and 29b, defining the term "public agency"; providing for annexation to special districts; annexation of unincorporated territory; oaths of office; creation of special districts for sewage disposal purposes, the contesting of the validity of their creation and any bonds issued by a special district; the issuance of bonds by the electors therein for said purposes, the use of said bonds for investment and security for public deposits; the levy and collection of taxes to pay the principal and interest of said bonds, and the expenses of formation and operation of said special districts, contracts and agreements for the use of sewage disposal facilities, and the dissolution of special districts, and relating to special districts generally; issuance of revenue bonds under general law; disposition of records; and the severability of the act, all relating to municipal utility districts.

[Approved by Governor May 22, 1941. Filed with Secretary of State May 22, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p 1660

Section 1. A municipal utility district may be created as herein provided and when so created may exercise the powers herein granted. Any public agency together with unincorporated territory may so organize and incorporate; likewise any two or more public agencies, whether contiguous or otherwise or in the same or different counties, may organize and incorporate as a municipal utility district. Unincorporated territory may be embraced and included therein, but no public agency shall be divided in the formation of such a district, nor shall any public agency or unincorporated territory be included therein without the consent of a majority of the electors thereof voting at any election on such proposition Unincorporated territory in separated parcels shall be considered separately in the organization of a district. Organization of district

Unincorporated territory which is not contiguous to a district organized hereunder may not be annexed if said district does not possess facilities for supplying utility service to said territory.

SEC. 2. Section 1a is hereby added to said act, to read as follows: New section

Sec. 1a. The term "public agency" wherever appearing in this act includes a city, county water district, county sanitation district or sanitary district. "Public agency"

Stats 1931, p 246

SEC. 3. Section 2 of said act is hereby amended to read as follows:

Procedure

Sec. 2. The procedure for organizing and creating a municipal utility district under the provisions of this act is as follows:

Resolution of intention of public agency

Resolutions shall first be passed by the legislative bodies of half or more of the public agencies designed to be included in the proposed district, declaring that in their opinion public interest or necessity demands the creation and maintenance of a municipal utility district to be known as "the (giving the name) municipal utility district." Said resolutions may state the kind of utility proposed to be first acquired, but failure to acquire such utility shall not affect the validity of the district. They shall describe the exterior boundaries of the proposed district; provided, that if it is intended to organize said district of public agencies only, then and in that case a statement of the names of such public agencies shall constitute a sufficient description of said district. Certified copies of said resolutions shall be presented to the board of supervisors of the county containing the largest number of registered electors within the proposed district requesting said board to call an election without delay for determining whether such district shall be created.

Petition by electors

Instead of said resolutions, a petition may be presented to the board of supervisors of said county signed by qualified electors within the boundaries of said district equal in number to at least 10 per cent of the total vote cast at the last general State election within the territory proposed to be included in said district. Said petition shall contain substantially the same declarations and statements required to be contained in the resolutions aforementioned, and declare that, in the opinion of the petitioners, public interest or necessity demands the creation and maintenance of a municipal utility district. Such petition may be on separate papers, but each paper shall contain the affidavit of the party who circulated it certifying that each name signed thereto is the true signature of the person whose name it purports to be. The clerk of the board of supervisors of said county shall compare the signatures with the affidavits of registration and certify to the sufficiency or insufficiency of such petition.

Stats 1935, p 410

SEC. 4. Section 5 of said act is hereby amended to read as follows:

Division of district into wards

Sec. 5. Before calling said election the board of supervisors shall divide the proposed district into five wards or subdistricts, the boundaries of which shall be so drawn that each shall contain approximately an equal number of electors, as nearly as may be. The public agencies and any other territory included in the proposed district may be divided for the purpose of establishing the boundaries of said wards or subdistricts.

SEC. 5. Section 6 of said act is hereby amended to read as follows: Stats 1929, p 59

Sec. 6. Upon establishing the wards as aforestated, the board of supervisors of said county shall give notice of an election to be held within the proposed district for the purpose of determining whether the same shall be created and established, also for the purpose of electing directors if established. Said notice shall state the name of the proposed district, and describe the boundaries thereof; it shall also describe the boundaries of the wards or subdistricts provided for the purpose of electing directors. Said notice shall be published once a week for at least three weeks before the day of said election in a newspaper of general circulation published within the proposed district. In case no newspaper of general circulation is published within said proposed district, said notice shall be posted for at least three weeks in not less than three public places within said proposed district. Notice of election

The ballot for said election shall contain such instructions as are required by law to be printed thereon and in addition thereto there shall appear thereon the following: Ballot

Shall the (giving the name thereof) "municipal utility district" be created and established?	YES	
	NO	

Said ballots shall also contain the names of the persons nominated in each ward to serve as a member of the board of directors from such ward, showing separately each ward and its nominees. Any person may be nominated for the office of director upon written petition of 50 or more qualified electors of the ward or subdistrict in which such person resides.

Said election, including the nomination and election of directors and all matters pertaining thereto not otherwise provided for herein, shall be held and conducted and the result thereof ascertained, determined and declared in accordance with the general election laws of the State, as nearly as may be, and no person shall be entitled to vote at said election unless he or she be a qualified elector of the territory included in the proposed district. Said election may be held on the same day as any other State, county or city election and be consolidated therewith. General laws to govern

Said board of supervisors shall meet on Monday next succeeding the day of said election and canvass the votes cast thereat. Canvass of votes

They shall canvass the returns of each public agency and each parcel of unincorporated territory, if any, separately, and shall order and declare said district created and established of the public agencies and territory in which a majority of those who voted on the proposition voted in favor of the creation of said district; provided, however, that the total number of electors in such approving public agencies and

territory be not less than two-thirds the number of electors within the district as first proposed, according to the register used at said election.

Qualifications of director

No person shall be entitled to serve as a director unless he be a resident and elector of the district as finally determined, and any vacancies on the board of directors caused by the elimination of territory shall be filled by remaining directors, in which case ward lines may be disregarded in their appointment thereof. Said board of supervisors shall also canvass the returns of the election with respect to the persons voted for as directors, and shall declare the persons receiving the highest number of votes, for each ward, respectively, to be duly elected as directors of said district, providing they are residents and electors thereof as finally determined.

Declaration of result

The board of supervisors shall cause a certified copy of said order declaring the result of said election to be filed in the office of the Secretary of State, from and after which the establishment of said municipal utility district shall be deemed complete, and the persons elected as directors thereof shall enter immediately upon their official duties after qualifying according to law. Said directors shall hold their respective offices only until the first Monday after the first day of January next following the next general election and until their successors are elected and qualified.

Cost of election

The board of supervisors calling the election shall make all provision for the holding thereof throughout the entire district as proposed, and shall pay the cost thereof. In case a special election is held exclusively on the proposition of organizing such a district, the expenditure therefor shall be reimbursed to the county which called the election by means of a special tax on all the taxable property within the public agencies and unincorporated territory which was proposed to be included in the district, which tax shall be added to the next county tax bills by the proper officials of the counties involved, respectively.

Proceedings not invalidated by informalities

No informality in any proceeding or in the conduct of said election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the incorporation of any municipal utility district, and any proceedings wherein the validity of such incorporation is denied, shall be commenced within three months from the date of filing the aforesaid order with the Secretary of State, otherwise such incorporation and the legal existence of said municipal utility district shall be held to be valid and in every respect legal and incontestable.

Stats 1931, p 73

SEC. 6. Section 6a of said act is hereby amended to read as follows:

Annexation of public agency

Sec 6a. Any public agency not included within the boundaries of said utility district may be subsequently annexed thereto in the manner following:

Terms

The legislative body of such public agency shall agree in writing with the board of directors of said utility district

upon the terms and conditions of such annexation, which agreement (among other things) may provide for the levy and collection of special taxes within the public agency to be annexed, in addition to the taxes elsewhere in this act provided for, the fixing of rates, rentals and charges differing from those fixed or existing elsewhere within the utility district, the incurring or assumption of indebtedness or the making of a payment or payments, or the transfer of property, real and personal, and other assets to said utility district by the public agency proposed to be annexed. The corporate boundaries of the public agency to be annexed need not be coterminous with any election precincts. Such agreement shall become effective and be binding upon the utility district and the public agency to be annexed when approved in the manner hereinafter set forth.

Approval by utility district

(a) Approval by municipal utility district: The board of directors of said utility district shall by ordinance setting forth such agreement at length declare its intention of causing the same to be executed by said utility district. Said ordinance, together with a notice fixing the time and place for hearing thereon, shall be published once in a newspaper of general circulation printed and published in said utility district. The time fixed for such hearing shall be not less than thirty (30) nor more than sixty (60) days from the date of the first publication of said ordinance. At such hearing any person interested may file written objections to the execution of said agreement with the board of directors of the utility district. Upon such hearing the board of directors of the utility district shall determine whether or not said agreement shall be carried into execution and shall hear and determine all objections thereto. Failure of any person interested in said utility district or in the matter of the proposed execution of said agreement to show cause in writing as aforesaid, shall be deemed and taken as an assent on his part to a change in the boundaries of the utility district and to the execution of such agreement. Any such hearing may be adjourned from time to time by the board of directors without further notice other than an order to be entered upon the minutes of the meeting fixing the time and place of such adjournment. In the event no protests are filed or the protests filed are overruled and denied by the board of directors such board shall thereupon, by resolution, finally approve said agreement and authorize its execution, which shall become effective when executed by the other party thereto, duly authorized in the manner hereinafter provided. When so executed by the utility district the same shall be dated and an executed copy thereof filed with the secretary of said utility district, and an executed copy shall also be filed with the secretary or clerk of the public agency to be annexed.

Approval by public agency

(b) Approval by public agency to be annexed: At any time after the board of directors of the utility district has finally

approved the agreement of annexation in the manner hereinabove set forth the legislative body of the public agency to be annexed shall cause an election to be held in said public agency to determine whether such public agency shall be annexed to said utility district upon the terms and conditions stated in said agreement. Notice of such election shall be published once a week for two weeks prior to the date fixed for said election, or posted at least two weeks in three public places in said public agency in the event no newspaper of general circulation is published therein. It shall not be necessary to set forth the terms and conditions of said agreement of annexation at length but the notice of said election shall state that a copy thereof is on file in the office of the secretary or clerk of the public agency proposed to be annexed, open to the inspection of all persons interested; provided, however, the legislative body of the public agency to be annexed may in its discretion set forth the terms and conditions of said agreement of annexation at length in said notice of election, but this requirement is not mandatory.

Notice

Ballots

The ballots for said election shall contain substantially the instructions required to be printed on ballots for use at general State and county elections and in addition thereto shall set forth the proposition of annexation substantially as follows:

Shall the_____(public agency) be annexed to_____municipal utility district in accordance with and subject to all of the terms and conditions of an agreement of annexation dated_____ now on file in the office of the clerk (or secretary) of_____(public agency)?	YES	
	NO	

Conduct of election

Said election, in all matters pertaining thereto not otherwise provided for herein, shall be held and conducted and the result thereof ascertained, determined and declared in accordance with the general election laws of the State so far as the same may be applicable.

Result

If upon a canvass of such election it shall be found that a majority of all votes cast at said election were cast in favor of the annexation said proposition and all of the terms and conditions of said agreement of annexation shall be deemed to have been carried and approved by the electors; provided, however, that if the terms and conditions of said agreement of annexation provide for the assumption of any indebtedness of said utility district by any city proposed to be annexed, said proposition of annexation shall not be deemed carried unless approved by the vote of two-thirds of all the voters voting at such election. If such proposition fails to carry the result thereof shall be entered upon the minutes of the governing body of such public agency. In the event said proposition

receives the vote of the requisite majority of electors hereinabove set forth the governing body of said public agency shall enter in its minutes an order declaring the result of such election and shall thereupon cause the agreement of annexation to be executed by its duly authorized officers. Upon receipt by said utility district of a certified copy of said agreement of annexation properly executed by the municipal utility district and the public agency proposed to be annexed thereto the board of directors of said utility district shall pass a resolution declaring said public agency annexed to said utility district, and shall cause a certified copy of said resolution to be filed with the Secretary of State of the State of California. From and after the date of filing of said resolution with the Secretary of State the annexation of said public agency to said municipal utility district shall be complete.

Legal existence continued

No such annexation or inclusion of any public agency to such utility district shall operate to dissolve or terminate the legal existence of the public agency so annexed, and such public agency shall, nevertheless, retain its corporate existence until otherwise dissolved pursuant to provisions of law now or hereafter enacted for that purpose.

Levy power of utility district board

From and after the date of such annexation the board of directors of the municipal utility district shall be authorized and directed to levy upon all of the property in such public agency so annexed such taxes, tolls or charges as may be necessary in order to provide funds for the payment of the indebtedness assumed by such public agency or otherwise necessary to comply with the terms and conditions of said annexation agreement, all in addition to the general district taxes authorized elsewhere in this act to be levied and collected.

Stats 1927, p 50

SEC. 7. Section 6c of said act is hereby amended to read as follows:

Effect of annexation

Sec. 6c. Any territory heretofore or hereafter annexed in accordance with the law to any public agency included in the utility district shall, upon the completion of such annexation proceeding, be deemed incorporated into and annexed to the said utility district, and shall thereafter become subject to taxation, along with the entire territory of the utility district in accordance with the assessable valuation of the property thereof, for general district purposes, and for the payment of any indebtedness theretofore or thereafter incurred by said utility district.

Stats 1937, p. 1659

SEC. 8. Section 6d of said act is hereby amended to read as follows:

Control of existing utilities

Sec. 6d. Except as hereinafter provided with reference to sewage disposal, the board of directors of the district shall not interfere with or exercise any control over any existing utility owned and operated by any public agency in said utility district, unless by consent of the legislative body of such public agency and upon such terms as may be mutually

agreed upon between the board of directors of the district and the legislative body of such public agency.

Stats 1931, p 91

SEC. 9. Section 6e of said act is hereby amended to read as follows:

Contest of validity

Sec. 6e. The validity of any proceedings for the annexation of any public agency or unincorporated territory to any municipal utility district or special district within the municipal utility district shall not be contested in any action unless such action shall have been brought within three months after the completion of such proceedings, or, in case such proceedings are completed prior to the time that this act takes effect, then within three months after this act shall have become effective.

New section

SEC. 10. Section 6f is hereby added to said act, to read as follows:

Annexation to special district

Sec. 6f. Any public agency or portion thereof or unincorporated territory within the boundaries of a municipal utility district (hereinafter referred to collectively as "territory") not included within the boundaries of a special district may be annexed thereto in the manner following:

The board of directors of said utility district shall, by resolution, determine that the annexation of said territory will facilitate the acquisition or operation of a public utility for said special district, describe therein said territory, declare its intention to annex said territory to said special district, set forth the terms and conditions upon which said territory shall be annexed, fix the time and place for hearing on the question of said annexation and provide for the giving of notice thereof.

No public agency, or portion thereof, shall be annexed to a special district unless the legislative body thereof shall, by resolution, consent thereto.

The terms and conditions for the annexation of said territory to a special district may provide, among other things, for the payment of special taxes within the territory to be annexed in addition to the taxes elsewhere in this act provided for, the fixing of rates, rentals and charges differing from those fixed or existing elsewhere within the special district, the making of a payment or payments, or the transfer of property, real and personal, and other assets to said utility district by the territory proposed to be annexed.

New section

SEC. 11. Section 6g is hereby added to said act, to read as follows:

Notice of hearing

Sec. 6g. Notice fixing the time and place for hearing on the question of the annexation of said territory to said special district shall be published once in a newspaper of general circulation printed and published in said municipal utility district. If no such newspaper is printed and published therein, the notice of such hearing shall be given by posting a notice thereof in three (3) public places within the boundaries of such municipal utility district, at least one of which shall be within the boundaries of the territory proposed to be annexed.

The time for such hearing shall be not less than thirty (30) nor more than sixty (60) days from the date of the first publication of said notice, or its posting, in the event that same is posted.

SEC. 12. Section 6h is hereby added to said act, to read as follows: New section

Sec. 6h. At or before said hearing any person interested may file with the secretary of the utility district written objections to the annexation of said territory to said special district or to the inclusion of his property therein. Upon such hearing, the board of directors of the utility district shall hear and determine all protests and objections. Any such hearing may be adjourned from time to time by the board of directors without further notice other than an order to be entered upon the minutes of its meeting fixing the time and place of such adjournment. In the event that no protests are filed, or the protests filed are overruled and denied by the board of directors, said board shall thereupon, by resolution, declare such territory, or a portion thereof, annexed to said special district. From and after the date of filing of said resolution with the secretary of said utility district the annexation of said territory, or portion thereof, to said special district shall be complete. Objections. Hearing

SEC. 13. Section 6i is hereby added to said act, to read as follows: New section

Sec. 6i. No such annexation to such special district shall operate to dissolve or terminate the legal existence of any public agency within or partly within the territory so annexed, and such public agency shall, nevertheless, retain its corporate existence until otherwise dissolved pursuant to provisions of law now or hereafter enacted for that purpose. Effect of annexation.

From and after the date of such annexation the board of directors of the municipal utility district shall be authorized and directed to levy upon all of the property in such territory so annexed such taxes, tolls or charges as may be necessary in order to comply with the terms and conditions of said annexation, all in addition to the general district taxes authorized elsewhere in this act to be levied and collected.

SEC. 13a. Section 7 of said act is hereby amended to read as follows: Stats 1929, p 61

Sec. 7. Except as otherwise provided herein, all subsequent elections and nominations of candidates for directors to be elected thereat shall be held and conducted in accordance with the general election laws of the State as near as they may be applicable. Notice of election shall be given by publication once a day for at least seven days in one or more newspapers of general circulation published and circulated at least six days a week in such district, or once a week for two weeks in some newspaper published less than six days a week in such district; and one insertion each week for two succeeding weeks shall be a sufficient publication in such newspaper published Subsequent elections. Notice of election

less than six days per week. In districts where no such newspaper is published, such notice shall be posted in three public places therein for two succeeding weeks. No other notice of such election need be given. Said notice shall refer to the wards as previously established by resolution or ordinance of the board of directors.

The board of directors shall in the notice, ordinance or resolution calling an election consolidate the same with the election to be held at the same time in the respective counties wherein the district is located and shall authorize the respective boards of supervisors to canvass the returns of such district election and certify the result of said canvass to the directors of said district and it shall be the duty of the board or boards of supervisors to so consolidate said election, canvass such returns and cause the result thereof to be properly certified to the board of directors of said district.

Conduct of election

Such election shall be held in all respects as if there were only one election, and only one ticket or ballot shall be used thereat. Nomination papers shall be circulated throughout the district. A nomination paper containing the name of the candidate to be nominated, with such other information as may be required herein, shall be signed by electors residing within the district equal in number to at least 1 per cent of the entire vote cast at the last preceding general election within the district.

Except as otherwise provided herein the provisions of Section 1188 of the Political Code and of Sections 5, 6 and 10 of the Direct Primary Law as the latter existed in 1926 shall substantially govern as to the manner of appointment of verification deputies, the form of nomination papers and the securing of signatures thereto and fastening together of sections of the nomination paper containing such signatures, the filing of the candidate's affidavit, the payment of filing fees and all other things necessary to get the name of the candidate upon the ballot; provided, however, that verification deputies may obtain signatures to the nomination paper of any candidate at any time not more than 65 days nor less than 40 days prior to such election, and all nomination papers shall be filed with the secretary of the district not more than 60 days nor less than 35 days before the day of election and shall be examined by him. Said election shall be consolidated with the general election as to territory which is the same and the secretary of the district shall certify the names of all candidates to be placed upon the ballot to the county clerk or county clerks within the territory affected by such consolidation at least 25 days prior to the date of said election. Upon the filing of a sufficient nomination paper and affidavit by any candidate the name of such candidate shall go upon the ballot at the ensuing general election. Upon receipt of the returns of the canvass by the respective boards of supervisors the directors of the district shall meet and determine

results of the election and declare the candidate or candidates elected.

Certificates of election

The secretary of the district shall issue certificates of election signed by him and duly authenticated immediately following the determination of the result of the election by the directors of the district.

Terms of office

Of the directors elected at the next general State election following the election at which the district is created, those three elected by the highest vote shall hold office for four years, and the other two for two years, and until their successors are elected and qualified. Thereafter, at each biennial general election, a number of directors corresponding to the number whose term of office expires shall be elected for the term of four years. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

New section

SEC. 13b. Section 7a is hereby added to said act, to read as follows:

Oath of office

Sec. 7a. The oath of office of all officers of the district, whether elected directors or appointed officials, shall be taken, subscribed and filed with the secretary of the district within 30 days after the officer has notice of his election or appointment or before the expiration of 15 days before the commencement of his term of office. No other filing is required.

Stats. 1937, p. 1644

SEC. 14. Section 11 of said act is hereby amended to read as follows:

Powers of board

Sec. 11. The board of directors shall constitute the legislative body of such district and determine all questions of policy.

The board of directors shall supervise and regulate every utility owned and operated by such district, including the fixing of rates, rentals, charges and classifications, and the making and enforcement of rules, regulations, contracts, practices and schedules, for or in connection with any service, product or commodity owned or controlled by such district.

Each utility which a municipal utility district is authorized to acquire, construct, own, operate, control or use pursuant to the provisions of this act, shall be considered to be a utility owned and operated by such municipal utility district even though service therefrom is limited to a special district created as in this act provided.

Appointment of general manager, etc

Said board shall appoint a general manager and may in its discretion, appoint an accountant, a secretary, a treasurer, and an attorney, which appointees except the general manager shall hold office during the pleasure of the said board. The general manager shall hold office for an indefinite term and shall be removable as hereinafter provided. Each appointee shall give such bond and in such amount as the board of directors may require. Said board may consolidate any of said offices in one and the same person. Said board may also provide for assistants to any officer of the district which assistants, when appointed by the board shall hold office at

the pleasure of the board and may perform any and all acts that their principal may perform, when authorized so to do by the board.

Removal, etc., of general manager

The general manager may be removed by the board but only upon the adoption of a resolution by the affirmative vote of not less than three members of the board. Before the general manager may be removed, he shall, if he so demand, be given a written statement of the reasons alleged for his removal and shall have the right to be publicly heard thereon at a meeting of the board prior to the final vote on the resolution providing for his removal, but pending and during such hearing the board may suspend him from office. Neither may the board reduce the salary of the general manager except upon the adoption of a resolution by a like vote and after a like opportunity to be heard. The action of the board in suspending or removing the general manager or reducing his salary, if approved by a majority of the membership of the board, shall be final; provided, however, that until such time as the district shall have operated, controlled or used works or parts of works for the providing of the inhabitants and public agencies within the boundaries of said district with the utility services, or any of them, specified in the fifth paragraph of Section 12 hereof for a period of six months, the board, in its discretion, may or may not, appoint a general manager, who during such time shall hold office at the pleasure of the majority of the board.

The board of directors may from time to time contract for or employ any professional service required by the district or by the board or any officers of the district.

Stats 1939, p 1725

SEC. 15. Section 12 of the said act is hereby amended to read as follows:

Powers of district

Sec. 12. Any municipal utility district incorporated as herein provided shall have power:

First—To have perpetual succession.

Second—To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

Third—To adopt a seal and alter it at pleasure.

Fourth—To take by grant, purchase, gift, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and to hold and enjoy real and personal property of every kind within or without the district necessary to the full or convenient exercise of its powers. The directors of the district may lease, mortgage, sell or otherwise dispose of any real or personal property within or without the district when in their judgment it is for the best interests of the district so to do. The provisions of this section shall apply to all sales or mortgages heretofore or hereafter made.

Fifth—To acquire, construct, own, operate, control or use, within or without, or partly within and partly without, the district, works or parts of works for supplying the inhabitants of said district and public agencies therein, or some of

Powers of district

them, with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment or disposition of garbage, sewage, or refuse matter, and to do all things necessary or convenient to the full exercise of the powers herein granted; also to purchase any of the commodities or services aforementioned from any other utility district, public agency, person, or private company, and distribute the same. Whenever there is a surplus of water, light, heat or power above that which may be required by such inhabitants or public agencies within the district, such district shall have power to sell or otherwise dispose of such surplus outside of the district to persons, firms, and public or private corporations, or public agencies outside said district.

Whenever any of the facilities, works, or utilities of the district, or part thereof, is not used or employed to its fullest capacity for the benefit or requirements of the district or its inhabitants, such district shall have power to enter into an agreement or agreements with public agencies or any person, firm or corporation, upon such terms and conditions as may be satisfactory to its board of directors, for renting, leasing, or otherwise using the available portion or parts of such facilities, works, or utilities, and in connection with any such agreement, renting or leasing, the district may undertake or perform any services incidental thereto.

Sixth—To have or exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use. To take any property necessary or convenient to the exercise of the powers herein granted, whether such property be already devoted to the same use or otherwise, in the proceedings, venue and trial, relative to the exercise of such right the district shall have all the rights, powers and privileges of a municipal corporation, and all rights, powers and privileges herein conferred.

Seventh—To construct works across or along any street or public highway, or over any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to municipalities within the State, and to construct its works across any stream of water or water-course. The district shall restore any such street or highway to its former state as near as may be, and shall not use the same in a manner to unnecessarily impair its usefulness.

Eighth—To borrow money and incur indebtedness, and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness that may exist against or be assumed by the district, and any special district established pursuant to the provisions of this act; provided, no indebtedness shall be incurred exceeding the ordinary annual income and revenue of the district without the approval of a two-thirds vote of the electors voting on the proposition to incur such indebtedness; provided, however, that a further vote

Powers of district

of the electors is not required for any indebtedness heretofore or hereafter incurred within the purposes and not exceeding the available amount of any previously authorized bond issue and as to such indebtedness the proceeds of any of such bonds unexpended in the treasury of the district, or the par value of any of such bonds which are unsold shall be deemed a part of the ordinary annual income and revenue of such district; provided further, that any district operating a utility under rules and regulations requiring applicants for extensions to advance the expenses of such extensions and facilities for serving additional territory may enter into agreements to refund to such applicants in a subsequent year the whole or any part of such expenses so advanced and such refunds may be paid out of the revenues of such subsequent years.

Ninth—To levy and collect, or cause to be levied and collected, taxes for the purpose of carrying on the operations and paying the obligations of the district, and any special district established pursuant to the provisions of this act.

Tenth—To make contracts and to enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations to indemnify and save harmless, also to employ labor, and to do all acts necessary and convenient for the full exercise of the powers herein in this act granted.

Eleventh—To proceed in the name of the district in case of condemnation proceedings.

Twelfth—To invest any surplus money in the district treasury, including money in any sinking fund established for the purpose of providing for the payment of the principal or interest of any bonded or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds, or in bonds of any special district established pursuant to the provisions of this act or in treasury notes or bonds of the United States, or of this State, or bonds of any county, city and county, city, school district, or in bonds of any other public or municipal corporation or public district within this State which are legal as security for the deposit of public funds, and such investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may from time to time be sold and the proceeds reinvested in bonds or treasury notes as above provided. Sales of any bonds or treasury notes thus purchased and held shall from time to time be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds or treasury notes were originally purchased, was placed in the treasury of the district.

Thirteenth—To sell, or otherwise dispose of any water, sewage effluent, fertilizer or other by-product resulting from

the operation of a sewage disposal system, and to construct, maintain and operate such pipe lines and other works as may be necessary for that purpose.

Fourteenth—To accept, without limitation by any other provisions of this act requiring approval of indebtedness, contributions or loans from the United States of America, or any department, instrumentality or agency thereof, for the purpose of financing the construction, maintenance and operation of any enterprise in which the district is authorized to engage, and to enter into contracts and cooperate with, and accept cooperation from, the United States of America, or any department, instrumentality or agency thereof, in the construction, maintenance and operation, and in financing the construction, maintenance and operation, of any such enterprise in accordance with any legislation which Congress may have heretofore adopted or may hereafter adopt, under which aid, assistance and cooperation may be furnished by the United States of America in the construction, maintenance and operation or in financing the construction, maintenance and operation of any such enterprise; and to do any and all things necessary in order to avail itself of such aid, assistance and cooperation under any Federal legislation now or hereafter enacted.

Fifteenth—To accept, without limitation by any other provisions of this act requiring approval of indebtedness, contributions of money, rights of way, labor, materials and any other property for the construction, maintenance and operation of any enterprise in which the district is authorized to engage, and to enter into any contracts and cooperate with, and accept cooperation from, the State of California, or any department, instrumentality or agency thereof, or any public agency of this State in the construction, maintenance and operation of, and in financing the construction, maintenance and operation of, any such enterprise.

SEC. 16. Section 15 of said act is hereby amended to read as follows: Stats. 1937, p. 1648

Sec. 15. Any district organized under this act may from time to time, as hereinafter provided, incur a bonded indebtedness to pay the cost of acquiring, constructing or completing the whole or any portion of any utility or works referred to in this act, or for acquiring any works, lands, structures, rights or other property necessary or convenient to carry out the objects, purposes or powers of such district. Bonded indebtedness

Whenever the board of directors of any such district shall, by resolution passed by vote of two-thirds of all its members, determine that the public interest or necessity demands the acquisition, construction or completion by the district of any public utility or utilities referred to in this act, or any part thereof, or any works, lands, structures, rights or other property necessary or convenient to carry out the objects, purposes or powers of such district, the cost of which will be too Resolution of intention

great to be paid out of the ordinary annual income and revenue of such district, it may at any subsequent meeting of said board of directors provide for the submission of the proposition of incurring a bonded debt for the purpose set forth in said resolution, to the qualified voters of such district, at any election held for that purpose; provided, that propositions for incurring indebtedness for more than one object or purpose may be submitted at the same election. The ordinance calling such election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the utility, works, lands, structures, rights or other property proposed to be acquired, constructed or completed, the amount of the principal of the indebtedness to be incurred therefor, and the rate of interest to be paid on said indebtedness, and shall fix the date on which such election will be held, the manner of holding such election, and the voting for or against incurring such indebtedness, and in all particulars not recited in said ordinance, such election shall be held as provided by law for holding general elections in such district; provided, however, that if the rate of interest to be paid on such indebtedness shall not exceed 4½ per cent per annum, payable semiannually, the rate of interest need not be recited in said ordinance, but in its discretion the board of directors may recite in said ordinance a maximum rate of interest to be paid on such indebtedness, not exceeding 6 per cent per annum, payable semiannually, which rate, when so recited, shall not be exceeded in the issuance of bonds for such indebtedness.

Ordinance calling election

Said ordinance shall be published once a day for at least seven days in some newspaper published at least six days a week in such district, or once a week for two weeks in some newspaper published less than six days a week in such district; and one insertion each week for two succeeding weeks shall be a sufficient publication in such newspaper published less than six days per week In districts where no such newspaper is published, said ordinance shall be posted in three public places therein for two succeeding weeks. No other notice of such election need be given. It shall require the votes of two-thirds of all the voters voting at such election to authorize the issuance of the bonds herein provided; provided, however, should the proposition so submitted at such election fail to receive the requisite number of votes of the qualified voters voting at such election to incur the indebtedness for the purpose specified, the board of directors of such district shall have no power or authority within six months after such election to call or order another election for incurring any indebtedness for the acquisition, construction or completion of improvements or property substantially the same as voted upon at such prior election, unless a petition signed by at least 15 per cent of the qualified electors of such district computed upon the total number of votes cast therein for all candidates for Governor at the last preceding election at which a

Notice of election

Governor was elected be filed with the board of directors of such district, requesting that said proposition, or a proposition substantially the same, be submitted at an election to be called for the submission of such proposition and to be held in accordance with the provisions of this act. The bonds so authorized shall mature serially in amounts to be fixed by the board of directors; provided, that the payment of said bonds shall begin not later than 10 years from the date thereof and be completed in not more than 50 years from said date. Said bonds shall be issued in such denominations as the board of directors of the district determine, except that no bonds shall be of a less denomination than one hundred dollars ($100), nor of a greater denomination than one thousand dollars ($1,000), and shall be payable on the day and at the place or places fixed in said bonds, and with interest at the rate specified therein, which interest shall be payable semiannually. The board of directors may provide for the call and redemption of any or all of said bonds on any interest payment date prior to their fixed maturity at not exceeding the par value thereof and accrued interest plus a premium of not exceeding 5 per cent upon the principal amount of said bonds, in which event a statement to that effect shall be set forth in the ordinance calling the election and the call price fixed by the board of directors shall be set forth on the face of the bond. Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the district or if there be no such newspaper printed and published within the district then the publication shall be made in a newspaper of general circulation printed and published within the county in which the said district or any part thereof is situated, the first publication of which shall be at least 30 days prior to the date fixed for such redemption. After the date fixed for such redemption, interest on said bonds thereafter shall cease. Said bonds shall be signed by the president of the board of directors of the district or by such officer thereof as the board of directors shall, by resolution adopted by a two-thirds vote of all its members, authorize and designate for that purpose. They shall also be signed by the treasurer thereof, and be countersigned by the secretary thereof. The coupons of said bonds shall be numbered consecutively and be signed by the treasurer by his lithographed or engraved signature. All such signatures and countersignatures, except that of the treasurer, on said bonds may be printed, lithographed or engraved. In case any of such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of said bonds to the purchaser, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until the delivery of the bonds. Said bonds may be issued and sold by the board of directors of the district as

Bonds

Call and redemption

Notice of redemption

Signatures on bonds

Sale

they determine, but for not less than their par value. The proceeds of said bonds shall be placed in the district treasury to the credit of the proper fund, and shall be used exclusively for the objects or purposes for which said bonds were voted.

Debt limit

No municipal utility district shall incur an indebtedness for public works which shall in the aggregate exceed 20 per cent of the assessed value of all the real and personal property of such district; provided, however, any indebtedness which has been incurred for the construction and operation of a public utility, where the revenue from said utility for three years or more next preceding has been sufficient to pay the interest and principal due on any bonds issued for its construction or acquisition, in addition to the cost of operation and maintenance, shall not be counted and included in ascertaining the limit of indebtedness; provided further, that any indebtedness incurred for the construction or operation of a public utility within any special district created pursuant to the provisions of this act shall be excluded in ascertaining the aggregate indebtedness hereinabove specified.

Tax levy

The board of directors of such district shall, at the time of fixing the general tax levy and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid, or until there shall be a sum in the treasury of such district set apart for that purpose to meet all sums coming due for principal and interest on said bonds, a tax sufficient to pay the annual interest on said bonds, and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy; provided, however, that if the maturity of the indebtedness created by the issue of bonds be made to begin more than one year after the date of the issuance thereof, said tax shall be levied and collected at the time and in the manner aforesaid annually each year, sufficient to pay the interest on said indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for district purposes, and shall be collected at the time and in the same manner as other district taxes are collected, and be used for no other purpose than the payment of said bonds and accruing interest.

Petitions instead of resolution

In lieu of a resolution passed as hereinbefore provided by its board of directors, proceedings for the issuance of bonds for the purposes in this section provided may be initiated by petition of the qualified electors of such district.

Whenever any petition or petitions, each signed by electors of the district equal in number to 15 per cent of the qualified electors of such district, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding election at which a Governor was elected, shall be presented to the board of directors of said district asking for the acquisition, construction or completion of the whole or any portion of any utility, or works referred to in this act, or for

acquiring any works, lands, structures, rights, or other property necessary or convenient to carry out the objects, purposes or powers of such district, and also asking that a bonded indebtedness be incurred to pay for the cost thereof, then it shall be the duty of the secretary of the district to immediately proceed to examine and verify the signatures of such petition or petitions, and to certify the result of such examination to the board of directors. If the required number of signatures be found to be genuine, the secretary shall transmit to the board of directors an authentic copy of such petition or petitions without the signatures thereto. Upon receiving the petition or petitions with the certificate of the secretary stating that it or they contain the required number of signatures, the board of directors shall formulate for submission to the electors of the district at a special election called for that purpose the proposition of incurring a bonded debt for the purposes set forth in said petition, and thereafter the said election and all things and proceedings with reference to the said bonds and the issuance thereof shall be conducted and performed in the same manner as if the proceedings had been initiated by resolution of the board of directors of said district as hereinbefore provided. In its discretion the board of directors may defer the calling of said election until the next general election to be held in the district in order that the same may be consolidated therewith.

Consolidation of election

Any election called for the submission of any question or proposition under the provisions of this section, may be held separately, or may be consolidated with any other election authorized by law at which the qualified voters of such district are entitled to vote; provided, however, that in the event any such election called pursuant to the provisions of this section is consolidated with any other election, the provisions of this section setting forth the procedure for the calling and holding of the election called pursuant to the provisions of this section, shall be complied with, except that the ordinance calling such election need not set forth the election precincts, polling places and officers of election, but may provide that the precincts, polling places and officers of election shall be the same as those set forth in the ordinance, notice or other proceedings calling the election with which the election called pursuant to the provisions of this section, is consolidated, and shall refer to such ordinance, notice or other proceeding by number and title, or by other definite description.

Stats 1927, p 71

SEC. 17. Section 15a of said act is hereby amended to read as follows:

Bonds to cover interest

Sec. 15a. In lieu of the immediate levy of a tax to pay the interest or any part thereof on any bonded debt hereafter incurred in accordance with any provisions of this act the board of directors may in the estimate of the amount of money necessary to be raised by such bonds include a sum sufficient to pay interest on all of such

bonds or part thereof during the period of acquisition, construction or completion, and until revenues may be earned by the contemplated public utility or utilities, but for no period in excess of five years. Thereafter the board may use so much of the proceeds from the sale of the said bonds as may be necessary for the payment of such interest until the receipt of revenues, the amount used however not to exceed the sum so included by the board in its estimate for such purpose.

New section SEC. 18. Section 15d is hereby added to said act, to read as follows:

Special districts for sewage disposal Sec. 15d. One or more special districts for sewage disposal purposes may be created within the boundaries of a municipal utility district and within the boundaries of a single county, in the manner following:

Resolutions shall first be passed by the legislative bodies of half or more, but of not less than two, of the public agencies, all or any part of the area of which it is intended to include in the proposed special district, declaring that the public interest or necessity demands the creation of a special district for sewage disposal purposes and shall describe the boundaries of the same. The boundaries of the proposed special district may include territory outside any such public agency; provided, such territory is within the area of the municipal utility district. When the entire area of any public agency is to be included in such special district it may be described in said resolutions by name. Certified copies of said resolutions shall be filed with the secretary of said municipal utility district.

Instead of said resolutions, a petition may be filed with the secretary of said municipal utility district signed by qualified electors within the boundaries of a proposed special district, which boundaries shall include all or any part of two or more public agencies, equal in number to at least 10 per cent of the total vote cast at the last preceding general election within the territory proposed to be included in such special district, which said territory shall be described in said petition. A statement of the name of any public agency shall constitute a sufficient description of the territory thereof if the entire area of such agency is included. Such petition shall declare that the public interest or necessity demands the creation of such special district for sewage disposal purposes within such area of said municipal utility district described in said petition. Such petition may be on separate papers, but each paper shall contain the affidavit of the party who circulated same, certifying that each name signed thereto is the true signature of the person whose name it purports to be. The secretary of said municipal utility district shall compare the signatures with the affidavits of registration and certify to the sufficiency or insufficiency of such petition.

The board of directors of any municipal utility district on its own motion, and without any previous resolution or resolutions of any public agency included within such municipal

utility district, or without any petition therefor as hereinbefore provided, may initiate proceedings for the creation of any special district for sewage disposal purposes within the area of such municipal utility district by passing a resolution declaring that the public interest or necessity demands the creation of such special district for sewage disposal purposes, and in said resolution shall describe that portion of the area of said municipal utility district which it is proposed to include in such special district, which shall include all or any part of two or more public agencies. A public agency to be included may be described by name. No certified copy of such resolution need be filed with the secretary of such municipal utility district.

SEC. 19. Section 15e is hereby added to said act, to read as follows: New section

Sec. 15e. Within sixty (60) days after receipt of the resolution or resolutions of said public agencies or the certification of the sufficiency of such petition by the secretary of the district, or the passage of the resolution of the board of directors of the municipal utility district, the said board of directors shall, by resolution, designate said special district as "_____(here insert name) Municipal Utility District, Special District No._____(here insert number)" (all such special districts shall be numbered consecutively) and shall fix a time and place for a hearing on the proposed creation of said special district for sewage disposal purposes, and shall publish notice thereof Said notice shall be published once in a newspaper of general circulation printed and published in said municipal utility district. If no such newspaper is printed and published therein, then notice of such hearing shall be given by posting a notice thereof in three (3) public places within the boundaries of such municipal utility district at least one of which shall be within the boundaries of said proposed special district. The time fixed for such hearing shall be not less than thirty (30) nor more than sixty (60) days from the date of the first publication of said notice, or of its posting, in the event that same is posted. Notice of hearing on special sewage district

SEC. 20. Section 15f is hereby added to said act, to read as follows: New section

Sec. 15f. At or before said hearing, any person interested may file with the secretary of the utility district written objections to the creation of said special district or to the inclusion of his property therein. Upon such hearing, the board of directors of the utility district shall hear and determine all protests and objections. Any such hearing may be adjourned from time to time by the board of directors without further notice other than an order to be entered upon the minutes of its meeting fixing the time and place of such adjournment. In the event that no protests are filed, or the Hearing on special sewage district

protests filed are overruled and denied by the board of directors, said board shall thereupon, by resolution, approve the creation of the district either as originally described, or may, with or without the filing of any protest or objection, and on its own motion, revise by reducing or enlarging the boundaries of said special district, so that such enlarged boundaries may include additional area within the same county in which the territory proposed to be included in said special district is located and within said municipal utility district; provided, that said board of directors shall not approve the creation of a district containing territory not included in the resolutions or petition filed with the secretary of the municipal utility district, or in its own resolution, until notice of its intention to include such additional territory has been published or posted for the time and in the manner hereinbefore fixed for the hearing on the original matter, and a hearing is had pursuant to such notice; provided further, no public agency or portion thereof shall be included within the boundaries of a special district unless the legislative body thereof shall, by resolution, consent thereto.

The consent of the legislative body of any public agency to the inclusion of such public agency or portion thereof shall not be required if the proceedings for the creation of said special district have been initiated by petition of the electors as provided in Section 15d.

New section

SEC. 21. Section 15g is hereby added to said act, to read as follows:

Election to create district and incur bonded debt

Sec. 15g. At any time after the board of directors has approved the creation of said proposed special district, and fixed its boundaries, said board shall call an election within said proposed special district for the purpose of determining whether the proposed special district shall be created, and if the board so determines, for the submission of a proposition for incurring a bonded indebtedness for the acquisition, construction or completion of any works, lands, structures, rights, or any and all other property necessary or convenient for the collection, treatment or disposition of sewage matter for said special district. If the board of directors determines that no bonded indebtedness is presently necessary, the board may call the election for the creation and establishment of said special district only, and a bond election may later be called.

New section

SEC. 22. Section 15h is hereby added to said act, to read as follows:

Conduct of election

Sec 15h. Said election for creating and establishing such district, with or without the proposal for incurring any bonded indebtedness, and all matters pertaining thereto not otherwise provided for herein, shall be held and conducted and the result thereof ascertained, determined and declared, in accordance with the general election laws of the State, as nearly as may be, and no person shall be entitled to vote at

said election unless he or she be a qualified elector of the territory included in the proposed special district. All such elections may be held on the same day as any other State, county or city election, and may be consolidated therewith.

SEC. 23. Section 15i is hereby added to said act, to read as follows: New section

Sec. 15i. On the question of the creation of such special district, the returns of each public agency and of each parcel of unincorporated territory, if any, shall be canvassed separately and the board of directors shall order and declare said district created and established if in each public agency and if in each parcel of unincorporated territory, a majority of those who voted on the proposition of creating said special district voted in favor of the creation thereof. Declaration of establishment

SEC. 24. Section 15j is hereby added to said act, to read as follows: New section

Sec. 15j. If a proposition for incurring a bonded indebtedness is submitted at the same election with the proposal to create said special district, the votes cast on the proposition of incurring a bonded indebtedness shall be separately canvassed in the special district as a whole. It shall require the favorable vote of two-thirds of all the voters voting on the proposition of issuing said bonds within the special district as finally established to authorize the issuance of said bonds. The form of said bonds shall be as herein provided for special district bonds. Vote on bonded debt

SEC. 25. Section 15k is hereby added to said act, to read as follows: New section

Sec. 15k. In addition to the authority conferred by any other provision of this act, and at any time after the creation of a special district for sewage disposal purposes as herein provided, the board of directors of any such utility district may, by resolution passed by a vote of two-thirds of all its members, determine that the public interest or necessity of said special district demands the acquisition, construction or completion by the district of a public utility for the collection, treatment or disposition of sewage, or the acquisition of any works, lands, structures, rights of way, or other property necessary or convenient for the operation thereof for such special district. Sewage disposition and treatment

At any subsequent meeting, said board of directors may provide for the submission of the proposition of incurring a bonded debt for the purposes set forth in said resolution to the qualified voters within said special district at an election to be called and held for that purpose.

It shall require the favorable vote of two-thirds of all the voters within said special district voting on said proposition to authorize the issuance of said bonds.

All special district bonds issued under any provision of this act shall be designated as "_____Municipal Utility District, Special District No._____Bond" and only the property in said special district shall be taxable for the payment

of the principal and interest on bonds voted by said special district, and said tax shall be levied and collected in substantial compliance with the provisions of this act relating to the levy and collection of taxes generally.

New section SEC. 26. Section 15*l* is hereby added to said act, to read as follows:

Construction Sec. 15*l*. Except as otherwise provided herein, the provisions of Sections 15, 15a, 15c, 16 and 20 of this act shall substantially govern as to all matters therein contained, including, among other things, and without limiting the generality of the foregoing, the calling and holding of any special district bond election, the form, execution, issuance, maturity, redemption, refunding, validation, the payment of interest from bond funds, and the levy and collection of taxes to pay the principal and interest on said bonds.

Bonds Proceedings for the issuance of special district bonds may be initiated by petitions signed by 15 per cent of the qualified electors within said special district, and shall comply substantially with the provisions of Section 15 of this act.

The bonds of said special district shall be legal investment for all trust funds and other funds, and shall be legal for use as security for the deposit of public funds to the same extent as are the bonds issued by any municipal utility district.

New section SEC. 27. Section 15m is hereby added to said act, to read as follows:

Statute of limitations Sec. 15m. Any proceeding denying the validity of the creation of any such special district, or of any bonds authorized by the voters thereof pursuant to the provisions of this act, must be brought within three (3) months after the date upon which such bond election is held.

New section SEC. 28. Section 15n is hereby added to said act, to read as follows:

Reimbursement of expenses Sec. 15n. The board of directors shall, by resolution, determine the cost of a special district election and of any survey, and of legal, engineering, administrative and other expenses incurred by such municipal utility district in connection with the creation of any special district and the planning of its project, and shall reimburse such municipal utility district by means of a special tax on all the property within said special district as created or as proposed, or from any future revenues of such special district.

The board may use temporarily any utility district funds for the payment of any immediate expenses of operation and maintenance of any such sewage disposal system, which funds the board shall recover by means of a special tax levied upon all property within such special district or from any future revenues of such special district; provided, however, that nothing in this section contained shall compel reimbursement if the tax required therefor would amount to less than one mill on each one hundred dollars ($100) of the assessed value of the property within said special district.

SEC. 29. Section 15o is hereby added to said act, to read as follows: New section

Sec. 15o. Any special district created pursuant to the provisions of this act may be dissolved by resolution of the board of directors if any proposition for the incurring of a bonded indebtedness, as in this act provided, fails to carry, provided such special district is then subject to no other indebtedness or liability pursuant to the provisions of this act and has been organized for not less than two years. Such dissolution of such special district shall not prevent subsequent proceedings for the creation of a special district including the same or any part of the area of the special district dissolved. Dissolution of special district

SEC. 30. Section 15p is hereby added to said act, to read as follows: New section

Sec. 15p. Nothing in this act contained shall require the utility district to construct any sewers other than intercepting and outfall sewers. The determination by the board of directors of the utility district of what are intercepting and outfall sewers, within the meaning of this act, shall be final and conclusive. Sewers

Connections of all sewers within the special district to such intercepting sewers of the utility district shall be made at such points and in such manner and under such rules, regulations, terms, charges and conditions as the board of directors of the utility district may prescribe.

The term "sewage disposal," as used in this act, shall mean the acquisition, construction, enlargement, operation and maintenance of intercepting sewers, sewage treatment works, pumping plants, outfall sewers and appurtenances.

Without limiting in any way the foregoing provisions of this act, the respective public agencies within the utility district and the utility district may contract regarding the collection, treatment or disposition of sewage.

Upon completion of sewage disposal facilities for any special district all sewage and industrial waste originating within the special district shall be disposed of through the sewage disposal facilities of the utility district.

SEC. 31. Section 15q is hereby added to said act, to read as follows: New section

Sec. 15q. Nothing in this act contained shall prevent the issuance of revenue bonds by a municipal utility district for the entire municipal utility district or any special district created therein, under any provision of law now or hereafter enacted permitting the issuance of revenue bonds by municipal utility districts. Revenue bonds

SEC. 32. Section 18 of said act is hereby amended to read as follows: Stats. 1931, p. 95

Sec. 18. The rates and charges for commodities or service furnished shall be fixed by the board of directors. As far as possible utilities shall be self-supporting but in order so to do the board shall not be required to fix a rate which in its opinion Charges for service

is unreasonably high, nor to cover large expenditures and the interest thereon required for future needs and developments.

The board may provide that rates, tolls and charges for any sewage disposal enterprise or service may be collected with the rates, tolls and charges for any water or other utility service rendered by the utility district, and that all rates may be billed upon the same bill and collected as one item. If charges for water and sewage disposal service are billed upon the same bill the utility district may discontinue water service in the event of failure to pay the whole or any part of said bill. The utility district may also provide for the collection of any such fees, tolls, rates, rentals or other charges in any lawful manner the board may determine, and may provide for the collection of the same by action at law, and any and all such remedies for the collection and enforcement of all such fees, tolls, rates, rentals or other charges shall be cumulative and may be pursued alternatively or consecutively as the board may determine. In addition to such fees, tolls, rates, rentals or other charges, the board may provide for a penalty of not more than 10 per cent, in the event of nonpayment thereof within the time and in the manner as may be prescribed by the board, and may provide for collection of such penalty.

The board of directors may apportion all or a portion of the expenses of operation and maintenance of any sewage disposal facilities constructed by said utility district, and the interest on any bonds issued therefor, among the public agencies whose sewers are connected with said facilities. Said board shall establish rules for determining said apportionment, which rules shall, among other things, be based on the quantity, quality or characteristics of the sewage delivered by each public agency.

Notwithstanding any of the provisions of this section, the board of directors may, in its discretion, finance any sewage disposal enterprise, the interest on and retirement of any bonded indebtedness therefor, and provide for the maintenance and operation thereof entirely by the levy and collection of taxes upon the property within the special district for which said enterprise is constructed or operated, or by rates and charges imposed upon the users of the facilities of said enterprise, or by both taxes, rates and charges, apportionment of expenses among public agencies served, or any combination of the foregoing.

Stats 1921, p 257

SEC. 33. Section 19 of said act is hereby amended to read as follows:

Contracts for use of service

Sec. 19. The utility district and any public agencies included therein, may at any time enter into appropriate contracts for the use by such public agency or public agencies of commodities or service furnished by any of the works acquired, owned, or operated, or authorized to be acquired, constructed or completed by the utility district, as in this act provided, or of any of the facilities of said utility district.

SEC. 34. Section 29a is hereby added to said act, to read as follows: New section

Sec. 29a. Whenever the board of directors shall by resolution determine that any record, map, book or paper in the possession of such district, or any officer or employee thereof, is of no further value to said district, said board of directors may authorize its sale, destruction or other disposition thereof. Disposal of records

SEC. 35. Section 29b is hereby added to said act, to read as follows: New section

Sec. 29b. If any section, subsection, sentence, clause, or phrase of this act, or of the act or acts of which this act is amendatory or supplemental, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of this act, or that any one or more sections, subsections, sentences, clauses or phrases of the act or acts of which this act is amendatory or supplemental, be declared unconstitutional. If any section, subsection, sentence, clause or phrase of this act, for any reason, be held to be unconstitutional, and such unconstitutional provision shall have purported to repeal or amend any provision of the act or acts of which this act is amendatory or supplemental, the provision existing and in force at the time of the enactment of this act shall remain and be in full force and effect notwithstanding such purported repeal or amendment. Constitutionality

SEC. 36. Section 6b.5 is hereby added to said act, to read as follows: New section

Sec. 6b.5. In the event that all of the owners of real property within the territory proposed to be annexed pursuant to the provisions of Section 6b of this act, shall file with the board of directors of said district their written consent to the annexation of said territory upon the terms and conditions approved by said board, said board may by resolution dispense with the calling and holding of the election provided for in said section. Said territory shall be deemed annexed to said utility district upon the passage of a resolution of the board of directors of such utility district declaring said territory annexed and the filing of a certified copy thereof with the Secretary of State. Written consent to annexation

CHAPTER 322

"Joint Municipal Sewage Disposal District Act"

An act to provide for the organization, incorporation and government of joint municipal sewage disposal districts, authorizing such districts to incur bonded indebtedness for the acquisition and construction of sewage disposal systems and to levy and collect taxes to pay the principal and interest thereon, and authorizing such districts to issue revenue bonds for the acquisition and construction of sewage disposal systems, and for the fixing, collecting and application of rates and charges for the use of sewage disposal systems.

In effect September 13, 1941

[Approved by Governor May 22, 1941. Filed with Secretary of State May 22, 1941.]

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

Article 1. Organization of District

Short title

SECTION 1. This act shall be known and cited as the "Joint Municipal Sewage Disposal District Act."

Purposes of district

SEC. 2. A joint municipal sewage disposal district may be organized hereunder for the purpose of constructing a sewage disposal system, and may be composed of two or more municipalities, or any portion of two or more municipalities, or one or more municipalities and unincorporated territory, or any portion of one or more municipalities, and any portion of the unincorporated territory of a county; provided, however, that no such district shall be organized to include territory in more than one county. The territory of any municipality or county included in the district need not be contiguous. The joint municipal sewage disposal district when organized shall thereafter be governed, maintained and operated as herein provided, and shall have and exercise such powers as are herein expressly granted, together with such powers as are reasonably implied therefrom and necessary and proper to carry out the objects and purposes of such joint municipal sewage disposal district.

Ordinance proposing creation

SEC. 3. The legislative body of any municipality or of any county may initiate proceedings proposing the creation of a joint municipal sewage disposal district under the provisions of this act by the adoption of an ordinance reciting the following:

1. That public interest or necessity requires the creation of a joint municipal sewage disposal district for the treatment, purification or disposal of sewage and industrial wastes originating within the proposed district.

2. The name of the municipalities and county, the whole or any portion of the territory of which would be within the proposed district.

3. A description of the exterior boundaries of the proposed district.

4. A general description of a sewage disposal system proposed to be constructed.

5. The name of the proposed district.

6. The day, time and place when a public hearing will be held to hear objections to the adoption of the ordinance.

Transmission of copies

SEC. 4. Upon the final adoption of the ordinance initiating such proceeding the clerk of such municipality or county shall forthwith transmit a certified copy thereof to the legislative body of each municipality and each county named in the ordinance.

Action by other legislative bodies

SEC. 5. Upon receipt of a certified copy of the ordinance adopted as provided in this article, the legislative body of each municipality and the county named therein shall consider the advisability of creating and organizing a joint municipal sewage disposal district as proposed in said ordinance, and shall severally adopt an ordinance either rejecting or approving the proposal to create such district. The failure of any municipality or county named in such ordinance to finally adopt an ordinance approving such proposal within 90 days after receipt of the certified copy of the ordinance initiating such proceeding shall be conclusively deemed a rejection of such proposal.

Notice to initiating body

SEC. 6. The clerk of the legislative body of each municipality and the county adopting an ordinance approving or rejecting such proposal, shall forthwith upon such adoption transmit a certified copy of such ordinance of approval or rejection to the legislative body of the municipality or county initiating such proceeding.

Resolution of establishment

SEC. 7. If the legislative body initiating such proceeding shall receive a certified copy of an ordinance adopted by the legislative body of each municipality and the county mentioned in the ordinance initiating such proceeding approving the same, it shall adopt a resolution declaring the proposed joint municipal sewage disposal district created and established. In such resolution there shall be set forth the exterior boundaries of such joint municipal sewage disposal district exactly as the same is set forth in the ordinance initiating such proceeding, the name of each municipality and the county named in such ordinance, and the name of such district. A certified copy of the resolution creating and establishing the district shall be transmitted forthwith by the clerk of such legislative body to, and filed with, the Secretary of State of the State of California; thereupon the joint municipal sewage disposal district shall have and shall exercise all of the powers granted in this act and shall constitute a public corporation under the name set forth in such resolution.

Alternative procedure

SEC. 8. Instead of proceeding in the manner hereinabove provided, a joint municipal sewage disposal district may be created in the manner following:

The legislative body of any municipality proposing the creation of a district under the provisions of this act shall pass a resolution reciting the following:

1. That public interest or necessity requires the creation of a joint municipal sewage disposal district for the treatment, purification or disposal of sewage and industrial wastes originating within the proposed district.

2. The name of the municipalities and county, the whole or any portion of the territory of which would be within the proposed district.

3. A description of the exterior boundaries of the proposed district.

4. A general description of a sewage disposal system proposed to be constructed.

5. The name of the proposed district.

Filing copy of resolution

SEC. 9. A certified copy of said resolution shall be filed with the board of supervisors of the county within which the proposed district is to be created.

Petition instead of resolution

SEC. 10. Instead of the resolution mentioned in Section 8 a petition may be presented to the board of supervisors of the county signed by qualified electors within the boundaries of the proposed district, equal in number to at least 10 per cent of the total vote cast at the last general State election within the territory proposed to be included in the district, requesting such board of supervisors to call an election for determining whether a joint municipal sewage disposal district shall be created. Said petition shall contain substantially the same declarations and statements required to be in the resolution aforementioned, and declare that in the opinion of the petitioners public interest or necessity demands the creation and maintenance of a joint municipal sewage disposal district.

Such petition may be on separate papers but each paper shall contain the affidavit of the party who circulated it certifying that each name signed thereto is the true name of the person whose name it purports to be.

Comparison of signatures

SEC. 11. The county clerk of such county shall compare the signatures with the affidavit of registration and certify to the sufficiency or insufficiency of such petition. If said petition be insufficient the proponents thereof may have 60 days from and after the date of such certificate of the county clerk to file a supplemental petition, which shall likewise be compared by such county clerk, and he shall again certify to the sufficiency or insufficiency of such petition and supplemental petition.

Notice of hearing

Within sixty (60) days after receipt of a certified copy of said resolution of the initiating municipality or of the certificate of the county clerk that such petition, or petition and supplemental petition, contains the required number of signatures, the board of supervisors shall fix a time and place for a

hearing on the proposed creation of said district and publish notice thereof. Said notice shall be published once in a newspapers of general circulation. The time fixed for such hearing shall be not less than thirty (30) nor more than sixty (60) days from the date of the first publication of said notice, or of its posting, in the event of posting.

Hearing

SEC. 12. At or before said hearing, any person interested may file with the clerk of the board of supervisors written objections to the creation of said district or to the inclusion of his property therein. Upon such hearing, the said board of supervisors shall hear and determine all protests and objections. Any such hearing may be adjourned from time to time by the board of supervisors without further notice other than an order to be entered upon the minutes of its meeting fixing the time and place of such adjournment. In the event that no protests are filed, or the protests filed are overruled and denied by the board of supervisors, said board shall thereupon, by resolution, approve the creation of the district either as originally described, or may, with or without the filing of any protest or objection, and on its own motion, revise by reducing or enlarging the boundaries of said special district; provided, that said board of supervisors shall not approve the creation of a district containing territory not included in the initial proceedings for the formation of such district until notice of its intention to include such additional territory has been published or posted for the time and in the manner hereinbefore fixed for the hearing on the original matter, and a hearing is had pursuant to such notice.

Election on establishment

SEC. 13. At any time after the board of supervisors of said county has approved the creation of said district, said board shall call and give notice of an election to be held within the proposed joint municipal sewage disposal district for the purpose of determining whether the district shall be created and established. Said notice shall state the name of the proposed district and describe the boundaries thereof. Said notice shall be published at least once in a newspaper of general circulation.

The ballot for said election shall contain such instructions as are required by law to be printed thereon, and in addition thereto shall appear thereon the following:

"Shall the _____ (giving the name thereof) Joint Municipal Sewage Disposal District be created and established: Yes:_____ No:_____."

Conduct of election

SEC. 14. Said election and all matters pertaining thereto, not otherwise provided for herein, shall be held and conducted and the results thereof ascertained, determined and declared in accordance with the general election laws of the State as nearly as may be, and no person shall be entitled to vote at said election unless he or she be a qualified elector of the territory included in the proposed district. Said election may be held on the same day as any other State, county, municipal

or district election, and may be consolidated therewith in the manner provided by law.

Said board of supervisors shall meet on the Monday next succeeding the day of said election and canvass the votes cast thereat. They shall canvass the returns of each municipality and each parcel of unincorporated territory if any, separately, and shall by resolution order and declare said district created and established if in each municipality and if in each parcel of unincorporated territory a majority of those who voted on the proposition of creating said district voted in favor of the creation thereof.

Filing resolution with Secretary of State

SEC. 15. A certified copy of the resolution creating and establishing the district shall be transmitted forthwith by the clerk of the board of supervisors to, and filed with, the Secretary of State of the State of California; thereupon the joint municipal sewage disposal district shall have and exercise all of the powers granted in this act and shall constitute a public corporation under the name set forth in said resolution of said board of supervisors.

Election costs

SEC. 16. The board of supervisors calling the election shall make all provisions for the holding thereof throughout the entire district as proposed, and shall pay the costs thereof. In case a special election is held exclusively on the proposition of organizing such district the expenditure therefor shall be reimbursed to the county which called the election by means of a special tax on all of the taxable property within the territory which was proposed to be included in the district, which tax shall be added to the next county tax bill by the proper officials of the county involved respectively.

Organization of the Board of Directors

Appointment of directors

SEC. 17. Upon the creation of said district the legislative body of each municipality within, or partly within said district, and the board of supervisors, if unincorporated territory is included therein, shall appoint a member of the board of directors of said district, and the mayor of the municipality having the largest population within said district shall fix a time and place for the first meeting of the members of the board of directors and shall cause each director to be given written notice thereof at least five days prior thereto.

Organization of directors

SEC. 18. It shall be the duty of the members of the board of directors to meet at the time and place fixed for such first meeting. A majority of the members of the board of directors shall constitute a quorum, and in the absence of a quorum any lesser number of directors may adjourn the meeting from time to time, and place to place, until the organization of the board of directors has been completed. At the first meeting of the board of directors at which a quorum is present the members thereof shall proceed to organize by selection from among its membership a chairman and a vice chairman. The

board shall also appoint a secretary, who need not be a member of the board, and who shall perform such duties as from time to time may be prescribed by the board of directors. The board shall adopt rules governing the selection, duties and term of office of the officers of the board.

Compensation

SEC. 19. Members of the board of directors shall receive no compensation for their services but shall be allowed the actual expenses incurred by them in connection with the discharge of their duties under the provisions of this act.

Additional director

SEC. 21. In the event that the board of directors so appointed consists of an even number, an additional member shall be chosen and appointed by the directors already appointed, and if such directors shall fail to make such appointment within thirty (30) days after the date set for the first meeting of the board of directors, it shall be the duty of the secretary of the board of directors or any member thereof to notify the mayor of the city having the largest population within said district of such fact, and it thereupon shall become the duty of said mayor to appoint such additional member of the board of directors within 30 days after receiving such notification. Such additional director shall be a qualified elector residing within such joint municipal sewage disposal district, and he may be removed at any time, and his successor appointed, by a majority vote of the members of the board of directors. In the event of a vacancy occurring on the board of directors the body having original authority to make the appointment of the director who has died, resigned or been removed, shall forthwith appoint a successor to fill such vacancy.

Terms of office

SEC. 22. After the board has organized and selected its officers, the directors shall so classify themselves by lot that a number of directors equal to one-half of the total number of directors plus one, shall hold office for a term ending at 12 o'clock noon on the first Monday in August four years next succeeding the first Monday in August of the next succeeding odd-numbered year, and until his successor is appointed and qualified; the remaining members of the board shall hold office for a term ending at 12 o'clock noon on the first Monday in August two years next succeeding the first Monday in August of the next succeeding odd-numbered year, and until his successor is appointed and qualified.

Upon the expiration of the term of any director the body appointing such director shall appoint forthwith a successor who shall serve for a term of four years from and after the date of the expiration of the term of his predecessor, and until his successor is appointed and qualified.

Article 2. Powers of District and Board of Directors

Powers of directors

SEC. 23. The board of directors shall constitute the legislative and governing body of a joint municipal sewage disposal district and determine all questions of policy. The

board of directors shall supervise and regulate all sewage disposal systems owned and operated by such district.

Conduct of meetings

SEC. 24. The board of directors shall by ordinance fix a place within the district for the transaction of business, and the place of meeting may be changed from time to time to any other place that will in the opinion of said board best serve the interest or convenience of said board of directors and the public. A majority of the members of the board of directors shall be necessary to constitute a quorum for the transaction of business. A majority vote of all of the members of the board of directors shall be necessary to take any action. The board shall have power to make all necessary rules relative to the orderly transaction of its business and the business of the district.

Employees of district

SEC. 25. The board of directors may enter into agreements with any municipality within said district for the performance by the officers and employees of said municipality of their same various duties for said district without additional compensation. The board of directors may provide for the employment of such labor, clerical, legal and engineering services as it may in its discretion require, and fix the compensation to be paid to any officer or employee of the district, and require a bond of any officer or employee in such amount as the board may desire.

Contracts for services

SEC. 26. The board of directors may from time to time contract for the employment of any services required by the district, the board or any officer of the district.

Rates and charges

SEC. 27. The board may by ordinance establish a schedule of rates and charges for sewage disposal service, which rates and charges shall be paid by the owner of, and shall be a lien on, each house, building, place or other premise which is connected to a sewer the contents of which is delivered into a sewage disposal system operated by the district. The board may by ordinance adopt any one or all of the remedies set forth in Section 88 to 90, both inclusive, for the collection of rates and charges and foreclosure of any lien therefor.

Such rates and charges may be graduated in amount according to the approximate quantities and characteristics of the contributed sewage and industrial wastes.

Acts of board of directors

SEC. 28. The acts of the board of directors shall be expressed by motion, resolution or ordinance; provided, however, no ordinance shall be finally adopted by the board until after the same shall have been published once in a newspaper of general circulation.

No motion, resolution or ordinance shall have any validity or effect unless adopted by a majority vote of all of the members of the board.

Ordinances

SEC. 29. The enacting clause of all ordinances shall be as follows:

"Be it enacted by the board of directors of the _____ Joint Municipal Sewage Disposal District."

All ordinances shall be signed by the chairman of the board of directors, or vice chairman, and shall be attested by the secretary. Powers of district

SEC. 30. Any joint municipal sewage disposal district incorporated as herein provided shall have power:

To have perpetual succession;

To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction;

To adopt a seal and alter it at pleasure.

SEC. 31. The district shall have power to take by grant, purchase, gift, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and hold and enjoy real and personal property of every kind within or without the district necessary to the full or convenient exercise of its powers. The directors of the district may lease, mortgage, sell or otherwise dispose of any real or personal property of the district within or without the district, when in their judgment it is for the best interests of the district so to do. Real and personal property

SEC. 32. The district shall have power to acquire, construct, own, operate, control or use, within or without, or partly within and partly without the district, sewage disposal systems for supplying the inhabitants of said district with means for the interception, treatment, purification, or disposal of sewage and industrial wastes; and to do all things necessary or convenient to the full exercise of the powers herein granted. Sewage disposal systems

SEC. 33. Whenever any sewage disposal system of the district, or part thereof, is not used or employed to its fullest capacity for the benefit or requirements of the district or its inhabitants, the district shall have power to enter into an agreement or agreements with counties, municipalities, or any public corporations or agencies, upon such terms and conditions as may be satisfactory to its board of directors, for the disposal of sewage originating outside of the district. Agreements for sewage disposal

SEC. 34. The district shall have power to have or exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use; to take any property necessary or convenient to the exercise of the powers herein granted, whether such property be already devoted to the same use or otherwise; and to proceed in the name of the district in case of condemnation proceedings. In the proceedings, venue and trial, relative to the exercise of such right the district shall have all the rights, powers and privileges of a municipal corporation, and all rights, powers and privileges herein conferred. Condemnation of private property

SEC. 35. The district shall have power to construct sewage disposal systems across or along any street or public highway, or over any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to municipalities within the State, and to construct its sewage disposal Rights over public property

systems across any stream of water or watercourse. The district shall restore any such street or highway to its former state as near as may be, and shall not use the same in a manner to unnecessarily impair its usefulness.

Incurring debts

SEC. 36. The district shall have power to borrow money and incur indebtedness, and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness that may exist against or be assumed by the district.

Taxes

SEC. 37. The district shall have power to levy and collect, or cause to be levied and collected, taxes for the purpose of carrying on the operations and paying the obligations of the district, other than principal and interest on revenue bonds.

Contracts

SEC. 38. The district shall have power to make contracts and to enter into stipulations of any nature whatsoever either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations to indemnify and save harmless; also, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers herein in this act granted.

Investment of surplus money

SEC. 39 The district shall have power to invest any surplus money in the district treasury, including money in any sinking fund established for the purpose of providing for the payment of the principal or interest of any bonded or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds, or in the treasury notes or bonds of the United States, or of this State, or bonds of any city and county, city, school district, county water district, county, or municipal utility district, and such investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may from time to time be sold and the proceeds reinvested in bonds or treasury notes, as above provided. Sales of any bonds or treasury notes thus purchased and held shall from time to time be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds or treasury notes were originally purchased, was placed in the treasury of the district.

Contracts to perform district functions

SEC. 40. The district shall have power to contract, upon mutually agreed terms with any municipality, public or municipal corporation or county to perform for the district any of the powers, duties or functions herein granted to or imposed upon the district.

Any municipality, public or municipal corporation or county shall have power to enter into and perform such contract

Loans from U. S.

SEC. 41. The district shall have power to accept, without limitation by any other provisions of this act requiring approval of indebtedness, contributions or loans from the United States of America, or any department, instrumentality

or agency thereof, for the purpose of financing the construction, maintenance and operation of any enterprise in which the district is authorized to engage, and to enter into contracts and cooperate with, and accept cooperation from, the United States of America, or any department, instrumentality or agency thereof, in the construction, maintenance and operation, and in financing the construction, maintenance and operation, of any such enterprise in accordance with any legislation which Congress may have heretofore adopted or may hereafter adopt, under which aid, assistance and cooperation may be furnished by the United States of America in the construction, maintenance and operation or in financing the construction, maintenance and operation of any such enterprise; and to do any and all things necessary in order to avail itself of such aid, assistance and cooperation under any Federal legislation now or hereafter enacted.

Contributions from State

SEC. 42. The district shall have power to accept, without limitation by any other provisions of this act requiring approval of indebtedness, contributions of money, rights of way, labor, materials and any other property for the construction, maintenance and operation of any enterprise in which the district is authorized to engage, and to enter into any contracts and cooperate with, and accept cooperation from, the State of California, or any department, instrumentality or agency thereof, or any public agency of this State in the construction, maintenance and operation of, and in financing the construction, maintenance and operation of, any such enterprise.

Public works

Stats. 1919, p. 487

SEC. 43. The provisions of an act entitled "An act to secure the payment of claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements or machinery used or consumed by such contractors in the performance of such works and prescribing the duties of certain officers with respect thereto," approved May 10, 1919, as now or hereafter amended, are hereby expressly made applicable to the construction of any sewage disposal system under this act.

Investigation and report

SEC. 44. Upon the completion of the organization of the board, the board shall proceed to make a complete and thorough investigation and written report of the needs of the district for the construction of a sewage disposal system. Any municipality and any county which in whole or in part is within a joint municipal sewage disposal district shall have the power from time to time to lend or donate money, materials, supplies and the services of any municipal or county officer or employee, to assist the district in making such investigation and report, and until the district commences to receive revenue from the operation of a sewage disposal system constructed by the district. The district shall make reimbursement for all loans made to it.

Article 3. Elections

Conduct of elections

SEC. 48. Except as otherwise provided in this act, all elections held hereunder shall be held and conducted and the results thereof ascertained, determined and declared in accordance with the general elections laws of the State of California as nearly as may be, and no person shall be entitled to vote at any such election unless he or she shall be a qualified elector of the territory included in the district. Such election may be held on the same day as any other State, county or municipal election, and may be consolidated therewith as provided by law.

Consolidation of elections

SEC. 49. The board of directors shall in the ordinance calling an election, consolidate the same with the election to be held at the same time in the county wherein the district or any part thereof is located, and shall authorize the respective boards of supervisors to canvass the returns of such district election and certify the results of said canvass to the board of directors of the district, and it shall be the duty of the board or boards of supervisors to consolidate such elections, canvass such returns, and cause the results thereof to be properly certified to the board of directors of the district. Upon receipt of the returns of the canvass by the respective boards of supervisors, the board of directors of the district shall meet and determine the results of the election and declare such proposition or propositions to have been approved or to have been rejected.

Canvassing returns

Informalities in procedure

SEC. 50. No informality in any proceeding or in the conduct of any election, not substantially affecting adversely the legal rights of any citizen, shall be held to invalidate the organization of a district or of any annexation thereto, or any proposition for the issuance of bonds.

Article 4. General Obligation Bonds

Bonded debt

SEC. 51. Any district organized under this act may from time to time, as hereinafter provided, incur a bonded indebtedness to pay the cost of constructing the whole or any portion of a sewage disposal system.

Resolution of necessity

SEC. 52. Whenever the board of directors of any district shall, by resolution passed by vote of two-thirds of all its members, determine that the public interest or necessity demands the construction by the district of a sewage disposal system, the cost of which will be too great to be paid out of the ordinary annual income and revenue of such district, it may at any subsequent meeting of said board of directors provide for the submission of a proposition of incurring a bonded debt for the purpose set forth in said resolution, to the qualified voters of such district, at any election held for that purpose; provided, that propositions for incurring indebtedness for more than one object or purpose may be submitted at the same election.

Ordinance calling election

SEC. 53. The ordinance calling such election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the sewage disposal system proposed to be constructed, the amount of the principal of the indebtedness to be incurred therefor, and the rate of interest to be paid on said indebtedness, and shall fix the date on which such election will be held, the manner of holding such election, and the voting for or against incurring such indebtedness, and in all particulars not recited in said ordinance, such election shall be held as provided in Article 3; provided, however, that if the rate of interest to be paid on such indebtedness shall not exceed 4½ per cent per annum, payable semiannually, the rate of interest need not be recited in said ordinance, but in its discretion the board of directors may recite in said ordinance a maximum rate of interest to be paid on such indebtedness, not exceeding 6 per cent per annum, payable semiannually, which rate, when so recited, shall not be exceeded in the issuance of bonds for such indebtedness.

Authorization of indebtedness

SEC. 54. No notice of such election need be given other than the adoption of the ordinance calling such election. It shall require the votes of two-thirds of all the voters voting at such election to authorize the issuance of the bonds herein provided; provided, however, should the proposition so submitted at such election fail to receive the requisite number of votes of the qualified voters voting at such election to incur the indebtedness for the object or purpose specified, the board shall have no power or authority within six months after such election to call or order another election for incurring any indebtedness for the construction of a sewage disposal system, substantially the same as voted upon at such prior election, unless a petition signed by at least 15 per cent of the qualified electors of such district computed upon the total number of votes cast therein for all candidates for Governor at the last preceding election at which a Governor was elected, be filed with the board of directors of such district, requesting that said proposition, or a proposition substantially the same, be submitted at an election to be called for the submission of such proposition and to be held in accordance with the provisions of this article.

Maturity and denomination of bonds

SEC. 55. The bonds so authorized shall mature serially in amounts to be fixed by the board; provided, that the payment of said bonds shall begin not later than five years from the date thereof and be completed in not more than 40 years from said date. Said bonds shall be issued in such denominations as the board determines, except that no bonds shall be of a less denomination than one hundred dollars ($100), nor of a greater denomination than one thousand dollars ($1,000), and shall be payable on the day and at the place or places fixed in said bonds, and with interest at the rate specified therein, which interest shall be payable semiannually.

Signatures of bonds

SEC. 56. Said bonds shall be signed by the chairman of the board of directors of the district or by such officer thereof as the board of directors by resolution adopted by a two-thirds vote of all its members shall authorize and designate for that purpose. They shall also be signed by the treasurer thereof, and be countersigned by the secretary thereof. The coupons of said bonds shall be numbered consecutively and be signed by the treasurer by his lithographed or engraved signature. All such signatures and countersignatures, except that of the treasurer, on said bonds may be printed, lithographed or engraved. In case any officer whose signature or countersignature appears on the bonds or coupons shall cease to be such officer before the delivery of said bonds to the purchaser, such signature or countersignatures shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds. Said bonds may be issued and sold by the board of directors of the district as they determine, but for not less than their par value. The proceeds of said bonds shall be placed in the district treasury to the credit of the proper fund, and shall be used exclusively for the objects or purposes for which said bonds were voted.

Issue price

Debt limit

SEC. 57. No joint municipal sewage disposal district shall incur an indebtedness under this article for a sewage disposal system which shall in the aggregate exceed 15 per cent of the assessed value of all the real and personal property of such district; provided, however, any indebtedness which has been incurred under this article for the construction of a sewage disposal system, where the revenue from said sewage disposal system for three years or more next preceding has been sufficient to pay the interest and principal due on any bonds issued for its construction, in addition to the cost of operation and maintenance, shall not be counted and included in ascertaining the limit of indebtedness.

Tax to meet bond obligations

SEC. 58. The board of directors at the time of fixing the general tax levy and in the manner for such general tax levy provided, shall levy and collect annually each year until said bonds are paid, or until there shall be a sum in the treasury of such district set apart for that purpose to meet all sums coming due for principal and interest on said bonds, a tax sufficient to pay the annual interest on said bonds, and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy; provided, however, that if the maturity of the indebtedness created by the issue of bonds be made to begin more than one year after the date of the issuance thereof, said tax shall be levied and collected at the time and in the manner aforesaid annually each year, sufficient to pay the interest on said indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for district purposes, and

shall be collected at the time and in the manner provided in this act, and taxes so collected shall be used for no other purposes than the payment of said bonds issued under this article and accruing interest.

Petition to issue bonds

SEC. 59. In lieu of a resolution passed by the board as hereinbefore provided, proceedings for the issuance of bonds may be initiated by petition of the qualified electors of the district.

Presentation to directors

SEC. 60. Whenever any petition or petitions, each signed by electors of the district equal in number to 10 per cent of the qualified electors of the district, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding election at which a Governor was elected, shall be presented to the board of directors of the district asking for the construction of a sewage disposal system, and also asking that a bonded indebtedness be incurred under this article to pay for the cost thereof, then it shall be the duty of the secretary of the board to immediately proceed to examine and verify the signatures of such petition or petitions, and to certify the result of such examination to the board.

Calling election pursuant to petition

SEC. 61. If the required number of signatures be found to be genuine, the secretary shall transmit to the board an authentic copy of such petition or petitions without the signatures thereto. Upon receiving the petition or petitions with the certificate of the secretary stating that it or they contain the required number of signatures, the board shall formulate for submission to the electors of the district at a special election called for that purpose the proposition of incurring a bonded debt under this article for the objects and purposes set forth in said petition, and thereafter the said election and all things and proceedings with reference to the said bonds and the issuance thereof shall be conducted and performed in the same manner as if the proceedings has been initiated by resolution of the board as hereinbefore provided. In its discretion the board may defer the calling of said election until the next general election to be held in the district in order that the same may be consolidated therewith.

Conduct of election

SEC. 62. Any election called for the submission of any proposition under the provisions of this article, may be held separately, or may be consolidated with any other election authorized by law at which the qualified voters of such district are entitled to vote; provided, however, that in the event any such election called pursuant to the provisions of this article is consolidated with any other election, the provisions of this article setting forth the procedure for the calling and holding of the election called pursuant to the provisions of this article, shall be complied with, except that the ordinance calling such election need not set forth the election precincts, polling places and officers of election, but may provide that the precincts, polling places and officers of election shall be the same as those set forth in the ordinance, notice or other proceedings calling the election with which the election called

pursuant to the provisions of this article, is consolidated, and shall refer to such ordinance, notice or other proceeding by number and title, or by other definite description.

Bonds as legal investments

SEC. 63. All bonds issued by the district under the provisions of this article shall be legal investment for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings and trust companies, and for the State School Fund, and for all sinking funds under the control of the State Treasurer, and whenever any moneys or funds may by law now or hereafter enacted be invested in, or loaned upon the security of, bonds of cities, cities and counties, counties, or school districts, in the State of California, such moneys or funds may be invested in, or loaned upon the security of the bonds of the said district; and whenever bonds of cities, cities and counties, counties, or school districts by any law now or hereafter enacted may be used as security for the faithful performance or execution of any court or private trust or of any other act, bonds of the said district issued pursuant to this article may be so used. The bonds of the district issued pursuant to this article, to the same extent as bonds of any municipality, shall also be legal for use by any State or National bank or banks in the State as security for the deposit of funds of the State or of any county, city and county, city, municipality or other public or municipal corporation within the State.

Call and redemption

SEC. 64. (a) The board of directors may provide for the call and redemption of any or all of said bonds on any interest payment date prior to their fixed maturity at not exceeding the par value thereof and accrued interest plus a premium of not exceeding 5 per cent upon the principal amount of said bonds, in which event a statement to that effect shall be set forth in the ordinance calling the election and the call price fixed by the board of directors shall be set forth on the face of the bond.

(b) Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation, the first publication of which shall be at least 30 days prior to the date fixed for such redemption. After the date fixed for such redemption, interest on said bonds thereafter shall cease.

Refunding bonds

SEC. 65. (a) Whenever the board shall determine that the refunding of the whole or any portion of its bonded indebtedness incurred under this article will be of advantage to the district, the board may refund such bonded indebtedness or any portion thereof and issue therefor the district's refunding bonds of the same type. The refunding bonds shall bear interest at a rate not exceeding the interest rate on the refunded bonds and shall mature serially in amounts to be fixed by the board; provided, that the payment of said bonds shall begin not later than one year from the date thereof and be completed in not more than 40 years from said date. Said bonds shall be issued in such denominations as the board

shall determine, except that no bond shall be of a less denomination than one hundred dollars ($100) nor of a greater denomination than one thousand dollars ($1,000), and shall be payable on the day and at the place or places fixed in said bonds, with interest at the rate specified therein, which interest shall be payable semiannually. Refunding bonds

(b) The board of directors may provide for the call and redemption of any or all of said bonds on any interest payment date prior to their fixed maturity at not exceeding the par value thereof and accrued interest plus a premium of not exceeding 5 per cent upon the principal amount of said bonds, and the call price fixed by the board shall be set forth on the face of the bonds. Notice of such redemption shall be published once in a newspaper of general circulation, the first publication of which shall be at least 30 days prior to the date fixed for such redemption. After the date fixed for such redemption, interest on said bonds thereafter shall cease.

(c) Said bonds shall be signed by the chairman of the board or by such officer thereof as the board shall by resolution adopted by a two-thirds vote of all its members authorize and designate for that purpose. They shall also be signed by the treasurer thereof and be countersigned by the secretary thereof. The coupons of said bonds shall be numbered consecutively and be signed by the treasurer by his lithographed or engraved signature. All such signatures and countersignatures, except that of the treasurer, on said bonds may be printed, lithographed or engraved. In case of any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of said bonds to the purchaser, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until the delivery of the bonds.

(d) Said bonds may be issued and sold by the board as they determine but for not less than their par value.

(e) The proceeds of the sale of such refunding bonds shall be placed in the treasury of the district to the credit of the "refunding fund" and shall be applied only to the purchase, or retirement at not more than par and accrued interest, or the call price, of the bonded indebtedness for which said refunding bonds shall have been issued. In lieu of selling such refunding bonds and using the proceeds of such sale to purchase or retire the bonds to be refunded, the board may exchange refunding bonds at not less than par and accrued interest for the bonds so refunded.

(f) Whenever such outstanding bonds shall be refunded, they shall be surrendered to the treasurer of the district, who shall proceed to cancel the same by indorsing on the face thereof the manner in which the refunding shall have been effected (whether by exchange or purchase, and the amount for which so purchased, if any) and by perforating through

each bond and each coupon attached thereto, the word "canceled" together with the date of cancellation.

(g) All moneys which shall remain in said "refunding fund" after all outstanding bonds which were proposed to be refunded therefrom have been taken up and canceled, shall be paid into the sinking fund of such district and become a part thereof.

(h) The issuance of said refunding bonds shall not be construed as the incurring or increasing of an indebtedness within the meaning of the provisions of this article.

(i) The board shall provide for the levy and collection of taxes to pay the principal and interest on said refunding bonds and to constitute a sinking fund for the payment of the principal of said bonds on or before maturity in accordance with the provisions of this article.

Payment of interest

SEC. 66. In lieu of the immediate levy of a tax to pay the interest or any part thereof on any bonded debt incurred as provided in this article the board may in the estimate of the amount of money necessary to be raised by such bonds include a sum sufficient to pay interest on all of such bonds or part thereof during the period of construction of the sewage disposal system for which such bonds were issued, and until revenues may be earned by the proposed sewage disposal system, but for no period in excess of five years. Thereafter the board may use so much of the proceeds from the sale of the said bonds as may be necessary for the payment of such interest until the receipt of revenues from the operation of the sewage disposal system for the construction of which such bonds were issued; however, the amount used for such interest shall not exceed the sum so included by the board in its estimate for such purpose.

Advertising sale of bonds

SEC. 67. The board selling any bonds must advertise for bids therefor by publishing notice at least twice in a newspaper of general circulation; the first publication of said notice shall be at least two weeks prior to the date upon which bids will be opened. If satisfactory bids are received, the bonds offered for sale must be awarded to the highest bidder. If no bids are received or if the board determines the bids received are not satisfactory as to price or responsibility of the bidder, the board may reject all bids received, if any, and may either readvertise for bids, or sell the bonds at private sale.

Article 5. Taxation

Levy of tax

SEC. 68. If, in the opinion of the board, the revenues of a joint municipal sewage disposal district will not be sufficient to pay the principal or interest on any bonded debt incurred pursuant to Article 4, as it becomes due, or to carry out the objects and purposes of the district, then the board shall levy and collect a tax for such purpose or purposes and fix the amount of money necessary to be raised therefor by

taxation; provided, however, no tax shall ever be levied to pay the principal or interest of any revenue bond. Assessment, etc

SEC. 69. The board may provide for the assessment, levy and collection of taxes, including the sale of property to the district for delinquent taxes, with penalties, interest and cost. Adoption of county assessment

SEC. 70. (a) The board may elect to avail itself of the assessment or assessments made by the assessor or assessors of the county or counties in which the district is situated, and may take such assessment or assessments as the basis for district taxation, and have its taxes collected by the county officials of such county or counties; provided, the board shall declare its said election by resolution or ordinance and file a certified copy of the same with the auditor or auditors of the county or counties in which the district is situated, on or before the first day of August. Thereafter each year, and until otherwise provided by the board, all assessments shall be made and taxes collected for such district by the county assessor and tax collector, respectively (or county assessors and tax collectors), of the county or counties in which the district is situated. In such case, the auditor or auditors of such county or counties shall, on or before the second Monday in August of each year, transmit to the board a statement in writing showing the total value of all property within the district, which value shall be ascertained from the assessment book of such county or counties for that year as equalized and corrected by the board or boards of supervisors of such county or counties. In case the board shall so elect, as hereinabove provided, it shall, on or before the first week day in September, or if such week day falls upon a holiday then on the first business day thereafter, fix the rate of taxes, designating the number of cents upon each hundred dollars ($100), using as a basis the value of property as assessed by the county assessor or assessors and returned to the board by the county auditor or auditors, as hereinabove provided, which rate of taxation shall be sufficient to raise the amount previously fixed by the board, as hereinabove prescribed. Said acts by the board shall constitute a valid assessment of such property and a valid levy of such taxes so fixed The board must immediately thereafter transmit to the county auditor or auditors of the county or counties in which the district is situated a statement of the rate of taxes so fixed by said board.

(b) Such taxes so levied shall be collected at the same time and in the same manner as county taxes; and when collected the net amount, ascertained as hereinafter provided, shall be paid to the treasurer of the district, under the general requirements and penalties provided by law for the settlement of other taxes. Collection of taxes

(c) Whenever any real property situate in any joint municipal sewage disposal district formed under the provisions of this act, which district has availed itself of the provisions of this section, has been sold for taxes and has been redeemed, Apportionment of redemption money

the money paid for such redemption shall be apportioned and paid by the county treasurer or treasurers receiving the same to such district, in the proportion which the tax due to such district bears to the total tax for which such property was sold.

Lien of taxes

SEC. 71. All taxes levied under the provisions of this article shall be a lien on the property on which they are levied; and unless the board shall by ordinance otherwise provide, the enforcement of the collection of such taxes shall be had in the same manner and by the same means as is provided by law for the enforcement of liens for State and county taxes, all the provisions of law relating to the enforcement of the latter being hereby made a part of this article, so far as applicable.

Compensation for services by county

SEC. 72. The amount of compensation to be charged by and paid to any county for the performance of services as in this article provided for and on behalf of any such district shall be fixed by agreement between the board of supervisors of such county and the board of directors of such district; provided, however, that such compensation shall in no event exceed one-half of 1 per cent of all moneys collected for such district. The amount so collected by such county shall be placed to the credit of the county salary fund.

Article 6. Revenue Bonds

Issuance of revenue bonds

SEC. 73. Any district organized under this act, may from time to time, as hereinafter provided in this article, issue revenue bonds to pay the cost of construction of a sewage disposal system. Whenever the board shall, by ordinance, adopt by a vote of two-thirds of its members determine that the public interest or necessity demands the construction by the district of a sewage disposal system, the board may, at any subsequent meeting, by ordinance call an election and provide for the submission of a proposition of issuing revenue bonds for the purpose set forth in the ordinance of public convenience or necessity, to the qualified electors of the district; provided, that propositions for incurring indebtedness for more than one object or purpose may be submitted at the same election.

Election

SEC. 74. The ordinance declaring that public interest or necessity requires the construction by the district of a sewage disposal system shall, among other things, contain the following:

Contents of ordinance

(a) A statement that public interest or necessity requires the construction of a sewage disposal system, giving a description thereof; this description may be brief and need not describe the location of any portion of the proposed sewage disposal system, but shall be sufficient if it sets forth the general type and purpose thereof.

(b) An estimate of the cost of the proposed sewage disposal system, and a separate estimate of the incidental expenses in connection therewith.

(c) The date, hour and place fixed for the hearing of protests against the adoption of such ordinance, which date must be at least 10 days subsequent to the date of the last publication of such proposed ordinance.

(d) A statement that unless the proposed ordinance is abandoned at the hearing an election will be called and held within the district for the purpose of submitting to the qualified electors thereof a proposition for issuing revenue bonds to pay the costs and expenses of the construction of the proposed sewage disposal system.

(e) That such revenue bonds shall be payable solely from revenues derived from the operation of such sewage disposal system, including rates and charges for the use thereof.

(f) A list of the proposed rates and charges for the different classes of users of the proposed sewage disposal system.

(g) The amount of the principal of the revenue bonds proposed to be issued and the maximum rate of interest to be paid on such bonds.

(h) A statement whether the proposition shall be submitted at a special election to be held for that purpose, or at a general election.

Same

SEC. 75 The ordinance calling such election shall generally describe the sewage disposal system proposed to be constructed with the funds to be derived from the sale of revenue bonds; shall state that such bonds shall be payable solely from revenue derived from the operation of such sewage disposal system; shall state the amount of the principal of the revenue bonds proposed to be issued, the rate of interest to be paid or the maximum amount of interest that may be paid upon such bonds; and shall fix the date on which such election will be held, the manner of holding such election, the manner of voting for and against the issuance of such revenue bonds. In all other particulars not recited in said ordinance, such election shall be held as provided in Article 3.

Adoption of ordinance

SEC. 76. Said ordinance calling such election shall be adopted as other ordinances are adopted by the board, and no other notice of such election need be given. If a majority of the persons voting upon such proposition vote in favor of the issuance of such revenue bonds, the board shall have power by ordinance to issue revenue bonds in the principal amount provided in the ordinance calling the election in accordance with the provisions of this article

Revenue bond provisions

SEC. 77. The board shall prescribe the form of revenue bonds and of the interest coupons attached thereto. Said revenue bonds shall be payable in the following manner: Part to be determined by the board, which shall be not less than one-fortieth part of the whole amount of such indebtedness, shall be paid each and every year on a day and date and at a place or places to be fixed by said board and designated in such revenue bonds, together with interest on all sums unpaid at such date; provided, that the board may in its discretion

determine and fix a date for the earliest maturity of the principal of such revenue bonds not more than five years from the date of issue of such revenue bonds, but in any event the whole amount of such indebtedness must be payable in not to exceed 40 years from the date of issue of the revenue bonds. The revenue bonds shall be issued in such denominations as the board may determine, except that no revenue bond shall be of a less denomination than one hundred dollars ($100) nor of a greater denomination than one thousand dollars ($1,000), and shall be payable on the day and at the place or places fixed in said revenue bonds, with interest at the rate specified in said revenue bonds, which rate shall not be in excess of 6 per cent per annum and shall be payable semiannually. Said revenue bonds shall be signed by the chairman of the board or by such other officer as the board shall by resolution authorize and designate for that purpose, and also shall be signed by the treasurer thereof and countersigned by the secretary of the board. All such signatures and countersignatures on said bonds, except that of the treasurer, may be printed, lithographed or engraved. The interest coupons on said revenue bonds shall be numbered consecutively and signed by said treasurer by his printed, lithographed or engraved facsimile signature. In case any officer whose signature or countersignature appears on the revenue bonds or coupons shall cease to be such officer before the delivery of such revenue bonds to the purchaser, such signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until the delivery of the revenue bonds.

Same

SEC. 78. Revenue bonds and their coupons may be made payable in any lawful money of the United States of America. It shall be plainly stated on the face of each revenue bond that such revenue bond is payable only from the revenues derived from the sewage disposal system constructed from the proceeds of the sale of such revenue bonds and that said revenue bonds do not constitute an indebtedness of any municipality or county that may be in whole or in part within such district. Revenue bonds shall be designated substantially as follows: "Revenue Bond of (insert name) Joint Municipal Sewage Disposal District."

Sale and proceeds of bonds

SEC. 79. Revenue bonds may be issued and sold by the board from time to time as it may determine, but for not less than the par value thereof, and the proceeds of such revenue bonds shall be placed in the treasury of the district and shall be applied exclusively to the purposes and objects mentioned in the ordinance calling the election; provided, however, that interest on such revenue bonds during the period of the construction of the sewage disposal system and for the first six months thereafter, but in no event for a period longer than five years after the sale of the revenue bonds, may be paid from the proceeds thereof. The board selling said revenue bonds or any part thereof must advertise for bids therefor by

publishing notice at least twice in a newspaper of general circulation, and the first publication of said notice shall be at least two weeks prior to the date upon which bids will be opened. If satisfactory bids are received, the revenue bonds offered for sale must be awarded to the highest bidder. If no bids are received or if the board determines the bids received are not satisfactory as to price or responsibility of the bidder, the board may reject all bids received, if any, and may either readvertise for bids or sell the revenue bonds at private sale. All revenue bonds issued under this article shall be negotiable instruments.

Tax exemptions

SEC. 80. Revenue bonds and the income therefrom shall at all times be exempt from taxation, except for transfer, inheritance, and estate taxes, and all sewage disposal systems, lands, works and improvements acquired or constructed under the provisions of this act shall at all times be free and exempt from taxation.

Rates and charges

SEC. 81. Rates and charges for services furnished by any sewage disposal system constructed hereunder shall be fixed before the issuance of the revenue bonds therefor, and such rates and charges may be greater or less than the rates and charges stated in the ordinance calling the election, and it is hereby declared that the list of rates and charges published in the ordinance calling the election is intended to be informative only and not to bind the board or restrict its power in thereafter fixing and establishing rates and charges

Same

SEC. 82. Rates and charges shall be payable as the board may determine, and shall be sufficient to provide for the expenses of administration, operation and maintenance of the sewage disposal system in good repair and working order, to provide for payment of the interest upon and the principal of all revenue bonds issued for the construction of such sewage disposal system, as and when the same become due and payable, and further, to provide a fund for contingencies; such contingent fund shall be at least 10 per cent of all other amounts required to be raised annually. Such rates and charges may be fixed and revised from time to time as the board shall determine so as to produce these amounts, and the board shall covenant and agree on the face of each revenue bond to fix and at all times to maintain such rates and charges for the use of, or for services furnished by, such sewage disposal system, as shall be sufficient to provide the sums required for the purposes described in this article.

Financial organization

SEC. 84 The board shall determine whether a sewage disposal system shall be operated upon a calendar, operating, or fiscal year basis, and the dates of the beginning and ending of the same, and shall provide that the gross annual revenue derived from the operation of each sewage disposal system be set aside into separate and special funds to be established and kept by the board as follows: There shall be set aside, first, a sum sufficient to pay the annual interest on the revenue bonds issued to construct such sewage disposal system,

as it becomes due, and said sum shall be paid into a special fund which may be called "interest fund," or otherwise appropriately designated; second, a sum sufficient to pay the maturing annual principal of such revenue bonds as it becomes due or to provide the annual portion of the sinking fund required to pay the principal of such revenue bonds promptly at maturity, and such sum shall be paid into a special fund which may be called "sinking fund," or otherwise appropriately designated; third, a sum sufficient to pay the reasonable yearly expenses of administration, operation and the costs or expenses for maintenance of such sewage disposal system as may be necessary that year to preserve such sewage disposal system in good repair and working order, and such sum shall be placed in a special fund which may be called "operation and maintenance fund," or otherwise appropriately designated; fourth, the remaining gross revenues shall go into a fund to be called "contingent or reserve fund," or otherwise appropriately designated, and such fund shall constitute a reserve to be used when necessary to pay principal or interest of the revenue bonds, issued for the construction of such sewage disposal system, or to pay any necessary expense of repair or maintenance. All revenues of every kind and nature derived from connections with, or the use or operation of, such sewage disposal system shall be deposited monthly in the appropriate funds in the order above designated, and the moneys in each fund shall be used solely for the purpose for which the said fund is established. All revenues received and all funds created therefrom shall be held by the district, in trust, separate and apart from all other funds of the district, and shall be used only for the purposes for which each of said respective funds was established.

Lien of bonds

SEC. 85. There is created, whenever any revenue bonds are issued under this article, a statutory first lien upon all of the revenues of any kind or nature of any sewage disposal system constructed from the proceeds of such revenue bonds, and upon all funds created pursuant to this article, for the benefit of such sewage disposal system. All revenue bonds of the same issue shall be equally and ratably secured without priority by reason of number, of date, of sale, of execution, or of delivery. Such statutory first lien is to and in favor of the holders of said revenue bonds and each of them and to and in favor of the holders of the coupons of said revenue bonds and each of them. The revenue of such sewage disposal system so constructed shall be and remain subject to said statutory lien until the payment in full of the principal of and interest upon said revenue bonds. The holder or holders of any of said revenue bonds or coupons may either, at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce said statutory lien upon the revenues of said sewage disposal system, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officials of the district which issued such

revenue bonds, including but not being limited to the fixing of sufficient rates and charges, the collection of revenues, the proper segregation of the revenues of the sewage disposal system, and the proper application thereof; provided, however, that said statutory lien upon said revenues shall not be construed to give any holder or owner of any revenue bond or coupon authority to compel the receivership or sale of such sewage disposal system, or any part thereof.

Free service prohibited

SEC. 86. The district shall not furnish free service to any person, or to any county, municipality, the United States of America, the State of California, or any other governmental agency, and each such governmental agency shall pay the rates and charges for the services of the district at the same schedule that such rates and charges are paid for by other persons.

Use of other income

SEC. 87. Nothing in this act shall be construed to prohibit the board from appropriating and using any part of its available income or revenues derived from any source other than from the operation of a sewage disposal system in paying any immediate expenses of operation or maintenance of any such sewage disposal system, but nothing in this act shall be construed to require such board so to do, and any money so used shall be repaid out of the first money available for that purpose.

Lien of rates and charges

SEC. 88. All rates and charges for service furnished by a sewage disposal system, and all penalties thereon, shall constitute a lien upon the house, building, place or other premises that are connected with a sewer, the contents of which are delivered into a sewage disposal system operated by the district (except that no such lien shall be created against any publicly owned property), and such lien shall continue until the rate and charge and all penalties thereon are fully paid or the property sold therefor. Such lien shall attach when the treasurer, whose duty it is to collect the rate and charge, records a list of unpaid rates and charges with the county recorder of the county in which such house, building, place or other premises are located, stating the amount of each rate and charge, a description of the property upon which the same is a lien, the name of the owner thereof as such name appears on the last equalized assessment roll, and the name of the district to which the same is payable.

Delinquent rates and charges

SEC. 89. A list of all rates and charges which have been delinquent three months or more shall be recorded at least every three months, but no delay or informality in recording the same shall invalidate the lien of any unpaid rate or charge. If the rate or charge is not paid when due, as provided by the board, a penalty of 25 per cent of the amount of the delinquent rates and charges shall be added thereto

Collection of rates and charges

SEC. 90. The following remedies are established for the collection of rates and charges and the penalties thereon:

First, an action may be brought in the name of the district in any court which has jurisdiction, against the person or

persons who occupied the property when the service was rendered, for the collection of the amount of the delinquent rates and charges and all penalties thereon. In such action a reasonable attorney's fee shall be awarded the plaintiff.

Second, an action may be brought in the name of the district in any court of competent jurisdiction to foreclose the lien of the rates and charges and all penalties thereon. In such action a reasonable attorney's fee shall be awarded the plaintiff.

Sale of property

Third, on June 2d and December 2d of each year (or if said date falls upon a Sunday or a holiday, then on the next business day thereafter), the treasurer of the district may sell all parcels of property on which the rates and charges have been delinquent for a period of more than six months at public sale to the person who offers to purchase the least quantity thereof and pay therefor all due and unpaid rates and charges which have been recorded, together with penalties thereon and fifty cents ($0.50) for the cost of publishing notice of sale. Notice of such sale shall be given by two publications thereof in a newspaper of general circulation, for at least 20 days before the date of sale, stating the time and place of sale, description of property to be sold and the amount which will be required to purchase same. If no person offers to purchase a parcel, it shall be struck off by the treasurer to the district. The treasurer shall make and keep in his office a record of all parcels sold, showing date of sale, name of purchaser and his address, description of property sold, and sale price. Redemption from the treasurer's sale or from foreclosure sale may be made within one year from date thereof. In case of redemption the purchaser shall be entitled to interest at the rate of 2 per cent per month from the date of sale. After the expiration of the period of redemption from the treasurer's sale the treasurer shall make a deed of the property sold to the purchaser. Such deed shall be conclusive evidence of the regularity of the sale and shall vest title in the purchaser free and clear of all encumbrances except taxes and assessments. Any action, suit or proceeding asserting the invalidity of the sale must be begun before the expiration of the period of redemption, and after the deed has been issued no defense that the sale is invalid may be asserted. At least 30 days before any action to foreclose the lien of any rate or charge is brought, and at least 30 days before any sale of property is made by the treasurer, he shall cause notice of the proposed action to foreclose on any parcel, or to sell any parcel, to be sent by registered mail to the owner of the property on which the unpaid rate or charge is a lien. No defect or informality in such notice shall invalidate the foreclosure or sale; provided, the notice is placed in the United States mail, postage prepaid, addressed to the owner of the property at his address, as the name and address of such owner appears on the last equalized assessment roll.

Fourth, the board may, by ordinance, establish additional remedies for collecting and enforcing rates and charges for sewage disposal service, and may change the remedies established by it from time to time, in order to facilitate the collection of such rates and charges.

The remedies for collecting and enforcing rates and charges herein set out are cumulative and may be pursued alternately, or any thereof may be used consecutively when the board so determines. If any one of said remedies is or may be invalid, all valid remedies shall remain effectual. Until the principal and interest of revenue bonds are fully paid, any holder of any revenue bond outstanding at any time may compel the use of any or all of the remedies herein provided.

Accounts when revenue bonds are issued

SEC. 91. (a) Any district issuing revenue bonds under the provisions of this article shall install, maintain and keep proper books of record and account for each sewage disposal system which shall be entirely separate from all other records and accounts of such district, and in which full and correct entries shall be made of all dealings and transactions relating to the properties, business and affairs of such sewage disposal system The engineer, not later than three months after the close of any calendar, operating or fiscal year (whichever may be determined by the board to be the yearly basis for the operation of the sewage disposal system), shall cause the records, accounts and affairs of each sewage disposal system to be audited by a competent auditor, who shall prepare a balance sheet and an income and surplus account showing, in reasonable detail, the financial condition of each sewage disposal system at the close of such year and the financial operations thereof during such year

(b) Said audit balance sheets and income and surplus accounts shall at all reasonable times during business hours be open to examination and inspection by any taxpayer, user of services furnished by the district, or any holder or owner of revenue bonds issued for the construction of any sewage disposal system, or anyone acting for or on behalf of such taxpayer, user of services or revenue bondholder.

(c) Upon request of the holders of 20 per cent or more of the principal of outstanding revenue bonds of any issue, the district shall cause all records, accounts and affairs relating in any wise to such sewage disposal system constructed from the proceeds of such issue of revenue bonds, to be audited by a competent certified public accountant and a copy of the audit so made shall be open for inspection at all times to any taxpayer, user of the services furnished by the district, or owner or holder of revenue bonds issued by the district or anyone acting for or on behalf of such taxpayer, user or revenue bondholder

Contracts for use of district facilities

SEC. 92 (a) Any district operating a sewage disposal system constructed from the proceeds of revenue bonds is hereby authorized to contract with any municipality or county and such municipality or county is hereby authorized to enter into contracts with the district for the use of the facilities of the district upon such terms and conditions as may be approved

by the respective contracting parties; provided, however, that no such contract shall be made for a period of more than 15 years or in violation of the provisions of the ordinance authorizing the issuance of revenue bonds for the construction of said sewage disposal system.

(b) Such municipality or county shall by ordinance have power to establish, change and adjust (so far as will not impair the rights of the revenue bondholders) rates and charges for the service rendered by the sewage disposal system against the owners of the houses, buildings, places and other premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates and charges for the services rendered, and such rates and charges shall constitute a lien against the houses, buildings, places and other premises served and shall be collected by the proper officials of the municipality or county in the same manner as provided in this article for rates and charges made by the district.

(c) The necessary intercepting sewers for connecting the sewerage system of the municipality or county with the sewage disposal system of the district shall be constructed by the municipality or county, or by the district, upon such terms and conditions as may be set forth in said contract, and the cost, or that part of the cost thereof which is to be borne by the district, may be paid as a part of the cost of the sewage disposal system constructed, from the proceeds of revenue bonds issued therefor, unless otherwise provided by the ordinance of issuance of such revenue bonds. The income received by the district under any contract made under the authority of this section shall be deemed to be a part of the revenues of the sewage disposal system which renders the services contracted for, and shall be applied as herein provided.

Additional revenue bonds

SEC. 93. Nothing contained in this act shall prevent the issuance of additional revenue bonds of such district from time to time as such revenue bonds shall be authorized by an election held as provided in this article; provided, however, additional revenue bonds of any sewage disposal system shall be subordinate to revenue bonds issued prior thereto for the benefit of the same sewage disposal system in respect to the application of the revenues of such sewage disposal system, unless such additional revenue bonds issued under this article are by the ordinance of issuance of the prior revenue bonds expressly authorized, or unless the holders or owners of 75 per cent of the revenue bonds outstanding at the time such additional revenue bonds are to be issued agree that such additional revenue bonds may be issued, in which case the additional revenue bonds and the prior revenue bonds shall be paid from the revenues of the entire sewage disposal system and the original revenue bonds and the additional revenue bonds shall have a parity of lien upon the revenues of the sewage disposal system.

Same

SEC. 94. (a) Additional revenue bonds for additions to, enlargements of, or extensions and improvements of a sewage

disposal system, may be issued when authorized by vote as provided in this article for the issuance of the first issue of revenue bonds. The ordinance calling the election for such additional revenue bonds shall recite the objects and purposes for which the proposed revenue bonds are to be issued, the estimated cost of the proposed additions, enlargements, extensions or improvements, the estimated amount of the incidental expense in connection therewith, the amount of the principal of the revenue bonds to be issued therefor, and the rate of interest to be paid on such revenue bonds; provided, however, that in its discretion the board may recite in such ordinance the maximum rate of interest to be paid on said revenue bonds, which rate when so recited shall not be exceeded. The interest shall be payable semiannually and the maximum rate shall not exceed 6 per cent per annum.

(b) The ordinance shall fix the date on which the election shall be held, the manner of holding the same, and the manner of voting for or against the proposition and shall in all other respects be held as provided in Article 3. Said ordinance shall contain a statement that the revenue bonds to be issued shall be payable solely from revenues derived from the proposed additions, enlargements, extensions or improvements, and shall contain a list of the rates and charges for the different classes of users for the use of said additions, enlargements, extensions or improvements; provided, however, that if the holders or owners of 75 per cent of the revenue bonds outstanding at the time such additional revenue bonds are to be issued have agreed that such additional revenue bonds may be issued, then the ordinance shall contain a statement that the bonds to be issued shall be payable solely from revenues derived from the sewage disposal system, as added to, enlarged, extended or improved, and that the additional revenue bonds shall have a parity of lien with the outstanding revenue bonds upon the revenues of the sewage disposal system, as added to, enlarged, extended or improved.

Refunding of revenue bonds

SEC. 95. Any revenue bonds issued under this article may be refunded with revenue bonds of the district at any time; provided, that the holder or owners (exclusive of any county, city and county, municipality or public corporation holding or owning any of said bonds) of 75 or more of the principal amount of the revenue bonds outstanding at the time of such refunding assent thereto and agree to the terms upon which said refunding revenue bonds shall be issued. In the event such refunding is authorized with the consent of said 75 per cent or more of owners or holders, such refunding shall be upon the terms agreed upon in a contract with said 75 per cent of owners or holders, and all of the outstanding revenue bonds shall be subject to call at the price and upon the terms stated in the agreement with the assenting revenue bondholders, and all holders of outstanding revenue bonds, upon such call being made, shall exchange their revenue bonds for such refunding revenue bonds or for cash provided by the sale

of such refunding revenue bonds upon the terms and conditions set out in said agreement.

Same

SEC. 96. One issue of revenue bonds may be issued for the refunding of the revenue bonds of said district and for any additions to, enlargements, extensions or improvements of, a sewage disposal system; provided, such issuance is authorized by the agreement of the owners or holders of 75 per cent or more of the principal amount of the revenue bonds outstanding at the time of such refunding to the terms upon which said new revenue bonds shall be issued, but such revenue bonds shall not be authorized until a majority of all of the voters voting on the proposition of issuing the same shall vote in favor of issuing such revenue bonds. The ordinance calling the election shall recite the objects and purposes for which said proposed revenue bonds are to be issued, the amount of such revenue bonds to be issued, and the rate of interest to be paid thereon or a maximum rate, which rate shall not be exceeded in the issuance of such revenue bonds. The interest on all revenue bonds issued under this section shall be payable semiannually, and the maximum rate may not exceed 6 per cent per annum.

Purchase of revenue bonds with surplus funds

SEC. 97. Whenever there are surplus moneys in any of the funds of any sewage disposal system which in the opinion of the board, may be used for the purchase of outstanding revenue bonds, issued for the construction of, addition to, enlargement of, extension to, or improvement of, such sewage disposal system, the board is authorized to purchase any such outstanding revenue bonds at not more than the par value thereof. The board shall, by notice published once in a newspaper of general circulation, invite proposals for the sale of such outstanding revenue bonds to it and shall state the amount of funds available for the purchase thereof. All proposals shall be opened in public and the lowest offer may be accepted; provided, however, that the board may reject any or all proposals. In the event that the board rejects all proposals, it may thereafter purchase such revenue bonds at private sale but it shall not pay more at private purchase than the lowest price submitted at the public bidding. All such revenue bonds so purchased shall be immediately canceled by the treasurer.

Terms of revenue bonds

SEC. 98. Whenever any revenue bonds are to be issued under any of the provisions of this article, the board issuing the same may enter into indentures or agreements containing any or all of the following provisions, to wit: (a) providing for the amount, form, and maturities of the revenue bonds and coupons; (b) the terms and conditions upon which the revenue bonds shall be issued, sold, retired, or refunded; (c) providing minimum reserve requirements for such revenue bonds; (d) providing for the rates and charges to be made for all services and the conditions under which established rates and charges may be reduced or increased; and (e) providing that the amounts to be raised in each year by rates and charges

shall be not less than the amounts required for the payment of principal and interest of revenue bonds, amount needed for current administrative, operating and maintenance costs for that year, and such reserve requirements as may be specified therein. Such indentures or agreements may contain additional provisions for the protection of the holders of the revenue bonds to be issued, and may provide a method or methods by which such indenture or agreement may be amended, and refunding revenue bonds issued or additional revenue bonds issued, and may prescribe the percentage of the holders in principal amount of the revenue bonds issued pursuant thereto required to consent to the amendment of such indenture or agreement or the issuance of additional or refunding revenue bonds.

Validity of proceedings or bonds

SEC. 99. If any proceedings, or any revenue bonds issued under this article, are contested in any court, the court, in inquiring into the regularity, illegality or correctness of such proceedings or the validity of the issuance of such revenue bonds, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding, and any revenue bonds issued under any proceeding attempted to be taken under this article shall be conclusive evidence of the validity of such revenue bonds and of all proceedings for the issuance thereof.

Article 7. Use of Sewage Disposal System

Ordinance regulating sewage disposal system

SEC. 100. After the construction by the district of a sewage disposal system the board shall cause an ordinance to be passed, which ordinance shall set forth the following:

(a) A description of the area of the district which will be served by the sewage disposal system so constructed.

(b) A schedule of the proposed rates and charges.

(c) The date when the district proposes to commence the treatment, purification and disposal of sewage and industrial wastes originating in such area.

(d) The day, time and place where a public hearing will be held when objections to the adoption of such ordinance may be heard.

Hearing on ordinance

SEC. 101. All objections to the adoption of such ordinance shall be presented to the board in writing at least five days prior to such hearing, such written objections shall be definite and specific. The board may continue the hearing from time to time, and may make any change in, modification of, or addition to, the schedule of rates and charges; provided, however, that such ordinance before final adoption shall be republished at least once if any change, modification or addition is made thereto.

Effect of adoption

SEC. 102. Upon the final adoption of such ordinance the secretary of the board shall cause a certified copy thereof to be transmitted to the legislative body of each municipality and each county which is wholly or partially within the area

described in such ordinance, and thereafter no person, nor any municipality, nor any county, shall have any power or authority to treat, purify or dispose of, or cause or permit, any sewage or industrial wastes originating within the area described in said ordinance, to be treated, purified or disposed of in any manner, except by and through the sewage disposal system operated by the district.

Article 8. Annexation

Annexation to district

SEC. 103. A board of supervisors may propose the annexation of unincorporated territory, and the legislative body of any municipality may propose the annexation of territory comprising such municipality or any portion thereof, by the adoption of a resolution requesting the board to annex the territory described in such resolution. Such territory proposed to be annexed need not be contiguous to the district and need not be within the county within which the district was originally organized.

Terms of annexation

SEC. 104. Upon the receipt of a certified copy of a resolution proposing the annexation of any territory the board, if it determines that the annexation of such territory would facilitate the construction or operation of a sewage disposal system, or otherwise be advantageous to the district, shall determine, by resolution, the terms and conditions upon which such annexation may be made. Such terms and conditions, amongst other things, may provide for the payment of taxes within the territory to be annexed in addition to the taxes elsewhere in this act provided for; for the fixing of rates and charges differing from those fixed or existing elsewhere within the district; or for the incurring or assumption of indebtedness, or for the making of a payment or payments, or for the transfer of property, real and personal, and other assets to the district by the territory proposed to be annexed. A certified copy of the resolution fixing the terms and conditions upon which such annexation may be made shall be transmitted forthwith by the secretary of the district to the board of supervisors or the legislative body proposing such annexation.

Notice of annexation hearing

SEC. 105. If the legislative body proposing such annexation consents to said terms and conditions the board shall fix the time and place for hearing on the question of said annexation and provide for the giving of notice thereof.

Notice fixing the time and place for hearing on the question of the annexation of said territory to said district shall be published once in a newspaper of general circulation printed and published in said district. If no such newspaper is printed and published therein, the notice of such hearing shall be given by posting a notice thereof in three (3) public places within the boundaries of said district, at least one of which shall be within the boundaries of the territory proposed to be annexed. The time for such hearing shall be not less than thirty (30) nor more than sixty (60) days from the date of

the first publication of said notice, or its posting, in the event the same is posted.

Hearing on annexation

At or before said hearing any person interested may file with the clerk or secretary of said district written objections to the annexation of said territory to said district or to the inclusion of his property therein. Upon such hearing, the board of directors of the district shall hear and determine all protests and objections. Any such hearing may be adjourned from time to time by the board of directors without further notice other than an order to be entered upon the minutes of its meeting fixing the time and place of such adjournment. In the event that no protests are filed, or the protests filed are overruled and denied by the board of directors, said board shall thereupon, by resolution, declare such territory, or a portion thereof, annexed to said special district. From and after the date of the filing of said resolution with the secretary or clerk of said district the annexation of said territory, or portion thereof, to such district shall be deemed completed.

Consent of municipality

SEC. 106. No municipality or portion thereof shall be annexed to the district unless the legislative body thereof shall by resolution consent thereto.

Effect of annexation

SEC. 109. From and after the date of any annexation the board of directors of the district shall have full power and authority to do any and every act necessary or convenient to carry out and comply with the terms and conditions of such annexation, and thereafter to exercise within the annexed territory all powers vested in the district and the board by the provisions of this act.

Same

SEC. 110. An annexation under the provisions of this article shall not operate to dissolve or terminate the legal existence of any municipality or county, and such municipality or county shall nevertheless retain its corporate existence until otherwise dissolved pursuant to provisions of law now or hereafter enacted for that purpose.

Statute of limitations

SEC. 111. The validity of any procedure for the annexation of any territory to a district shall not be contested in any action or proceeding unless such action or proceeding shall have been brought within three months from and after the date of the completion of such proceeding.

Article 9. General Provisions

Penalties

SEC. 112. No director or officer of the district shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this section such officer shall be deemed guilty of a misdemeanor, and a conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment; provided, however, that this section shall have no application to contracts

awarded to corporations in which such officer owns less than 1 per cent of the entire capital stock.

Powers of board

SEC. 113. All matters and things necessary for the proper administration of the affairs of the district which are not provided for in this act shall be provided for by the board.

Purchase of supplies

SEC. 114. In the purchase of all supplies and materials, when the expenditure required for the same shall exceed the sum of one thousand dollars ($1,000), the same shall be done by contract and be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation, said notice to be printed at least once, which publication shall be made at least five days before bids are received; provided, the board may reject any and all bids and readvertise in their discretion; provided further, that after rejecting bids the board may determine and declare by a resolution adopted by a four-fifths vote of all its members, that in its opinion the materials and supplies may be purchased at a lower price in the open market; after the adoption of such resolution, the board may proceed to purchase said supplies and materials in the open market without further observance of the provisions first above stated; provided further, that in case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, the board may, by resolution passed by a four-fifths vote of all its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, whereupon it may proceed to expend money or enter into contracts involving the expenditure of any sum needed in such emergency.

Annual audit of accounts

SEC. 115. The board shall employ annually an expert who shall be a certified public accountant and who shall with all due diligence, examine and report upon the system of accounts kept by the district, all the contracts of whatsoever kind made and entered into by the board within the year immediately preceding, and the properties and investments of the district. Said expert shall in his report make such recommendations and suggestions as to him shall seem proper and required for the good of the district, and for the efficient and economical or advantageous management and operation of the district and of each sewage disposal system thereof; and he shall in his said report make such recommendations and suggestions as to the system of accounts kept, or in his judgment to be kept, the manner in which such accounts shall be kept, the form of accounts, records, including accounts, records, and memoranda of receipts and expenditures of money, and depreciation and sinking fund accounts, as in his judgment may be proper and necessary.

Constitutionality

SEC. 116. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it

would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Action to determine validity

SEC. 117. (a) The board, at any time within 60 days from and after the date of an election authorizing the issuance of any general, revenue or refunding bonds, may cause to be brought, in the name of the district an action in the superior court of the county in which said district or the greater portion thereof is located, to determine the validity of any such bonds. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in a paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within 10 days after the full publication of such summons in the manner herein provided. Anyone interested, at any time before the expiration of said 10 days, may appear and by proper proceedings contest the validity of such bonds. Such action shall be speedily tried and judgment rendered declaring such bonds to be valid or invalid. Either party may have the right to appeal to the Supreme Court at any time within 30 days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. After the expiration of 90 days from the date of such election no action may be brought by any person to contest or question the validity of said bonds and proceedings thereto. If there be more than one action or proceeding involving the validity of any such bonds, they shall be consolidated and tried together. The court hearing any proceeding or action inquiring into the regularity, legality or correctness of the proceedings leading up to the issuance of bonds, or the validity of such bonds, shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within 10 days from and after the filing of the notice of intention. The costs on any proceeding or action herein provided for may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

(b) Notwithstanding any other provision contained in this section, the board may cause a refunding bond validation proceeding to be brought within 60 days from and after the date of the action of the board authorizing the issuance of such refunding bonds.

Dissolution of sewage disposal district

SEC. 118. Any sewage disposal district created pursuant to the provisions of this act may be dissolved by resolution of the board, if any proposition for the incurring of a bonded indebtedness as in this act provided fails to carry; provided, such sewage disposal district is then subject to no other indebtedness or liability pursuant to the provisions of this act and has been organized for not less than two (2) years.

Article 10. Definitions

Definitions

SEC. 119. Certain words and phrases as used in this act are hereby defined as follows:

(a) "District" or "sewage disposal district" means "joint municipal sewage disposal district," organized under the provisions of this act.

(b) "Municipality" includes any municipal corporation of the State of California, whether organized under a freeholders' charter, or under the provisions of general law; "municipality" shall also include any county sanitation district, sanitary district, sewer maintenance district, sewer district, or any other governmental agency which maintains or operates sewers or other facilities for the collection and disposal of sewage, if governed by a legislative body other than a city council or a board of supervisors.

(c) "County" shall include city and county.

(d) "Board" means the board of directors of a joint municipal sewage disposal district.

(e) "Clerk" shall include the clerk or secretary of the legislative body of any municipality.

(f) "Legislative body" includes a city council, board, commission, or other governing body having charge of the government and affairs of a municipality.

(g) "Sewage disposal system" includes any one or all, or any combination of the following: Sewage treatment plant, sewage treatment works, intercepting sewers, outfall sewers, force mains, pumping plants or stations, and appurtenances, useful or convenient for the interception, treatment, purification, or disposal of sewage and industrial wastes, and all necessary lands and rights of way.

(h) "Intercepting sewer" for the purpose of this act shall be considered as only such sewer and appurtenances thereto that are not now, or will not be, required by any municipality or county within the district, if said municipality or county continues to dispose of sewage and industrial wastes by discharging said sewage and industrial wastes without treatment into any of the natural waters of the State of California.

(i) "Industrial wastes" are the liquid wastes from usual industrial processes.

(j) "Shall" is mandatory; "may" is permissive.

(k) "Mayor" includes the president, chairman or other presiding officer of the legislative body of a municipality.

(*l*) "Construction" includes acquisition, reconstruction and enlargement.

Newspaper of general circulation

SEC. 120. Wherever in this act publication is required to be made in a "newspaper of general circulation" it shall be deemed to mean a newspaper of general circulation printed, published or circulated within the district; if there be no newspaper of general circulation published, printed or circulated within the district, then the publication shall be made in a newspaper of general circulation printed, published or circulated within a county within which the district or some part thereof is located; if there be no newspaper of general circulation printed, published or circulated within the district or within a county within which a district or some part thereof is located, then publication shall be made by posting in three public places within the district for not less than 10 succeeding days.

CHAPTER 323

An act relating to National and local defense and public emergencies, authorizing extraterritorial activities by public agencies and providing that the privileges, immunities and benefits applicable to the activity of employees of such public agencies when acting within their territorial limits shall apply to them while engaged in any such work extraterritorially; declaring the urgency hereof, to take effect immediately.

[Approved by Governor May 21, 1941 Filed with Secretary of State May 22, 1941.]

In effect immediately

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

Services and expenditures in emergencies

SECTION 1. In the event of National or local emergency created by military attack or sabotage or in the providing for adequate National or local defense, or upon the occasion of a great public calamity such as an extraordinary fire, flood, storm, epidemic, earthquake, or other disaster, any services performed, or expenditures made in connection therewith, by any public agency with respect thereto, whether within or without the territorial limits of such agency, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of such agency. When such services are to be performed outside the territorial limits of the public agency so performing them, such services shall be ordered by the chief administrative officer in charge of the office or the department of such agency performing such services unless otherwise provided by the governing body of such agency.

Rights when serving outside jurisdiction

SEC. 2. All the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension,

relief, disability, workmen's compensation and other benefits, which apply to the activity of officers, agents or employees of such agency when performing their respective functions within the territorial limits of their respective public agencies shall apply to them to the same degree and extent while engaged in the performance of any of their functions or duties extra-territorially during any of the emergencies prescribed in Section 1 hereof.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows:

The Congress of the United States has put into effect a Nation-wide program of building adequate National defense. It has recognized that worldwide conditions warrant the granting of emergency powers in connection therewith and billions of dollars are being expended to further the program of defense on the National scale. Similarly, worldwide conditions warrant emergency powers being extended to public agencies within this State in order that they may come to the assistance of one another, thereby supplementing their own means of local defense. The providing of the means whereby immediate mutual aid between public agencies may be rendered has a direct bearing upon the preservation of the public peace, health and safety of the people of the State of California and for this reason this measure should take effect immediately.

CHAPTER 324

An act making an appropriation in augmentation of the Revolving Fund of the Bureau of Printing, Department of Finance, to take effect immediately.

In effect immediately

[Approved by Governor May 22, 1941. Filed with Secretary of State May 22, 1941.]

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

Appropriation Bureau of Printing

SECTION 1. The sum of seventy thousand dollars ($70,000) is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, in augmentation of the Revolving Fund of the Bureau of Printing, Department of Finance.

Current expenses

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution of the State of California, take effect immediately.

CHAPTER 325

An act to amend the Building and Loan Association Act by adding to Article 7 thereof a new section to be numbered Section 7.09, relating to liability and assessments of stockholders.

Stats 1931, p 483, amended

[Approved by Governor May 23, 1941. Filed with Secretary of State May 23, 1941.]

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

In effect September 13, 1941

SECTION 1. The act cited in the title hereof is hereby amended by adding a new section to Article 7 of said act, which new section shall be numbered Section 7.09 and shall read as follows:

New section

Sec. 7.09. Liability Not to Apply. None of the provisions of Sections 7.01 to 7.05, both inclusive, of this act, nor the last sentence of Section 7.06 of this act, shall be applicable to any association, or to any of the stockholders thereof, if such association is an "insured institution" as defined in Title 4 of the National Housing Act, as amended; provided, such association shall have caused notice in writing of prospective termination of stockholders' liability pursuant to this section to have been served upon the commissioner and shall also have caused a copy of such notice to be published at least once in a newspaper of general circulation published in the city or town in which such association has its principal office in this State, or, if no newspaper of general circulation is published in such city or town, in a newspaper of general circulation published in the county in which such principal office is located, and six months shall have elapsed after the service of such notice upon the commissioner and the publication of such notice.

Application to insured institutions

CHAPTER 326

An act to add a new section to be numbered 379.7 to, and to repeal Article 4 of, Chapter 1 of Division 3 of the Agricultural Code, relating to poultry brands and to the sale and transportation of poultry.

Stats 1933, p 60, amended

[Approved by Governor May 23, 1941. Filed with Secretary of State May 23, 1941.]

In effect September 13, 1941

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

SECTION 1. Article 4 of Chapter 1 of Division 3 of the Agricultural Code, comprising Sections 380 to 380.4, inclusive, relating to poultry brands, is hereby repealed.

Repeal

Any money remaining in the Department of Agriculture Fund which was collected under the provisions of Article 4 of Chapter 1 of Division 3 of the Agricultural Code shall be transferred to the General Fund of the State.

Transfer of funds

New section SEC. 2. A new section, to be numbered 379.7, is hereby added to Article 3a of Chapter 1 of Division 3 of the Agricultural Code, to read as follows:

Fraudulently branding poultry 379.7. It is unlawful to brand, or to alter or deface the brand on, any poultry with intention to steal the same or to prevent identification thereof by the true owner. It is unlawful for any person to have in his possession any poultry the brand on which has been altered or defaced unless he received the same from the true owner thereof.

CHAPTER 327

Stats 1935, p 93, amended *An act to add Section 604.10 to the Vehicle Code, relating to the transportation, care and treatment of persons injured upon the highways.*

In effect September 13, 1941 [Approved by Governor May 23, 1941. Filed with Secretary of State May 23, 1941.]

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

New section SECTION 1. Section 604.10 is hereby added to the Vehicle Code, to read as follows:

Care of persons injured on highways 604.10. Persons Injured on Highways. Any member of the California Highway Patrol may transport or arrange for the transportation to a physician and surgeon or hospital of any person injured in an accident upon any highway. Any member of the California Highway Patrol exercising ordinary care and precaution shall not be liable for any damages due to any further injury or for any medical, ambulance or hospital bills incurred in behalf of the injured party or parties.

CHAPTER 328

Stats 1935, p 1123, amended *An act to amend Sections 6.9, 24, 24.2, 24.3, 27, 33e, 34, 49, 49.2, 51, 66 and 67.5, and to repeal 24.5, 24.7, 27a, 27b, 27c, 27d, 33, 33a, 33b, 33c and 33d of the Alcoholic Beverage Control Act, and to add thereto new sections, to be designated 24.1, 24.5, 24.55, 24.6, 27a, 27b, 27c, 33, 33a, 33b, 33c, 33d, 33f, 33g, 34a, 34b, 34c, 34d, 34e, 34f, 34g, 34h, 34i and 34j, relating to alcoholic beverages.*

In effect September 13, 1941 [Approved by Governor May 23, 1941. Filed with Secretary of State May 23, 1941.]

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

Stats 1937, p 2137 SECTION 1. Section 6.9 of the act cited in the title hereof is hereby amended to read as follows:

Sales by distilled spirits manufacturers to retailers Sec. 6.9. All the provisions of this act relating to the sale and delivery of distilled spirits from distilled spirits wholesalers or rectifiers to on- or off-sale licensees and all provisions

of this act imposing an excise tax upon the sale of distilled spirits, and all provisions of this act relating to distilled spirits excise tax procedure shall apply to distilled spirits manufacturers when making sales of distilled spirits produced in this State to on- or off-sale licensees in those cases where distilled spirits manufacturers are authorized to make sales to such licensees.

SEC. 2. Section 24 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p 2144

Sec. 24. An excise tax is hereby imposed upon all distilled spirits sold in this State by manufacturers, distilled spirits manufacturer's agents, brandy manufacturers, rectifiers, wholesalers, sellers of distilled spirits selling distilled spirits with respect to which no tax has been paid within areas over which the Federal Government exercises jurisdiction, at the following rates: Excise tax on distilled spirits

On all distilled spirits of proof strength or less, eighty cents ($0.80) per wine gallon, and at a proportionate rate for any quantity.

All distilled spirits in excess of proof strength shall be taxed at double the above rate.

SEC. 3. Section 24.1 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 24.1. "Taxpayer" wherever used in this act means a person liable for the payment of a tax pursuant to the provisions of Section 24 of this act. Taxpayer

SEC. 4. Section 24.2 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p 2145

Sec. 24.2. It shall be presumed that all distilled spirits acquired by any taxpayer have been sold in this State by him unless proven to the satisfaction of the board, in verified reports on forms prescribed by the board, that such distilled spirits are (1) still in the possession of such licensee, or (2) that such distilled spirits have been sold or delivered to another licensed distilled spirits manufacturer, rectifier, importer or wholesaler, or (3) that such distilled spirits have been exported without this State or sold for export by the licensee making the report and actually exported from this State within 30 days from the date of such sale, or (4) that prior to the termination of possession such distilled spirits have been lost through unintentional destruction, or (5) that prior to the termination of possession there has been an unaccounted for loss, but such unaccounted for loss shall not exceed a tolerance to be fixed by the board, or (6) that such distilled spirits are otherwise exempt from taxation under this act. Presumption

SEC. 5. Section 24.3 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p. 2145

Sec. 24.3. The word "sale" as used in Sections 23 and 24 shall include, in addition to the definition in Section 2 of this act, the transaction whereby alcoholic beverages are transferred, with or without consideration, by a licensee holding Definition of "sale" as used in Secs 23, 24

one type of license to himself for purposes of sale under a retailer's license held by himself or to any person for any purpose.

Stats 1937, p 2145 New section

SEC. 6. Section 24.5 of the act cited in the title hereof is repealed and a new section, to be numbered 24.5, is added, to read as follows:

Bond for payment of distilled spirits excise taxes

Sec. 24.5. Every taxpayer as defined in this act is required by the board to file with said board in such form as it prescribes a bond or bonds duly executed by such person as principal and a corporation such as is mentioned in Section 1056 of the Code of Civil Procedure in this State, as surety, payable to the people of the State of California, conditioned upon the payment of all excise taxes, penalties, and other obligations of the person arising under this act.

Subject to the limitations provided in this section the board shall fix the total amount of the bond or bonds required of any taxpayer and may increase or reduce the amount at any time. In fixing the total amount the board shall require a bond or bonds equivalent in total amount to twice the taxpayer's estimated monthly excise tax ascertained in such manner as the board may deem proper. The total amount of the bond or bonds required of any taxpayer shall never be less than one thousand dollars ($1,000) nor more than two hundred thousand dollars ($200,000).

New section

SEC. 6a. Section 24.55 is hereby added to the act cited in the title hereof, to read as follows:

Suspension of license

Sec. 24.55. The license of any taxpayer shall be automatically suspended upon cancellation of his bond, or if the bond shall become void or unenforceable for any reason, or if the taxpayer fails to pay any taxes due under the provisions of this act. Such license shall be immediately reinstated by the board if the taxpayer files a valid bond, or pays his delinquent taxes, as the case may be.

A hearing shall be afforded any taxpayer whose license has been suspended under the provisions of this section upon his petition after five days' notice of the time and place of hearing.

New section

SEC. 7. Section 24.6 is hereby added to the act cited in the title hereof, to read as follows:

Security instead of bond

Sec. 24.6. In lieu of a bond or bonds under such conditions as the board may prescribe, a taxpayer may deposit with the State Treasurer an amount of lawful money of the United States equivalent to the amount of the bond or bonds, or he may deposit bonds or other obligations of the United States, the State of California, or any county or city and county of this State of an actual market value not less than the amount of the bond or bonds fixed by the board.

Stats 1937, p. 2146

SEC. 8. Section 24.7 of the act cited in the title hereof is repealed.

Stats 1937, p 2147

SEC. 9. Section 27 of the act cited in the title hereof is hereby amended to read as follows:

Subsequent assessment

Sec. 27. If any examinations or investigations made by the board shall disclose that any reports theretofore filed with

the board by beer or wine manufacturers or importers have shown incorrectly the amount of beer or wine sold or the excise tax accruing thereon, the board shall have the power, and is hereby authorized, to make such changes by a subsequent assessment as may be necessary to correct the errors disclosed. The board shall give to any such manufacturers or importers notice of any such subsequent assessment and the amount thereof and any such manufacturer or importer against whom any such subsequent assessment has been made may petition for a rehearing upon such subsequent assessment within 30 days after service of the notice thereof, and the board shall reconsider and upon reconsidering such subsequent assessment shall grant any such manufacturer or importer an oral hearing and shall give any such licensee 10 days notice of the time and place thereof, which place shall be either at Sacramento or at the city of licensee's premises or approximate to such premises if not located in a city. The board shall have the power to continue the hearing from time to time as may be necessary. Notice of the board's order or decision upon a petition for rehearing shall be served upon the licensee and if the subsequent assessment is affirmed it shall become due and payable at the time of such service of the notice thereof.

Notice

Petition for rehearing

Notice of decision

The board may likewise in any assessment roll give credit to any manufacturer or importer for overpayments of excise tax shown to the satisfaction of the board to have been paid by any such manufacturer or importer or for excise taxes paid by any such manufacturer or importer upon beer or wine returned to such manufacturer or importer after sale or transfer of possession and which has become unsalable without fraud, connivance or collusion on the part of such manufacturer or importer.

Credit for overpayments

If the board determines that any tax or penalty has been paid more than once, or has been erroneously or illegally collected or computed, and if such overpayment, collection or computation for any reason can not be adjusted or corrected in subsequent assessments as provided in this section, the board shall certify to the State Board of Control the amount collected in excess of what was legally due, from whom it was collected, or by whom paid, and if approved by that board the same shall be credited on any taxes then due from the manufacturer or importer under this act and the balance shall be refunded to the manufacturer or importer, but no such credit or refund shall be allowed after three years from the date of overpayment.

SEC. 10. Section 27a of the act cited in the title hereof is repealed and a new section, to be numbered 27a, is added, to read as follows:

Stats 1937, p 2148

New section

Sec. 27a. The excise tax imposed under Section 24 hereof is a direct obligation of the taxpayer as defined herein and shall be due and payable monthly and on or before the fifteenth day of the month following each calendar month.

Due date of distilled spirits excise tax

Monthly return

Each taxpayer on or before the fifteenth day of August, 1941, and on or before the fifteenth day of each and every month thereafter shall make out a sworn return for the preceding month in such form as may be prescribed by the board, showing the amount of distilled spirits sold in this State, the amount of the tax for the period covered by the return and such other information as the board may deem necessary for the proper administration of the act. The taxpayer shall deliver the return together with a remittance of the amount of the tax due to the office of the board.

Stats 1937, p 2148

New section

See also Stats 1941, p. 2467

SEC. 11. Section 27b of the act cited in the title hereof is repealed and a new section, to be numbered 27b, is added, to read as follows:

Delinquency penalty

Sec. 27b. If the excise tax is not paid to the board within the time prescribed for the filing of the return and for the payment of the tax a penalty of 3 per cent of the amount of the excise tax shall be added thereto on account of such delinquency.

Stats 1937, p 2149

New section

SEC. 12. Section 27c of the act cited in the title hereof is repealed and a new section, to be numbered 27c, is added, to read as follows:

Extensions of time

Sec. 27c. The board for good cause may extend for not to exceed 15 days the time for making any report or paying any tax required under the provisions of Section 24 hereof.

Any person to whom such extension is granted and who pays the excise tax within the period for which the extension is granted shall pay, in addition to the excise tax, interest at the rate of 6 per cent per annum from the date the excise tax would have been due without such extension to the date of payment.

Stats 1937, p 2149

SEC. 13. Section 27d of the act cited in the title hereof is repealed.

Stats 1937, p. 2153

New section

SEC. 14. Section 33 of the act cited in the title hereof is repealed and a new section, to be numbered 33, is added, to read as follows:

Withhold notice

Sec. 33. In the event that any taxpayer is delinquent in the payment of any obligations imposed hereunder, the board may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control, any credits or other personal property belonging to such taxpayer, or owing any debts to such taxpayer, at the time of the receipt by them of such notice, and thereafter any person so notified shall neither transfer nor make other disposition of such credits, personal property or debts until the board shall have consented to a transfer or disposition or until 20 days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five days after the receipt of such notice, advise the board of any and all such credits, personal property or debts, in their possession, under their control or owing by them, as the case may be.

SEC. 15. Section 33a of the act cited in the title hereof is repealed and a new section, to be numbered 33a, is added, to read as follows: Stats 1937, p 2153 New section

Sec. 33a. In any suit brought to enforce the rights of the State with respect to distilled spirits excise taxes, a certificate by the board showing the delinquency shall be prima facie evidence of the levy of the excise tax, of the delinquency of the amount of excise tax, interest and penalty set forth therein and of compliance by the board with all provisions of this act in relation to the computation and levy of the excise tax. In such action a writ of attachment may issue, and no bond or affidavit previous to the issuing of said attachment shall be required. Certificate of delinquency

SEC. 16. Section 33b of the act cited in the title hereof is repealed and a new section, to be numbered 33b, is added, to read as follows: Stats 1937, p 2153 New section

Sec. 33b. In any case in which any tax, interest or penalty imposed under Section 24 of this act is not paid when due, the board may file in the office of the County Clerk of Sacramento County or any other county a certificate specifying the amount of the tax, interest and penalty due, the name and last known address of the taxpayer liable for same, that the board has complied with all the provisions of this act, in relation to the computation and levy of the tax and a request that judgment be entered against such taxpayer in the amount of the tax, interest and penalty set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of the State of California against the taxpayer in the amount of the tax, interest and penalty set forth in the certificate The judgment may be filed by the county clerk in a loose-leaf book entitled "Special Judgments for State Excise Tax." Judgment for amount of tax, etc

SEC. 17. Section 33c of the act cited in the title hereof is repealed and a new section, to be numbered 33c, is added, to read as follows: Stats 1937, p 2153 New section

Sec. 33c. An abstract of such judgment entered under Section 33b of this act or a copy thereof may be recorded with the county recorder of any county and from the time of such recording, the amount of the taxes, interest and penalty therein set forth shall constitute a lien upon all the real property of the taxpayer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien. Execution shall issue upon such a judgment upon the request of the board in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the board shall be authorized to act on behalf of the people of the State of California. Lien of judgment Execution

Stats 1937, p 2154 New section

SEC. 18. Section 33d of the act cited in the title hereof is repealed and a new section, to be numbered 33d, is added, to read as follows:

Collection of tax

Sec. 33d. Whenever any taxpayer as defined herein shall be delinquent in the payment of the excise tax herein provided for, the board or its duly authorized representative may proceed forthwith to collect the excise tax due from the taxpayer in the following manner:

The board shall seize any property, real or personal, of the taxpayer, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the excise tax due hereunder, together with any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent and to all persons appearing of record to have an interest in such property, in writing at least 10 days before the date set for such sale by inclosing such notice in an envelope addressed to the taxpayer at his last known residence or place of business in this State as appears upon the records of the board, if any, and depositing same in the United States registered mail, postage prepaid, and by publication for at least 10 days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said 10-day period. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the excise taxes, penalties and costs, the name of the taxpayer and the further statement that, unless such excise taxes, penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Stats 1937, p 2154

SEC. 19. Section 33e of the act cited in the title hereof is hereby amended to read as follows:

Repurchase

Sec. 33e. The board, in its discretion, may refund the value and repurchase excise stamps from any distilled spirits manufacturer, rectifier, importer, or wholesaler.

New section

SEC. 20. Section 33f is hereby added to the act cited in the title hereof, to read as follows:

Tax sale

Sec. 33f. At the sale provided for in Section 33d hereof the property shall be sold by the board or by its duly authorized agent in accordance with law and said notice, and the board shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest title in the purchaser subject to a right of redemption as prescribed in the Code of Civil Procedure upon sales of real property on execution. The unsold portion of any property so seized may be left at the

place of sale at the risk of the taxpayer. If, upon any such sale, the moneys so received shall exceed the amount of all license taxes, penalties and costs due the State from such taxpayer, any such excess shall be returned to him, and his receipt therefor obtained; provided, however, that if any person having an interest in or lien upon the property has filed with the board prior to any such sale notice of such interest said board shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If, for any reason, the receipt of the taxpayer shall not be available, the board shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of the taxpayer, his heirs, successors or assigns.

New section

SEC. 21. Section 33g is hereby added to the act cited in the title hereof, to read as follows:

Remedies cumulative

Sec. 33g. It is expressly provided that the foregoing remedies of the State under Sections 30, 33, 33a, 33b, 33c, 33d and 33f are cumulative and that no action taken by the board or Attorney General shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

Stats 1937, p 2154

SEC. 22. Section 34 of the act cited in the title hereof is hereby amended to read as follows:

Certain acts unlawful

(a) It shall be unlawful for any person to deliver to the premises of any on- or off-sale distilled spirits licensee or for any on- or off-sale distilled spirits licensee to have upon his licensed premises or for any person to possess any distilled spirits unless the container of such distilled spirits bear a label plainly indicating the quantity and proof strength of the contents of such containers and the name of the manufacturer, rectifier, importer or wholesaler thereof. To the extent that such information is blown into the glass of any such container, it shall constitute a compliance with this paragraph.

(b) It shall be unlawful for any rectifier or wholesaler of distilled spirits to deliver to the premises of any on- or off-sale distilled spirits licensee or for any on- or off-sale distilled spirits licensee to sell or have in his possession at the licensed premises distilled spirits in packages containing more than one gallon and, after December 31, 1937, in packages containing less than one-half pint; except that the provisions of this paragraph shall not apply to packages of distilled spirits in containers less than one-half pint which are sold and delivered to railroad, sleeping car or steamship companies for use and consumption on trains or boats.

(c) It shall be unlawful for any unlicensed person or any on- or off-sale distilled spirits licensee to have in his possession any distilled spirits in packages or containers larger than one gallon, unless such distilled spirits have been sold and delivered to such person or licensee by the holder of an industrial alcohol dealer's, distilled spirits manufacturer's, brandy

manufacturer's or rectifier's license for use in the trades, professions, or industries.

(d) It shall be unlawful for any industrial alcohol dealer, distilled spirits manufacturer, brandy manufacturer or rectifier to deliver undenatured ethyl alcohol or other distilled spirits in packages of more than one gallon for use in the trades, professions or industries, unless the packages bear a label plainly stating the true and correct name and address of such industrial alcohol dealer, distilled spirits manufacturer, brandy manufacturer or rectifier.

Any person violating any of the foregoing provisions of this section shall be guilty of a misdemeanor.

The board may seize any distilled spirits sold, served, removed, possessed, delivered, or held in any manner whatsoever in violation of this section.

New section

SEC. 22. Section 34a is hereby added to the act cited in the title hereof, to read as follows:

Additional determination

Sec. 34a. If the board is dissatisfied with the return or returns filed or amount of excise tax paid to the State by any taxpayer, it is hereby authorized and empowered to compute and determine the amount to be paid based upon any information available to it. One or more additional determinations may be made hereunder of the amount of excise tax due for more than one month. The amount of excise tax so determined shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the month for which the amount of such excise tax, or any portion thereof, should have been reported until the date of payment. In making a determination hereunder, the board may offset overpayments for a month or months against underpayments for another month or months and against the interest and penalties on such underpayments. If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of the act or rules and regulations thereunder, a penalty of 10 per cent of such amount shall be added, plus interest as above provided. If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade the act or the rules and regulations thereunder, a penalty of 25 per cent of such amount shall be added, plus interest as above provided. The board shall give to the taxpayer written notice of its determination. Such notice may be served personally or by mail; if by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the taxpayer at his address as the same appears in the records of the board.

New section

SEC. 23. Section 34b is hereby added to the act cited in the title hereof, to read as follows:

Determination in absence of return

Sec. 34b. If any taxpayer fails to make a return required to be made by this act, the board shall make an estimate, based upon any information available to it, for the month or months

with respect to which the taxpayer failed to make a return of all distilled spirits sold in this State by him and upon the basis of the estimate, compute and determine the amount required to be paid to the State, adding to the sum thus fixed a penalty equal to 5 per cent thereof. A determination may be made hereunder of the amount of excise tax due for more than one month. The amount of excise tax so determined shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the month for which the amount of such excise tax, or any portion thereof, should have been returned until the date of payment. In making a determination hereunder the board may offset overpayments for a month or months against underpayments for another month or months and against interest and penalties on such underpayments. If any part of the deficiency for which a determination is made is due to negligence or intentional disregard of the act or authorized rules and regulations, an additional penalty of 10 per cent of such amount shall be added thereto. If the neglect or refusal of a taxpayer to file a return as required by this act was due to fraud or an intent to evade the excise tax, there shall be added to the excise tax a penalty equal to 25 per cent thereof in addition to the 10 per cent penalty as above provided. Thereupon the board shall give to such taxpayer written notice of such estimate and determination, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 34a hereof.

New section

SEC. 24. Section 34c is hereby added to the act cited in the title hereof, to read as follows:

Jeopardy determination

Sec. 34c. If the board believes that the collection of any amount of excise tax imposed hereunder by Section 24 will be jeopardized by delay, it shall thereupon make a determination of the amount of excise tax due, noting that fact upon such determination and the amount of such excise tax shall be immediately due and payable. If the amount of the excise tax, interest and penalty specified in the jeopardy determination is not paid within 10 days after the service upon the taxpayer of notice of the determination, such determination becomes final, unless a petition for redetermination is filed within such 10 days, and the delinquency penalty and interest provided in Sections 27b and 34g hereof shall attach to the amount of excise tax specified therein. The taxpayer against whom a jeopardy determination is made hereunder may petition for the redetermination thereof; provided, however, that such petition for redetermination must be filed with the board within 10 days after the service upon the taxpayer of notice of the determination; and provided further, that the taxpayer must within said 10-day period deposit with the board such security as it may deem necessary to insure compliance with the provisions of this act. Such security may be sold by the board at public sale if it becomes necessary so to do in order to recover any

amount due hereunder. Notice of such sale may be served upon the person who deposited such security personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 34a hereof. Upon any such sale, the surplus, if any, above the amount due hereunder shall be returned to the person who deposited the security.

New section

SEC. 25. Section 34d is hereby added to the act cited in the title hereof, to read as follows:

Redetermination

Sec. 34d. Any person from whom an amount is determined to be due under the provisions of Section 34a or 34b hereof or any person directly interested may petition for a redetermination thereof within 15 days after service upon such person of notice thereof. If a petition for redetermination is not filed within said 15-day period, the amount determined to be due becomes final at the expiration thereof. If a petition for redetermination is filed within said 15-day period, the board shall reconsider the amount determined to be due, and if such person has so requested in his petition, shall grant such person an oral hearing and shall give such person 10 days' notice of the time and place thereof. The board shall have power to continue the hearing from time to time as may be necessary.

The board may decrease or increase the amount of the determination. The amount of the determination may be increased, however, only if claim for such increase is asserted by the board at or before the hearing.

The order or decision of the board upon a petition for redetermination shall become final 15 days after service upon such person of notice thereof.

All amounts determined to be due by the board under the provisions of Section 34a or 34b hereof shall become due and payable at the time they become final and if not paid when due and payable there shall be added thereto a penalty of 10 per cent of the amount determined to be due.

Any notice required by this section shall be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 34a hereof.

New section

SEC. 27. Section 34f is hereby added to the act cited in the title hereof, to read as follows:

Time of notice of additional determination

Sec. 34f. Except in the case of a fraudulent return or neglect or refusal to make a return, every notice of a determination of an additional amount due shall be given within three years after the date when such amount should have been returned.

New section

SEC. 28. Section 34g is hereby added to the act cited in the title hereof, to read as follows:

Interest on unpaid tax

Sec. 34g. All excise taxes imposed hereunder and not paid on the date when such taxes become due and payable shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from and after such date until paid.

SEC. 29. Section 34h is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 34h. With respect to excise taxes imposed by Section 24 of this act, if the board determines that any amount, penalty or interest has been paid more than once, or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due, and the person from whom it was collected, or by whom paid to the board, and if approved by the State Board of Control the excess amount collected or paid shall be credited on any amounts then due from such person under this act and the balance shall be refunded to such person, or his successors, administrators, or executors. No refund shall be allowed unless a claim therefor is filed with the State Board of Equalization within three years from the fifteenth day after the close of the monthly period for which the overpayment was made, or, with respect to determinations made under the provisions of Section 34a and 34b hereof within six months after such determinations become final, whichever period expires the later. No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the board within such period. Every claim for refund or credit must be in writing and must state the specific grounds upon which the claim is founded. Refunds

Failure to file such claim within the time prescribed in this section shall constitute waiver of any and all demands against this State on account of overpayment hereunder. Within 30 days after disallowing any such claim in whole or in part the board shall serve notice of such action on the claimant, such service to be made as provided by Section 34a hereof.

Interest shall be computed, allowed and paid upon any overpayment of any amount of tax, at the rate of one-half of 1 per cent per month as follows:

(1) From the fifteenth day of the calendar month following the monthly period for which the overpayment was made but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

(2) In the case of a refund, to the fifteenth day of the calendar month following the date upon which the claimant is notified by the board that a claim might be filed or that the claim has been certified to the State Board of Control, whichever date is the earlier.

(3) In the case of a credit, to the same date that interest is computed on the tax or amount against which the credit is applied.

Any refund or any portion thereof which is erroneously made and any credit or any portion thereof which is erroneously allowed, may be recovered in an action brought by the

Controller of the State in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California and such action shall be tried in the County of Sacramento unless the court with the consent of the Attorney General, orders a change of place of trial. The Attorney General must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

In the event that any amount has been illegally determined, the board shall certify such fact to the State Board of Control and said board shall authorize the cancellation of such amount upon the records of the board.

If the board determines that any overpayment has been intentionally made or made by reason of carelessness, it shall not allow any interest thereon.

New section

SEC. 30. Section 34i is hereby added to the act cited in the title hereof, to read as follows:

Suits to enjoin, etc., collection

Sec. 34i. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin the collection of any tax imposed by Section 24 sought to be collected, and no suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally assessed or collected unless a claim for refund or credit has been duly filed as provided in Section 34h hereof.

Claim for refund

Within 90 days after the mailing of the notice of the board's action upon such claim, the claimant may bring an action against the board on the grounds set forth in such claim in a court of competent jurisdiction in the County of Sacramento for the recovery of the whole or any part of the amount with respect to which such claim has been disallowed.

If the board fails to mail notice of action on any such claim within six months after the claim is filed the claimant may, prior to mailing notice of action on such claim by the board, consider the claim disallowed and bring an action against the board on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment. Failure to bring suit or action within the time specified shall constitute a waiver of any and all demands against this State on account of any alleged overpayments hereunder.

If in any such action judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any taxes due from the plaintiff under this act and the balance of the judgment shall be refunded to the plaintiff. In any such judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount found to have been illegally collected from the date of payment of such amount to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the board.

In no case shall any judgment be rendered in favor of the plaintiff in any action brought against the board to recover any tax paid hereunder, when such action is brought by or in the name of an assignee of the taxpayer paying said tax, or by any person other than the person who has paid such tax.

New section

SEC. 31. Section 34j is hereby added to the act cited in the title hereof, to read as follows:

Priority of tax lien

Sec. 34j. Whenever any person liable for any tax levied hereunder is insolvent, whenever any person makes a voluntary assignment of his assets, whenever the estate of a deceased person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased, or whenever the estate and effects of an absconding, concealed, or absent person are levied upon by process of law, the tax, together with interest and penalties attaching thereto, shall be first satisfied; provided, however, that this section shall not be construed to give the State a preference over any recorded lien which attached prior to the date when the tax became a lien.

Stats 1937, p 2164
See also Stats 1941, p 1763

SEC. 32.1. Section 49 of the act cited in the title hereof is hereby amended to read as follows:

Imported alcoholic beverages

Sec. 49. Alcoholic beverages shall be brought into this State from without this State for delivery or use within the State only by common carriers and only when such alcoholic beverages are consigned to a licensed importer, and only when consigned to the premises of such licensed importer or to the premises of a public warehouse licensed under this act; provided, however, that a shipment shall be deemed to be consigned to a licensed importer, although originally consigned to a person not so licensed, when such shipment is, before delivery and without leaving the possession of the common carrier transporting the same, reconsigned or diverted in transit by either the consignor or the consignee or consignees, to a licensed importer to whom final delivery by the common carrier is made. It is further provided that a railroad, sleeping car, dining car boat or steamship company carrying interstate or foreign passengers on trains or boats shall not be deemed to be importers or subject to an importer's license for bringing into this State from without this State alcoholic beverages for the purpose of sale within this State on the trains, cars or boats on which the same are brought into this State, exclusively to passengers or employees, and carrying the same or any unsold portion thereof out of this State in due course of operation. Alcoholic beverages which are consigned to a destination within this State shall be presumed to be for delivery or use within this State. Alcoholic beverages imported into this State contrary to the provisions hereof shall be seized by the board. Every person violating the provisions of this section shall be guilty of a misdemeanor.

Stats 1937, p 2135

SEC. 31.2. Section 49.2 of the act cited in the title hereof is hereby amended to read as follows:

Restrictions on deliveries by carriers

Sec. 49.2. Common carriers transporting alcoholic beverages into this State from without the State for delivery or use within this State must obtain the receipt of the licensed importer, manufacturer or distilled spirits manufacturer's agent for the alcoholic beverages so transported and delivered and, if the consignee refuses to give such receipt and show his license to the carrier, the carrier shall be relieved of all responsibility for delivery of said alcoholic beverages. Subject to the provisions of Section 49 of this act, where the consignee is not a licensed importer, manufacturer or distilled spirits manufacturer's agent, or where the consignee refuses to give his receipt and show his license the carrier shall immediately notify the board at Sacramento giving full details as to the character of shipment, point of origin, destination and address of the consignor and consignee and within 10 days such alcoholic beverages shall be delivered to the board and shall be forfeited to the State of California. If any alcoholic beverages seized under the preceding section or forfeited under this section are sold by or under the direction of the board the common carrier's unpaid freight and storage charges accruing on the shipments of such alcoholic beverages shall be satisfied out of the proceeds of any sale made by the State after deducting the cost of such sale and any excise taxes accruing thereon. Every person violating the provisions of this section shall be guilty of a misdemeanor.

Stats 1937, p 2166

SEC. 32. Section 51 of the act cited in the title hereof is hereby amended to read as follows:

Power of seizure

Sec. 51. The board shall also have the power to seize the following alcoholic beverages:

1. Alcoholic beverages manufactured in this State by any person other than a licensed manufacturer, regardless of where found;

2. Beer and wine upon the sale of which the excise tax imposed by this act has not been paid, regardless of where found;

3. Distilled spirits except (a) distilled spirits located upon premises for which licenses authorizing the sale of such distilled spirits have been issued; (b) distilled spirits consigned to and in the course of transportation to a licensee holding licenses authorizing the sale of such distilled spirits or for delivery without this State; (c) distilled spirits upon the sale of which the excise tax imposed by this act has been paid; (d) alcohol or distilled spirits in the possession of a person who has lawfully purchased the same for use in the trades, professions or industries and not for beverage use.

4. Any alcoholic beverage possessed, kept, stored or owned with the intent to sell the same without a license in violation of the provisions of this act.

Any person who shall possess alcoholic beverages which are subject to seizure under this section shall be guilty of a misdemeanor.

SEC. 32.1. Section 66 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p 2176

Sec. 66. Alcoholic beverages in continuous transit through this State shall be exempt from the provisions of this act only while in continuous transit through this State in the possession or custody of common carriers. The board may require affidavits of any person on forms prescribed by the board and may require any such shipments to be checked in and checked out at the boundaries of the State. Any person refusing to make such report or refusing to check in or check out such alcoholic beverages shall be guilty of a misdemeanor. Shipments in transit through State

SEC. 33. Section 67.5 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p. 2177

Sec. 67.5. No tax under this act shall be imposed upon the sale of alcoholic beverages by a licensee in this State to a common carrier when such alcoholic beverages are to be used without this State; nor in such case need such common carrier procure a license under this act for purposes of purchasing such alcoholic beverages from a licensed manufacturer, rectifier, importer or wholesaler. Sales to common carriers

Whenever distilled spirits are sold by manufacturers, rectifiers, importers or wholesalers to common carriers engaged in interstate or foreign passenger service for use or sale by such carriers partly within the State and partly without the State on board boats or trains the tax imposed by Section 24 of this act shall not be levied on the sales made by manufacturers, rectifiers, importers or wholesalers.

An excise tax is hereby levied on sales of distilled spirits made by common carriers on board boats and trains in California at the same rates as set forth in Section 24. On or before the first day of each month such common carriers shall forward to the board a verified report of the sales of distilled spirits made by such common carriers on board boats and trains in California in the calendar month preceding the previous calendar month, in such detail and form as the board may prescribe, together with a payment sufficient to pay the distilled spirits excise tax at the rate set forth in Section 24 on such sales made in said month. Excise tax

The board shall from time to time make examinations to determine the accuracy of the reports of sales submitted by common carriers. The board shall have the power and is hereby authorized to make such rules and regulations for the enforcement of the provisions of this section as it shall deem is necessary to adequately insure the collection of the excise tax. Examinations

SEC. 34. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portion of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining Constitutionality

portions of this act. The Legislature hereby declares that it would have passed the remaining portions of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Effect on taxes due

Nothing herein contained shall affect any liability for excise taxes imposed on sales of alcoholic beverages occurring prior to the effective date of this act.

CHAPTER 329

Stats 1935, p 1123, amended

An act to add Sections 24.25, 24.26, 24.27 and 24.28 to the Alcoholic Beverage Control Act, with reference to the sale of alcoholic beverages for delivery or use outside of the State, to take effect immediately.

In effect immediately

[Approved by Governor May 23, 1941. Filed with Secretary of State May 23, 1941.]

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

New section

SECTION 1. Section 24.25 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Exemption from distilled spirits excise tax

Sec. 24.25. The excise tax imposed by Section 24 of this act shall not be, and is not imposed upon any distilled spirits specifically mentioned in Section 24.2, Subdivisions (1) to (7) thereof.

Any claim for exemption from excise taxes under Section 24.2 must be made to the board in such manner as the board shall prescribe.

New section

SEC. 2. Section 24.26 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Sales for export

Sec. 24.26. In addition to the other privileges exercised under a wholesaler's or rectifier's license, a wholesaler or rectifier may sell the alcoholic beverage mentioned in his license to persons who take delivery of such alcoholic beverages within this State for delivery or use without the State within 30 days from the date of such sale in accordance with rules and regulations prescribed by the board.

New section

SEC. 3. Section 24.27 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Same

Sec. 24.27. Any person may, in accordance with rules and regulations to be prescribed by the board, purchase and take delivery of alcoholic beverages within this State for delivery or use without the State and may, without obtaining any license in this State export the same from this State within 30 days from the date of such purchase.

New section

SEC. 4. Section 24.28 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Declaration of intent

Sec. 24.28. The Legislature hereby declares that it intended, by the provisions of Section 24.2 of this act, as amended in 1937, to exempt sales of distilled spirits in this

State for delivery or use without this State, from the excise taxes imposed by Section 24 of this act. With respect to such sales heretofore or hereafter made, no distilled spirits excise tax shall be levied by the board where compliance has been made with rules and regulations adopted, or procedure established, by the board.

SEC. 8. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Tax levy

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CHAPTER 330

An act to add to the Code of Civil Procedure a new Section 1110b, relating to stay of execution.

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. A new section is hereby added to the Code of Civil Procedure, to be numbered 1110b, to read as follows: New section

1110b. If an appeal be taken from an order or judgment granting a writ of mandate the court granting the writ, or the appellate court, may direct that the appeal shall not operate as a stay of execution if it is satisfied upon the showing made by the petitioner that he will suffer irreparable damage in his business or profession if the execution is stayed. Effect of appeal in mandamus

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CHAPTER 331

An act to add to the Code of Civil Procedure Section 117ll, relating to the deposit of cash in lieu of bond on appeal in small claims courts.

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.]

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

SECTION 1. A new section is hereby added to the Code of Civil Procedure, to be numbered 117*ll* and to read as follows: New section

117*ll*. In lieu of the undertaking provided for in Section 117*l* the appellant may deposit with the clerk of the court a sum of money in lawful money of the United States equal to the amount required to be secured by the said undertaking; and such deposit shall be equivalent to such undertaking. Deposit instead of undertaking

CHAPTER 332

Stats 1913, p 1049, amended

An act to amend the County Water District Act, as amended, by amending Section 12, relating to powers of districts, amending Section 18, relating to right of ways, Section 19, relating to water rates and Section 25, relating to additions to districts; repealing Sections 12.1 and 22a; repealing and reenacting Section 52; and by adding Section 1.1 declaring districts public agencies, 10.1 relating to contracts between districts and their officers or directors, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 12.8½, 12.9, 12.10, 12.11, 12.12, 12.13, 12.14 and 12.15, relating to powers of districts, 14.1, relating to oaths, 14.2, relating to investment of funds, 16b, relating to callable bonds, 28.1, relating to findings on additions and exclusions of lands and 66 to 71, inclusive, relating to dissolution of districts.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

New section

SECTION 1. A new section is hereby added to the County Water District Act, as amended, to be numbered 1.1, and to read as follows:

Public use

Sec. 1.1. The use of all water required for the purposes of any district formed under the provisions of this act, together with all property and right of ways for carrying out the business of such districts is hereby declared to be a public use. Such districts are hereby declared to be public agencies of the State for the purpose of carrying out such public use.

New section

SEC. 2. A new section is hereby added to said act, as amended, to be numbered 10.1 and to read as follows:

Penalty

Sec. 10.1. No director or officer of any district shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such person shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Stats 1935, p 2108

SEC. 3. Section 12 of said act, as amended, is hereby amended to read as follows:

Powers of district

Sec. 12. Any county water district incorporated as herein provided shall have, among others, the following powers:

Stats 1937, p 1423

SEC. 4. Section 12.1 of said act, as added to said act by Chapter 475 of the Statutes of 1937, is hereby repealed.

New section

SEC. 5. A new section is hereby added to said act as amended, to be numbered 12.1 and to read as follows:

Same

Sec. 12.1. To have perpetual succession;

SEC. 6. A new section is hereby added to said act as amended, to be numbered 12.2 and to read as follows: New section

Sec. 12.2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction; Powers of district

SEC. 7. A new section is hereby added to said act, as amended, to be numbered 12.3 and to read as follows: New section

Sec. 12.3. To adopt a seal and alter it at pleasure; Same

SEC. 8. A new section is hereby added to said act, as amended, to be numbered 12.4 and to read as follows: New section

Sec. 12 4. To do any and every lawful act necessary to be done, that sufficient water may be furnished in said district for any present or future beneficial use or uses, including, without limiting the generality of the foregoing, irrigation, domestic, fire protection, power and other beneficial uses; Same

SEC. 9. A new section is hereby added to said act, as amended, to be numbered 12.5 and to read as follows: New section

Sec. 12.5. To take by grant, purchase, gift, devise, or lease, with the privilege of purchase, or otherwise; to hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers; Same

SEC. 10. A new section is hereby added to said act, as amended, to be numbered 12 6 and to read as follows: New section

Sec. 12.6. To construct, purchase, lease or otherwise acquire water works and other works and machinery, canals, conduits and reservoirs, and to purchase, lease or otherwise acquire water rights, storage sites, watersheds, lands, rights and privileges, useful or necessary to convey, supply, store or otherwise make use of water for any purposes authorized by this act, and to operate and maintain such water rights, water works, canals, conduits, reservoirs, storage sites, watersheds, works, machinery, lands, rights and privileges for the uses aforesaid for the benefit of the district; Same

SEC. 11. A new section is hereby added to said act, as amended, to be numbered 12.7 and to read as follows: New section

Sec. 12.7. To store water for the benefit of the district; to conserve water for future use; to appropriate, acquire and conserve water and water rights for any useful purpose; to commence, maintain, intervene in and compromise, in the name of the district, and to assume the costs of any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or a benefit to any land situated therein; to commence, maintain, intervene in, defend and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters used or useful for any purpose of the district or a common benefit to the lands within the district or its inhabitants; and to commence, maintain and Same

defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger the inhabitants or lands of the district;

New section SEC. 12. A new section is hereby added to said act, as amended, to be numbered 12.8 and to read as follows:

Powers of district Sec. 12.8. To sell water, or the use thereof, for any useful purposes; and whenever there is a surplus, to sell, or otherwise dispose of the same, to municipalities, or public agencies, or to consumers, located without the boundaries of the district;

New section SEC. 12.5. A new section is hereby added to said act, as amended, to be numbered 12.8½ and to read as follows:

Same Sec. 12.8½. To transfer, sell, lease, or convey to any municipal water district existing pursuant to the Municipal Water District Act of 1911 upon such terms and conditions as may be agreed upon by the board of directors of the county water district and the board of directors of the municipal water district any works, land, or structures within any improvement district formed pursuant to any of the provisions of this act, or to transfer to such a municipal water district upon like terms and conditions the proceeds of any bonds theretofore authorized by or for the improvement district;

Stats. 1911, p. 1290

New section SEC. 13. A new section is hereby added to said act, as amended, to be numbered 12.9 and to read as follows:

Same Sec. 12.9. To acquire by condemnation, in the manner and to the extent prescribed in Title 7, Part 3 of the Code of Civil Procedure, as now existing or hereafter amended, all property necessary or convenient for carrying out the purposes of this act;

New section SEC. 14. A new section is hereby added to said act, as amended, to be numbered 12.10 and to read as follows:

Same Sec. 12.10. To cooperate and contract with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted, authorizing or permitting such cooperation or contract for purposes of construction of works, whether for irrigation, drainage, flood control or for the development of electric or other power, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have all powers, rights and privileges possessed by irrigation districts and exercise such powers, rights and privileges in the same manner as irrigation districts, all as provided in that certain act of the Legislature of the State of California entitled "An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account

Stats. 1917, p. 213

of district lands; and to provide the manner and method of payment to the United States under such contract, and for the apportionment of assessments, and levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial review and determination of the validity of the proceedings in connection with such contract," approved May 5, 1917, as such act now exists or may hereafter be amended; provided, that if any section, subsection, sentence, clause or phrase of said act of May 5, 1917, is for any reason held to be unconstitutional, such decision shall not affect the validity of the adoption by reference herein of the remaining portions of said act of May 5, 1917, and the Legislature hereby declares that it would have referred to and incorporated by reference in this act the provisions of said act of May 5, 1917, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of said act of May 5, 1917, be declared unconstitutional; and provided further, that in any such contract made between a county water district and the United States, the lands which may be charged with any taxes or assessments under such contract shall be designated and described, and the contract shall not include any lands which are not susceptible of service with water from the water works or system contemplated under such contract. The proceedings for voting at an election upon a proposal to enter into such contract with the United States shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of bonds by county water districts. Notwithstanding any provision of said act of May 5, 1917, as such act now exists or may hereafter be amended, or any other provision of this act or other law, when any district has contracted with the United States under the provisions of this or any other act for the construction of works or for the acquisition, purchase, extension, operation or maintenance of such works or for water supply, then, in the event that the revenues of the district from water rates shall be, or in the judgment of the board of directors are likely to be, inadequate to pay all charges payable to the United States under such contract, and all charges for construction, acquisition, operation and maintenance of any irrigation, drainage, flood control or power system or works acquired or constructed under such contract, any tax or assessment, general or special, levied for the payment of any of said charges in any manner provided by law shall be levied only upon land exclusive of improvements and personal property in the portion of such district to be served with water under such contract as therein described or thereunder modified;

New section

SEC. 15. A new section is hereby added to said act, as amended, to be numbered 12.11 and to read as follows:

Powers of district

Sec. 12.11. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to

refund or retire any indebtedness or lien that may exist against the district or property thereof;

New section

SEC. 16. A new section is hereby added to said act, as amended, to be numbered 12.12 and to read as follows:

Powers of district

Sec. 12.12. To cause taxes to be levied for the purpose of paying any obligation of the district and to accomplish the purposes of this act;

New section

SEC. 17. A new section is hereby added to said act, as amended, to be numbered 12.13 and to read as follows:

Same

Sec. 12.13. To make contracts, employ labor and to do all acts necessary for the full exercise of the foregoing powers. The board of directors of the district may cause construction or other work to be performed or carried out by contract or by the district under its own superintendence.

New section

SEC. 18. A new section is hereby added to said act, as amended, to be numbered 12.14 and to read as follows:

Same

Sec. 12.14. To contract with the United States upon such terms as the board of directors may find to be to the best interest of the district, for permanent or temporary service of water to Indian lands lying within the exterior boundaries of the district;

New section

SEC. 19. A new section is hereby added to said act, as amended, to be numbered 12.15 and to read as follows:

Same

Sec. 12.15. To sell or lease any lands belonging to the district for oil, gas or other hydrocarbon substances or other minerals, when deemed by the board for the best interest of the district;

New section

SEC. 20. A new section is hereby added to said act, as amended, to be numbered 14.1 and to read as follows:

Administration of oaths

Sec. 14.1. Any member of the board of directors or the secretary shall have power to administer oaths and affirmations in connection with the taking of testimony at any hearing, investigation or other matter pending before said board.

New section

SEC. 21. A new section is hereby added to said act, as amended, to be numbered 14.2 and to read as follows:

Investment of surplus funds

Sec. 14.2. Authorized Investments. Any county water district which now has, or hereafter shall have, any money in any sinking fund established for the purpose of payment of any bonded or other indebtedness, or any surplus money in the treasury, not required for the immediate necessities of said district, is hereby authorized to invest such portion of any such moneys, as the board of directors of said district may deem wise or expedient, in any bonds already issued or hereafter issued by such district, or in any bonds already issued or hereafter issued by any school district situated in whole or in part within the county within which any part of such county water district is situated, or in any bonds already issued or hereafter issued by the State of California or the United States, or in any registered warrants already issued or hereafter issued by the State of California and such investment may be made by direct purchase of any bonds or registered warrants or part thereof at the original sale of such

bonds or registered warrants or by the purchase of such bonds or registered warrants after they have been thus issued. Any bonds or registered warrants thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds or registered warrants as above provided. Sales of any bonds or registered warrants thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money, with which the bonds or registered warrants were originally purchased, was placed in the treasury of such county water district.

SEC. 22. A new section is hereby added to said act, as amended, to be numbered 16b and to read as follows: New section

Sec. 16b. Any bonds, original or refunding, issued by the district may be made callable by resolution of the board of directors adopted at or prior to the time of issuing such bonds and providing for the calling and redemption of such bonds, in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at not exceeding the par value thereof and accrued interest. If any such bonds are so made callable, a statement to that effect shall be set forth on the face of the bond. Notice of any such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the county in which the office of the district is located. The first publication of such notice shall be not less than 30 nor more than 90 days prior to the date fixed for such redemption. After the date fixed for such redemption, if the district shall have provided funds available for payment of the principal and interest of the bonds so called, interest on such bonds shall thereafter cease. Call and redemption of bonds

SEC. 23. Section 18 of said act, as amended, is hereby amended to read as follows: Stats 1913, p 1061

Sec. 18. The board of directors shall have power to construct works along, under, or across any road, street, alley, avenue, or highway, or across any stream of water, water course, railway, canal, ditch or flume which the route of said works may intersect or cross; provided, such works are constructed in such manner as to afford security for life and property; and said board of directors shall restore any such crossings and intersections to their former state as near as may be, or in manner not to have impaired unnecessarily their usefulness. Every company whose right of way shall be intersected or crossed by said works shall unite with said board of directors in forming said intersections and crossings and grant the rights therefor. The right of way is hereby given, dedicated and set apart to locate, construct and maintain said works over and through any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to the municipalities within the State. Power to construct works across streets, etc

Right of way through State lands

Stats 1915, p 28

SEC. 24. Section 19 of said act, as amended, is hereby amended to read as follows:

Water rates

Sec. 19. The board of directors shall fix all water rates and shall through the general manager collect the same.

Said board may establish suitable rules and regulations for the sale, distribution and use of water and may therein provide that water shall not be furnished to persons against whom there are delinquent water rates.

Stats 1933, p 2262

SEC. 25. Section 22a of said act, as amended, is hereby repealed.

Stats 1935, p 2111

SEC. 26. Section 25 of said act, as amended, is hereby amended to read as follows:

Annexation of land to district

Sec. 25. Any portion of a county or of any municipality, or both, consisting of lands susceptible of service with water from works of the district, or practicable works in connection therewith, which lands will be benefited by such service and may consist of several parcels which are or are not contiguous with each other nor with the boundary of the district, may be added to any district organized under this act, at any time, in the following manner:

Petition

(a) A petition may be filed with the secretary of the board of directors, signed by a majority in number of the holders of title, or evidence of title, to the lands proposed to be added, who shall hold title or evidence of title, to a majority in acreage of said lands, containing a description of said lands sufficient to identify the same and praying that said lands be added to the district. Such petition may consist of one or more separate instruments and each signature thereto shall be acknowledged or proved in the manner required to entitle an instrument to be recorded. In all matters in this section referred to, the last equalized assessment roll of the county or counties in which said district is located shall be prima facie evidence as to the ownership of the lands and as to the names and number of the persons who are the holders of title or evidence of title to the lands covered by said petition. Guardians, executors, administrators, or other persons holding property in a trust capacity under appointment of court may sign any petition or protest provided for in this section, when authorized by an order of court, which order may be made without notice.

Or said petition may be signed by registered voters residing within the boundaries of the lands described in the petition equal in number to at least a majority in number of the registered voters residing within the boundaries of said lands. In the event said petition is signed by registered voters, and the owners of a majority in acreage of the land described in the petition shall file a written protest at or before the hearing hereinafter referred to, said lands shall not be added to the district.

Notice

(b) The secretary of the board of directors shall, commencing not later than 40 days after the filing of the petition, cause to be published in a newspaper printed and published

in the district, or a newspaper printed and published in the county, if there be no newspaper printed and published in the district, once a week for two successive weeks a notice stating the purpose of the petition and describing the lands proposed to be added and notifying all persons interested in or who may be affected by the proposed addition of said lands to the district to appear at the office of the board at a time named in such notice for the hearing of said petition and objections thereto and show cause in writing, if any they have, why said lands, or any part thereof, should not be added to the district. The time of hearing to be specified in said notice shall be that of the regular meeting of said board next after the expiration of the time for publication of said notice.

The secretary shall, within two days after first publication of said notice, send a copy thereof by mail to each person who has not signed the petition, to whom any lands proposed to be added to the district were assessed on the last equalized county assessment roll, at the address of such person appearing on said assessment roll. Irregularity or defect in mailing, or failure to mail such copies shall not in any manner impair nor invalidate the addition of such lands to the district. The petitioners shall advance to the secretary the cost of publication and mailing of such notice, and unless so advanced at the time of filing the petition, or provided by the board the secretary shall not publish nor mail the notice.

Hearing

(c) At the time of hearing specified in said notice, or other time to which the hearing shall be adjourned, the board of directors shall proceed to hear the petition and all written objections thereto and if said board shall find that said petition complies with the requirements of this act and that the addition to the district of the lands proposed to be added, or some portion thereof, is authorized by this act and will be for the best interest of the district, and of the lands to be added the board shall by ordinance declare that said lands, or said portion thereof, shall be added to the district. Said board shall not determine that only a portion of said lands shall be so added, unless the petitioners include a majority in number of the holders of title, or evidence of title to said portion of said lands and represent a majority in acreage thereof. The ordinance shall contain a description of the lands added to the district, sufficient to identify the same.

Addition of public lands of the United States

(d) The board of directors may, without petition, except as may be required by the laws of the United States, by resolution propose the addition to the district of any public lands of the United States which might, if privately owned, be added on petition. The secretary of said board shall thereupon cause publication of notice stating such proposal and otherwise complying with subdivision (b) of this section and said board shall hold a hearing pursuant to said notice and if said board shall find that all requirements of this act and

of the laws of the United States have been complied with and that the addition of said lands, or some portion thereof is authorized by this act and will be for the best interest of the district and of the lands to be added, the board shall by ordinance describe said lands, or portion thereof and declare that said lands, or said portion thereof, shall be added to the district.

Effective date of ordinance

(e) If no petition for the holding of an election for the disapproval and veto by the electors of any ordinance adding lands to the district be filed within the period provided by law, after the adoption of such ordinance, then said ordinance shall be effective.

Filing of copies of ordinance

(f) The president and secretary of the board of directors shall, if no petition for disapproval and veto of such ordinance is filed within the time provided by law, or if such petition is filed and upon the election the electors shall not disapprove and veto said ordinance, file with the Secretary of State and with the county recorder of the county in which said district is located certified copies of said ordinance and certificates stating said facts and the Secretary of State shall, within 10 days after receipt of such papers, issue his certificate, reciting the addition to the district of the lands so added and describing the same and shall transmit to and file with the county clerk of the county in which said district is located a certified copy of said certificate. From and after the date of said certificate the lands therein described shall be deemed added to the district and form a part thereof, and shall be subject to existing bond issues and indebtedness of the district.

New section

SEC. 27. A new section is hereby added to said act, as amended, to be numbered 28.1 and to read as follows:

Effect of finding of sufficiency of petition

Sec. 28.1. A finding by the board of directors in favor of the genuineness and sufficiency of the petition for addition of land to, or exclusion of land from, the district, or in favor of the sufficiency of the notice of hearing of such petition, shall be final and conclusive against all persons except the State of California upon suit commenced by the Attorney General. Any such suit must be commenced within six months after the adoption of the ordinance adding land to, or excluding land from, the district and not thereafter.

Stats 1935, p 2115 New section

SEC. 28. Section 52 of said act, as amended, is hereby repealed and a new section is hereby added to said act, to be numbered 52 and to read as follows:

Lands added which were public lands when district organized

Sec. 52. All lands which are now privately owned and situate within the exterior boundaries of any district organized and existing under this act but which were public lands of the United States or lands of this State at the time of the organization of such district and have not heretofore been added to such district are hereby added to such district. The Legislature hereby finds and determines that all such lands are and will be benefited by the organization, existence and operation of such district.

SEC. 29. A new section is hereby added to said act, as amended, to be numbered 66 and to read as follows: New section

Sec. 66. Any county water district may be dissolved in the following manner: A petition shall be filed with the secretary of the board of directors of such district, signed by 40 per cent of the electors of the district, or by the owners of 40 per cent in assessed value of lands and improvements in said district, and the last great register and last equalized assessment roll of the county or counties in which said district is located, shall be prima facie evidence of the number and names of the electors, the value of the lands and improvements in said district, the ownership thereof and the values of the individual parcels. Each signature to such petition shall be acknowledged in the manner required by law to entitle instruments to be recorded. Dissolution of district

SEC. 30. A new section is hereby added to said act, as amended, to be numbered 67 and to read as follows: New section

Sec. 67. Said petition shall state the following facts: Contents of petition

1. When the district was organized.

2. Whether the district is or is not serving consumers.

3. Whether there is or is not a bonded indebtedness, and if there is a bonded indebtedness, the unpaid balance thereof and the amount of matured bonds.

4. The amount of indebtedness other than that represented by bonds, or that there is no such indebtedness.

The books and records of the district shall be prima facie evidence of the facts hereinabove required to be stated.

SEC. 31. A new section is hereby added to said act, as amended, to be numbered 68 and to read as follows: New section

Sec. 68. In the event the indebtedness of the district exceeds 10 per cent of the assessed value of the taxable property therein as shown by the last equalized assessment roll of the county or counties in which said district is located, then the petition must be signed by the owners of 40 per cent in assessed value of the lands and improvements in the district in the manner above provided for. Signatures in certain cases

SEC. 32. A new section is hereby added to said act, as amended, to be numbered 69 and to read as follows: New section

Sec. 69. Upon receipt of the petition the secretary of the board of directors of such district shall publish a notice once a week for two weeks in a newspaper published in the district, or if there is no newspaper published in the district, in a newspaper published in a county in which the district or a part thereof is located, stating that such petition has been filed with the board of directors of the district, and that the board will hear said petition and all objections thereto at the next regular meeting of said board after the expiration of the time of publication of said notice (specifying the time and place) and directing all persons interested therein to show cause at such time and place, if any they have, why an election should not be held on the question of the dissolution of the district. At Notice of hearing

Hearing the hearing, or any adjournment thereof, the board of directors shall take evidence upon and hear said petition, and all persons appearing thereon, either for or against the holding of such election, and if the provisions of this act have been complied with, the board shall by resolution so determine and provide for and order the holding of a special election in the district within 60 days thereafter, and shall submit to the qualified electors of the district the proposition whether or not the district shall be dissolved. The board may adjourn said hearing from time to time, not exceeding in all 60 days. The resolution shall recite the filing of the petition for dissolution,

Election and fix a time for the holding of such election. Such election shall be noticed, conducted, and the returns thereof made and canvassed, in the same manner as is provided in this act for the election upon the question whether or not the district should be organized, excepting that the ballots to be used at said election shall contain the words, "Shall the _____ County Water District be dissolved?" "Dissolution of district _____ Yes" or "Dissolution of district _____ No," or words equivalent thereto. The board of directors and secretary of the district shall act in the conduct of said election in the place of the board of supervisors and county clerk. If votes representing 60 per cent of the total number of votes cast are in favor of the dissolution of such district, then the

Resolution of dissolution board of directors shall by resolution enter an order to that effect upon its minutes and shall declare such district dissolved, and upon the entry of such order said district shall be dissolved. A certified copy of said resolution shall be filed with the Secretary of State of the State of California and recorded with the county recorder of each county in which any part of said district is located. If the proposition to dissolve the district is not favored at the election by the necessary number of voters, no new petition for dissolution shall be filed within one year after the election.

New section SEC. 33. A new section is hereby added to said act, as amended, to be numbered 70 and to read as follows:

Outstanding indebtedness Sec. 70. If there shall be any outstanding indebtedness of the district at the time of the order for the dissolution thereof such indebtedness shall be paid in the following manner: If the district has any assets, the ownership thereof shall vest in the board of supervisors of the county in which such district is located or if located in more than one county, in the board of supervisors of the county in which the greatest valuation of lands and improvements is located as shown by the last equalized assessment rolls. Such board of supervisors shall cause the assets to be sold, and the receipts therefrom shall be used to pay the indebtedness of the district as it matures; and if there is an insufficient amount to pay the indebtedness, the board of supervisors of the county or counties in which said district is, or parts thereof are, located shall from time to time cause taxes to be levied on the property in said district liable

to taxation for such indebtedness and collected in a sufficient amount to pay the balance of said indebtedness as it matures. In the event that the receipts from the sale of the assets of said district at the time of the dissolution is more than sufficient to pay its indebtedness, the remaining amount shall be paid into the general funds of the county or counties in which any part of the district lies in the same proportion that the assessed values of the lands and improvements (according to the last equalized assessment rolls) within the district in each of said counties bear one to the other.

SEC. 34. A new section is hereby added to said act, as amended, to be numbered 71 and to read as follows: New section

Sec. 71. No county water district shall be dissolved so long as there is any unmatured bonded indebtedness outstanding. Prohibition of dissolution

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CHAPTER 333

An act to add Section 2901 to the Health and Safety Code, relating to annexation of land to pest control districts. Stats 1939, p 482, amended

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2901 is hereby added to the Health and Safety Code, to read as follows: New section

2901. At any time after the incorporation of a district, upon application of such persons as could have initiated proceedings for the formation of a district composed of the land sought to be annexed, land contiguous to the district may be annexed by the board of supervisors upon like procedure, notice, and hearing as provided for formation of a district. Annexation of land

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CHAPTER 334

An act to amend Section 2871 of, and to add Sections 2822.5, 2871.5, 2871.7 and 2875 to, the Health and Safety Code, relating to pest abatement districts. Stats 1939, p 482, amended

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2822.5 is hereby added to the Health and Safety Code, to read as follows: New section

2822.5. The petition shall state the basis on which the property in the district shall be taxed for district purposes which Basis of taxation

shall be either on the basis of area or on the basis of assessed valuation.

Stats 1939, p 545

SEC. 2. Section 2871 of said code is hereby amended to read as follows:

Levy of tax

2871. The board of supervisors shall levy, annually, a tax sufficient to raise the amount required for the purposes of the district. If the rate has been fixed by the organization petition, the rate fixed by the board shall not exceed that rate.

New section

SEC. 3. Section 2871.5 is hereby added to said code, to read as follows:

Assessment roll

2871.5. If the petition states that the property shall be taxed on the basis of area, the rate shall be uniform and based on area of land, regardless of assessed valuation. The county assessor of each county shall prepare an assessment roll showing the names and addresses and the acreage owned by each person owning land within a district, which roll shall be the basis for the tax provided for herein.

New section

SEC. 4. Section 2871.7 is hereby added to said code, to read as follows:

Determination of tax rate

2871.7. If the petition states that the property shall be taxed on the basis of assessed valuation, the board shall determine the rate of the tax by deducting 15 per cent from the total assessed value of the property in the district appearing upon the assessment roll and then dividing the amount required to be raised by the remainder of the assessed value.

New section

SEC. 5. Section 2875 is hereby added to said code, to read as follows:

Change of tax basis

2875. Upon application of registered voters in the district equal to the number required for a petition to initiate proceedings for the organization of the district and after notice published as prescribed for notice of hearing on a petition for organization and a hearing on the matter, the board may change the basis upon which the property in the district shall be taxed from one permitted basis to the other. Thereafter in ensuing tax periods the basis as changed shall be the basis of taxation for the district.

CHAPTER 335

An act to amend Sections 5, 7 and 17 of an act entitled "An act to provide for the organization and government of drainage districts, for the drainage of agricultural lands, other than swamp and overflowed lands, to provide for the acquisition or construction thereby of works for the drainage of the lands embraced within such districts, and to provide for the borrowing or procuring of money from the United States or any agency thereof, and the entering into contracts, and for the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof," approved March 20, 1903, relating to drainage districts, including the qualifications of district directors, the qualifications of electors, the qualifications of directors when such directors are elected to represent divisions of the district, and the qualifications of electors entitled to vote for directors who are elected by divisions.

Stats 1903, p 291, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1903, p 292

Sec. 5. When, under the provisions of the preceding sections, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into three or five divisions, as nearly equal in size as practicable, which divisions shall be numbered consecutively and one director, who shall be an elector and freeholder of the division, shall be elected, as hereinafter provided, by each division; provided that, when requested in the petition, three directors, who shall be electors and freeholders of the district, shall be elected at large by the qualified electors of the district.

District directors

SEC. 2. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1903, p 293

Sec. 7. Any person, firm, or corporation owning any real property or the improvements thereon, or any interest in real property or the improvements thereon (but not including personal property), situate within the exterior boundaries of the district, which is assessed for taxation on the last preceding equalized assessment roll of the county in which the land is situated (and only the owners of property so assessed) shall be entitled to vote at such election, or at any subsequent election, special or general, for the election of directors, or for any other purpose pertaining to the affairs of such a district. Each property owner, so qualified to vote, shall be entitled to cast one vote for each one hundred dollars ($100) of assessed valuation or fraction thereof, greater than fifty dollars ($50), as the same appears to have been assessed on

Voters

Voters the equalized county assessment roll last preceding the holding of the election. In determining the total number of votes any voter is entitled to cast, the total assessed value of all parcels owned by the voter shall be divided by 100, and the quotient shall determine the number of votes. Any property owner, whose property has an assessed valuation of fifty dollars ($50), or less, shall be entitled to one vote.

For the purpose of determining who is entitled to vote, and the number of votes each voter is entitled to cast, the board or boards of supervisors of the county or counties, in which the lands of any such proposed district, or any such district, or any part thereof, may be situate, shall cause to be prepared, certified, and furnished to the election board at each polling place in the district, at the cost or expense of the district, a true and correct copy of the next preceding equalized assessment roll or rolls of such county or counties as far as any such assessment roll may apply to any lands or improvements thereon, or interest therein, situate within such proposed district or such district.

Such certified assessment rolls shall be used by the election boards, at the election for which the same are furnished, in determining the number of votes each voter is entitled to cast.

Executors, administrators, special administrators and guardians may cast the vote of the estate represented by them. If the property is assessed in the name of such representatives, that fact shall establish the right of such representatives to vote; if assessed in the name of the decedent, minor or incompetent person, certified copies of the letters or such other evidence as may be satisfactory to the board must be produced by the voter.

The board shall likewise be entitled to inquire and take evidence for the purpose of identifying any person claiming the right to vote as being the person shown on the assessment roll or otherwise as entitled to vote. And, unless satisfactory evidence is furnished of the right to vote, the request to vote may be denied.

Where land is assessed to unknown owners, the production of a duly recorded or other transfer or conveyance, accompanied by a certificate of a searcher of title certifying that a search of the official records of the county since the date of the deed discloses no conveyance or transfer out from the grantee or transferee named in said instrument, shall entitle said grantee or transferee to vote.

Where property appears to be owned in common or jointly, or where letters of representatives of decedents, minors, or guardians are joint, any one of the owners or representatives may cast all votes which such joint owners or representatives are entitled to vote; provided, the party claiming the right to vote for all produces the written consent of his co-owners or representatives so to do, duly acknowledged by the consenting co-owners or representatives in the manner that deeds of real property are required to be acknowledged to entitle such

deeds to be recorded in the recorder's office of the county in which said property is situated. If such consent is not produced, then the number of votes shall be apportioned to each owner or representative claiming the right to vote, according to the proportionate ownership or representation shown on the assessment roll, if such proportion is shown. If such proportionate ownership or representation is not so shown, it shall be presumed that such ownership or right of representation is equal, and the voting right determined accordingly. Voters

Where property is assessed in the name of a trustee or trustees, such trustee or trustees shall be deemed to be the person entitled to vote the same, and if assessed in the name of more than one trustee the voting right shall be determined in like manner as above provided with respect to co-owners.

The vote of any public or quasi public corporation, private corporation or unincorporated association, may be cast by any person authorized by the board of directors or trustees or other managing body thereof, which authorization shall be in writing, and a proxy executed by an officer or officers thereof, attested by its seal and duly acknowledged, shall constitute sufficient evidence of such authority, and shall be filed with the board of election. Any member of any partnership firm may vote in behalf of such firm.

All parties entitled to vote may have their votes cast by proxy, but no person shall vote by proxy unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property, and filed with the board of election. Proxies

The owner of any real property or interest therein, appearing upon the assessment roll, which has been assessed in the wrong name, or which has passed from the owner appearing as such on the last equalized assessment roll, since the same was made, shall be entitled to cast the votes represented thereby, either by the production of a proxy from such former owner, or by furnishing evidence of his ownership by a conveyance duly acknowledged showing the title to be vested in the person claiming the right to vote, accompanied by a certificate of a competent searcher of titles, certifying that a search of the official records of the county where said property is situate, since the date of the conveyance, discloses no conveyance or transfer out from the grantee or transferee named in the conveyance.

Where the property has been contracted to be sold, the vendee shall be entitled to cast the ballots, unless such property is assessed in the name of the vendor, in which event the vendor shall be entitled to cast the vote or votes represented thereby.

All instruments evidencing or supporting a claim of right to vote shall likewise be filed with the election board. If the proposal to create any such district shall not be approved, at any election held therefor upon the formation thereof, all such documents shall be delivered, for preservation, to the board of

supervisors of the county in which the proceedings for the formation of such district are being held. At all other elections, all such documents shall be delivered, for preservation, to the board of directors of the district.

Ballots

As each voter establishes his right to vote, and the number of votes to which he is entitled is determined, there shall be delivered to him as many ballots as he is entitled to votes, or, at his request, one ballot representing such votes, as next hereinafter provided. In order to simplify the voting, and avoid the necessity of a voter having a large number of votes, stamping numerous ballots, one member of the board of election, in the presence of the voter and other members, at the request of the voter, shall write upon the ballot or ballots, delivered to him, the number of votes which such voter is entitled to cast, and, after the voter has voted, it shall be then the duty of the election board to examine all ballots which said voter shall desire to cast, and see that they are the same ballots which were delivered to the voter, and correctly represent the number of votes such voter is entitled to cast, before the same shall be passed into the ballot box.

Stats 1929, p 1380

SEC. 3. Section 17 of the act cited in the title hereof is hereby amended to read as follows:

Biennial election of directors

Sec. 17. In each district organized as herein provided, an election shall be held on the first Wednesday in February of each odd-numbered year, at which shall be chosen a successor to each director whose term of office shall expire in March next thereafter. The person receiving the highest number of votes for each office to be filled at said election shall be elected thereto. A director shall be an elector and freeholder of the district, if the directors are elected at large, and shall be an elector and freeholder of the division which the director shall be elected to represent, if directors are elected by divisions. In a district in which the directors are elected by divisions, no one shall be entitled to vote for a director for a division who is not the owner of real property situate in such division, or some improvement thereon, or some interest therein or in such improvement, as provided in Section 7 of this act, as amended. All owners of such property shall be entitled to vote at such election. The number of votes which any such property owner, in any such division, shall be entitled to vote, shall be determined according to the assessed valuation of the property of such voter situated in such division, in the manner provided in Section 7 of this act, as amended.

If the directors are elected at large, each qualified elector of the district may vote, for each director to be elected, as many votes as he may be entitled to vote in accordance with the assessed valuation of his property in the district, as hereinbefore provided.

Director's oath and bond

Within 10 days after receiving their respective certificates of election each person elected a director shall qualify as such by taking and subscribing the official oath and executing an

official bond in the sum of one thousand dollars ($1,000), which shall be approved by a judge of the superior court. Such oath and bond shall be in the form prescribed by law for public officers, and shall be filed with the secretary of the board of directors. Each such bond shall be recorded in the office of the county recorder of the county where the organization of the district was effected. If a vacancy shall occur in the office of director, the same shall be filled by appointment by the board of supervisors of the county in which the organization of the district was effected. Such appointee shall qualify as herein provided within 10 days after receiving notice of his appointment and shall hold office for the unexpired portion of the term of his predecessor. All directors shall hold office until their successors are elected and shall have qualified.

Vacancies
How filled

CHAPTER 336

An act to amend Section 162 of the Probate Code, relating to interest on deferred legacies.

Stats 1931, p 587, amended

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 162 of the Probate Code is hereby amended to read as follows:

Stats 1931, p 595

162. Legacies are due and deliverable one year after the testator's death, and bear interest from that time on and after the effective date of this act at the rate of 4 per cent per annum, except that legacies for maintenance, or to the testator's widow, bear like interest from the testator's death. Annuities commence at the testator's death.

When legacies due

Interest

CHAPTER 337

An act to amend Section 29 of the Civil Code, relating to rights of unborn children, and providing for limitation of actions for prenatal injuries and injuries sustained in the course of birth.

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 29 of the Civil Code is hereby amended to read as follows:

1872 Code

29. A child conceived, but not yet born, is to be deemed an existing person, so far as may be necessary for its interests in the event of its subsequent birth; but any action by or on

Unborn child

Statute of limitations

behalf of a minor for personal injuries sustained prior to or in the course of his birth must be brought within six years from the date of the birth of the minor, and the time such minor is under any disability mentioned in Section 352 of the Code of Civil Procedure shall not be excluded in computing the time limited for the commencement of the action.

CHAPTER 338

Stats 1935, p 248, amended

An act to add Section 203.5 to the Streets and Highways Code, relating to funds paid to cities.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

New section

SECTION 1. Section 203.5 is hereby added to the Streets and Highways Code, to read as follows:

Exclusion for certain purposes

203.5. All moneys allocated and paid to cities for expenditure by them within city limits pursuant to Sections 196 and 198 or Section 203 shall be excluded in making the computations required by Section 695 of the Political Code, as added by Chapter 923, Statutes of 1933.

Stats 1933, p 2399

CHAPTER 339

Stats 1935, p 248, amended

An act to amend Section 1623 of the Streets and Highways Code, relating to expenditures by a county out of its special road improvement fund for streets, bridges and culverts in cities within the county.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

Stats 1937, p 697

SECTION 1. Section 1623 of the Streets and Highways Code is hereby amended to read as follows:

Expenditure in cities

1623. The board of supervisors of any county may expend any portion of the amounts thus received by that county in the construction, maintenance, improvement or repair of streets, bridges, and culverts within those cities in the county the governing bodies of which by ordinance or resolution authorize such work of acquisition of any real property or interest therein, or rights of way, construction, maintenance, improvement or repair. For this purpose each board of supervisors shall provide by ordinance the basis and conditions upon which allocations will be made from its special road improvement fund for expenditure upon streets, bridges, and culverts in cities within the county.

CHAPTER 340

An act to amend Sections 7302, 7321, 7324, 7330, 7331, 7332, 7334, 7351, 7360, 7372, 7373, 7376, 7382, 7383, 7391, 7393, 7394.5, 7396, 7399, 7412, 7431, 7436 and 7437 of, to repeal Article 13, comprising Sections 7450 to 7457, inclusive, of, and to add Section 7329 to Article 3 of Chapter 10 of Division 3 of the Business and Professions Code, relating to the practice, the training for and government of, cosmetology.

Stats 1937, p 1229, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 7302 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 1399

7302. No person is eligible for appointment as a member of the board:

Qualifications of members

(a) Who is not registered as a hairdresser and cosmetician or cosmetologist manager-operator under this chapter.

(b) Who is connected, directly or indirectly, with any school of cosmetology.

(c) Who is not, at the time of appointment, either actually engaged in conducting a cosmetological establishment, or actually engaged in the practice of cosmetology.

(d) Who is not of good moral character.

(e) Who is connected, directly or indirectly, in the wholesale business of the manufacture, rental, sale or distribution of cosmetological appliances or supplies.

(f) Who has not had at least five years experience in the actual practice of all branches of cosmetology, except electrology, in this State immediately prior to the appointment.

(g) Who is not at least 25 years of age.

At all times the personnel of the board shall be so constituted that two graduates of the same school of cosmetology shall not be members at the same time.

SEC. 2. Section 7321 of said code is hereby amended to read as follows:

Stats 1939, p 399

7321. The art of cosmetology includes any and all and any combination of the following practices:

Art of cosmetology

(a) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, singeing, bleaching, tinting, coloring, straightening, dyeing, brushing, beautifying or otherwise treating by any means the hair of any person.

(b) Massaging, cleaning or stimulating the scalp, face, neck, arms, bust or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(c) Beautifying the face, neck, arms, bust or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(d) Removing superfluous hair from the body of any person by the use of electrolysis or by the use of depilatories or by the use of tweezers, chemicals, preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

(e) Cutting, trimming, polishing, tinting, coloring, cleansing or manicuring the nails of any person.

(f) Massaging, cleansing, treating or beautifying the hands of any person.

Stats 1939, p 399

SEC. 3. Section 7324 of said code is hereby amended to read as follows:

Exemptions

7324. The following persons are exempt from this chapter:

(a) All persons authorized by the laws of this State to practice medicine, surgery, dentistry, pharmacy (including those employed in pharmacies), osteopathy, chiropractic, naturopathy or chiropody.

(b) Commissioned officers of the Medical Corps of the United States Army, Navy or Marine Hospital Service or Public Health Service when engaged in the actual performance of their official duties, and attendants attached to these services.

(c) Barbers, in so far as their usual and ordinary vocation and profession is concerned when engaged in any of the following practices:

(1) Arranging, dressing, curling and waving (except permanent waving), cleansing, cutting or singeing the hair of any person.

(2) Massaging, cleansing, stimulating, exercising or similar work upon the scalp, face or neck of any person, with the hands or with mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

New section

SEC. 3.5. Section 7329 is hereby added to Article 3 of Chapter 10 of Division 3 of said code, to read as follows:

Manager-operator

7329. A manager-operator is a licensed hairdresser and cosmetician or cosmetologist authorized to engage in the practice of cosmetology independent of personal supervision.

Stats 1939, p 400

SEC. 3.6. Section 7330 of said code is hereby amended to read as follows:

Cosmetologists

7330. A hairdresser and cosmetician or cosmetologist is any person who engages, under the immediate supervision of a licensed hairdresser and cosmetician or cosmetologist manager-operator, in the practice of cosmetology, except the branch of electrolysis.

SEC. 4. Section 7331 of said code is hereby amended to read as follows: Stats 1939, p. 400

7331. A junior operator is any person who is engaged in learning or acquiring a knowledge of the occupations of a hairdresser and cosmetician or cosmetologist, in a licensed cosmetological establishment, under a licensed hairdresser and cosmetician or cosmetologist manager-operator. Junior operator

SEC. 5. Section 7332 of said code is hereby amended to read as follows: Stats 1939, p. 1400

7332. The board shall admit to examination for a certificate of registration and license as a hairdresser and cosmetician or cosmetologist, at any meeting of the board duly held for the purpose of conducting examination, any person, a resident of this State, who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows: Cosmetologists' examinations

(a) Who is not less than 18 years of age.

(b) Who is of good moral character and temperate habits.

(c) Who has completed the tenth grade in the public schools of this State or its equivalent.

(d) Who has had any one of the following:

(1) Training of at least 1,600 hours, extending over a school term of nine months in a school of cosmetology approved by the board.

(2) Practice of the occupations of a hairdresser and cosmetician, or cosmetologist, for a period of four years.

(3) Service for at least two years as a licensed junior operator in a licensed cosmetological establishment in which all of the occupations of a hairdresser and cosmetician or cosmetologist are practiced.

SEC. 6. Section 7334 of said code is hereby amended to read as follows: Stats 1939, p 1401

7334. A licensed junior operator may engage in any one or any combination of the occupations of a hairdresser and cosmetician or cosmetologist upon a patron who is paying for service or materials, under the immediate supervision of a licensed hairdresser and cosmetician or cosmetologist manager-operator in a licensed cosmetological establishment only after he has had 350 hours of instruction. Authority

Every junior operator shall secure his license as a hairdresser and cosmetician or cosmetologist within three years and six months of receiving his license as a junior operator.

SEC. 7. Section 7351 of said code is hereby amended to read as follows: Stats 1939, p 1401

7351. The board shall admit to examination for a certificate of registration and license as a manicurist, any person Manicurists' examinations

who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) Who is not less than 18 years of age.

(b) Who is of good moral character and temperate habits.

(c) Who has completed the tenth grade in the public schools of this State or its equivalent.

(d) Who has had any one of the following:

Professional training

(1) Practical training of at least 350 hours extending over a period of not less than three months under the immediate supervision of a licensed instructor, in a licensed school in which the practice is taught.

(2) Practice in manicuring for a period of two years.

Stats 1939, p 402

SEC. 8. Section 7360 of said code is hereby amended to read as follows:

Permanent waves

7360. A permanent waver is any person who engages in the occupation of waving the hair by the use of permanent waving machines or machineless methods and including the cleansing and dressing of the hair necessary thereto.

Stats 1939, p 1402

SEC. 9. Section 7372 of said code is hereby amended to read as follows:

Cosmetologists' examinations

7372. Examinations for certificates of registration and license as hairdressers and cosmeticians or cosmetologists shall include practical demonstrations in shampooing the hair, haircutting, hairdressing, marcel waving, permanent waving, wet hairdressing, water waving, hair coloring, manicuring and facial and scalp massage with the hands. They shall also include written and oral tests in antisepsis, sterilization, sanitation and the use of mechanical apparatus and electricity as applicable to the practice of the occupations of a hairdresser and cosmetician or cosmetologist. They may include such other demonstrations and tests as the board, in its discretion, may require. The scope of examinations in any other branch of cosmetology shall be such as the board, in its discretion, may require.

Stats 1939, p 1402

SEC. 10. Section 7373 of said code is hereby amended to read as follows:

Certificates of registration and license

7373. Every applicant for a license as a hairdresser and cosmetician or cosmetologist satisfactorily passing the examination conducted by the board to determine his fitness to engage in the practice of the occupations of a hairdresser and cosmetician or cosmetologist, shall receive from the board a certificate of registration and license as a hairdresser and cosmetician or cosmetologist.

This license, except for renewal fees, entitles the holder, without additional cost, to engage in the practice of the occupations of a hairdresser and cosmetician or cosmetologist upon the public under the immediate personal supervision of a licensed hairdresser and cosmetician or cosmetologist manager-operator for a period of one year. During this period, the licensee shall not be entitled to manage a cosmetological establishment nor to engage in the practice of cosmetology independent of the supervision of a licensed hairdresser and cosmetician or cosmetologist manager-operator.

At the end of the period the board shall issue without examination a certificate of registration and license as a hairdresser and cosmetician or cosmetologist and designating the holder as a manager-operator.

SEC. 11. Section 7376 of said code is hereby amended to read as follows: Stats 1939, p 1403

7376 If an applicant for a certificate of registration and license as a hairdresser and cosmetician or cosmetologist or for a certificate of registration and license as a manicurist or for a certificate of registration and license as an electrologist fails to pass two examinations, he shall complete a further course of study in a school of cosmetology approved by the board before he is eligible to file another application for an examination to determine his fitness to receive a certificate. Reexamination: Eligibility

The further course for hairdresser and cosmetician or cosmetologist applicants shall be not less than 500 hours extending over a period of not less than three months. The further course for manicurist applicants shall be not less than 50 hours extending over a period of not less than one month. The further course for electrologist applicants shall be not less than 75 hours over a period of not less than one month.

SEC. 12. Section 7382 of said code is hereby amended to read as follows: Stats 1939, p 405

7382. A cosmetological establishment shall, at all times, be in charge of and under the immediate supervision of a licensed hairdresser and cosmetician or cosmetologist manager-operator. Supervision

SEC. 13. Section 7383 of said code is hereby amended to read as follows: Stats 1939, p. 405

7383. It is unlawful for any person to employ, or to allow to be employed in or about a cosmetological establishment as a hairdresser and cosmetician or cosmetologist manager-operator, as a hairdresser and cosmetician or cosmetologist, as a junior operator, as a permanent waver, as an electrologist, as a junior electrologist or as a manicurist, any person not duly registered or licensed by the board. Personnel employed

Any persor violating the provisions of this section is guilty of a misdemeanor.

Stats 1939, p. 406

SEC. 14. Section 7391 of said code is hereby amended to read as follows:

License required

7391. Any person, firm or corporation desiring to conduct a school of cosmetology shall make an application to the board for a certificate of registration and license. The application shall be accompanied by the annual registration fee.

If the application is made between the first day of October and the first day of October following, there shall be paid to the board that portion of the registration fee which the unexpired number of months in the year bears to the entire year including the month in which the application is made and in such cases the board shall issue a license for the fractional part of the year.

Stats. 1939, p 1403

SEC. 15. Section 7393 of said code is hereby amended to read as follows:

Supervision

7393. Every school shall, at all times, be in charge of and under the immediate supervision of a licensed hairdresser and cosmetician or cosmetologist manager-operator, who has had at least a total of three years practical experience in the practice or teaching of all of the branches of cosmetology, except the branch of electrology, in a licensed cosmetological establishment or a licensed school of cosmetology and who holds an instructor's permit.

Instructors

Every person employed in a school to instruct students therein shall be a licensed hairdresser and cosmetician or cosmetologist (1) who has had either (a) one year of practical experience in all branches of cosmetology, except the branch of electrology, in a licensed cosmetological establishment or (b) 600 hours of teacher training in a school of cosmetology over a period of not less than four months and (2) who has passed an instructor's examination given by the board and has received an instructor's permit. In order to take the instructor's examination, the instructor's examination fee shall be paid.

All instructors shall be continuously engaged in teaching students in theoretical or practical work. Except when instructing a student and the student is doing the manual work, no instructor may practice upon a patron and any instructor who does so is subject to disciplinary action by the board.

Every school shall have at least two instructors and when the enrollment averages more than 50 students for a period of three months, an additional instructor shall be engaged for each three months average of 25 students after the first 50.

Inspection

Before any school license, as provided herein shall be finally granted, a second inspection shall be made after the equipment

has been installed and before the school is permitted to begin operation.

Equipment

No applicant shall be granted a license to operate a school unless, in the opinion of the board, sufficient equipment has been installed for the requirements of enrolling a minimum of not less than 25 bona fide students; and provided further, that the floor space shall provide a separate lecture room and a separate locker room with sufficient space for the proper placement of said equipment.

Verification of statements

No school shall be licensed until the board has had ample opportunity to verify sworn statements as to the actual ownership and in this respect, if false statements are submitted to the board in connection with said application, this in itself shall constitute sufficient grounds for the refusal to grant any application hereunder, or if an application is granted and thereafter the board discovers that false statements were made in connection therewith, this shall constitute sufficient grounds for the cancellation of said school license even though it is detected after a license has been issued.

Personal integrity

The board reserves the right to deny school license to any applicant who fails to present satisfactory evidence of personal integrity and moral responsibility, and in the event that the said applicant is a corporation, this shall apply to all the officers thereof; provided further, that no school license shall be issued until the real owner files with the department a statement definitely designating who is authorized to accept service of notice from the said board and to transact all business negotiations in behalf of the said school, including answers to citations for hearing, and compliance with rulings issued by the said board.

Verified applications for enrollment

No person, firm or corporation shall be granted a license to operate a school of cosmetology unless he first presents to the board 25 verified applications for enrollment as students for a course of training of the minimum number of hours and months required by this chapter.

No school shall advertise student work to the public for pay through any medium including radio.

Stats 1939, p 1404

SEC. 16. Section 7394.5 is hereby amended to read as follows:

Credit for special course hours

7394.5. Where a student completes the required number of hours for a special course and re-enrolls for a general course or where a student transfers from a special course to a general course prior to completion of the special course, he shall be given credit for the number of hours spent in connection with the special course, but not to exceed the maximum hours required therefor, toward the satisfaction of the time required for the general course as determined by rules and regulations of the board.

Stats 1939, p 406

SEC. 17. Section 7396 of said code is hereby amended to read as follows:

Staff

7396. Every school shall attach to its staff of instructors a regularly licensed physician and surgeon, and shall maintain licensed instructors competent to impart instruction in all the branches or practices of cosmetology.

Stats 1939, p 407

SEC. 18. Section 7399 of said code is hereby amended to read as follows:

Fee for teaching

7399. Every person, firm or corporation exacting a fee for the teaching of any branch of cosmetology is classed as a school of cosmetology under this article and is required to comply with all of its provisions.

Stats 1939, p 407

SEC. 19. Section 7412 of said code is hereby amended to read as follows:

Change of address

7412. Every registered hairdresser and cosmetician or cosmetologist manager-operator, hairdresser and cosmetician or cosmetologist, junior operator, electrologist, junior electrologist, manicurist and permanent waver, shall, within 30 days after changing the address of his place of business, as designated on the books of the board, notify the secretary of his new place of business, and, upon receipt of the notification, the secretary shall make the necessary changes in the register.

Stats 1939, p 409

SEC. 20. Section 7431 of said code is hereby amended to read as follows:

Grounds for disciplinary action

7431. The grounds for disciplinary action are as follows:

(a) Failure of a person, firm or corporation operating a cosmetological establishment or school of cosmetology or engaged in the practice of cosmetology or any of its branches to comply with the requirements of this chapter.

(b) Failure to comply with the rules governing sanitary conditions, adopted by the board and approved by the State Department of Public Health, for the regulation of cosmetological establishments, schools of cosmetology or the practice of the occupations of a hairdresser and cosmetician or cosmetologist.

(c) Obtaining practice in cosmetology, or any branch thereof, or money, or any other thing of value, by fraudulent misrepresentation.

(d) Gross malpractice.

(e) Continued practice by a person knowingly having an infectious or contagious disease.

(f) Habitual drunkenness, or habitual addiction to the use of morphine or any habit forming drug.

(g) Advertisement by means of knowingly false or deceptive statements.

(h) Permitting a certificate of registration or license to be used where the holder is not personally, actively and continuously engaged in business.

(i) Failure to display the license.

(j) For any other unfair or unjust practice, method or dealing which in the judgment of the board may justify such action.

SEC. 21. Section 7436 of said code is hereby amended to read as follows: Stats 1939, p 410

7436. Every licensed hairdresser and cosmetician or cosmetologist manager-operator, every licensed hairdresser and cosmetician or cosmetologist, every licensed instructor, every licensed electrologist, every licensed manicurist and every licensed permanent waver who continues in actual practice, shall, annually, on the first day of October, have his license renewed by the board, upon payment of his required renewal fee. Applications for renewal for licenses may be made to the board at any time during the month of September. Renewal of licenses

Every license which has not been renewed on the first day of October in each year shall expire thereon, and a delinquency fee shall be added for renewal.

SEC. 22. Section 7437 of said code is hereby amended to read as follows: Stats 1939, p 410

7437. A licensed hairdresser and cosmetician or cosmetologist manager-operator, hairdresser and cosmetician or cosmetologist, instructor, electrologist, manicurist or permanent waver, whose license has expired, may have it renewed only upon payment of the renewal fee together with a delinquency fee. Delinquency fee

Any registered hairdresser and cosmetician or cosmetologist manager-operator, hairdresser and cosmetician or cosmetologist, instructor, electrologist, manicurist or permanent waver, who retires from practice for more than one year, may have his license restored, only upon payment of all lapsed renewal and delinquency fees.

No hairdresser and cosmetician or cosmetologist manager-operator, hairdresser and cosmetician or cosmetologist, instructor, electrologist, manicurist or permanent waver, who has retired from practice for more than three years, may have his license restored, without examination.

SEC. 23. Article 13, comprising Sections 7450 to 7457, inclusive, of Chapter 10 of Division 3 of said code is hereby repealed. Stats 1939, p 1406

CHAPTER 341

Stats 1937, p 1995, amended

An act to amend Section 1 of an act entitled "An act to provide for the levy and collection of taxes and assessments for the purpose of creating a fund for capital outlays by cities, counties, cities and counties or districts," approved July 1, 1937, relating to capital outlays by cities, counties, cities and counties, or districts.

In effect September 13, 1941

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941]

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

Stats 1937, p 995

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Capital outlay fund

Section 1. The governing body of any city, county, city and county, or district empowered to levy and collect assessments

Tax levy

or taxes may by ordinance provide for the levy and collection of assessments or taxes for the creation of a fund for capital outlays. In making a levy for such purpose under this act such governing body shall not exceed the limitation upon its right to impose taxes as may be prescribed by the general laws of the State without the assent of two-thirds ($\frac{2}{3}$) of the qualified electors of such city, county, city and county, or district, voting at any general or special election at which such proposition may be submitted. If such city or county or city and county operates under a charter then only the limitations upon the levying of taxes imposed by the provisions of such charter shall apply.

Transfer of surplus funds

At any time after the creation of such a fund such governing body may transfer to such fund any unincumbered surplus funds remaining on hand in such city, county, city and county or district at the end of any fiscal year.

Disbursements

Whenever such fund is created in the manner aforesaid it shall remain inviolate for the making of any capital outlays and no moneys shall be disbursed therefrom excepting for such a purpose; provided, however, that the governing body may submit a proposition to the electors of such city, county, city and county, or district, to obtain the consent of such electors to the use of the moneys in said fund, or any portion thereof, for some other specific purpose. Such proposition may be submitted at any election. It shall require a two-thirds ($\frac{2}{3}$) vote of all of the voters voting at such election to authorize the expenditure of the moneys in said fund, or any portion thereof, for such other purpose as aforesaid.

"Capital outlays"

The term "capital outlays" shall not be construed to include the construction, acquisition, extensions of, or additions to, utilities, other than utilities for the furnishing of a water supply.

CHAPTER 342

An act to amend Section 1 of an act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of any county, city and county, city, town, municipality or other public or municipal corporation within this State, and to repeal all acts or parts of acts in conflict with this act," approved April 28, 1933, relating to deposit of public moneys, to declare the urgency thereof, and to provide that this act shall take effect immediately.

Stats 1933, p. 642, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

In effect immediately

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

SECTION 1. Section 1 of the act referred to in the title hereof is hereby amended to read as follows:

Stats 1939, p. 1950

Section 1. All moneys belonging to or in the custody of any county, city and county, city, town, municipality or other public or municipal corporation within the State, including all moneys collected by, or paid to the treasurer of any county, city and county, city, town, municipality, or other public or municipal corporation within the State, or other official having authority to collect or receive the same, for the payment of principal, interest or penalties of bonds required by law, ordinance or resolution, to be paid to, or collected by, such treasurer or other official, shall, so far as possible, be deposited in such State or National bank or banks in the State as the treasurer of the county, city and county, city, town, municipality or other public or municipal corporation, as the case may be, or other official having the legal custody thereof, shall select for safekeeping of such deposits, and any sum so deposited shall be deemed to be in the treasury of such county, city and county, city, town, municipality or other public or municipal corporation; provided, that the bank or banks in which such money is deposited shall furnish security as hereinafter provided; and said bank or banks are hereby empowered so to do. Such depositary bank or banks shall be selected from those agreeing to pay the highest rate of interest, not less than 2 per centum per annum, for such deposits, as may be determined by bids to be submitted at such times and in such manner as the treasurer shall direct; provided, however, that until and including September 1, 1943, such treasurer may in the absence of a higher bid or bids deposit such moneys upon interest of not less than one-half of 1 per centum per annum on active deposits and one-half of 1 per centum per annum on inactive deposits; and provided further, that such deposit shall not exceed the paid-up capital, exclusive of reserve and surplus of any depositary bank. Any and all bids may be rejected by the treasurer and new bids asked for. The expenses of transportation of moneys to and from

Deposit of public funds

Selection of banks

Conditions of deposit

such depositaries shall be borne by such depositaries and they shall handle, collect and pay all checks, drafts and other exchange without cost to such county, city and county, city, town, municipality or other public or municipal corporation. Such deposits, with interest thereon, shall be subject to withdrawal at any time upon the demand of the treasurer or other authorized official; provided, however, that all inactive deposits shall be subject to notice of at least 30 days for the payment thereof; and provided further, that the treasurer may, with the consent of the governing body of the county, city and county, city, town, municipality or other public or municipal corporation, deposit any part of such moneys for a definite term and may agree with any depositary bank or banks as to the period of time of any deposit or deposits, but no such agreement shall provide for the deposit of any of said moneys for a longer period than one year; and provided further, that such treasurer is hereby authorized, under such conditions as he, with the approval of the governing body of such county, city and county, city, town, municipality or other public or municipal corporation may fix, to deposit moneys in any bank, or banks within or without this State, necessary for the payment of the principal and interest of bonds at the place or places at which the same are payable, and the requirements of this act shall not apply to deposits for such purposes.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution, and shall, therefore, go into immediate effect. The facts constituting such necessity are as follows:

Unless this act becomes effective immediately, grave doubt may exist as to the validity of many millions of dollars of public funds which may be on deposit in banks on September 1, 1941, due to inability to effect deposits in compliance with the terms of the present law and unless this act is in effect on that date, treasurers of cities, counties, school districts, and other political subdivisions of this State may be compelled to withdraw from banks large sums of public money then on deposit at interest, and either hold the same in currency in their offices or deposit the same without interest. It is necessary that the withdrawal of such an amount of currency from circulation at one time, and the loss of interest thereon, be prevented, and that the radical and objectionable changes in the handling of public financial transactions that would immediately ensue as an inevitable consequence of such withdrawal and holding of currency be obviated, and that the means of deriving revenue from the deposit of such public funds be impeded as little as possible.

CHAPTER 343

An act to amend Section 16f of the Bank Act, relating to adverse claims to bank deposits and the contents of safe deposit boxes standing in the name of one other than the claimant and to add two new sections, Sections 539a and 682a to the Code of Civil Procedure, relating to the attachment of and the levy of execution upon bank accounts and the contents of safe deposit boxes standing in the name of one other than the defendant or judgment debtor.

Stats 1909, p 87, amended

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 16f of the Bank Act is hereby amended to read as follows:

Stats 1933, p 1177

Adverse claims to deposit

Sec. 16f. Notice to a bank or trust company organized under the laws of, or doing business in, this State, or to any other corporation conducting a safe deposit business, in this State, of an adverse claim to a deposit standing on its books to the credit of any person, firm or corporation, or to any property in a safe deposit vault or box maintained by such bank, trust company or safe deposit corporation and rented to any person, firm or corporation may be disregarded until and unless such adverse claimant shall either (a) procure a restraining order, injunction, or other appropriate order against said bank, trust company, or a safe deposit corporation from a court of competent jurisdiction in an action wherein such adverse claimant and all persons, firms or corporations in whose name such credit stands or in whose name such safe deposit vault or box is rented are made parties and are served with such restraining order, injunction or other order, or (b) execute to such bank, trust company or safe deposit corporation a bond in form and with a surety or sureties acceptable to such bank, trust company or safe deposit corporation, indemnifying it and also all persons, firms or corporations in whose name such credit stands or such safe deposit vault or box is rented from any and all liability, loss, damage, costs and expenses, for or on account of the payment of such adverse claim or for or on account of the giving to such adverse claimant of access to such safe deposit vault or box, or for the dishonor of the check or other order of the person, firm or corporation in whose name such credit stands or for or on account of the refusal by such bank, trust company or safe deposit corporation to permit access to such safe deposit vault or box by the renter thereof. Unless the restraining order, injunction or other appropriate order hereinabove mentioned is obtained or the bond hereinabove described is given, then notwithstanding such notice, such bank, trust company, or safe deposit corporation may honor the checks or other orders

of or permit access to and the removal of property by the person, firm or corporation in whose name such credit stands or such safe deposit vault or box is rented, without any liability on the part of such bank, trust company or safe deposit corporation. The bond hereinabove described shall be in an amount not less than the amount claimed by such adverse claimant and need not be in an amount in excess of twice the amount claimed by such adverse claimant. In lieu of the bond described above such adverse claimant may deliver to the bank, trust company or safe deposit corporation his affidavit stating that of his own knowledge the person, firm or corporation in whose name such credit stands or such safe deposit vault or box is rented is a fiduciary for such claimant and that said fiduciary is about to misappropriate such credit or the contents or a part of the contents of such safe deposit vault or box and stating the facts upon which the claim of a fiduciary relationship is based; and in such case the bank, trust company or safe deposit corporation, without any liability on its part, and without any responsibility for the sufficiency or the truth of the facts so stated, may refuse payment of such credit and may refuse to give access to such safe deposit vault or box or to permit the removal of any property therefrom until the adverse claim thereto is finally adjudicated or the bank, trust company or safe deposit corporation is indemnified to its satisfaction by either party to the controversy. The provisions of this section shall be applicable to any credit standing in the name of and to any safe deposit vault or box rented by a person, firm or corporation in his or its name without any qualifying or descriptive term or in his or its name with some qualifying or descriptive term as "agent," "trustee" or other word or phrase indicating that such person, firm or corporation might not be the true or beneficial owner of such credit or the renter of such safe deposit vault or box.

New section SEC. 2. Section 539a is hereby added to the Code of Civil Procedure, to read as follows:

Attachment—Bank account Sec. 539a. If the debt, credit, or other personal property sought to be attached is (a) any bank account, or interest therein, not standing in the name of the defendant or defendants or standing in the name of the defendant or defendants and one or more other persons who are not defendants, or (b) —Safe deposit box property in a safe deposit vault or box maintained by a bank, trust company, or other corporation authorized and empowered to conduct a safe deposit business and rented by it to a person or persons other than a defendant or defendants or rented by it to one or more such defendants and to one or more other persons who are not defendants, the provisions of this section and of Section 539 shall be complied with; otherwise, the levy shall not be effectual for any purpose and shall Bond be disregarded. The plaintiff shall provide and concurrently

with the levy of the writ of attachment the sheriff, constable, or marshal shall deliver to such bank, trust company, or safe deposit corporation a bond in an amount not less than twice the amount of the plaintiff's claim indemnifying the person or persons, other than the defendant or defendants whose interest is sought to be attached, rightfully entitled to such debt, credit, or other personal property (which person or persons need not be named specifically in said bond but may be referred to generally in the same manner as in this sentence), against actual damage by reason of the taking or holding of such debt, credit, or other personal property and assuring to such person or persons the return thereof to him or them upon proof of his or their right thereto. Upon delivery to it of the aforesaid bond such bank, trust company, or safe deposit corporation shall comply with the writ of attachment and shall not be liable to any person by reason of such compliance or by reason of the nonpayment of any check or other order for the payment of money drawn against the account or other credit so attached and presented while the attachment is in force or by reason of the removal, pursuant to the levy, of any of the contents of such safe deposit vault or box or by reason of the refusal of such bank, trust company, or safe deposit corporation to permit access to such safe deposit vault or box by the renter thereof. The bond described above shall be executed by the plaintiff or plaintiffs with two or more sufficient sureties. Exceptions to the sufficiency of the sureties may be taken by any person claiming to be the rightful owner of the debt, credit, or other personal property levied upon, in the same manner as that provided in Section 539 of this code and when excepted to the sureties must justify in the same manner as that provided in said Section 539. The bank, trust company, or safe deposit corporation to whom any such bond is delivered shall deliver it as directed by the obligees thereof. Before giving access to any safe deposit vault or box the bank, trust company, or safe deposit corporation may demand payment to it of all costs and expenses of opening the safe deposit vault or box and all costs and expenses of repairing any damage to the safe deposit vault or box caused by the opening thereof.

Exception to sureties

SEC. 3. Section 682a is hereby added to the Code of Civil Procedure, to read as follows:

New section

Sec. 682a. If the debt, credit, or other personal property sought to be levied upon is (a) any bank account, or interest therein, not standing in the name of the judgment debtor or judgment debtors or standing in the name of such judgment debtor or judgment debtors and one or more other persons who are not judgment debtors, or (b) property in a safe deposit vault or box maintained by a bank, trust company, or other corporation authorized and empowered to conduct a safe deposit business and rented by it to a person or persons

Execution —Bank account

—Safe deposit box

other than such judgment debtor or judgment debtors or rented by it to one or more such judgment debtors and to one or more other persons who are not judgment debtors, the following provisions of this section also shall be complied with; otherwise the levy shall not be effectual for any purpose and shall

Bond be disregarded. The plaintiff shall provide and concurrently with the levy the sheriff, constable, or marshal shall deliver to such bank, trust company, or safe deposit corporation a bond in an amount not less than twice the amount of the judgment indemnifying the person or persons, other than the judgment debtor or judgment debtors whose interest is sought to be levied upon, rightfully entitled to such debt, credit, or other personal property (which person or persons need not be named specifically in said bond but may be referred to generally in the same manner as in this sentence), against actual damage by reason of the taking of such debt, credit, or other personal property and assuring to such person or persons the return thereof to him or them upon proof of his or their right thereto.

Notice to other party Upon delivery to it of the aforesaid bond such bank, trust company, or safe deposit corporation shall immediately notify the person in whose name such account stands, other than the judgment debtor, or the person to whom such safe deposit box is rented, other than the judgment debtor, by registered mail addressed to the last address of such person known to such bank, trust company or safe deposit corporation of the fact of the service of said writ and of the delivery to it of said

Effect of levy bond. From the time of said levy and the delivery to it of said bond such bank, trust company or safe deposit corporation shall not honor a check or other order for the payment of money drawn against the account or other credit so levied upon or permit the removal of any of the contents of the safe deposit vault or box levied upon for a period of fifteen (15) days from the mailing of said notice or until the levy is sooner

Compliance with levy released. After fifteen (15) days from the making of said levy and the delivery of said bond, if no proceedings excepting to the sufficiency of the sureties have been commenced, or if such proceedings have been commenced, when the sureties have justified said bank, trust company or safe deposit corporation shall comply with the levy, unless it has been sooner released, and shall not be liable to any person by reason of such compliance or by reason of the nonpayment of any check or other order for the payment of money drawn against the account or other credit so levied upon and presented while the levy is in force or by reason of the removal, pursuant to the levy, of any of the contents of such safe deposit vault or box or by reason of the refusal of such bank, trust company, or safe deposit corporation to permit access to such safe deposit vault or box by the renter thereof. The bond described above shall be executed by the judgment creditor or judgment creditors with two or more sufficient sureties.

Exception to sureties Exceptions to the sufficiency of the sureties may be taken by any person claiming to be the rightful owner of the debt,

credit, or other personal property levied upon, in the same manner as that provided in Section 539 of this code with respect to sureties executing undertakings on attachment and when excepted to the sureties must justify in the same manner as that provided in said Section 539. The bank, trust company, or safe deposit corporation to whom any such bond is delivered shall deliver it as directed by the obligees thereof. Before giving access to any safe deposit vault or box the bank, trust company, or safe deposit corporation may demand payment to it of all costs and expenses of opening the safe deposit vault or box and all costs and expenses of repairing any damage to the safe deposit vault or box caused by the opening thereof.

CHAPTER 344

An act to amend Sections 2799, 2804, 2805, 2806, 2816, 2819 and 2820 of, to repeal Section 2798 of, and to add new Sections 2798, 2798.3 and 2798.5 to the Elections Code, relating to State party conventions, State central committee meetings and the memberships thereof.

Stats 1939, p 49, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2798 of the Elections Code is hereby repealed.

Stats 1939, p 119

SEC. 2. Section 2798 is hereby added to the Elections Code, to read as follows:

New section

2798. Each delegate appointed pursuant to Section 2797 shall file with the Secretary of State not later than 5 o'clock of the afternoon of the Tuesday immediately preceding the Thursday on which the convention is to convene:

Filing credentials and appointment

(a) His credentials signed by the chairman and the secretary of the committee making the appointment.

(b) His written appointment of three members of the State central committee, signed and acknowledged before an officer authorized to administer oaths. Such appointments shall be made in the form prescribed in this article, and when so made shall be absolute.

SEC. 3. Section 2798.3 is hereby added to the Elections Code, to read as follows:

New section

2798.3. The Secretary of State shall prepare for each State convention an alphabetical roll of the holdover delegates, the nominee delegates, and the appointive delegates who have filed their credentials in the manner and time provided in Section 2798.

Rolls of delegates

New section SEC. 4. Section 2798.5 is hereby added to the Elections Code, to read as follows:

Delivery of credentials and rolls 2798.5. On the convening of the convention the Secretary of State shall deliver to the retiring chairman of the State central committee, or in the absence of such retiring chairman, to the acting presiding officer of the convention,

(a) The appointive delegates' credentials,

(b) The alphabetical roll of the delegates to the convention.

Stats 1939, p 150 SEC. 5. Section 2799 of the Elections Code is hereby amended to read as follows:

List of delegates 2799. As soon as practicable after the primary election the Secretary of State shall prepare a list of the names of all delegates to the convention qualified under the provisions of this article. He shall thereupon send a notice by mail to each delegate which shall inform the delegate that:

Notice to delegates

(a) He is a delegate to the State convention.

(b) The convention meets at Sacramento on the third Thursday in September of the then current year.

(c) The delegate shall appoint three voters to be members of the State central committee.

(d) The appointment of three members of the State central committee shall be made in writing in the form hereinafter prescribed, signed and acknowledged before a notary public or other officer authorized to administer oaths in this State and shall be filed in the office of the Secretary of State not later than 5 o'clock of the afternoon of the Tuesday immediately preceding the Thursday on which the convention is to convene.

(e) The delegate shall send a notice by mail to each of the three appointees, which shall inform him that:

(1) He is a member of the committee.

(2) The committee will meet at Sacramento on the day following the third Thursday in September.

(3) The meeting may be attended either in person or by proxy.

(4) Every proxy shall be filed in the office of the Secretary of State not later than 5 o'clock of the afternoon of the day preceding the meeting of the committee.

(5) The proxy shall be in writing signed and acknowledged before a notary public or other officer authorized to administer oaths.

(f) Four forms of proxy are inclosed, one of which he may use himself, and one of each of the others he shall send with each of the notices of appointment to the State central committee.

Stats 1939, p 152 SEC. 5.5. Section 2804 of the Elections Code is hereby amended to read as follows:

Form of appointment of members 2804. Appointments of members to the State central committee shall be made in writing signed and acknowledged by

the delegate before a notary public or other officer authorized to administer oaths and delivered to the Secretary of State not later than 5 o'clock of the afternoon of the Tuesday immediately preceding the Thursday on which the convention is to convene.

SEC. 6. Section 2805 of the Elections Code is hereby amended to read as follows: Stats 1939, p 152

2805. Each delegate to the State convention shall send a notice by mail to each person whom he has appointed as a member of the State central committee which will inform him that: Notice to appointees

(a) He is a member of the committee.

(b) The committee will meet in Sacramento on the day following the convention.

(c) The meeting may be attended either in person or by proxy.

(d) Every proxy shall be filed in the office of the Secretary of State not later than 5 o'clock of the afternoon of the day preceding the meeting of the committee.

(e) The proxy shall be in writing signed and acknowledged before a notary public or other officer authorized to administer oaths.

Each delegate shall inclose with the notice one copy each of the forms of proxy sent to that delegate by the Secretary of State.

SEC. 7. Section 2806 of the Elections Code is hereby amended to read as follows: Stats 1939, p 152

2806. The Secretary of State shall deliver the delegates' appointments so received by him to the permanent chairman of the State convention on the day the State convention meets and he shall require the chairman's receipt therefor. Delivery of appointments to convention chairman

SEC. 8. Section 2816 of the Elections Code is hereby amended to read as follows: Stats 1939, p 154

2816. Any member of a State central committee who desires to attend the first meeting of the committee by proxy shall designate his proxy in the form prescribed in this article. The appointment shall be signed and acknowledged before an officer authorized to administer oaths and shall be delivered to the Secretary of State not later than 5 o'clock of the afternoon of the day preceding the first meeting of the committee. Attendance by proxy

SEC. 9. Section 2819 of the Elections Code is hereby amended to read as follows: Stats 1939, p 154

2819. No proxy shall be recognized prior to election of a permanent chairman unless filed in the office of the Secretary of State not later than 5 o'clock of the afternoon of the day preceding the State committee meeting. Filing of proxies

Stats 1939, p 154

SEC. 10. Section 2820 of the Elections Code is hereby amended to read as follows:

List of members to be delivered to committee chairman

2820. The Secretary of State shall deliver to the retiring chairman of the State central committee as soon as possible on the day of the first meeting of the new State central committee a certified, alphabetical list of the names of the members of the State central committee, and a certified alphabetical list of the names of the persons duly designated as proxies by members of the new committee, together with all proxies received by him prior to 5 o'clock of the afternoon of the preceding day. He shall require the retiring chairman's receipt for the proxies.

CHAPTER 345

Stats 1919, p 778, amended

An act to amend the title and Section 1 of "An act to provide for the development of electrical power by irrigation districts," approved May 21, 1919, relating to the acquisition, development, and disposal of electrical power by irrigation districts.

In effect September 13, 1941

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.]

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

Stats 1919, p 778

SECTION 1. The title of the act cited in the title hereof is hereby amended to read as follows:

Title

An act to provide for the acquisition, development, and disposal of electrical power by irrigation districts.

Stats 1923, p 629

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Irrigation district may buy, generate and sell electric power

Section 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such district may purchase or lease electrical power from any agency or entity, public or private, and may provide for the construction, acquisition, operation, leasing and control of plants for the generation, transmission, distribution, sale and lease of electrical energy including sale to municipalities, corporations, public utility districts, or individuals, of electrical power purchased, leased or generated; and said district, subject, however, to the conditions in this section contained, may make special appropriations of water for power purposes, as required by law; provided, however, that any use of water for generating such electrical power or energy at any given time of the year, which use is in excess of the water appropriated and beneficially used for irrigation purposes by such district at said period of the year, shall be subject to all prior existing appropriations by any municipal corporation, who or which is proceeding in good faith in the expenditure of money and the construction of works designed to divert the water

appropriated. The officers, agents and employees of such district shall have the same powers, duties and liabilities respecting such power and the construction, acquisition, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation or such irrigation districts. The California Irrigation District Act shall be so construed, applied and enforced as to apply to such power as well as such irrigation, except that nothing in said act shall be so construed as to prevent the sale of power by any district for use outside of the boundaries of such district or to require the distribution of such power in accordance with any assessments levied by such district.

Construction

SEC. 3. The amendment of the title and Section 1 of the act cited in the title hereof is not a change in, but is declaratory of, the preexisting law.

CHAPTER 346

An act to amend Sections 4005c, 4006, 4234, 4235, 4238, 4240, 4241, 4242, 4243, 4244, 4245, 4246, 4247, 4248, 4249, 4250, 4251, 4252, 4253, 4254, 4255, 4257, 4258, 4259, 4260, 4261, 4262, 4263, 4264, 4265, 4266, 4267, 4268, 4269, 4270, 4271, 4272, 4273, 4274, 4275, 4276, 4277, 4278, 4279, 4280, 4281, 4282 and 4283 and to repeal Sections 4234a, 4242 1, 4242.2, 4242.3, 4242a, 4246a, 4248a, 4248b, 4248c, 4248d, 4248e, 4248f, 4248g, 4248h, 4248i, 4248j, 4248k, 4248l, 4248m, 4248n, 4248o, 4248p, 4248p2, 4248q, 4248r, 4248s, 4248t, 4248u, 4248v, 4251a, 4254b, 4254c, 4254d, 4254e, 4254f, 4254g, 4254h, 4254i, 4254j, 4254k, 4254l, 4254m, 4254n, 4254o, 4254p, 4254q, 4254r, 4254s, 4254t, 4263a, 4263b, 4263c, 4263d, 4263e, 4263f, 4263g, 4263h, 4263i, 4263j, 4263k, 4263l, 4263m, 4263n, 4263o, 4263p, 4263q, 4263r, 4263s, 4265a, 4270a, 4270b, 4270c, 4270d, 4270e, 4270f, 4270g, 4270h, 4270i, 4270j, 4270k, 4270l, 4270m, 4270n, 4270o, 4270p, 4270q, 4270r and 4272a of the Political Code, relating to the classification of the counties of California and providing for the compensation of public personnel in said counties as so classified.

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 4005c of the Political Code is hereby amended to read as follows:

Stats 1931, p 128

4005c The population of the counties of this State is hereby ascertained and determined to be and is as follows:

Population of counties

1	Los Angeles	2,785,643
2	San Francisco	634,536
3	Alameda	513,011

Population of counties

4	San Diego	289,348
5	Fresno	178,565
6	Santa Clara	174,949
7	Sacramento	170,333
8	San Bernardino	161,108
9	Kern	135,124
10	San Joaquin	134,207
11	Orange	130,760
12	San Mateo	111,782
13	Tulare	107,152
14	Riverside	105,524
15	Contra Costa	100,450
16	Stanislaus	74,866
17	Monterey	73,032
18	Santa Barbara	70,555
19	Ventura	69,685
20	Sonoma	69,052
21	Imperial	59,740
22	Marin	52,907
23	Solano	49,118
24	Merced	46,988
25	Humboldt	45,812
26	Santa Cruz	45,057
27	Butte	42,840
28	Kings	35,168
29	San Luis Obispo	33,246
30	Shasta	28,800
31	Siskiyou	28,598
32	Napa	28,503
33	Placer	28,108
34	Mendocino	27,864
35	Yolo	27,243
36	Madera	23,314
37	Nevada	19,283
38	Sutter	18,680
39	Yuba	17,034
40	Lassen	14,479
41	Tehama	14,316
42	El Dorado	13,229
43	Glenn	12,195
44	Plumas	11,548
45	San Benito	11,392
46	Tuolumne	10,887
47	Colusa	9,788
48	Amador	8,973
49	Modoc	8,713
50	Calaveras	8,221
51	Lake	8,069
52	Inyo	7,625
53	Mariposa	5,605
54	Del Norte	4,745

55	Trinity	3,970
56	Sierra	3,025
57	Mono	2,299
58	Alpine	323

SEC. 2. Section 4006 of said code is hereby amended to read as follows: Stats 1931, p 129

4006 For the purpose of regulating the compensation of all officers herein provided for, the several counties of this State are hereby classified, according to their population as ascertained and determined in Section 4005c of this code as follows, to wit: Classification for purpose of regulating compensation

Counties containing a population of 900,000 and over shall belong to and be known as counties of the first class. Classification of counties

Counties containing a population of 600,000 and under 900,000 shall belong to and be known as counties of the second class

Counties containing a population of 400,000 and under 600,000 shall belong to and be known as counties of the third class.

Counties containing a population of 200,000 and under 400,000 shall belong to and be known as counties of the fourth class.

Counties containing a population of 176,000 and under 200,000 shall belong to and be known as counties of the fifth class.

Counties containing a population of 173,000 and under 176,000 shall belong to and be known as counties of the sixth class.

Counties containing a population of 168,000 and under 173,000 shall belong to and be known as counties of the seventh class

Counties containing a population of 150,000 and under 168 000 shall belong to and be known as counties of the eighth class.

Counties containing a population of 135,000 and under 150,000 shall belong to and be known as counties of the ninth class

Counties containing a population of 134,000 and under 135,000 shall belong to and be known as counties of the tenth class

Counties containing a population of 125,000 and under 134,000 shall belong to and be known as counties of the eleventh class

Counties containing a population of 110,000 and under 125,000 shall belong to and be known as counties of the twelfth class.

Counties containing a population of 106,000 and under 110,000 shall belong to and be known as counties of the thirteenth class.

Counties containing a population of 103,000 and under 106,000 shall belong to and be known as counties of the fourteenth class.

Classification of counties

Counties containing a population of 90,000 and under 103,000 shall belong to and be known as counties of the fifteenth class.

Counties containing a population of 74,000 and under 90,000 shall belong to and be known as counties of the sixteenth class.

Counties containing a population of 72,000 and under 74,000 shall belong to and be known as counties of the seventeenth class.

Counties containing a population of 70,000 and under 72,000 shall belong to and be known as counties of the eighteenth class.

Counties containing a population of 69,500 and under 70,000 shall belong to and be known as counties of the nineteenth class.

Counties containing a population of 65,000 and under 69,500 shall belong to and be known as counties of the twentieth class.

Counties containing a population of 57,000 and under 65,000 shall belong to and be known as counties of the twenty-first class.

Counties containing a population of 51,000 and under 57,000 shall belong to and be known as counties of the twenty-second class.

Counties containing a population of 48,000 and under 51,000 shall belong to and be known as counties of the twenty-third class.

Counties containing a population of 46,000 and under 48,000 shall belong to and be known as counties of the twenty-fourth class.

Counties containing a population of 45,500 and under 46,000 shall belong to and be known as counties of the twenty-fifth class.

Counties containing a population of 44,000 and under 45,500 shall belong to and be known as counties of the twenty-sixth class.

Counties containing a population of 40,000 and under 44,000 shall belong to and be known as counties of the twenty-seventh class.

Counties containing a population of 34,000 and under 40,000 shall belong to and be known as counties of the twenty-eighth class.

Counties containing a population of 30,000 and under 34,000 shall belong to and be known as counties of the twenty-ninth class.

Counties containing a population of 28,700 and under 30,000 shall belong to and be known as counties of the thirtieth class.

Counties containing a population of 28,550 and under 28,700 shall belong to and be known as counties of the thirty-first class.

Counties containing a population of 28,300 and under 28,550 shall belong to and be known as counties of the thirty-second class.

Classification of counties

Counties containing a population of 28,000 and under 28,300 shall belong to and be known as counties of the thirty-third class.

Counties containing a population of 27,500 and under 28,000 shall belong to and be known as counties of the thirty-fourth class.

Counties containing a population of 25,000 and under 27,500 shall belong to and be known as counties of the thirty-fifth class.

Counties containing a population of 20,000 and under 25,000 shall belong to and be known as counties of the thirty-sixth class.

Counties containing a population of 19,000 and under 20,000 shall belong to and be known as counties of the thirty-seventh class.

Counties containing a population of 18,000 and under 19,000 shall belong to and be known as counties of the thirty-eighth class

Counties containing a population of 17,000 and under 18,000 shall belong to and be known as counties of the thirty-ninth class.

Counties containing a population of 14,400 and under 17,000 shall belong to and be known as counties of the fortieth class.

Counties containing a population of 14,000 and under 14,400 shall belong to and be known as counties of the forty-first class.

Counties containing a population of 13,000 and under 14,000 shall belong to and be known as counties of the forty-second class.

Counties containing a population of 12,000 and under 13,000 shall belong to and be known as counties of the forty-third class.

Counties containing a population of 11,400 and under 12,000 shall belong to and be known as counties of the forty-fourth class.

Counties containing a population of 11,000 and under 11,400 shall belong to and be known as counties of the forty-fifth class.

Counties containing a population of 10,000 and under 11,000 shall belong to and be known as counties of the forty-sixth class.

Counties containing a population of 9,000 and under 10,000 shall belong to and be known as counties of the forty-seventh class.

Counties containing a population of 8,800 and under 9,000 shall belong to and be known as counties of the forty-eighth class.

Counties containing a population of 8,500 and under 8,800 shall belong to and be known as counties of the forty-ninth class.

Counties containing a population of 8,100 and under 8,500 shall belong to and be known as counties of the fiftieth class.

Classification of counties

Counties containing a population of 7,900 and under 8,100 shall belong to and be known as counties of the fifty-first class.

Counties containing a population of 6,000 and under 7,900 shall belong to and be known as counties of the fifty-second class.

Counties containing a population of 5,000 and under 6,000 shall belong to and be known as counties of the fifty-third class.

Counties containing a population of 4,000 and under 5,000 shall belong to and be known as counties of the fifty-fourth class.

Counties containing a population of 3,500 and under 4,000 shall belong to and be known as counties of the fifty-fifth class.

Counties containing a population of 2,400 and under 3,500 shall belong to and be known as counties of the fifty-sixth class.

Counties containing a population of 1,000 and under 2,400 shall belong to and be known as counties of the fifty-seventh class.

Counties containing a population less than 1,000 shall belong to and be known as counties of the fifty-eighth class.

Stats 1931, p 1184

SEC. 3. Section 4234 of said code is hereby amended to read as follows:

Fresno County Salaries

4234. In counties of the fifth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, three thousand two hundred dollars ($3,200) per annum.

District attorney

2. The district attorney, four thousand eight hundred dollars ($4,800) per annum. The district attorney shall devote his entire time during office hours to the work of the county and State and is prohibited from engaging in private work during office hours.

Supervisors

3. Each supervisor, three thousand dollars ($3,000) per annum for all services, either as supervisor or road overseer.

Jurors

4. Grand jurors and trial jurors in the superior courts, three dollars ($3) per day while engaged in the performance of the duties required of them by law, and in addition shall receive the mileage now allowed by law except that jurors excused before 12 o'clock noon shall receive only two dollars ($2) for the day so excused; trial jurors in the justices' courts shall receive two dollars ($2) per day and no mileage.

The county officers provided for in this section shall receive as compensation for the services required of them by law or by virtue of their offices, the salaries and expenses herein set forth, except that the members of the board of supervisors, auditor and district attorney shall be allowed all actual expenses which are necessary to the performance of their duties under the law. The expenses and the salaries designated in this section for such officers except as in this section otherwise specifically provided, shall be as full and complete

compensation for giving their entire time and attention to the duties required of them by law, or which are, for any reason imposed upon or performed by them under the laws of or on behalf of the United States or this State or any political subdivision thereof, or any public corporation.

All other fees, statutory mileage or other remuneration or compensation of any kind or character received by such officers or their deputies from the United States or this State or any political subdivision thereof or any public corporation, shall be by such officers named in this section paid into the county treasury, except that the requirements of this paragraph shall not apply to that portion of any such fees collected which is authorized by statute to be paid to other persons or is necessarily diverted to other persons for the purpose of carrying out the objects of the statute. Fees

SEC. 4. Section 4234a of said code is hereby repealed. Stats 1933, p 1707

SEC. 5. Section 4235 of said code is hereby amended to read as follows: Stats 1933, p 1079

4235. In counties of the sixth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Santa Clara County Salaries

1. The auditor, four thousand two hundred dollars ($4,200) per annum. He shall pay into the county treasury all fees received by him in his official capacity. Auditor

2. The district attorney, four thousand two hundred dollars ($4,200) per annum. He shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties. All fees and commissions collected by him shall be paid into the county treasury. District attorney

3. Each supervisor, three thousand dollars ($3,000) per annum and mileage of ten cents ($0.10) per mile for each mile actually traveled in going to and from his residence to the county seat or in the performance of the duties required of him by law or by virtue of his office. In attending sessions of the board only four mileages shall be allowed for each month. The total mileage allowed shall not exceed five hundred dollars ($500) in any one calendar year. Supervisors

4 Grand jurors and trial jurors in the superior courts of said counties of this class, in civil and criminal cases shall be three dollars ($3), in lawful money of the United States, for each day's attendance, and mileage to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriation for the payment of the fees herein provided for. Jurors

Bonds

Whenever under the provisions of law or otherwise a bond is required of any county officer provided for in this section the premium of such bonds shall be paid from the general funds of the county.

Stats 1933, p 370

See also Stats 1941, p. 2116

SEC. 6. Section 4238 of said code is hereby amended to read as follows:

Kern County: Salaries

4238. In counties of the ninth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, three thousand six hundred dollars ($3,600) per annum, together with his necessary expenses incurred while traveling in the performance of his official duties. The auditor shall pay into the county treasury all fees and commissions or compensations received by him in his official capacity, other than the official salary herein provided.

District attorney

2. The district attorney, four thousand five hundred dollars ($4,500) per annum and the necessary expenses incurred in the discharge of his official duties. All fees and commissions or compensations received by the district attorney in his official capacity, from any source, shall be paid into the county treasury, other than the official salary herein provided.

Supervisors

3. Each supervisor, three thousand six hundred dollars ($3,600) per annum and actual and necessary expenses incurred in the performance of the duties of their office.

Jurors

4. For attending as a grand juror, for each day's actual attendance, per day, two dollars ($2), and ten cents ($0.10) per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same. For attending as a trial juror, for each day's actual attendance, per day, three dollars ($3), and ten cents ($0.10) per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage, and the treasurer shall pay the same. For attending as a trial juror in criminal cases in justice courts, two dollars ($2) per day, for each day of actual service as a juror, and the justice of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and the treasurer shall pay the same.

Stats. 1933, p 881

See also Stats 1941, p 1855

SEC. 7. Section 4240 of said code is hereby amended to read as follows:

Orange County: Salaries

4240. In counties of the eleventh class, the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums:

Auditor

1. The auditor, three thousand four hundred dollars ($3,400) per annum.

District attorney

2. The district attorney, three thousand eight hundred dollars ($3,800) per annum. The district attorney, in addition to the salary herein fixed, shall be allowed his traveling and other personal expenses incurred in criminal cases arising in

the county, and in civil actions and proceedings in which the county is interested, and all other expenses necessarily incurred by him in the investigation and detection of crime, the prosecution of criminal and civil actions and proceedings, and all other matters in which the county is interested, all of which said charges and expenses so incurred by him shall be a legal charge against the county.

Supervisors

3. Each supervisor, two thousand five hundred fifty dollars ($2,550) per annum, payable in monthly installments, and the necessary and actual expenses incurred by him while engaged in county business outside of his own district, not exceeding in the aggregate the sum of two hundred dollars ($200) per annum.

Jurors

4. Grand and trial jurors, in superior courts shall receive for each day's attendance, per day, the sum of three dollars ($3). In justice courts in civil cases, jurors shall receive for each day's attendance, per day, the sum of two dollars ($2). In justice courts in criminal cases jurors shall receive for each day's attendance, per day, the sum of one dollar and fifty cents ($1.50) and all jurors shall receive for each mile actually and necessarily traveled from their residences to the place of service, in going only, the sum of ten cents ($0.10) per mile, such mileage to be allowed but once during the trial of any single cause and in any event not more than once in any one day, during any session of the court where such jurors serve. The fees of all trial jurors in civil cases shall be paid by the litigants as other costs are paid, and jurors in criminal cases in city court shall be paid by the municipality in which such court is or may be established.

Stats 1937 p 1369

SEC. 8. Section 4241 of said code is hereby amended to read as follows:

San Mateo County: Salaries

4241. In counties of the twelfth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, three thousand nine hundred dollars ($3,900) per annum.

District attorney

2. The district attorney, three thousand nine hundred dollars ($3,900) per annum. The district attorney shall be allowed, in addition to the salary herein allowed, the sum of sixty dollars ($60) per month, which shall be in full for all his traveling and other personal expenses in criminal cases and civil actions in which the county is interested, as provided for in Subdivision 2 of Section 4307 of the Political Code.

Supervisors

3. Each supervisor, one hundred seventy-five dollars ($175) per month and twenty cents ($0.20) per mile for traveling from his residence to the county seat; provided, that when a supervisor is also road commissioner he shall receive in addition to the twenty cents ($0.20) per mile allowed to him by law as such road commissioner his actual traveling expenses, and additional expenses not in any one year to exceed the sum of three hundred dollars ($300).

Jurors 4. Grand jurors and trial jurors in the superior court shall each receive for each day's attendance, per day, the sum of three dollars ($3), and for each mile actually and necessarily traveled from their residence to the county seat, in going only, per mile, the sum of twenty cents ($0.20); such mileage to be allowed but once during each session such jurors are required to attend.

Fees All fees, perquisites, commissions, and other moneys received by any county official provided for in this section by virtue of the office or employment of such county officer shall each month be paid into the county treasury, and shall belong to the county.

Other employment In counties of this class, no county official provided for in this section may, during his term of office, accept or hold any other office, appointment, position or employment with compensation from this or any other State, or from the county or any county, city, city and county, or any district, or other political subdivision or any public agency. The term "compensation" as used in this provision includes any direct or indirect reward, whether in the form of salary, wage, per diem, fee, percentage, commission, or otherwise, or whether in money, evidence of indebtedness, property, or otherwise, but not actual, necessary traveling expenses. This provision, however, shall not prevent any official from holding an ex officio position as provided for by law, but he shall not receive any further compensation therefor other than provided in this section.

Stats 1935, p 1681 SEC. 9. Section 4242 of said code is hereby amended to read as follows:

Tulare County Salaries 4242. In counties of the thirteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their office, the following sums:

Auditor 1. The county auditor, three thousand three hundred dollars ($3,300) per annum.

District attorney 2. The district attorney, three thousand seven hundred eighty dollars ($3,780) per annum.

Supervisors 3. Each supervisor shall be paid a salary of two thousand four hundred dollars ($2,400) per annum for all personal services performed by him as supervisor, member of the board of equalization and road commissioner, and in addition thereto each supervisor shall receive his actual and necessary traveling expenses incurred in performing any of the duties of his office, the claim for which shall be allowed and paid out of the county general fund in the same manner as other claims are allowed and paid; provided, however, that the said traveling expenses exclusive of meals and hotel accommodations shall not exceed the sum of five cents ($0.05) per mile.

Jurors 4. For attending as a grand juror in the superior court for each day's attendance per day four dollars ($4); for attending as a trial juror in the superior court, for each day's attendance per day two dollars ($2); for attending as a trial juror in the justice's court for each juror sworn to try the cause,

per day two dollars ($2); for each mile actually traveled in attending court or meetings of the grand jury as a juror, five cents ($0.05) per mile each way.

Repeals

SEC. 10. Section 4242.1, 4242.2, 4242.3 and 4242a of said code are hereby repealed.

Stats. 1939, p. 1488

SEC. 11. Section 4243 of said code is hereby amended to read as follows:

Riverside County salaries

4243. In counties of the fourteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, three thousand six hundred dollars ($3,600) per annum. Such deputies and employees as are allowed the auditor by the board of supervisors shall be appointed by the auditor and shall be paid by said county in equal monthly installments at the same time, in the same manner and out of the same fund as the salary of the auditor is paid.

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum, and actual traveling expenses while away from his office on county business. Such deputies and employees as are allowed the district attorney by the board of supervisors shall be appointed by the district attorney and their salaries shall be paid in equal monthly installments at the same time, in the same manner and out of the same fund as the salary of the district attorney is paid.

Supervisors

3. Each supervisor, two thousand one hundred dollars ($2,100) per annum, payable in monthly installments, and actual traveling expenses from his residence to the place of meeting of the board at the county seat; and the necessary actual expenses incurred by him while engaged in county business outside his district, not exceeding in the aggregate the sum of three hundred dollars ($300) per annum; provided further, that each supervisor shall spend one day in each week, other than the day when the said board is officially in session, at the office of the board of supervisors in the county courthouse at the county seat. The particular day which each supervisor shall be on duty as herein required, shall be determined by lot, so that a supervisor will be on duty as aforesaid on Tuesday, Wednesday, Thursday, Friday and Saturday of each week.

Public liability bonds

Each member of the board of supervisors shall be required to obtain and keep in force a public liability bond in the amount of fifty thousand dollars ($50,000), inuring to the benefit of any and all persons who may be injured or aggrieved by any act or omission of said supervisor in his official capacity; provided, that the premium or charge of such bond shall not exceed one half of 1 per cent per annum on the amount of such bond; and provided further, the premium or charge for such bonds shall be paid by the said county in the manner that the premiums or charges for the bonds of public officials are paid.

Constitutionality

If any paragraph, sentence, clause, or phrase of this section for any reason is held to be unconstitutional, such decision

shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have passed each paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one or more paragraphs, sentences, clauses, or phrases, be declared unconstitutional.

Stats 1931, p 2168

See also Stats 1941, p 2118

SEC. 12 Section 4244 of said code is hereby amended to read as follows:

Contra Costa County Salaries

4244. In counties of the fifteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, four thousand two hundred dollars ($4,200) per annum.

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum.

Supervisors

3. Each supervisor, two thousand four hundred dollars ($2,400) per annum for personal services performed by him as supervisor, member of the board of equalization and road commissioner. There is hereby allowed to each supervisor a sum not to exceed 25 per cent of his monthly salary for expenses necessarily incurred in the conduct of his office. Each supervisor shall file an itemized statement, supported by receipts or vouchers, on the first day of each and every month, designating the actual expenditure on his part of expenses necessarily incurred in the conduct of his office for the preceding month, and no allowance shall be made to any supervisor for expenses necessarily incurred in the conduct of his said office unless the same shall be itemized and designated in said claim filed by him as herein provided.

Jurors

4 Grand jurors and trial jurors, three dollars ($3) per day and mileage for each attendance at the rate of seven cents ($0.07) for each mile actually traveled.

Other compensation and fees

No official of the county, whose compensation is fixed by this section, shall receive any other compensation in any form in any other capacity from the county. The salaries and expenses provided in this section shall be in full compensation for the services required of them by law, or by virtue of their offices, and all other fees, mileage, or other remuneration or compensation of any kind or character received by such officers for or by reason of any duty imposed by law on such officers, or by virtue of their offices shall be by such officers paid into the county treasury at such times and in such manner as required by law, except that until such time as the county provides for such officers and makes available to their use such numbers of automobiles as are reasonably necessary to carry out the duties of their respective offices, such officers shall be allowed to retain for their own use and benefit such mileage as may be allowed by law.

SEC. 13. Section 4245 of said code is hereby amended to read as follows:

Stats 1935, p 2137 See also Stats 1941, p 2633

4245. In counties of the sixteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Stanislaus County Salaries

1. The auditor, two thousand six hundred dollars ($2,600) per annum.

Auditor

2. The district attorney, three thousand dollars ($3,000) per annum.

District attorney

3. Each supervisor two thousand one hundred dollars ($2,100) per annum and, except as otherwise provided, mileage at the rate of ten cents ($0.10) per mile for each mile traveled in coming to and from the meetings of the board; provided, that only one mileage at any one session of the board shall be allowed. Counties of this class may furnish automobiles to the supervisors thereof for use on any trips taken in performance of their official duties for which mileage would otherwise be allowed. All expense for fuel, oil, supplies, upkeep, and maintenance of such automobiles shall be paid from county funds. Such use of automobiles shall be in lieu of any mileage elsewhere provided. The supervisors shall act as road commissioners in their respective districts.

Supervisors

4. Grand and trial jurors in the superior court, shall each receive for each day's attendance, per day, the sum of three dollars ($3), and for each mile from their residence to the county seat the sum of ten cents ($0.10) per mile, such mileage to be allowed for each day such jurors are required to and do attend. The court shall make an order directing the auditor to draw his warrant on the county treasury for the amount due, and the auditor, unless otherwise specifically ordered, shall draw said warrants on the first and fifteenth days of each and every month, and the treasurer shall pay the same.

Jurors

Stats 1937, p 1772 See also Stats 1941, p 2811

SEC 14. Section 4246 of said code is hereby amended to read as follows:

Monterey County Salaries

4246 In counties of the seventeenth class, the following shall receive as compensation for the services required of them by law, or by virtue of their offices, the following sums:

Auditor

1. The auditor, three thousand dollars ($3,000) per annum. In the event the auditor shall serve as, and perform the duties of, the county purchasing agent, he shall receive, as full compensation for such services, the sum of eight hundred fifty-five dollars ($855) per annum.

District attorney

2. The district attorney, three thousand six hundred dollars ($3,600) per annum. The district attorney shall be allowed the amount of his actual and necessary traveling and other expenses, when incurred in connection with the prosecution of criminals, within the county.

Supervisors

3. Each supervisor, one thousand two hundred dollars ($1,200) per annum, and seven cents ($0.07) per mile for all distances actually traveled in the performance of his duty

as road commissioner, not to exceed four hundred fifty dollars ($450) per annum, together with mileage, at the rate of seven cents ($0.07) per mile in going from his place of residence to the county seat and returning at each session of the board.

Jurors

4. Grand jurors and trial jurors in the superior court shall receive for each day's attendance three dollars ($3), and for every mile actually traveled in attending court as such juror, in going only, fourteen cents ($0.14).

Stats 1939, p 1515

SEC. 14.5 Section 4246a of said code is hereby repealed

Stats 1939, p 1259

SEC. 15. Section 4247 of said code is hereby amended to read as follows:

Santa Barbara County Salaries

4247 In counties of the eighteenth class, the following shall receive as compensation for services required of them by law or by virtue of their offices the following sums:

Auditor

1. The auditor, four thousand dollars ($4,000) per annum

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum for all services. The district attorney shall devote his entire time during office hours to the duties of his office and shall not engage in private practice of the law during his term of office.

Supervisors

3. Each supervisor for all services required of him as supervisor and ex officio road commissioner, one thousand five hundred dollars ($1,500) per annum and twenty cents ($0.20) per mile for traveling from his residence to the county seat to attend meetings of the board of supervisors Where necessary official business requires any supervisor to travel beyond the boundaries of the county, he shall receive actual necessary traveling expenses incurred therefor. No other mileage or remuneration and no other traveling expenses shall be allowed

Jurors

4. Grand jurors three dollars ($3) per diem and trial jurors in the superior court three dollars ($3) in civil and criminal actions, and trial jurors in courts of justices of the peace two dollars ($2) in civil and criminal actions, for each day's attendance. In addition, mileage fees shall be allowed all jurors to be computed at the rate of fifteen cents ($0 15) per mile for each mile traveled in attending court or in attending sessions of the grand jury, in going only.

Stats 1933, p 1661 See also Stats 1941, p 2833

SEC. 16. Section 4248 of said code is hereby amended to read as follows:

Ventura County Salaries

4248. In counties of the nineteenth class the following shall receive as full compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, three thousand six hundred dollars ($3,600) per annum.

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum and actual traveling expenses while away from his office on county business, and when traveling in his own car, the district attorney shall receive five cents ($0 05) per mile for each mile actually traveled. The district attorney shall not personally engage in the private practice of law.

3. Each supervisor, two thousand four hundred dollars ($2,400) per annum and his necessary expenses when attending to the business of the county. When traveling in his own car on county business he shall receive five cents ($0.05) per mile for each mile actually traveled Supervisors

4. For acting as a grand juror in the superior court, each juror shall be paid for each day's attendance upon regularly called grand jury meetings, committee meetings, or when appointed by the foreman of a grand jury to make individual investigations, the sum of three dollars ($3) per day. For every mile actually traveled as a grand juror in attending court, grand jury meetings, regularly called committee meetings or when properly appointed by the foreman of the grand jury to make individual investigations, five cents ($0.05) per mile for each mile actually traveled. Jurors

SEC. 16.5. Sections 4248a, 4248b, 4248c, 4248d, 4248e, 4248f, 4248g, 4248h, 4248i, 4248j, 4248k, 4248l, 4248m, 4248n, 4248o, 4248p, 4248p2, 4248q, 4248r, 4248s, 4248t, 4248u and 4248v of said code are hereby repealed Repeals

SEC. 17. Section 4249 of said code is hereby amended to read as follows: Stats 1939, p 2303 See also Stats 1941, p 2614

4249. In counties of the twentieth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Sonoma County Salaries

1. The auditor, three thousand sixty dollars ($3,060) per annum. All fees and commissions of whatever character received by the auditor shall be deposited in the county treasury and become the property of the county. Auditor

2 The district attorney, four thousand five hundred dollars ($4,500) per annum and his actual and necessary expenses when traveling on county business. He shall devote his entire time to the duties of his office and he shall not engage in private practice of law. District attorney

3. Each supervisor, two hundred dollars ($200) per month as salary, and seven cents ($0.07) per mile in traveling to and from his place of residence to the courthouse on each day of a board meeting. Any member of the board of supervisors when required to travel within or without the county on official business of the county, may use or travel in any vehicle owned and maintained by said county for official purposes. This does not permit the board of supervisors to purchase, set aside or designate automobiles or other vehicles for the sole use of the board, but shall only give them the right to use such vehicles as are ordinarily kept available for general county use. When traveling on official business the expense of maintenance and upkeep of such automobiles and of all necessary supplies therefor shall be borne by the county. Supervisors

4. For attending as a grand juror or juror in the superior court, or as a member of any committee of the grand jury duly called by the secretary or committee chairman, for each day's attendance, while serving as such juror, or on such Jurors

committee per day, three dollars ($3); for each day's attendance when not selected to serve, two dollars ($2), but in no case shall there be charged for more than one per diem on any one calendar day. For attending justice's court, for each juror sworn to try the cause, per day, in civil cases, only, one dollar and fifty cents ($1.50). A juror excused at his own request shall not be entitled to a per diem fee but shall be entitled to mileage for each mile actually and necessarily traveled in attending court as a juror, or in attending the regular sessions of the grand jury, or any committee meeting of the grand jury duly called, except in criminal cases in justice's courts, for which no allowance shall be made, per mile, ten cents ($0.10).

Stats 1937, p 1769

See also Stats 1941, p 2224

SEC. 18. Section 4250 of said code is hereby amended to read as follows:

Imperial County Salaries

4250. In counties of the twenty-first class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, two thousand four hundred dollars ($2,400) per annum.

District attorney

2. The district attorney, three thousand two hundred dollars ($3,200) per annum.

Supervisors

3. Each supervisor, one thousand two hundred dollars ($1,200) per annum which shall be in full for all services performed by him as supervisor and road commissioner for each year. Each supervisor shall be allowed his necessary and actual traveling expenses at the rate of seven cents ($0.07) per mile for each mile traveled within the county in attending the meetings of the board of supervisors and in performing his duties as road commissioner. In case it shall be necessary for any member of said board of supervisors to travel outside of the county and within the State of California, on official matters pertaining to his duties as supervisor and as road commissioner, he shall receive his actual and necessary expenses only and shall file his demand in the same manner as other county officers and shall submit signed receipts and vouchers for all such expenses.

Jurors

4. Grand jurors, and trial jurors in superior court, in criminal cases, shall receive as compensation for each day's attendance the sum of three dollars ($3), and for each mile actually and necessarily traveled from their residence in attending the superior court or the grand jury, one way only, the sum of ten cents ($0.10), such mileage to be allowed once each day said jurors are required to attend in regular session. Jurors in justice's courts shall receive as compensation for each day's attendance the sum of one dollar and fifty cents ($1.50), and for each mile actually and necessarily traveled from their residence in attending said justice's court, one way only, the sum of ten cents ($0.10), such mileage to be allowed once each day said trial jurors are required to attend.

SEC. 19. Section 4251 of said code is hereby amended to read as follows: Stats 1937, p 416 See also Stats 1941, p 1856

4251. In counties of the twenty-second class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Marin County Salaries

1. The auditor, three thousand six hundred dollars ($3,600) per annum. Auditor

2. The district attorney, three thousand two hundred dollars ($3,200) per annum. In the event that the offices of district attorney and public administrator are consolidated, the holder of said consolidated office shall receive a salary of three thousand two hundred dollars ($3,200) per annum and he shall also retain for his own use all fees received by him while he is performing the duties of public administrator. District attorney

3. Each supervisor, one hundred dollars ($100) per month, and eight cents ($0.08) per mile while traveling on official business from his residence to the county seat, or returning therefrom, and also mileage for his services as road commissioner at the rate of eight cents ($0 08) per mile, for the distance actually traveled in the discharge of his duties as road commissioner. The mileage as road commissioner shall not in any one year exceed the sum of three hundred dollars ($300). Supervisors

In all cases where the mileage of any county officer mentioned in this section is not provided by general law, or provided for herein, such mileage shall be the sum of eight cents ($0.08) per mile for each mile actually and necessarily traveled in the performance of his duties.

The county officers mentioned in this section shall be allowed their actual and necessary expenses incurred while traveling to and from the annual convention of their respective associations, but in no event shall such expenses exceed the sum of twenty-five dollars ($25) for each of said officers in any one year. Convention expenses

Stats 1933, p. 855 See also Stats 1941, p 2320

SEC. 20. Section 4252 of said code is hereby amended to read as follows:

4252. In counties of the twenty-third class, the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums: Solano County Salaries

1. The auditor, three thousand dollars ($3,000) and such fees as are allowed by law. Auditor

2 The district attorney, three thousand dollars ($3,000) per annum. District attorney

3. Each supervisor, one thousand two hundred dollars ($1,200) per annum for all services rendered including mileage and including services as road commissioners; provided, that when required to go on business to any point outside of the county, they shall be allowed actual expenses. Supervisors

Stats 1937, p 1170

SEC. 21. Section 4253 of said code is hereby amended to read as follows:

Mc ced County Salaries

4253. In counties of the twenty-fourth class the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1 The auditor, three thousand dollars ($3,000) per annum. When required by the board of supervisors to compile an annual statistical report, the auditor shall receive one hundred fifty dollars ($150) from the general fund of the county as compensation for compiling such report.

District attorney

2 The district attorney, four thousand dollars ($4,000) per annum. The district attorney shall not engage in private practice and he shall devote all his time and attention during business hours to the duties of his office.

Supervisors

3. Each supervisor, two thousand one hundred dollars ($2,100) per annum for all services performed by them as supervisors, as members of the board of equalization and as road commissioners. No mileage allowance is necessary as the county furnishes automobiles for the use of supervisors and road commissioners.

Jurors

4. For attending as a grand juror, or a trial juror in the superior court, for each day's attendance, three dollars ($3) per day; for each mile he travels in attending court as such juror, twelve cents ($0.12) per mile in going only.

When payable

5. The salaries of all county and township officers and their deputies shall be payable in equal monthly installments from the salary fund of the county on the first day of each month.

Stats 1931, p 1178 See also Stats 1941, p 1938

SEC. 22 Section 4254 of said code is hereby amended to read as follows:

Humboldt County Salaries

4254. In counties of the twenty-fifth class, the following officers shall receive, as compensation for services required of them by law, or by virtue of their office, the following sums:

Auditor

1. The auditor, three thousand six hundred dollars ($3,600) per annum In addition to the duties of the auditor in counties of the twenty-fifth class as provided by law it shall also be the duty of the auditor to inspect, examine and audit the books and accounts of all township officers charged with the receipt, safekeeping or disbursement of public moneys, in townships having a population of more than 3,000 persons, at least once each month and also to inspect the books and accounts of all other county or township offices in said county charged with the receipt, safekeeping or disbursement of public moneys as often as in his discretion it may be deemed necessary and to require all persons who have received any money belonging to the county and who have not accounted therefor to settle their accounts. It shall be the duty of the auditor to collect all rentals and franchise fees due the county. The auditor shall establish and maintain a complete budget system of accounts in his office. The actual traveling expenses of the auditor, in making such inspection and audits, shall be paid by the county as other county bills are paid.

2. The district attorney, four thousand eight hundred dollars ($4,800) per annum and said district attorney while in receipt of said salary shall be disqualified from engaging in the practice of law in any and all of the courts of this State, in any action or cause wherein the county in which he is elected and serves or the State of California is not a party or parties. District attorney

3. Each supervisor, two thousand one hundred dollars ($2,100) per annum, necessary traveling expenses incurred in the performance of his official duties, and mileage at six cents ($0 06) per mile for all distances traveled by him as supervisor or as road commissioner. The mileage not to exceed in any one year the sum of one thousand dollars ($1,000) for each supervisor. Supervisors

4. Grand jurors and trial jurors in the superior courts in civil and criminal cases, three dollars ($3), in lawful money of the United States for each day's attendance, and mileage to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of the trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrant drawn by the county auditor upon the written order of the judge of the court in which the jurors were in attendance and the treasurer of said county shall pay said warrants The board of supervisors is hereby directed to make suitable appropriations for the payment of the fees herein provided for. Jurors

5. Jurors in justice's courts in civil and criminal cases shall be two dollars ($2) in lawful money of the United States for each day's attendance and mileage to be computed at the rate of fifteen cents ($0 15) per mile for each mile necessarily traveled in attending the court, in going only. In criminal cases such fees and mileage of the trial jurors in the justice's courts shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said jury was in attendance and the treasurer of said county shall pay said warrants. Same

6. Jurors on coroner's juries, one dollar ($1) for each day's attendance, said fees to be paid out of the general fund of said county upon the presentation and filing with the board of supervisors of said county a duly verified claim therefor on proper allowance of said claim by said board of supervisors and the approval of the coroner of said county. Same

The board of supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for.

SEC 23. Sections 4254a, 4254b, 4254c, 4254d, 4254e, 4254f, 4254g, 4254h, 4254i, 4254j, 4254k, 4254l, 4254m, 4254n, 4254o, 4254p, 4254q, 4254r, 4254s, 4254t, of said code are hereby repealed. Repeals

Stats 1937, p 1204

SEC. 24. Section 4255 of said code is hereby amended to read as follows:

Santa Cruz County. Salaries

4255. In counties of the twenty-sixth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, three thousand dollars ($3,000) per annum.

District attorney

2 The district attorney, two thousand four hundred dollars ($2,400) per annum.

Supervisors

3. Each supervisor, one hundred twenty-five dollars ($125) per month and each member shall also be furnished with necessary transportation while engaged in the business of the county. Whenever it shall be necessary for any member of the board of supervisors to leave the county in and for which he is elected for the purpose of performing any of his duties, that then and in that event, said supervisor shall be allowed his actual expenses The supervisors, while acting as road commissioners, shall give their personal attention to the repair, maintenance, construction and improvement of all roads under their supervisions.

Jurors

4. Grand jurors and trial jurors in the superior court, shall each receive for each day's attendance, per day the sum of three dollars ($3) and for each mile actually and necessarily traveled from their residence to the county seat, in going only, the sum of ten cents ($0.10) per mile, such mileage to be allowed but once during each session such jurors are required to attend.

Mileage

Any officer, of the county mentioned herein entitled to receive mileage for distances traveled by him in the discharge of his official duties shall receive such mileage at the rate of five cents ($0.05) per each mile so traveled.

Other compensation and fees

It is hereby expressly provided that the salaries and fees above provided shall be in full compensation for all services of every kind and description rendered by the officers named herein, either as officers or ex officio officers, their deputies and assistants It is hereby further expressly provided, that all of the fees commissions, per diem and expenses provided for in Section 4290 of the Political Code of the State of California, and all other moneys coming into the hands of the county officers mentioned, no matter from what source derived or received, shall belong to and be the property of the county, in counties of this class, and shall be paid into the county treasury by officers at the same time and in the same manner that other moneys are required by law to be paid into the county treasury, except, however, that the provisions of this paragraph shall not apply to the office of district attorney and he is expressly exempted from the provisions of this paragraph, and as to said office, to wit, district attorney, he shall receive the salaries, fees and commissions provided for by law

SEC. 25. Section 4257 of said code is hereby amended to read as follows: Stats 1937, p 1768

4257. In counties of the twenty-eighth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Kings County Salaries

1. The auditor, two thousand seven hundred dollars ($2,700) per annum. Auditor

2. The district attorney, two thousand seven hundred dollars ($2,700) per annum. District attorney

3. Each supervisor, two thousand one hundred dollars ($2,100) per annum in full for all services performed by them as supervisors and as members of the board of equalization and road commissioners and in any and every capacity, and also all actual and necessary traveling expenses when traveling on county business outside of the county; provided, that each supervisor shall furnish his own transportation in the performance of all his duties within the county. Supervisors

4. Grand jurors and trial jurors in the superior court, for each day's attendance, three dollars ($3) per day. In justices' courts in civil and criminal cases the jurors sworn to try the case shall receive for each day's attendance the sum of two dollars ($2) per day. Each juror shall receive mileage at the rate of six cents ($0.06) per mile each way for every mile actually traveled in attending court, mileage to be allowed for each trip necessarily made to the place of service; provided, that in justices' courts mileage shall be allowed only to those sworn to try the case. Jurors

SEC. 26. Section 4258 of said code is hereby amended to read as follows: Stats 1939, p 1971

4258. In counties of the twenty-ninth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: San Luis Obispo County Salaries

1 The auditor shall receive as compensation two thousand six hundred seventy-five dollars ($2,675) per annum. Auditor

2. The district attorney, three thousand six hundred dollars ($3,600) per annum. District attorney

3 Each supervisor, one thousand sixty dollars ($1,060) per annum, payable in monthly installments, and for serving as road commissioner two hundred dollars ($200) per annum; also each shall be allowed and paid his actual necessary traveling expenses incurred by him while engaged in the county business outside of his district whether within or without the boundaries of his county; also his actual necessary expenses in attending the annual State convention of members of county boards of supervisors, but the expense of each member attending such convention shall not exceed forty dollars ($40) in any one year; also each supervisor shall be allowed and paid his traveling expenses, while supervising the roads of his district, at the rate of sixteen cents ($0.16) per mile for each mile so traveled, but the amount so allowed and paid shall not exceed the sum of eighty dollars ($80) in any one month and while Supervisors

attending board meetings and attending to any other county business at the rate of sixteen cents ($0.16) per mile.

Jurors 4. Grand and trial jurors in the superior court shall receive for each day's attendance per day the sum of three dollars ($3) In justices' courts in civil cases the jurors sworn to try the cases shall receive for each day's attendance per day the sum of two dollars ($2). All jurors shall receive for each mile actually and necessarily traveled from their residence to the place of service the sum of fifteen cents ($0 15) per mile; provided, that in the justices' courts mileage shall be allowed only to those sworn to try the case.

Stats 1939, p 2481 SEC 27. Section 4259 of said code is hereby amended to read as follows:

Shasta County Salaries 4259. In counties of the thirtieth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums

Auditor 1. The auditor, two thousand eight hundred dollars ($2,800) per annum, which shall include compensation for the compilation of the annual financial report and classified annual pay roll of the counties of this class.

District attorney 2. The district attorney, two thousand one hundred dollars ($2,100) per annum.

Supervisors 3. Each supervisor, one thousand five hundred dollars ($1,500) per annum and ten cents ($0.10) per mile, one way between residence and county seat, in attending upon all regular, special or adjourned meetings of the board of supervisors The chairman of the board of supervisors may receive twenty-five cents ($0.25) per mile, one way, between his residence and the county seat, when attending at the county seat for the single purpose of counting the money in the county treasury as required by law.

Jurors 4. Grand jurors in grand jury duty and trial jurors in civil and criminal cases in the superior court, shall receive, for each day's attendance, three dollars ($3) and for each mile necessarily traveled in his attendance ten cents ($0.10)

Stats 1937, p 1771 SEC 28. Section 4260 of said code is hereby amended to read as follows:

Siskiyou County Salaries 4260. In counties of the thirty-first class the following shall receive as compensation for services required of them by law or by virtue of their offices, the following sums:

Auditor 1. The auditor, three thousand dollars ($3,000) per annum

District attorney 2. The district attorney, three thousand dollars ($3,000) per annum

Supervisors 3. Each member of the board of supervisors, one thousand two hundred dollars ($1,200) per annum and mileage at the rate of twenty cents ($0.20) per mile from his home to and from county seat.

SEC. 29. Section 4261 of said code is hereby amended to read as follows: Stats 1939, p 3020

4261. In counties of the thirty-second class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Napa County Salaries

1. The auditor, two thousand four hundred dollars ($2,400) per annum. Auditor

2. The district attorney, two thousand four hundred dollars ($2,400) per annum. District attorney

3. Each supervisor one thousand two hundred dollars ($1,200) per annum which shall be in full for all services rendered as supervisor. Supervisors

4. Grand jurors and trial jurors, in the superior court, in civil and criminal actions and in all special proceedings, three dollars ($3) a day for each day's attendance, and mileage, to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, or in attending sessions of the grand jury, in going only. In criminal actions such fees and mileage of such trial jurors shall be paid by the treasurer, out of the general funds of the county, upon warrants drawn by the auditor, who shall draw such warrants upon the written order of the judge of the superior court in which said juror was in attendance, and the treasurer shall pay all such warrants. Jurors

SEC. 30. Section 4262 of said code is hereby amended to read as follows: Stats 1937, p 1379

4262. In counties of the thirty-third class the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Placer County Salaries

1. The auditor, two thousand seven hundred dollars ($2,700) per annum. Auditor

2. The district attorney, two thousand four hundred dollars ($2,400) per annum. District attorney

3. Each supervisor, one thousand eight hundred dollars ($1,800) per annum, for all services rendered as supervisor, as a member of the board of equalization, and as road commissioner; provided, that each supervisor shall also receive six cents ($0.06) for each mile traveled on county business, but not in excess of the sum of fifty dollars ($50) in any one calendar month, and his actual and necessary traveling expenses when traveling by order of the board of supervisors on county business outside of the county. Supervisors

4. Grand jurors and jurors in the superior court shall receive for each day's attendance the sum of three dollars ($3), and for each mile actually and necessarily traveled from residence to county seat the sum of twenty-five cents ($0.25); such mileage to be allowed but once during each session such jurors are required to attend. Jurors

Stats 1931, p 413

SEC. 31. Section 4263 of said code is hereby amended to read as follows:

Mendocino County Salaries

4263. In counties of the thirty-fourth class, the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums:

Auditor

1. The auditor, three thousand dollars ($3,000) per annum.

District attorney

2. The district attorney, three thousand dollars ($3,000) per annum, and his traveling, office and other expenses in criminal matters, and cases, and in civil actions, proceedings and all other matters in which the county is interested, incurred by him in the performance of his duties, and all expenses incurred by him in the detection of crime and prosecution of criminal cases and in civil actions and proceedings and in all other matters in which the county is interested.

Supervisors

3. Each supervisor, one thousand five hundred dollars ($1,500) per annum and the further sum of ten cents ($0.10) per mile in traveling to and from his residence to the county seat; and for services as road commissioner, he shall receive twenty cents ($0.20) per mile for all distances actually traveled by him in the performance of his duties within the county but he shall not in any one year receive more than nine hundred dollars ($900) as such road commissioner.

Jurors

4. Grand jurors and trial jurors in the superior courts of said counties, shall receive the sum of three dollars ($3) for each day's attendance, and for each mile actually and necessarily traveled from their residence to the place of service, in going only, the sum of twenty cents ($0.20) per mile, such mileage to be allowed but once during any one session of such court or grand jury. Jurors in justices' courts and recorders' courts and coroner's inquests, shall receive for each day's attendance, the sum of two dollars ($2), and for each mile actually and necessarily traveled from their residence to the place of service, in going only, the sum of ten cents ($0.10) per mile; provided, that the fees of trial jurors in civil cases shall be paid by the litigants, as other costs are paid, and jurors in criminal cases in recorders' courts shall be paid by municipalities in which such court is or may be established.

Repeals

SEC. 32. Sections 4263a, 4263b, 4263c, 4263d, 4263e, 4263f, 4263g, 4263h, 4263i, 4263j, 4263k, 4263l, 4263m, 4263n, 4263o, 4263p, 4263q, 4263r, 4263s, of said code are hereby repealed.

Stats 1939, p 2393

SEC. 33. Section 4264 of said code is hereby amended to read as follows:

Yolo County Salaries

4264 In counties of the thirty-fifth class the following shall receive as compensation for the services required of them by law or by virtue of their office, the following sums:

Auditor

1. The auditor, three thousand dollars ($3,000) per annum.

District attorney

2. The district attorney, three thousand dollars ($3,000) per annum.

Supervisors

3. Each supervisor, one thousand two hundred dollars ($1,200) per annum, for all services performed by him as

supervisor, member of the board of equalization and road commissioner and the use of county automobiles in connection with the performance of official duties.

4. Grand jurors and trial jurors in the superior court in civil and criminal cases, shall receive as compensation for each day's attendance, per day, three dollars ($3); and trial jurors for each mile actually and necessarily traveled in attendance as such in going only, per mile, twenty-five cents ($0.25); and grand jurors for each mile actually and necessarily traveled in attendance as such in going only, per mile, fifteen cents ($0.15). Jurors

SEC. 34. Section 4265 of said code is hereby amended to read as follows: Stats 1933, p 1745

4265. In counties of the thirty-sixth class the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Madera County Salaries

1. The auditor, two thousand four hundred dollars ($2,400) per annum. Auditor

2. The district attorney, three thousand dollars ($3,000) per annum. District attorney

3. Each member of the board of supervisors, one thousand eight hundred dollars ($1,800) per annum, in full payment for services as member of the board of supervisors, and as member of the board of equalization. Each member shall receive his actual mileage as road commissioner not to exceed three hundred dollars ($300) per annum. Supervisors

4. Grand jurors and jurors in the superior court shall receive the following fees: For each day's attendance three dollars ($3), and for each mile actually traveled in attending court as a juror, or otherwise traveled in the performance of their duties, six cents ($0.06) per mile each way. Jurors

SEC. 35. Section 4265a of said code is hereby repealed. Stats 1911, p. 216

SEC 36 Section 4266 of said code is hereby amended to read as follows: Stats 1939, p 1971

4266. In counties of the thirty-seventh class the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Nevada County Salaries

1. The auditor, eight hundred dollars ($800) per annum. Auditor

2. The district attorney, two thousand five hundred dollars ($2,500) per annum. District attorney

3. Each supervisor, one thousand eight hundred dollars ($1,800) per annum, for all services rendered as supervisor, as a member of the board of equalization, and as road commissioner. Each supervisor shall also receive six cents ($0.06) for each mile traveled on county business, but not in excess of the sum of forty dollars ($40) in any one calendar month, and his actual and necessary traveling expenses when traveling by order of the board of supervisors on county business outside of the county. Supervisors

4. Grand jurors and trial jurors in the superior court shall each receive for each day's attendance, the sum of three dollars ($3), and mileage to be paid at the rate of thirty-five Jurors

cents ($0.35) per mile for each mile actually and necessarily traveled from their residences to the county seat in going only; such mileage to be allowed but once during each session such jurors are required to attend same; provided, that no one mileage shall exceed the sum of fifteen dollars ($15). Such fees and mileage shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the superior court in said county.

Stats 1931, p 1146

SEC. 37. Section 4267 of said code is hereby amended to read as follows:

Sutter County Salaries

4267. In counties of the thirty-eighth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums:

Auditor

1. The auditor, two thousand six hundred twenty-five dollars ($2,625) per annum. It shall be the duty of the auditor, in addition to his duties as auditor, to prepare for the board of supervisors, a statistical report as provided by Section 4049a of the Political Code as adopted in 1907.

District attorney

2. The district attorney, two thousand four hundred dollars ($2,400) per annum.

Supervisors

3. Each supervisor shall receive one hundred dollars ($100) per month, and his actual expenses while attending to the business of the county by the order of the board of supervisors and mileage at the rate of fifteen cents ($0.15) per mile, one way, for traveling from his residence to the county seat to attend regular, special and adjourned sessions of the board of supervisors, and mileage at the rate of fifteen cents ($0.15) per mile, one way, for all actual distances, traveled by him in the performance of his duties as road commissioner.

Jurors

4. Grand jurors and jurors in the superior court for each day's attendance three dollars ($3); for each mile actually traveled in attending court as a juror, and for attending regularly called grand jury meetings and grand jury committee meetings, one way, fifteen cents ($0.15). Mileage shall be paid for each time a regularly empaneled jury or grand jury shall be called in separate session.

Stats 1939, p 1971

SEC. 38. Section 4268 of said code is hereby amended to read as follows:

Yuba County Salaries

4268. In counties of the thirty-ninth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums:

Auditor

1. The auditor, one thousand five hundred dollars ($1,500) per annum.

District attorney

2. The district attorney, four thousand dollars ($4,000) per annum. The district attorney shall not engage in the private practice of law, and shall devote his entire time to the service of the county. In the event that the office of district attorney is consolidated with that of public administrator, the holder of said consolidated office shall receive a salary of four thousand dollars ($4,000) per annum, and all fees received by

the holder of said consolidated office while said holder is performing the duties of public administrator shall be paid into the county treasury.

Supervisors 3. Each supervisor, one thousand two hundred dollars ($1,200) per annum, and mileage when acting as road commissioner, twenty-five cents ($0.25) per mile one way; provided, the amount of mileage shall not exceed the sum of three hundred dollars ($300) in any one year.

Jurors 4. Grand jurors and trial jurors in the superior court shall each receive for each day's attendance the sum of three dollars ($3), and mileage to be computed at the rate of fifteen cents ($0.15) per mile for each mile actually and necessarily traveled from their residences to the county seat, in going only. Such fees and mileage shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the superior court in said county.

Stats 1933, p 1204 SEC. 39. Section 4269 of said code is hereby amended to read as follows:

Lassen County Salaries 4269. In counties of the fortieth class, the following shall receive as compensation for services required of them by law, or by virtue of their offices, the following sums:

Auditor 1. The auditor, eight hundred dollars ($800) per annum.

District attorney 2. The district attorney, two thousand four hundred dollars ($2,400) per annum.

Supervisors 3. Each supervisor, one thousand two hundred dollars ($1,200) per annum, and mileage from residence to the county seat, at each sitting of the board, at twenty-five cents ($0.25) per mile. Each supervisor is, in addition, allowed three hundred dollars ($300) per annum to cover mileage expense at twenty-five cents ($0.25) per mile in viewing the roads, which salaries and mileage shall be in full for all services.

4. Grand jurors and trial jurors shall receive the following fees and mileage:

Jurors (a) Grand jurors and jurors in the superior court shall be paid three dollars ($3) per day for each day's attendance and for each mile actually traveled in going only, while acting as jurors, twenty-five cents ($0.25). The judge of the court shall certify to the auditor the number of days' attendance of each juror and his mileage and the auditor shall then draw his warrant on the treasurer in favor of each juror therefor and the treasurer shall pay the same.

(b) For attending as a trial juror in criminal cases only in any justice's court of the county, for each day's attendance, two dollars and fifty cents ($2.50). The justice of the peace shall certify to the auditor the number of days' attendance of each juror, and the auditor shall then draw his warrant therefor, and the treasurer shall pay the same.

Stats 1931, p 1034

SEC. 40. Section 4270 of said code is hereby amended to read as follows:

Tehama County Salaries

4270. In counties of the forty-first class, the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums:

Auditor

1. The auditor, two thousand dollars ($2,000) per annum.

District attorney

2. The district attorney, one thousand five hundred dollars ($1,500) per annum.

Supervisors

3. Each supervisor as supervisor and road commissioner, five dollars ($5) per day. Each supervisor shall receive as mileage, fifteen cents ($0.15) per mile for one way from the place of residence to the place of meeting for each regular session of the board of supervisors.

Jurors

4. Grand jurors and trial jurors in the superior court, three dollars ($3) per day for each day's attendance and mileage, to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor on the written order of the judge of the court in which the juror was in attendance, and the treasurer of said county shall pay such warrants

Repeals

SEC. 41. Sections 4270a, 4270b, 4270c, 4270d, 4270e, 4270f, 4270g, 4270h, 4270i, 4270j, 4270k, 4270l, 4270m, 4270n, 4270o, 4270p, 4270q and 4270r of the Political Code are hereby repealed.

Stats 1933, p 1473

See also Stats 1941, p 2225

SEC. 42. Section 4271 of said code is hereby amended to read as follows:

El Dorado County Salaries

4271. In counties of the forty-second class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, nine hundred dollars ($900) per annum and 5 per cent of all amounts found to have been paid out by the county for State aid as per his report as contemplated by Section 4099a of the Political Code of this State or other law providing for such compensation

District attorney

2. The district attorney, one thousand eight hundred dollars ($1,800) per annum.

Supervisors

3. Each supervisor, nine hundred dollars ($900) per annum and twenty cents ($0.20) per mile for traveling from his residence to the county seat, also his actual necessary expenses while acting as ex officio road overseer or commissioner not to exceed three hundred dollars ($300) in any one year.

Jurors

4. For attending as a grand juror, for each day's attendance, three dollars ($3), and fifteen cents ($0.15) per mile for each mile actually traveled in going only, and the court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same. For attending as a trial juror in the

superior court in criminal cases, for each day's actual attendance, three dollars ($3), and fifteen cents ($0.15) per mile for each mile actually traveled in going only, and the court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

Stats 1939, p 2295

SEC. 43. Section 4272 of said code is hereby amended to read as follows:

See also Stats 1941, p 2493

4272. In counties of the forty-third class, the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums:

Glenn County Salaries

1. The auditor, two thousand four hundred dollars ($2,400) per annum.

Auditor

2. The district attorney, two thousand four hundred dollars ($2,400) per annum.

District attorney

3. Each supervisor, one hundred dollars ($100) per month and mileage at the rate of twenty cents ($0.20) per mile for each mile actually traveled by him in the discharge of his duties either as road commissioner or supervisor, not exceeding in the aggregate six hundred dollars ($600) per annum. Each supervisor shall also receive his necessary expenses when the performance of his duty as supervisor or road commissioner takes him out of the county.

Supervisors

4. Grand jurors and trial jurors in the superior court shall receive for each day's attendance the sum of three dollars ($3), and for each mile actually and necessarily traveled from their residence to the county seat, the sum of fifteen cents ($0.15); such mileage to be allowed but once during each session such jurors are required to attend.

Jurors

SEC 44. Section 4272a of said code is hereby repealed.

Stats 1931, p 901

SEC. 45. Section 4273 of said code is hereby amended to read as follows:

Stats 1931 p 1149

4273. In counties of the forty-fourth class, the following county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following sums:

Plumas County Salaries

1. The auditor, four hundred dollars ($400) per annum

Auditor

2. The district attorney, two thousand dollars ($2,000) per annum.

District attorney

3. Each supervisor, one thousand two hundred dollars ($1,200) per annum and mileage from residence to the county seat at each sitting of the board, twenty cents ($0.20) per mile; said compensation to be in full for services either as supervisor or for mileage as road commissioner.

Supervisors

4. Grand and trial jurors, three dollars ($3) per day, and such mileage fees as may be allowed by law.

Jurors

Stats 1939, p 1788

SEC. 46. Section 4274 of said code is hereby amended to read as follows:

San Benito County. Salaries

4274. In counties of the forty-fifth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, eight hundred dollars ($800) per annum.

District attorney

2. The district attorney, one thousand eight hundred dollars ($1,800) per annum.

Supervisors

3. Each supervisor, nine hundred dollars ($900) per annum, and twenty cents ($0.20) per mile for traveling expenses from his residence to the county seat, and also necessary expenses when on official business outside the county.

Jurors

4. Grand and trial jurors in the superior court, three dollars ($3) per day for each day's attendance while engaged in the performance of the duties required of them, and in addition thereto, for each mile actually traveled, in going only, while acting as such juror, fifteen cents ($0.15). The judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for such per diem and mileage, and the treasurer shall pay the same.

Stats 1931, p 1111

SEC. 47. Section 4275 of said code is hereby amended to read as follows:

Tuolumne County Salaries

4275. In counties of the forty-sixth class the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums:

Auditor

1. The auditor, one thousand six hundred twenty dollars ($1,620) per annum.

District attorney

2. The district attorney, two thousand two hundred dollars ($2,200) per annum.

Supervisors

3. Each supervisor, one thousand four hundred fifty dollars ($1,450) per annum for all services performed by him as supervisor, member of the board of equalization and road commissioner.

Use of automobiles

In lieu of mileage, supervisors shall be entitled to the use of automobiles provided and maintained by any county of this class in connection with the performance of their official duties.

Any supervisor receiving less than one thousand four hundred fifty dollars ($1,450) per annum for all services performed by him, as supervisor, and as a member of the board of equalization and as road commissioner, shall also, in lieu of mileage, be entitled to the use of automobiles provided and maintained by any county of this class in connection with the performance of his official duties, in which event his salary shall be reduced in the sum of fifty dollars ($50) per annum.

Court reporter

4. In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in criminal cases in said court, before the grand jury, for preliminary examinations and for coroners' inquests, and for transcribing notes in justices' courts preliminary examinations, a monthly salary of one hundred thirty-five dollars ($135), payable out of the county treasury at the same time and in the same manner as the salaries of the county officers

are paid, and shall receive as compensation for taking notes, when required, in civil cases, a per diem as is now or may be hereafter provided by law, to be paid by the litigants as the court may direct; and for transcription of said notes, in civil cases, and in criminal cases on appeal from the superior court, such fees as are now or may be hereafter provided by law; said compensation for transcriptions in criminal cases on appeal from the superior court to be audited and allowed upon a written order of the court, and paid out of the county treasury and in civil cases to be paid by the party ordering the same or when ordered by the judge, by either party, or by both or all parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside of the county seat.

Jurors

5. Grand jurors and jurors in the superior court in criminal and civil cases shall be paid three dollars ($3) per day for each day's attendance, and for each mile actually traveled in attending court as such juror under summons or under order of court, in going only, twenty-five cents ($0.25); and in criminal cases, the county clerk shall certify to the auditor the number of days attendance and the number of miles traveled by each such juror, and the auditor shall then draw his warrant for the fees and mileage due such juror, and the treasurer shall pay the same.

Witnesses

6. Witnesses, when legally required to attend upon the superior court, in criminal cases, and upon the juvenile court in juvenile court matters, shall be paid two dollars ($2) per day for each day's actual attendance, and twenty-five cents ($0 25) per mile for each mile actually traveled, in going only; and in criminal cases and in juvenile court matters the county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each such witness, and the auditor shall then draw his warrant for the fees and mileage due such witness, and the treasurer shall pay the same.

Stats 1931, p 1175
See also Stats 1941, p 2158

SEC. 48. Section 4276 of said code is hereby amended to read as follows:

Colusa County Salaries

4276. In counties of the forty-seventh class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1 The auditor, two thousand four hundred dollars ($2,400) per annum.

District attorney

2 The district attorney, two thousand four hundred dollars ($2,400) per annum.

Supervisors

3. Each supervisor, one hundred twenty-five dollars ($125) per month, and mileage at the rate of ten cents ($0.10) per mile for each mile actually traveled by him in the discharge of his duties, either as road commissioner or supervisor, not exceeding in the aggregate two hundred fifty dollars ($250) per annum. Each supervisor shall also receive his necessary expenses when the performance of his duty as supervisor or road commissioner takes him out of the county.

Jurors 4. Grand and trial jurors of the superior court, for each day's attendance, the sum of three dollars ($3) per day, and for each mile actually traveled in attending court, twenty cents ($0.20) per mile one way only.

Stats 1939, p 1972 SEC. 49. Section 4277 of said code is hereby amended to read as follows:

Amador County Salaries 4277. In counties of the forty-eighth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor 1 The auditor, one thousand dollars ($1,000) per annum.

District attorney 2 The district attorney, one thousand eight hundred dollars ($1,800) per annum. He may charge and receive for his own use necessary expenses for traveling on county and public business, to be allowed as other county charges are allowed by law.

Supervisors 3. Each supervisor, one thousand two hundred dollars ($1,200) per annum, for his services both as supervisor and as road commissioner, and ten cents ($0.10) per mile for traveling from his residence to the county seat and return for each regular or special session of the board.

Jurors 4. Grand jurors and jurors in the superior court, three dollars ($3) per day for each day's attendance, and for each mile actually traveled, in going only, while acting as such jurors, twenty-five cents ($0.25), and the court shall make an order directing the auditor to draw his warrant on the treasurer in favor of each such juror for such per diem and mileage, and the treasurer shall pay the same.

Stats 1937, p 1767 SEC. 50. Section 4278 of said code is hereby amended to read as follows:

Modoc County: Salaries 4278. In counties of the forty-ninth class the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums:

Auditor 1. The auditor, eight hundred dollars ($800) per annum, and such fees as are now or may hereafter be allowed by law.

District attorney 2. The district attorney, two thousand dollars ($2,000) per annum.

Supervisors 3. Each supervisor, eight hundred dollars ($800) per annum, plus an allowance of fifteen cents ($0.15) per mile actually traveled in inspecting county roads. No member of the board shall receive an aggregate annual allowance for mileage in excess of three hundred dollars ($300).

Jurors 4. For attending as a grand juror or as a trial juror in the superior court, in criminal cases, three dollars ($3) per day for each day's attendance. For each mile actually traveled in attending upon the superior court, in going only, per mile, twenty-five cents ($0.25). In counties of this class the grand jurors and trial jurors in criminal cases shall be paid by warrants drawn by the county auditor, issued upon the order of the court, or judge thereof. Jurors who serve in civil actions in the superior court shall receive the sum of two dollars ($2) per day, to be paid by the party or parties demanding the jury.

Stats 1937, p 1379 See also Stats 1941, p 2851

SEC. 51. Section 4279 of said code is hereby amended to read as follows:

4279. In counties of the fiftieth class the following shall receive as compensation for the services required of them by law, or by virtue of their offices, the following sums:

Calaveras County Salaries

1. The auditor, one thousand dollars ($1,000) per annum.

Auditor

2. The district attorney, two thousand dollars ($2,000) per annum and necessary traveling expenses to be allowed by the board of supervisors.

District attorney

3. Each supervisor, one thousand five hundred dollars ($1,500) per annum, in full payment for services as member of the board of supervisors, as member of the board of equalization and as road commissioner, and twenty cents ($0.20) per mile, going only, in traveling from his residence to the county seat at each session of the board. Each supervisor shall also receive his necessary and actual itemized traveling expenses when traveling outside the county by order of the board on business connected with his office; said traveling expenses not to exceed one hundred dollars ($100) per year per supervisor.

Supervisors

4. For attending as a grand juror, or a trial juror in criminal and civil cases in the superior court, for each day's attendance, three dollars ($3); for each mile actually traveled one way as such grand juror, or trial juror, in the superior court, under summons or order of the court, twenty-five cents ($0.25) The county clerk shall certify to the auditor the number of days' attendance, and the number of miles traveled by each juror and the auditor shall then draw his warrant therefor and the treasurer shall pay the same.

Jurors

SEC. 52. Section 4280 of said code is hereby amended to read as follows:

Stats 1933, p 537

4280. In counties of the fifty-first class, the following shall receive as compensation for services required of them by law or by virtue of their offices, the following sums:

Lake County, Salaries

1. The auditor, two thousand two hundred twenty dollars ($2,220) per annum, in lieu of all fees and commissions.

Auditor

2. The district attorney, one thousand eight hundred dollars ($1,800) per annum.

District attorney

3. Each supervisor, eight hundred dollars ($800) per annum for his services as supervisor, and a further sum of ten cents ($0.10) per mile, in traveling to and from his residence to the county seat; and for his services as road commissioner he shall receive a salary of four hundred dollars ($400) per annum; and ten cents ($0.10) per mile, for every mile actually traveled in the performance of his duty as road commissioner. He shall not receive more than five hundred dollars ($500) in any one year for such mileage as road commissioner nor more than three hundred dollars ($300) in any one year for such mileage as supervisor.

Supervisors

4. For attending as grand juror or as trial juror, each such juror shall receive such fees and mileage as are now or may hereafter be allowed by law.

Jurors

Stats 1939, p 2302 See also

SEC. 53. Section 4281 of said code is hereby amended to read as follows:

Stats 1941, p 2222 Inyo County Salaries

4281. In counties of the fifty-second class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, one thousand eight hundred dollars ($1,800) per annum.

District attorney

2. The district attorney, two thousand one hundred dollars ($2,100) per annum.

Supervisors

3. Each supervisor, one thousand two hundred dollars ($1,200) per annum, thirty cents ($0.30) per mile one way in attending the meetings of the board and three dollars ($3) per day when actually serving as road commissioner, not to exceed three hundred dollars ($300) per annum.

Jurors

4. For attending as a grand juror, for each day's actual attendance, per day, three dollars ($3), and twenty cents ($0.20) per mile for each mile actually traveled, in going only, for attending as a trial juror in the superior court in civil and criminal cases, for each day's actual attendance, per day, three dollars ($3), and twenty cents ($0.20) per mile for each mile actually traveled, in going only; for attending as a trial juror in the justice's court, in civil cases only, for each day's actual attendance, per day, two dollars ($2), and twenty cents ($0.20) per mile for each mile actually traveled, in going only. The fee of such jurors shall be paid to them, respectively, on each day during the period of their attendance, if demanded, and the mileage herein provided for shall be paid at the time the fee for the first day's attendance is paid.

Stats 1939, p 2306

SEC. 54. Section 4282 of said code is hereby amended to read as follows:

Mariposa County Salaries

4282. In counties of the fifty-third class the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, five hundred seventy dollars ($570) per annum.

District attorney

2. The district attorney, one thousand six hundred dollars ($1,600) per annum.

Supervisors

3. Each supervisor, one thousand five hundred dollars ($1,500) per annum, for all services required of him by law in any capacity. Supervisors may use automobiles provided and maintained by the county in the performance of the duties required of them by law.

Jurors

4. Grand jurors, shall be paid four dollars ($4) per day and jurors of the superior court in civil and criminal cases shall be paid three dollars ($3) per day for each day's attendance, and for each mile actually traveled in going only, while acting as such juror, thirty cents ($0.30) per mile. The court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

SEC. 55. Section 4283 of said code is hereby amended to read as follows: Stats. 1939, p 2301

4283. In counties of the fifty-fourth class the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Del Norte County Salaries

1. The auditor, two thousand dollars ($2,000) per annum. If statements on the assessment roll exceed 3,700, he shall receive seventy-five dollars ($75) for every additional 100, or major fraction thereof. No other fees shall be allowed to the auditor. He shall receive the sum of no dollars per year from the time and in the event that said office is consolidated with that of recorder. Auditor

2. The district attorney, two thousand dollars ($2,000) per annum and such fees as are now or may hereafter be paid to that officer. District attorney

3. Each supervisor, seventy-five dollars ($75) per month and an allowance not to exceed two hundred dollars ($200) per year for mileage and expenses in traveling from his residence to the county seat, but only one mileage shall be allowed for any session, regular or special, of the board. Actual expense outside county to be allowed and paid. Supervisors

4. Grand jurors and trial jurors in the superior courts in civil and criminal cases, three dollars ($3) in lawful money of the United States for each day's attendance and mileage to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of the trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the court in which the juror was in attendance and the treasurer of the county shall pay the warrants. The fees of jurors in justices' courts shall be two dollars ($2) per day for each day's attendance and mileage to be computed at the rate of fifteen cents ($0.15) per mile traveled in attending court, in going only. The board of supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for, and shall pay all fees for mileage at the rate of six cents ($0.06) per mile. Jurors

Allowance for mileage within county in no case shall exceed six cents ($0.06) per mile.

SEC. 56. Unless otherwise expressly provided, the provisions of the Political Code, as amended by this act, shall not apply to the compensation paid for public services during his current term to any person, whose compensation the Legislature is required or authorized to regulate, and from the effective date of this act to the time that his current term expires, such person shall be paid the same compensation as he was paid prior to the effective date of this act. Scope of act

CHAPTER 347

Stats 1925, p 648, amended

An act to amend Section 28a of an act entitled "An act authorizing the establishment of municipal courts, prescribing their constitution, regulation, government, procedure, and jurisdiction, and providing for the election and appointment of the judges, clerks, and other attaches of such courts, their terms of office, qualifications, and compensation, and for the selection of jurors therein," approved May 23, 1925, relating to bail in municipal courts.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

Stats 1939, p 1226

SECTION 1. Section 28a of the act cited in the title hereof is hereby amended to read as follows:

When open for exercise of criminal jurisdiction

Sec. 28a. In a city or city and county of the first and one-half class one division of said court may remain open and in session for the transaction of any and all business which may come before said division in the exercise of the criminal jurisdiction of such municipal court or a judge thereof, at such hours of the day or night, or both, as may be prescribed by the judges of said court; and it is expressly provided that the provision of Section 134 of the Code of Civil Procedure, requiring that no court other than the Supreme Court must be open for the transaction of judicial business on any of the holidays mentioned in Section 10 of the Code of Civil Procedure, shall not apply to such municipal courts while exercising their jurisdiction as required by the provisions of this section. The clerk of said court or one or more deputy clerks shall be in attendance at said division at all hours of the day and night, including Sundays and holidays, and shall, in the absence of a judge of said court, have authority to fix and accept bail for the appearance before said court of any defendant charged in such court with an offense of which the court has jurisdiction, provided the amount thereof shall be in accordance with a schedule of bail in such cases previously fixed and approved by the judges of said court unless a warrant shall have been issued for the arrest of the defendant, in which case the bail shall be in the amount fixed in the warrant; and provided also, the bail shall be cash or a surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code of the State of California.

Clerk in attendance

Bail

In any case where a defendant has been arrested for felony upon a warrant issued by a judge of such municipal court, the clerk may, under like conditions, accept bail in the amount fixed in the warrant.

The authority to accept bail as in this section provided shall include authority to approve the same, to issue and sign an order for the release of the defendant, and to set a time and place for the appearance of the defendant before the appropriate division or judge of such court and give the defendant notice thereof.

CHAPTER 348

An act to amend Section 822 of the Penal Code, relating to bail.

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941] In effect September 13, 1941

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

SECTION 1. Section 822 of the Penal Code is hereby amended to read as follows: Stats 1933, p 749

822. If the offense charged is a misdemeanor, and the defendant is arrested in another county, the officer must, upon being required by the defendant, take him before a magistrate in that county, who must admit him to bail in the amount specified in the indorsement referred to in Section 815a, and direct the defendant to appear before the court or magistrate by whom the warrant was issued on or before a day certain which shall in no case be more than 10 days after such admittance to bail. If bail be forthwith given, the magistrate shall take the same and indorse thereon a memorandum of the aforesaid order for the appearance of the defendant. Defendant arrested in another county to be admitted to bail

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CHAPTER 349

An act to amend Sections 2330, 2350 and 2351 of the Labor Code, relating to sanitary conditions of factories and other places of employment. Stats 1937, p 185, amended

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2330 of the Labor Code is hereby amended to read as follows: Stats 1937 p 253

2330. The owner or manager of every foundry or metal shop engaged in the casting, fabricating, or working over in any manner of any metal or compound, where one or more men are employed, shall maintain for the use of the employees wash bowls, sinks or other appliances and a water closet connected with running water. Water and toilet facilities

Stats 1937, p 253

SEC. 2. Section 2350 of the Labor Code is hereby amended to read as follows:

Toilet facilities

2350. Every factory, workshop, mercantile or other establishment in which one or more persons are employed, shall be kept clean and free from the effluvia arising from any drain, privy, or other nuisance, and shall be provided, within reasonable access, with a sufficient number of water closets or privies for the use of the employees. When there are five or more employees of different sexes, a sufficient number of separate water closets or privies shall be provided for the use of each sex, which shall be plainly so designated. No person shall be allowed to use any water closet or privy assigned to persons of the other sex.

Stats 1937 p 253

SEC. 3. Section 2351 of the Labor Code is hereby amended to read as follows:

Ventilation

2351. Every factory or workshop in which one or more persons are employed shall be so ventilated while work is carried on that the air will not become injurious to the health of the employees, and shall also be so ventilated as to render harmless, as far as practicable, all injurious gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein.

CHAPTER 350

Stats 1933, p 60, amended

An act to add Section 795 8 to the Agricultural Code, and to repeal Section 795 6 of said code, relating to standards for field picking boxes for citrus fruits.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

New section

SECTION 1. Section 795 8 is hereby added to the Agricultural Code, to read as follows:

Citrus field picking boxes

795.8. Except as otherwise permitted by the tolerance provided in this section, the standard citrus field picking box shall have a cubic content of 3,115 cubic inches and shall not have cleats over one inch high. The volume added to such box by the cleats shall not be considered in computing the cubic content.

Every citrus field picking box that is not standard must be conspicuously marked on an outside end with the word "irregular" and with the cubic content in cubic inches, in letters and figures not less than one inch in height.

All contracts entered into, and all settlements made with growers on the basis of citrus field picking boxes shall be

on the basis of the standard box unless such contract or settlement be in writing and expressly provide in type as conspicuous as the balance thereof that the box involved is irregular and state its actual cubic content.

In order to provide for reasonable variation in the cubic content of standard citrus field picking boxes because of atmospheric changes, normal use and normal manufacturing variations, a tolerance of 4 per cent either above or below said standard cubic content shall be permissible. An equal tolerance shall be permissible in the case of irregular citrus field picking boxes above or below the cubic content as marked thereon. Tolerances

SEC. 2. Section 795.6 of the Agricultural Code is hereby repealed. Stats 1939, p 1986

CHAPTER 351

An act to amend Section 730 of the Fish and Game Code, relating to halibut. Stats 1933, p 394, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 730 of the Fish and Game Code is hereby amended to read as follows: Stats 1937, p 866

730. No California halibut may be taken or possessed which weighs less than four pounds in the round, or less than three and one-half pounds dressed with the head on, or less than three pounds dressed with the head off, except that a holder of a commercial fishing license may take and possess during one day not more than 30 pounds of California halibut of less than such minimum weights. No more than five California halibut of less than such minimum weights may be taken and possessed during one day by anyone except a holder of a commercial fishing license as provided in this section, but no California halibut less than the specified minimum weights may be sold or offered for sale. Any fresh or frozen halibut (Hippoglossus) imported into the State of California from any foreign country shall be plainly marked with vegetable ink showing country of origin, such mark to appear on each fish or portion thereof offered for sale Halibut Bag limit Imported halibut

CHAPTER 352

Stats 1933, p 60, amended

An act to amend Section 1083.1 of the Agricultural Code, relating to commercial feeding stuffs licenses, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

Stats 1939, p 2228. See also Stats 1941, p 2245

SECTION 1. Section 1083.1 of said code is hereby amended to read as follows:

Licenses

1083.1. Any person who sells, or who manufactures, processes, or mixes, for another, or distributes commercial feeding stuffs shall, before engaging in such activity, obtain for each plant operated a license from the director authorizing him to sell, manufacture, process, mix or distribute commercial feeding stuffs. No person shall be entitled to such a license unless he shall have an established plant, warehouse or place of business as defined in this chapter.

Fee

Each application for license shall be accompanied by a fee of three dollars ($3) for each plant for each fiscal year or portion thereof beginning July 1st. Each license shall be renewed annually and each application for renewal shall be accompanied by a fee of three dollars ($3) for each plant operated.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and therefore shall take effect immediately. The facts constituting such necessity are as follows:

The present provisions of the section of the Agricultural Code herein amended provide for a different fee for the original license and the renewal license. In the interest of the smooth and orderly operation of the business regulated by the chapter of the Agricultural Code of which this section is a part, and for the purpose of avoiding confusion during the time of the renewal period, it is important that this act take effect immediately. If the effective date of the act should be later than July 1, 1941, considerable confusion would result by virtue of the change in license fee and would result in increased cost of administration.

CHAPTER 353

An act to add Article 7 to Chapter 1 of Part 5 of Division 3 of the School Code, relating to the establishment of courses in military science and tactics in the public secondary schools.

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Article 7 is hereby added to Chapter 1 of Part 5 of Division 3 of the School Code, to read as follows: New article

Article 7. Courses in Military Science and Tactics

3.750. The governing board of any school district maintaining a secondary school or schools may establish in such school or schools courses in military science and tactics complying with the laws of the United States made and provided with reference to Reserve Officers Training Corps units in educational institutions. Military training

No student enrolled in any such school shall be required to enroll in any course in military science and tactics.

CHAPTER 354

An act to amend Section 1672 of the Business and Professions Code, relating to dentistry. Stats. 1937, p. 1229, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1672 of the Business and Professions Code is hereby amended to read as follows: Stats. 1937, p. 1247

1672. All accusations shall be in writing, verified by some party familiar with the facts charged, and three copies shall be filed with the secretary of the board. Upon receiving the accusation the board shall, if it deems the complaint sufficient, make an order setting it for hearing at a specified time and place. The secretary shall cause a copy of the order and of the accusation to be served upon the accused at least 30 days before the day appointed in the order for hearing. The order shall notify the person accused when and where the charges will be heard, and that he shall file his written answer within 20 days next after the service on him of the order or that default will be taken against him, and he will be placed on probation, his license suspended or revoked, or other action taken. Accusations

CHAPTER 355

Stats 1933, p 60, amended

An act to amend Sections 814 and 829.4 of the Agricultural Code, relating to lettuce.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

Stats 1937, p 1894

SECTION 1. Section 814 of the Agricultural Code is hereby amended to read as follows:

Head lettuce

814 Head lettuce shall not be leafy without head formation and shall be free from slime, decay or rot affecting leaves within the head, internal, insect injury, and free from seed stems which have so developed that they are apparent upon external examination; and free from serious damage caused by bursting, tip burn or freezing. Damage caused by bursting is not serious unless the head is burst open or is materially misshapen from this cause. Damage caused by freezing or tip burn is not serious unless it affects any portion of the head inside of the six outer head leaves.

Not more than 10 per cent, by count, of the heads of lettuce in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance, shall be allowed for any one cause.

Head lettuce, when packed or placed in layers in any container, shall not vary in size in any one container more than 10 per cent of heads which would tightly pack a size, larger or smaller, than the size marked, and they shall be tightly packed so that it is not possible without damaging or injuring the lettuce, to place additional heads in any of the layers of heads in the container.

In addition to other packing requirements in this chapter head lettuce, when packed or placed in layers, shall contain either two dozen, two and one-half dozen, three dozen, three and one-half dozen, four dozen, five dozen, 75 or 90 heads of lettuce per standard container numbers 45A and 45B with a slight bulge of crates when lidded. Each crate of three and one-half dozen count shall have each layer arranged with four rows of three, four, and four and three heads.

In the case of sizes 75 and smaller per crate, a bridge of from three to six heads shall be permitted and in the five-dozen size a bridge of four heads shall be permitted.

All containers of lettuce shall bear upon them in plain sight and in plain letters on one outside end, the name of the person who first packed or authorized the packing of the lettuce, or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer, and in figures not less than one-half inch in height the exact number of heads contained therein; provided, that in the case of 10 per cent of the crates in any

lots the contents may vary not more than three heads from the count as marked.

All containers of head lettuce shall be standard containers numbers 45A, 45B, or 45C.

SEC. 2. Section 829.4 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1487

829.4. 16. Lettuce, numbers 45A, 45B and 45C. Lettuce

CHAPTER 356

An act to amend Section 817 of the Agricultural Code, relating to peas. Stats 1933, p 60, amended

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 817 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 194

817. Pods of peas shall not be poorly filled or overmature; and shall be free from insect larvae and from serious damage due to insects, freezing, mildew, decay, or other causes. Peas

Damage to any one pod is not serious unless 20 per cent or more of the peas in the pod are affected.

Not more than 10 per cent, by weight, of the pods in any one container or bulk lot, as established by inspection of a representative sample, may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause.

Pods of peas are not "poorly filled" if one-half or more of the pod is filled with fairly well developed peas.

"Overmature" means that more than one-third of the surface of the pod is wrinkled, shriveled, or yellow.

CHAPTER 357

An act to amend Section 803 of the Agricultural Code, relating to peaches. Stats 1933, p 60, amended

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 803 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1481

803. Fresh peaches shall be mature but not overripe; free from insect injury which has penetrated or damaged the flesh, split pits which are open at the stem end, and from mold. Peach standard.

brown rot, and decay, and free from serious damage, due to cuts or skin breaks, growth cracks, bruises, scab, rust, blight, disease, hail, or other causes. Damage to any one peach is not serious unless it causes a waste of 10 per cent, by weight, of the individual peach.

Not more than 10 per cent, by count, of the peaches in any one container or bulk lot may be below these requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause.

Packed peaches shall not vary in size between the fruits, in any one container, more than three-eighths of an inch in diameter, when measured through the widest portion of the cross section.

Peaches of the freestone variety shall not be considered mature unless at the time of picking, the flesh breaks free from the pit. In addition the flesh of peaches of the Elberta variety shall be a yellowish color.

Containers

All containers of fresh peaches shall bear upon them in plain sight and in plain letters on one outside end: The name of the person who first authorized the packing of the peaches or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; the name of the variety, if known, and when not known the words "unknown variety"; the size description, when the peaches are packed in the four-basket crate or the count, when wrapped and packed throughout, in straight side containers in uniform layers and rows.

In the case of the four-basket crate the numerical description of the pack in the top layer of the baskets shall be used to designate size. When the count is used to designate the contents of the container a variation of four peaches more or less than the number stated shall be allowed.

Irregular containers

Peaches, when packed, shall be in standard containers numbers, 1, 1A, 5, 6, 7, 8, 9, 9A, 9B, 12B, 15, 16, 17, 18, 18A, 26, 27 or 27A. Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container."

CHAPTER 358

An act to amend Section 1274 of the Code of Civil Procedure, relating to escheated property.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

Stats 1939, p 1713

SECTION 1. Section 1274 of the Code of Civil Procedure is hereby amended to read as follows:

Sale of escheated property

1274. The State Controller is hereby authorized to sell, on behalf of and in the name of the State of California, at any

time and in any manner he may deem advisable, personal property heretofore or hereafter distributed to the State of California or escheated to the State of California by judgment of a court in connection with estates of deceased persons, and the proceeds of such a sale shall be delivered to and held by the State Treasurer.

Any real property so distributed or escheated to the State may be sold by the State Controller at public auction, to the highest bidder, for cash, after notice thereof by publication, as hereinafter provided, in a newspaper published in the county in which such real property is situate, or, in an adjoining county, if there be no newspaper published in such county.

Such notice shall be published once a week for at least three weeks immediately preceding the date of such sale, and shall be sufficient for all the purposes of such sale if said real property be described therein in general terms. The cost of publication shall be a charge against the proceeds of such sale, or, in case the sale is not consummated, then the cost of advertising shall be a legal charge against the appropriation for official advertising.

With the consent of the Board of Control, any such real property may be sold by the State Controller at private sale without published notice.

Upon receipt of the proceeds of any sale made pursuant to this section, the Controller shall execute, in the name of and for the State of California, a deed covering real property, and a bill of sale covering personal property, sold. The amount received from such sale shall be placed in the Estates of Deceased Persons Fund to the credit of the estate from which the property so sold was received, or, in the case of estates covered by a final judgment of escheat, to the credit of the fund and account on the books in the State Controller's office in which such escheated estates are recorded.

The State Controller may, in his discretion, reject any and all bids.

The State Controller, if he has complied with the provisions of this section, can not be held to respond in damages at the suit of any person claiming loss by reason of such sale.

CHAPTER 359

An act to amend Section 542.1 of the Political Code, relating to charges for State printing.

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 542.1 of the Political Code is hereby amended to read as follows:

Stats. 1939, p. 2590

542.1. The cost of all printing and publishing by the State printing plant for State departments, officers, boards, com-

Cost of State printing

missions, or other State agencies shall be fixed by the Department of Finance at such sum as will pay for the actual cost of material and labor and such additional sum as will, for the aggregate of all such printing, provide for a depreciation fund to be used for replacing or repairing machinery and equipment used in such printing.

CHAPTER 360

Stats 1935 p 1338, amended

An act to add Section 424 to the Military and Veterans Code, relating to the use of uniforms of military and semimilitary organizations of foreign governments.

In effect September 13, 1941

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.]

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

New section

SECTION 1. Section 424 is hereby added to the Military and Veterans Code, to read as follows:

Wearing foreign uniforms

424. Any person, who at any time wears the uniform of, or a uniform similar to that of, a foreign military or semimilitary organization without being a member thereof and being entitled to do so, is guilty of a misdemeanor and is punishable by a fine of not less than one hundred nor more than two hundred fifty dollars ($250), or by imprisonment in the county jail not exceeding 60 days or by both such fine and imprisonment.

The provisions of this section shall not apply to the wearing of such uniforms by actors during the filming of any motion picture or the presentation of any stage play.

CHAPTER 361

Stats 1939, p 482, amended

An act to amend Section 2853 of, and to add Section 2803 to, the Health and Safety Code, relating to pest abatement districts.

In effect September 13, 1941

[Approved by Governor May 24, 1941 Filed with Secretary of State May 24, 1941.]

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

New section

SECTION 1. Section 2803 is hereby added to the Health and Safety Code, to read as follows:

Interference with employees

2803. Any person who restrains, hinders, or threatens any officer or employee of a district in the performance of his duties as such officer or employee is guilty of a misdemeanor.

SEC. 2. Section 2853 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 545

2853. The district board may: Powers

(a) Purchase supplies and other personal property.

(b) Employ necessary labor.

(c) Acquire by purchase, condemnation, or otherwise, in the name of the district, any lands, right of ways, easements, or other real property necessary for the district.

(d) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this chapter or of powers incident thereto.

(e) Sue and be sued.

(f) Enter upon any property in the district for the purpose of inspection and control work and for the same purposes may enter upon property adjacent to the district which is or is susceptible of being a breeding place from which infestation may spread into the district.

(g) Do everything necessary to carry out the powers conferred by this chapter and carry out the objects of the formation of the district.

CHAPTER 362

An act to amend Section 4458 of the Labor Code, relating to workmen's compensation. Stats 1937, p 185, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 4458 of the Labor Code is hereby amended to read as follows: Stats 1937, p 280

4458. If a male member registered as an active fire fighting member of any regularly organized volunteer fire department as described in Section 3361 suffers injury or death while in the performance of his duty as fireman, then, irrespective of his remuneration from this or other employment or from both, his average weekly earnings shall be taken as thirty-eight dollars and forty-six cents ($38.46). Three times his average annual earnings shall be taken as five thousand nine hundred ninety-nine dollars and seventy-six cents ($5,999.76) in disability cases, and three and one-half times his average annual earnings as a maximum of six thousand dollars ($6,000) in the event of death. Member of volunteer fire department

CHAPTER 363

An act to add Article 5, comprising Sections 2780 to 2792, inclusive, to Chapter 5, Title 1, Part 3, and to amend Section 3040, of the Penal Code, relating to prisons and prisoners and their employment in parks, forests and fish and game camps.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 24, 1941.]

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

New article

SECTION 1. Article 5, comprising Sections 2780 to 2792, inclusive, is hereby added to Chapter 5, Title 1, Part 3, of the Penal Code, to read as follows:

Article 5. Employment in Public Parks, Forests, Etc.

Convict camps

2780. The Division of Forestry, Parks, and Fish and Game in the Department of Natural Resources and the Division of State Lands in the Department of Finance may use or cause to be used convicts confined in the State prisons to perform work necessary and proper to be done by those divisions at camps to be established under this article. Federal officials and departments in charge of National Forests and Parks within California may also use or cause to be used prisoners in the State prison to perform work necessary and proper to be done in National Forests and Parks. The board may enter into contracts with Federal officials and departments for the purposes of this section.

Assignment to camps

2781. Upon the requisition of an agency mentioned in Section 2780, the State Board of Prison Directors may send to the place and at the time designated the number of convicts requisitioned or such number thereof as are in its judgment available.

Payment of convicts

2782. The board may fix a daily rate to be expended for such convict labor, and when so fixed, the agency shall monthly set aside funds to the board to pay for such labor, and where no funds are available from the agency the board may set aside its own funds to pay for such labor. The board, by regulation, may authorize any or all deductions to be made from the pay due convicts as provided for convicts at road camps under Section 2762. The board, by regulation, may also fix the maximum amount, over and above all deductions, that a convict may receive.

Awards for captures

2783. Whenever convicts are paid for their labor under this article and whenever any convict escapes from any camp, the board, after debiting the accounts of the convicts in the camp from which the escape was made, shall set aside the sum of two hundred dollars ($200) and at any time within four years after said escape shall pay the award to the person

entitled thereto. No such award can be claimed or paid more than four years after the escape to which it relates. Unclaimed awards shall be deposited in the Prisoners' Employment Fund to be expended under this article.

Payment to dependents

2784. Whenever convicts are paid for their labor under this article, the board shall monthly pay two-thirds of the net credit to each convict's account to his dependents who are receiving State aid, and if his dependents are not receiving State aid, such convict, by written order signed by him, may direct the board to pay not to exceed two-thirds of his net credit to such dependents as he designates. If a convict is discharged while at a camp, all sums due him shall be paid upon release. If a convict is returned to prison or released on parole, his net credits shall be paid to the warden of his prison and by him paid to the convict as prescribed by the board.

Forfeiture of earnings

2785. Whenever convicts are paid for their labor under this article and a convict wilfully violates the terms of his employment, or the rules of the camp or the terms of his parole, the board may in its discretion determine what portion of all moneys earned by the convict shall be forfeited by the convict and such forfeiture shall be deposited in the State Treasury in the fund known as the Prisoners' Employment Fund.

Appropriation

2786. All money in said fund is hereby appropriated for educational and recreational purposes at the various prison camps established under this article and shall be expended by the board upon warrants drawn upon the State Treasury by the State Controller after approval of the claims by the State Board of Control.

Supervision and maintenance

2787. The agency providing work for convicts under this act shall designate and supervise all work done under the provisions of this article The agency shall provide, erect and maintain the necessary camps, except that where no funds are available to the agency, the board may provide, erect and maintain the necessary camps. The board shall supervise and manage the necessary camps and commissariat.

Discipline

2788. The board shall have full jurisdiction at all times over the discipline and control of the convicts performing work under this act.

Additional good time

2789. The board is hereby empowered and directed to adopt a special rule applicable solely to convicts used at such camps whereby convicts so used shall be granted additional good time allowance in addition to any compensation provided, conditioned upon their loyal obedience and efficient cooperation with the agency in the work which they are performing and in the maintaining of discipline and good conduct in the prison camps, but such additional good time allowance shall not exceed one day for each two calendar days that the convict is absent from prison.

Penalties 2790. Any person, who, without authority, interferes with or in any way interrupts the work of any convict used pursuant to this article and any person not authorized by law, who gives or attempts to give to any State prison convict so employed any opium, cocaine or other narcotics, or any intoxicating liquors of any kind whatever, or firearms, weapons or explosives of any kind is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State prison for a term of not less than one year nor more than five years and shall be disqualified from holding any State office or position in the employ of this State. Any person who interferes with the discipline or good conduct of any convict used pursuant to this article, while such convict is in such camps is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term not more than six months or by a fine of not more than two hundred dollars ($200) or by both such fine and imprisonment. Any peace officer or any officer or guard of any State prison, or any superintendent of such work, having in charge the convicts used in such camps, may arrest without a warrant any person violating any provisions of this article.

Civil rights 2791. This article is not intended to restore, in whole or in part, the civil rights of any convict used hereunder and said article shall not be so construed No convict so used shall be considered as an employee or be employed by the board or the agency involved, nor shall any such convict come within any of the provisions of Divisions 4 and 5 of the Labor Code or be entitled to any benefits thereunder whether on behalf of himself or that of any other person.

Parolee camps 2792. Camps may be established under this article for the employment of paroled prisoners

Stats 1941, p 1111 SEC. 2 Section 3040 of said code is hereby amended to read as follows:

Parole 3040 The board shall have the power to allow prisoners imprisoned in the State prisons to go upon parole outside the prison walls and inclosures. The board may parole prisoners in the State prisons to camps for paroled prisoners established under Article 5, Chapter 5, Title 1, Part 3 of this code.

CHAPTER 364

An act to add Section 450.1 to the Fish and Game Code, making the taking, mutilating, or destruction of any wild bird, mammal or other game lawfully in the possession of another a misdemeanor and providing the penalty therefor.

Stats 1933, p 394, amended

[Became a law without Governor's signature, May 25, 1941 Filed with Secretary of State May 25, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 450.1 is hereby added to the Fish and Game Code, to read as follows:

New section

450.1. Any person who takes, mutilates or destroys any wild bird, mammal or other game lawfully in the possession of another, shall be guilty of a misdemeanor punishable by fine of not more than one hundred dollars ($100) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Taking game in another's possession

For the purpose of this section, said wild bird, mammal or other game shall be deemed in possession (1) when actually reduced to physical possession or (2) when the same shall have been wounded or otherwise maimed and the person having wounded or otherwise maimed said wild bird, mammal or other game is in hot pursuit.

CHAPTER 365

An act to amend Section 55 of the County Employees Retirement Act of 1937, relating to the management of the county employees retirement system.

Stats 1937, p 1898, amended

[Approved by Governor May 24, 1941 Filed with Secretary of State May 25, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 55 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1937, p 1903

Sec. 55. The management of the retirement system shall be vested in the board of retirement, consisting of five members, one of whom shall be the county treasurer. The second and third members shall be members of the association elected by it within 30 days after the date on which the retirement system becomes operative as provided in Article 2, in a manner to be determined by the county board of supervisors. The fourth and fifth members shall be qualified electors of

Board of retirement

the county who are not connected with county government in any capacity chosen by the board of supervisors; provided, that one of such members may but need not be a member of that body. The first persons so elected as the second and fourth members shall serve for two years from said date and the third and fifth members so elected shall serve for a term of three years from said date. Thereafter the term of office of the four elected members shall be three years.

Terms

In the event a retirement system has become operative prior to the effective date of this amendment the appointment shall be for unexpired terms computed from the date of the establishment of the system and the term of office of the members of the association theretofore appointed by the board of supervisors shall cease.

CHAPTER 366

An act to amend Section 1269a of the Penal Code, relating to bail.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

Stats 1933, p 750

SECTION 1. Section 1269a of the Penal Code is hereby amended to read as follows:

Release upon bail

1269a. Except as otherwise provided by law, no defendant charged in a warrant of arrest with any public offense shall be discharged from custody upon bail except upon a written order of a competent court or magistrate admitting the defendant to bail in the amount specified in the indorsement referred to in Section 815a, and where an undertaking is furnished, upon a written order of such court or magistrate approving the undertaking. All such orders must be signed by such court or magistrate and delivered to the officer having custody of the defendant before the defendant is released. Any officer releasing any defendant upon bail otherwise than as herein provided shall be guilty of a misdemeanor.

CHAPTER 367

An act to amend Section 7a of an act entitled "An act authorizing the establishment of municipal courts, prescribing their constitution, regulation, government, procedure, and jurisdiction, and providing for the election and appointment of the judges, clerks, and other attaches of such courts, their terms of office, qualifications, and compensation, and for the selection of jurors therein," approved May 23, 1925, relating to municipal court attaches.

Stats 1925, p 618, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 7a of the act cited in the title hereof is hereby amended to read as follows:

Stats 1939, p 1226

Sec. 7a. The clerk of the municipal court in cities of the first and one-half class shall appoint the following deputies and attaches who shall each receive as monthly compensation the sum set opposite the title of their respective offices or positions:

Municipal courts in cities of first and one-half class (Los Angeles) Deputies and clerks

One chief deputy clerk, four hundred dollars ($400);

One deputy clerk (chief clerk, traffic department), three hundred twenty-five dollars ($325);

One deputy clerk (chief clerk, civil department), three hundred twenty-five dollars ($325);

One deputy clerk (chief clerk, criminal department), three hundred twenty-five dollars ($325);

Three deputy clerks, two hundred fifty dollars ($250);

One deputy clerk, two hundred seventy-five dollars ($275);

One deputy clerk (secretary of the court who shall also act as jury commissioner), three hundred twenty-five dollars ($325);

Thirty-eight deputy clerks, two hundred twenty-five dollars ($225);

Twenty deputy clerks, one hundred seventy-five dollars ($175);

Eight deputy clerks, one hundred sixty dollars ($160);

Thirty-six deputy clerks, one hundred fifty dollars ($150);

Thirty-two deputy clerks, one hundred thirty dollars ($130);

Four deputy clerks, one hundred twenty-five dollars ($125)

In addition to the salaries in this section above provided, the clerk and deputy clerks shall be allowed their necessary traveling expenses not exceeding six cents ($0.06) per mile, when the business of the court shall require them to travel from the principal office of the clerk or from one division of said court, to another division thereof situated at a greater distance than five miles from the point of departure.

CHAPTER 368

An act to amend School Code Section 3.180 and to add Section 3.223 to the School Code, relating to schools and classes of school districts.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

Sch. C., 1929, p. 114

SECTION 1. School Code Section 3.180 is hereby amended to read as follows:

Elementary diplomas

3.180. County boards of education shall have power to provide for the conferring of diplomas of graduation, by examination, and to issue such diplomas of graduation from the elementary schools of the county and from special day and evening classes of elementary grade maintained by a district of any type or class, excepting schools or classes maintained by a district governed by a city board of education or by a board composed, by law, of the members of a city board of education.

New section

SEC. 2. Section 3.223 is hereby added to the School Code, to read as follows:

Classes outside boundaries

3.223. The governing board of any school district, may, except as otherwise herein provided, establish and maintain outside of the boundaries of such district, for persons in the service of the United States or of the State of California assigned to, or serving at any camp, post, or other place under the jurisdiction of the United States or of the State of California, any schools or classes which such board may lawfully establish and maintain within the boundaries of such district.

No such district shall maintain any school or class under the provisions of this section in any other school district without the consent of the governing board of such other district.

CHAPTER 369

An act to add Section 3.265 to the School Code, relating to the average daily attendance of junior high school pupils.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

New section

SECTION 1. Section 3.265 is hereby added to the School Code, to read as follows:

Credit of average daily attendance to elementary school district

3.265. The average daily attendance of all pupils from a district paying the tuition provided for enrolled in the first two years of the junior high school, shall be kept separate and shall be credited to the elementary school district in which the pupils reside.

CHAPTER 370

An act to add a new section to the Penal Code of the State of California, to be known as Section 1309, relating to the escheat of certain money deposited as bail.

[Approved by Governor May 24, 1941 Filed with Secretary of State May 25, 1941.] In effect September 13, 1941

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

SECTION 1 Section 1309 is hereby added to the Penal Code, to read as follows: New section

1309. Whenever any money has been or is deposited as bail in any criminal action or proceeding in a justice's, city or superior court or in any proceeding in habeas corpus in a superior court either before or after the effective date of this code section and it is made to appear to the satisfaction of the court or judge by affidavit or by testimony in open court that more than three years have elapsed since the exoneration or release of said bail and that said money can not be paid out because the owner thereof can not be found, the court or judge must direct that such money, if deposited in a justice's court of a township or superior court shall be deposited in the general fund of the county, and if deposited in a city justice's or other city court shall be deposited in the general fund of the city. Escheat of bail

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CHAPTER 371

An act to amend Section 89 of the Code of Civil Procedure, relating to original jurisdiction of municipal courts.

[Approved by Governor May 24, 1941 Filed with Secretary of State May 25, 1941.] In effect September 13, 1941

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

SECTION 1. Section 89 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1933, p. 1811

89. 1. Municipal court shall have original jurisdiction of civil cases and proceedings as follows: Original jurisdiction

(a) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to two thousand dollars ($2,000) or less, except cases which involve the legality of any tax, impost, assessment, toll or municipal fine.

(b) In actions for dissolution of partnership, where the total assets of the partnership do not exceed two thousand dollars ($2,000); in actions of interpleader, where the amount of money, or the value of the property involved, does not exceed two thousand dollars ($2,000).

(c) To cancel or rescind a contract, when such relief is sought in connection with an action to recover money, not exceeding two thousand dollars ($2,000), or property of a value not exceeding two thousand dollars ($2,000), paid or delivered under or in consideration of such contract; to revise a contract where such relief is sought in an action upon such contract, of which action the court otherwise has jurisdiction.

(d) In all proceedings in forcible entry or forcible or unlawful detainer, where the rental value is two hundred dollars ($200) or less per month, and where the whole amount of damages claimed is two thousand dollars ($2,000) or less.

(e) In all actions to enforce and foreclose liens on personal property, where the amount of such liens is two thousand dollars ($2,000) or less.

(f) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2, Title 4, Part 3 of this code, where the amount of such liens is two thousand dollars ($2,000) or less; provided, that where an action to enforce any such lien is pending in a municipal court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of such liens sought to be foreclosed against the same property, by action or actions in a municipal court, aggregates an amount in excess of two thousand dollars ($2,000), the municipal court, in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order such action or actions pending therein transferred to the proper superior court. Upon the making of such order, the same proceedings shall be taken as are provided by Section 399 of this code, with respect to the change of place of trial.

(g) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers, where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver in aid of execution as provided in Section 564, Subdivision 4 of the Code of Civil Procedure; to charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by such court in the manner provided in Section 2422 of the Civil Code, or any amendment thereof, and in such cases to appoint a receiver and to make any order or perform any act mentioned or authorized in said section; in proceedings under Section 689 of this code, or any amendment thereof, to determine title to personal property, seized in an action pending in, or upon execution issued by, such court.

2. In cities or cities and counties wherein a municipal court is established, and wherein an inferior court has been established, and its jurisdiction determined as provided by law,

such municipal court shall have concurrent jurisdiction with such inferior court to the extent of its jurisdiction.

3. Each municipal court shall have jurisdiction of all cases in equity when pleaded as defensive matter, in any case properly pending in such municipal courts.

CHAPTER 372

An act to permit holders of certificates of purchase of State school lands to pay certain obligations therein contained to the State in installments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.] In effect immediately

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

SECTION 1. Any holder of a certificate of purchase of State school lands whose certificate would be forfeited on June 30, 1941, under Section 3513 of the Political Code for nonpayment of interest and penalties, may pay to the State of California on or before July 31, 1941, one-third of the delinquent interest and penalties accrued and assessed and all current interest to and including June 30, 1941, thereby being relieved of the forfeiture provisions contained in Section 3513 of the Political Code; any such holder of a certificate of purchase who elects to make such payments as herein provided shall pay one-half the remainder of interest and penalties and the current interest on or before June 30, 1942, and the balance of interest and penalties and the current interest on or before June 30, 1943; should any such holder of a certificate of purchase fail to make one of the payments for which provision is herein made, then the interest of such holder in the certificate of purchase, the lands therein described and all prior payments of interest, penalties and principal shall be forfeited to the State. Installment payments by State school land certificate holders

SEC. 2. This act is hereby declared an urgency measure deemed necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such it shall take effect immediately. The facts constituting such necessity are as follows: Urgency

Extensions of time given by statutes of this State similar to this act will soon cease. The Legislature declares that an economic crisis and period of financial distress still exists in this State. It is necessary for this act to take effect immediately to prevent the loss of lands and homes by a large number of school land purchasers

CHAPTER 373

Stats 1915, p 1502, amended

An act to amend an act entitled "Los Angeles County Flood Control Act," approved June 12, 1915, as amended, by adding thereto a new section, designated Section 16½, relating to the power of the Los Angeles County Flood Control District to condemn or acquire property and to use or exchange same for other property required by the district.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

New section

SECTION 1. There is hereby added to said act a new section, numbered 16½, to read as follows:

Eminent domain

Sec. 16½. The power of eminent domain vested in the board of supervisors of said district shall include the power to condemn in the name of the district either the fee simple or any lesser estate or interest in any real property which said board by resolution shall determine is necessary for carrying out the purposes of this act. Such resolution shall be prima facie evidence that the taking of the fee simple or easement, as the case may be, is necessary.

Whenever real property which is devoted to or held for some other public or quasi public use is required by the district for flood control or water conservation purposes, the district may condemn real property adjacent thereto or in the immediate vicinity thereof to be exchanged for the real property required by the district as aforesaid for flood control or water conservation purposes.

CHAPTER 374

Stats 1935, p 496, amended

An act to add Sections 10202.5 and 10270.55 to the Insurance Code, relating to group insurance.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

New section

SECTION 1. Section 10202.5 is hereby added to the Insurance Code, to read as follows:

Employees defined

10202.5. (a) Any policy issued to a policyholder eligible for group insurance pursuant to Section 10202, may also provide that the term "employees" shall include the officers, managers and employees of subsidiary or affiliated corporations, and the individual proprietors, partners and employees of affiliated individuals and firms, when the business of such subsidiary or affiliated corporations, firms or individuals is

controlled by the policyholder through stock ownership, contract or otherwise, or when the policyholder is controlled by affiliated corporations, firms or individuals through stock ownership, contract or otherwise.

(b) Nothing contained herein shall permit any person other than an officer, manager, or employee for compensation of the policyholder or of one or more of the individuals, firms, or corporations specified in subdivision (a) to become insured under a group policy.

SEC. 2. Section 10270.55 is hereby added to the Insurance Code, to read as follows: New section

10270.55. (a) Any policy issued to a policyholder eligible for group insurance pursuant to paragraph (2) of subdivision (b) of Section 10270.5, may also provide that the term "employees" shall include the officers, managers and employees of subsidiary or affiliated corporations, and the individual proprietors, partners and employees of affiliated individuals and firms, when the business of such subsidiary or affiliated corporations, firms or individuals is controlled by the policyholder through stock ownership, contract or otherwise, or when the policyholder is controlled by affiliated corporations, firms or individuals through stock ownership, contract or otherwise. Employees defined

(b) Nothing contained herein shall permit any person other than an officer, manager, or employee for compensation of the policyholder or of one or more of the individuals, firms, or corporations specified in subdivision (a) to become insured under a group policy.

CHAPTER 375

An act to amend Section 3463 of the Political Code, relating to the lien of assessments for reclamation districts.

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.] In effect September 13, 1941

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

SECTION 1. Section 3463 of the Political Code is hereby amended to read as follows: Stats 1919, p 610

3463. When the board of supervisors shall have finally taken action modifying or approving any assessment and the second original assessment list has been filed with the county treasurer, as provided in Section 3462 of this code, the charges assessed thereby upon tracts of land shall constitute a lien thereon and such filing shall impart notice thereof to all persons. Charges assessed become lien

When the board of trustees of any reclamation district shall cause assessment lists to be prepared and filed with the

clerk of the board of supervisors, whereon they shall assess any sum necessary to be raised to the several tracts of land within the said district in the manner provided in Section 3455, or in Section 3456 of this code, the charges so assessed upon any said tract shall, upon the filing of a copy of the assessment list with the county treasurer of the county wherein the property affected by such assessment is situated, constitute a lien thereon and such filing shall impart notice thereof to all persons.

In all cases where assessment commissioners have been appointed and an assessment been partially or fully completed but has not been approved by the supervisors and the trustees of the district find that the amount to be provided by said assessment is insufficient to pay the outstanding obligations and/or for necessary new work, the trustees may by resolution cancel all proceedings and have prepared a new report and estimate and appoint the same or new commissioners to spread the assessment.

No subsequent act or conduct of the trustees of the reclamation district shall invalidate any such assessment, after the same shall have become a lien in the manner herein provided, but such trustees may be compelled by mandate, or other proper proceeding, to perform their duties as required by law.

CHAPTER 376

An act to add Section 5.789 to the School Code, relating to leave of absence for noncertificated employees of school districts.

In effect September 13, 1941

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

New section

SECTION 1. There is hereby added to the School Code a new section, to be numbered Section 5.789, to read as follows:

Leaves of absence

5.789. Governing boards of school districts of every type and class shall have the power to grant leaves of absence to employees in positions not requiring certification qualifications, in the same manner as is provided in Sections 5.721 and 5.750 of this code for certificated employees.

CHAPTER 377

An act to add Article 2a, comprising Sections 5.785 and 5.786 to Chapter 9, Part 3, Division 5 of the School Code, relating to institutes of noncertificated employees.

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.] In effect September 13, 1941

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

SECTION 1. Article 2a, comprising Sections 5.785 and 5.786, is hereby added to Chapter 9, Part 3, Division 5 of the School Code, to read as follows: New article

Article 2a. Institutes of Noncertificated Employees

5.785. The superintendent of schools of every county in which there are 20 or more school districts, and of every city and county, and of every city school district governed by a city board of education and employing 70 or more teachers, may hold at least one annual institute of noncertificated employees who are responsible for the health and safety of school pupils. The superintendents of schools shall designate the persons to attend the institute. Institutes of noncertificated employees

5.786. The superintendents of schools shall have power to unite institutes of noncertificated employees, and to hold institutes of noncertificated employees in the same manner as teachers' institutes. The expenses of the institute shall be paid in the same manner and from the same funds as are teachers' institutes held pursuant to the provisions of this code. Power to unite institutes, etc

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CHAPTER 378

An act to amend Section 453 of the Fish and Game Code, relating to the possession of game birds and animals. Stats. 1933, p. 394, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.] In effect September 13, 1941

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

SECTION 1. Section 453 of the Fish and Game Code is hereby amended to read as follows: Stats. 1937, p. 699

453. Unless otherwise provided, it is unlawful to possess birds, mammals, fish, mollusks, or crustaceans except during the open season and if legally taken or brought into the State during the open season and for 10 days thereafter, and not more than one daily bag limit thereof may be possessed during said period after the close of the open season. Any game bird Unlawful possession

or game mammal may be possessed during a period other than the open season and 10 days thereafter if the carcass, or part thereof, is tagged in conformity with the rules and regulations of the commission. The commission shall prescribe the type of tag to be used, which shall be of such construction and method of attachment that it can not be removed without mutilating or defacing an essential part thereof. The provisions of this section shall not apply to the possession of deer or deer meat, and deer meat tagged in conformity with Section 1275.5 may be possessed at any time. Not more than the possession limit for the species in any district may be possessed at one time by any person under the provisions of this section which provide for the tagging of birds and mammals. Nothing in this section authorizes the possession of game birds or carcasses or parts thereof contrary to regulations pursuant to the Migratory Bird Treaty Act.

CHAPTER 379

Stats 1935, p 496, amended

An act to amend Sections 701, 1191 and 10970 of, and to add Sections 706.7, 11532 1, 11532.2, 11532 3, 11532.4, 11532.5, 11532.6, 11532 7, 11532 8, 12921 5 and 12973 7 to, the Insurance Code, all relating to insurance and the Insurance Commissioner.

In effect September 13, 1941

[Approved by Governor May 24, 1941 Filed with Secretary of State May 25, 1941]

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

Stats 1935, p 512

SECTION 1. Section 701 of the Insurance Code is hereby amended to read as follows:

Expiration date

701. Unless sooner revoked by the commissioner, every certificate of authority shall expire on the first day of July after its issuance, unless a proper renewal application is filed with the commissioner before the June 15th preceding the period for which renewal is sought. If the renewal application is so filed the certificate of authority is valid until the date of issuance of the new certificate of authority or the date of notice of denial of the application for renewal.

New section

SEC. 2. Section 706.7 is hereby added to the Insurance Code, to read as follows:

Reciprocal State defined

706 7. As used in this section, the term "reciprocal State" means a State the laws of which prohibit an insurer domiciled therein from insuring the lives or persons of residents of California unless it then holds a valid and subsisting certificate of authority issued by the Insurance Commissioner

of this State. Such prohibition may be subject to the exceptions herein set forth.

Subject to the exceptions herein set forth, a domestic insurer shall not enter into a contract of insurance upon the life or person of a resident of a reciprocal State unless it is authorized pursuant to the laws of that State to transact such insurance therein. The commissioner shall, annually, mail notice to every domestic insurer, specifying the reciprocal States.

The exceptions to the provisions of this section are the following: Exceptions

(a) Contracts entered into where the prospective insurant is personally present in the State in which the insurer is authorized to transact insurance when he signs the application.

(b) The issuance of certificates under a lawfully transacted group life or group disability policy, where the master policy was entered into in a State in which the insurer was then authorized to transact insurance.

(c) The renewal or continuance in force, with or without modification, of contracts otherwise lawful and which were not originally executed in violation of this section.

SEC. 3. Section 1191 of the Insurance Code is hereby amended to read as follows: Stats 1937, p. 2050

1191. Excess funds investments may be made in the stock of any corporation organized and carrying on business under the laws of this or any other State, or of the United States or of the District of Columbia. Corporate stock

SEC. 4. Section 10970 of the Insurance Code is hereby amended to read as follows: Stats 1939, p 2256

10970. Fraternal benefit societies shall be governed by this chapter and shall be exempt from all other provisions of this code, except: Applicable code provisions

(a) Those provisions prior to Division 1 entitled "General Provisions."

(b) Section 10114.

(c) Articles 15 and 16 of Chapter 1, Part 2, Division 1.

A statute relating to insurance shall not apply to them, unless they are expressly designated therein.

SEC. 5. Section 11532.1 is hereby added to the Insurance Code, to read as follows: New section

11532.1. An annual meeting of members shall be held at 10 o'clock in the morning of the fourth Tuesday of March of each year at the principal office of the insurer, unless a different time or place be provided in the by-laws. Annual meeting

New section SEC. 6. Section 11532.2 is hereby added to the Insurance Code, to read as follows:

Special meetings of members 11532.2. Special meetings of the members, for any purpose or purposes whatsoever, may be called at any time by the president, or by the board of directors, or by one or more members holding not less than one-fifth of the voting power of such insurer, or by such other officers or persons as the by-laws authorize.

New section SEC. 7. Section 11532.3 is hereby added to the Insurance Code, to read as follows:

Notice of meetings 11532.3. Notice of all meetings of members whether annual or special shall be given in writing to the members entitled to vote by the secretary, or an assistant secretary, or other person charged with that duty, or if there be no such officer, or in case of his neglect or refusal, by any director or member.

A notice may be given by such insurer to any member either personally, or by mail, or other means of written communication, charges prepaid, addressed to such member at his address appearing on the books of the insurer, or given by him to the insurer for the purpose of notice. If a member gives no address, notice shall be deemed to have been given him if sent by mail or other means of written communication addressed to the place where the principal office of the insurer is situated, or if published at least once in some newspaper of general circulation in the county in which said office is located.

Notice of any meeting of members shall be sent to each member entitled thereto not less than seven days before such meeting, unless the by-laws provide otherwise.

Notice of any meeting of members shall specify the place, the day, and the hour of the meeting and the general nature of the business to be transacted.

New section SEC. 8. Section 11532.4 is hereby added to the Insurance Code, to read as follows:

Quorum 11532.4. The presence in person or by proxy of 5 per cent of the members entitled to vote at any meeting shall constitute a quorum for the transaction of business, unless otherwise provided in the by-laws.

New section SEC. 9. Section 11532.5 is hereby added to the Insurance Code, to read as follows:

Voting rights 11532.5. Each such member shall have one vote at any meeting of members regardless of the number of policies or the amount of insurance that such member holds and regardless of whether such policies are policies of life insurance, or of disability insurance, or both. Any member entitled to

vote shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or his duly authorized agent and filed with the secretary of such insurer.

SEC. 10. Section 11532.6 is hereby added to the Insurance Code, to read as follows: New section

11532.6. The directors of the insurer in office at the time the insurer is mutualized as provided in this chapter shall continue in office until the first annual meeting of members. At the first annual meeting of members and at each annual meeting thereafter directors shall be elected by the members for the term or terms authorized by this chapter. Election of directors

SEC. 11. Section 11532.7 is hereby added to the Insurance Code, to read as follows: New section

11532.7. The articles of incorporation or the by-laws may provide that the directors may be divided into two or more classes whose terms of office shall expire at different times, but no term shall continue longer than six years. In the absence of such provisions, each director, except members of the board of directors at the time the insurer is mutualized, shall be elected for a term of one year. All directors shall hold office for the term for which they are elected and until their successors are elected and qualified. A director may, but need not be a member or policyholder of the insurer of which he is acting as director. Terms of directors

SEC. 12. Section 11532.8 is hereby added to the Insurance Code, to read as follows: New section

11532.8. All insurers mutualized under the provisions of this chapter shall be subject to all other applicable provisions of this code and to the provisions of the general corporation law as provided in Section 1140 of this code. Law applicable

SEC. 13. Section 12921.5 is hereby added to the Insurance Code, to read as follows: New section

12921.5. The commissioner may in person or through employees of the division meet with persons, organizations and associations interested in insurance for the purpose of securing cooperation in the enforcement of the insurance laws of this State and may disseminate information concerning the insurance laws of this State for the assistance and information of the public. Cooperation in enforcement

New section SEC. 14. Section 12973.7 is hereby added to the Insurance Code, to read as follows:

Fees 12973.7. Where provision for fees or charges for documents, publications, transcripts, or other materials which may be furnished by the commissioner is not specifically made in this code, the commissioner may fix and collect fees therefor not in excess of reasonable cost.

CHAPTER 380

An act to add a section to the School Code, to be numbered 5.798b, relating to the procedure for layoff of classified employees.

In effect September 13, 1941 [Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

New section SECTION 1. Section 5.798b is hereby added to the School Code, to read as follows:

Layoff of classified employees 5.798b. Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee or employees are to be laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class shall be laid off first.

Reemployment shall be in the reverse order of layoff.

CHAPTER 381

Stats 1937, p 185, amended *An act to add Section 259 to the Labor Code, relating to security for payment of wages.*

In effect September 13, 1941 [Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

New section SECTION 1. Section 259 is hereby added to the Labor Code, to read as follows:

Security for payment of wages 259. No person, or agent or officer thereof, engaged in the business of promoting a theatrical enterprise where living individuals are used or employed in the presentation, except persons having a free and unencumbered title to the fee of the property on which the theatrical enterprise is produced, shall fail or neglect, before producing such enterprise in any period for which a single payment of wages is made, to have

on hand or on deposit with a bank or trust company, in the county in which such enterprise is to be produced, or if there is no bank or trust company in the county, then in the bank or trust company nearest the place where such enterprise is produced, cash or readily salable securities of a market value sufficient to pay the wages of every individual used or employed in the production of such enterprise, or in connection therewith for such period.

Theatrical enterprise as used in this section means the production of any circus, vaudeville, carnival, revues, variety shows, musical comedies, operettas, opera, drama, theatrical, endurance contest, walkathon, marathon, derby, or other entertainments, exhibitions, or performances.

Any person, or agent or officer thereof, who violates this section is guilty of a misdemeanor.

CHAPTER 382

An act to amend Sections 43.6, 45 and 62 of the County Employees Retirement Act of 1937, relating to a retirement system for county and district employees, and attaches of municipal and superior courts, including provisions for the investment of funds of the system.

Stats 1937, p 1898, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 43.6 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1939, p 2726

Sec. 43.6. In the event that officers or employees not previously included within the field of membership of an association are brought within such field of membership subsequent to the establishment of such association no such employee shall receive credit for service or for prior service unless he elects to pay and does pay into such association within one year thereafter and before an application for retirement be filed an amount equal to the contributions he would have made had he been a member thereof from the date of organization of the association or from the date of his entry into county service whichever be the later, together with regular interest thereon.

Credit for prior service

SEC. 2. Section 45 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1937, p 1902

Sec. 45. Persons receiving pensions or retirement allowances from any source whatever, excepting only pensions, retirement allowances or other benefits for active military or naval service of the United States all or part of which was war service, or pensions, retirement allowances or other benefits for disability received in active military or naval

Persons receiving other pensions

service of the United States, shall not be eligible for membership in the retirement association.

Stats 1937, p 1905

SEC. 3. Section 62 of the act cited in the title hereof is hereby amended to read as follows:

Investments

Sec. 62 All funds received by the county treasurer not required for current disbursements shall be invested in bonds of the United States or of the State of California or of any county or municipal corporation or other subdivision thereof, or deposited at interest in any State or National bank doing business with the county in accordance with the provisions of law authorizing and controlling the deposit of public funds in banks. Such funds may also be invested in the certificates and shares of a building and loan association or a Federal savings and loan association if such associations are "insured institutions" as defined in Title IV of the National Housing Act.

CHAPTER 383

An act to add Section 5.331 to the School Code, relating to authorization of service in schools of the public school system, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor May 24, 1941 Filed with Secretary of State May 25, 1941]

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

New section

SECTION 1. Section 5.331 is hereby added to the School Code, to read as follows:

Validation of credentials

5.331. All teachers', administrative service, and supervisory service credentials, life diplomas, California normal school diplomas, university documents, normal documents, State teachers college and State college credentials; city, city and county, and county certificates of all grades, granted in accordance with State Board of Education regulations previous to the first day of October, 1941, not heretofore revoked, shall be continued in full force and effect for the full time for which they were granted, and shall be deemed valid for all purposes and to the full extent of time that the same were intended respectively to be until revoked by the State Board of Education.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, of Article IV of the Constitution of the State of California, and shall therefore take effect immediately. A statement of the facts constituting such urgency is as follows:

Over a long period of years, the State Board of Education and the Commission of Credentials of the State Department

of Education have issued several thousand credentials valid until revoked, to qualified graduates of the State colleges and the University of California. The right of the State Board of Education and the Commission of Credentials of the State Department of Education to have issued credentials valid until revoked has been questioned in a recent opinion of the Attorney General, and as a consequence, the validity of the credentials already issued is in doubt. In order to adequately protect the right of the persons holding credentials of this nature, such as are serving under such credentials and to insure against the loss of their positions in the public school system, it is necessary that this act take effect immediately.

CHAPTER 384

An act to amend Section 1662 of the Probate Code, requiring the issuance of public records by the official in charge thereof to be used in matters under the jurisdiction of the Veterans Administration of the United States.

Stats 1931, p. 587, amended

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1662 of the Probate Code is hereby amended to read as follows:

Stats 1931, p 686

1662. Whenever a copy of any public record is required by the Veterans Administration of the United States to be used by any person to participate in benefits made available by the Veterans Administration, the official charged with the custody of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the representative of the Veterans Administration with a certified copy of such record.

Copies of records

CHAPTER 385

An act to add a new section to the School Code, to be numbered 5.723a, relating to sabbatical leaves.

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

In effect September 13, 1941

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

SECTION 1. A new section is hereby added to the School Code, to be numbered 5.723a and to read as follows:

New section

5.723a. In event any employee of any school district in a position requiring certification qualifications shall have fulfilled the service requirements specified in Section 5.722 of

Compensation during sabbatical leave

this code, and shall have agreed, with the governing board of the district employing such employee, or the authorized representative of such board, upon the services to be performed during such leave, and the compensation to be paid such employee during such leave, and shall have taken such leave for not to exceed one year, and performed such services, and shall have devoted the period of such leave to study, as so agreed upon, and thereafter shall have returned to the service of such district and remained in such service for a period of not less than two school years prior to January 1, 1941, and, before said date, shall have made application to said governing board for the compensation so agreed upon, and such governing board is advised by its legal adviser that payment of such compensation is not authorized by said Section 5.722, by reason of defect in the application or agreement signed by such employee taking such leave, such governing board, if it finds that such defect was caused by clerical error of an employee of the board, may, in its discretion, pay to such employee the compensation which would have been payable to such employee if all the requirements for such leave specified in said Section 5.722 had been strictly followed.

CHAPTER 386

Stats 1919, p 1252, amended

An act to add Sections 10c and 10d to the California Real Estate Act, relating to persons licensed as real estate brokers and real estate salesmen entering the Military Service of the United States, declaring the urgency thereof, and providing that the act shall take effect immediately.

In effect immediately

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.]

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

New section

SECTION 1. Section 10c is hereby added to the California Real Estate Act, to read as follows:

Licenses during military service

Sec. 10c. Any person who while licensed under this act has heretofore entered or enters the Military Service of the United States and who notifies the Real Estate Commissioner of that fact within two months of the effective date of this act or within two months of such entry, shall not be required for the period of military service to renew his license under this act, and said license shall remain in full force and effect for the period of military service and until the termination of the license period during which his period of military service terminates. If his period of military service terminates during the last two months of the license period, no penalty shall attach for failure to file renewal application within the time required by law, and the time for filing such applications shall be extended for two months after termination of the license period.

SEC. 2. Section 10d is hereby added to the California Real Estate Act, to read as follows: New section

Sec. 10d. As used in this act, the terms "military service," "period of military service" and "person in the Military Service of the United States" have the meanings ascribed to them by Section 101 of the "Soldiers' and Sailors' Civil Relief Act of 1940." Definitions

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

Under the present provisions of the California Real Estate Act persons licensed to engage in the business, act in the capacity of, advertise or assume to act as real estate brokers or real estate salesmen, who have been or will be called into the Military Service of the United States in the present emergency, will forfeit their licenses and suffer loss of their business. By providing for the preservation of the licenses of such persons during such military service, this act will contribute to the public peace, health and safety. It is essential that a change be made before the renewal license period begins in order to avoid such harsh results which appear to be inevitable under the present law.

CHAPTER 387

An act to amend Sections 1.125, 1.126 and 1.127 of the School Code, relating to dental hygienists.

[Approved by Governor May 24, 1941. Filed with Secretary of State May 25, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1.125 of the School Code is hereby amended to read as follows: Stats 1939, p 1229

1.125. The county superintendent of schools of each county is hereby authorized to employ one or more nurses and/or dental hygienists to supervise the health of pupils enrolled in the schools of elementary districts over which he has jurisdiction not employing a nurse as a physical inspector as provided elsewhere in this chapter or may contract with the board of supervisors of the county in which he holds office for the performance by health officers, health nurses or other employees of county health departments of any or all of the functions and duties set forth in this chapter, relating to proper health supervision of the elementary school buildings and of pupils enrolled in the elementary schools of any or all of such elementary school districts; provided, that all rules governing Health supervision

County employees

such health supervision in such elementary schools shall be made by the county superintendent of schools. No nurse or dental hygienist shall be employed and no county employee shall perform duties under any such contract who does not possess a health and development credential granted in accordance with the provisions of this code.

Stats 1937, p 1705

SEC. 2. Section 1.126 of the School Code is hereby amended to read as follows:

Duties

1.126. A nurse or dental hygienist employed by the county superintendent of schools shall perform such duties in connection with the supervision of the health of pupils as are prescribed by the county superintendent of schools. Such nurse shall not examine any pupil except with the written consent of the parent or guardian of such pupil.

Stats 1939, p 1230

SEC. 3. Section 1.127 of the School Code is hereby amended to read as follows:

Salary and contract payments

1.127. The salary and necessary traveling and other expenses of any nurse or nurses and any dental hygienist or dental hygienists employed under the provisions of this article or the contract price agreed upon between the board of supervisors and the county superintendent of schools may be paid by the county superintendent of schools from either the county unapportioned elementary school fund or from the county elementary school supervision fund, or from both.

CHAPTER 388

Stats 1933, p 394, amended

An act to amend Section 1065 of the Fish and Game Code, relating to sardines.

In effect September 13, 1941

[Approved by Governor May 26, 1941. Filed with Secretary of State May 26, 1941.]

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

Stats 1935, p 2194

SECTION 1. Section 1065 of the Fish and Game Code is hereby amended to read as follows:

Sardines

1065. Sardines may be taken for use in a reduction plant, or by a packer, only in accordance with the provisions of this article, as follows. In Districts 4, 4½, that portion of District 18 lying south of a line running east and west through Piedras Blancas Light, 19, 20A and 21, between October 1st and March 1st, inclusive; elsewhere in the State, except in District 20, between August 1st and February 15th. This section does not prohibit the taking of sardines for the purpose of salting, curing, smoking or drying, or for the purpose of packing in cans commonly known as quarter-pound or

square cans less than 10 ounces in net weight; provided, that in a 10-ounce can, fish of a size of not less than eight fish to the can may be used. Sardines may be packed in their own natural oil.

CHAPTER 389

An act making an appropriation to the Emergency Fund specified in Item 212 of the Budget Act of 1939 for the purpose of augmenting appropriations for the support of the Government of the State, in order to provide for salary and wage adjustments for certain State employees, and providing that this act shall take effect immediately.

[Approved by Governor May 26, 1941. Filed with Secretary of State May 26, 1941.] In effect immediately

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

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of three hundred fifty-four thousand nine hundred twenty dollars ($354,920) is hereby appropriated to the Emergency Fund specified in Item 212 of the Budget Act of 1939, to be allocated therefrom by the Department of Finance solely for the purposes and in the manner provided by this act. Appropriation Emergency Fund Stats. 1939, p. 1855

SEC. 2. Such of the amount hereby appropriated shall be allocated to the several State officers, departments, boards, bureaus, commissions and other State agencies in augmentation of their respective appropriations for support for the Ninety-first and Ninety-second Fiscal Years in such amounts as will make sufficient money available during said fiscal years to pay to each State employee in the State civil service whose salary or wage, or a portion thereof, is payable from the General Fund, any adjustment in salary or wage to which said employee, during the Ninety-first and Ninety-second Fiscal Years, under the provisions of Section 70 of the State Civil Service Act, (1) may have heretofore been entitled if the money therefor had been available, effective the date such employee became entitled to such adjustment, and (2) may hereafter become entitled. Salary adjustments —Civil service employees

SEC. 3. Such of the amount hereby appropriated shall be allocated to the several State officers, departments, boards, bureaus, commissions and other State agencies in augmentation of their respective appropriations for support for the Ninety-first and Ninety-second Fiscal Years in such amounts as will make sufficient money available during said fiscal years to pay to each State employee not in the State civil service whose salary, or a portion thereof, is payable from the General Fund an adjustment in salary or wage pursuant to a plan to be approved by the Director of Finance which will provide adjustments for such employees in substantially the same —Noncivil service employees

amounts and same manner during the Ninety-first and Ninety-second Fiscal Years as is provided by law for civil service employees.

Transfer of funds

SEC. 4. The State Controller shall transfer to the appropriations for support of the several State officers, departments, boards, bureaus, commissions and other State agencies such amounts from the money hereby appropriated as may be provided by the written authorization of the Department of Finance for expenditure in the manner provided by law.

Current expenses

SEC. 5. This act, inasmuch as it provides an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 390

An act to amend Sections 6.195, 6.198 and 6.199 of the School Code, relating to payment by governing boards of commissions for the sale or lease of property.

In effect September 13, 1941

[Approved by Governor May 26, 1941. Filed with Secretary of State May 27, 1941.]

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

Sch C, 1929, p 275

SECTION 1. Section 6.195 of the School Code is hereby amended to read as follows:

Resolution of intention to sell or lease property

6.195. Before ordering the sale or lease of any such property the governing body shall, in a regular open meeting, by a two-thirds vote of all its members, adopt a resolution, declaring its intention to sell the same, or a resolution declaring its intention to lease the same, as the case may be, which said resolution shall describe the property proposed to be sold, or leased, in such manner as to identify it and shall specify the minimum price, or rental, and the terms upon which it will be sold, or leased, and the commission, or rate thereof, if any, which said board will pay to a licensed real estate broker, either out of said minimum price or rental or otherwise, and shall fix a time, not less than three weeks thereafter for a public meeting of the governing body to be held at its regular place of meeting, at which meeting sealed proposals to purchase or lease, as the case may be, will be received and considered. If, in the discretion of said board, it shall be advisable to offer to pay a commission to a licensed real estate broker instrumental in obtaining any such proposal to be made, such commission as is specified in said resolution shall be paid only if there is contained in or with a sealed proposal or stated in or with an oral bid, which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof; any such commission shall, however, be paid only out of money received by said board from the sale or rental of said real property.

SEC. 2. Section 6.198 of the School Code is hereby amended to read as follows: Sch C, 1929, p 276

6.198. At the time and place fixed in said resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined and declared by said board, and of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the one which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted. Opening bids

SEC. 3. Section 6.199 of the School Code is hereby amended to read as follows: Sch C, 1929, p 276

6.199. If, upon a call for oral bidding, at such session, any responsible person shall offer to purchase such property or to lease such property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 per cent, the highest of said written proposals, after deducting from each thereof the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting therefrom any commission to be paid a licensed real estate broker, in connection therewith, which shall be made by a responsible person, shall be finally accepted. Oral bids

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CHAPTER 391

An act authorizing the State Lands Commission to grant, convey, and sell by deed, or any other proper legal conveyance, all the right, title, and interest of the State of California, in and to the abandoned channel of Petaluma Creek or River in and adjacent to the City of Petaluma, County of Sonoma, State of California.

[Approved by Governor May 27, 1941. Filed with Secretary of State May 27, 1941.] In effect September 13, 1941

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

SECTION 1. The State Lands Commission is hereby authorized and empowered to sell and dispose of, upon such conditions as to price and terms of sale as the State Lands Commission may deem to be most advantageous to the State, all of the lands under and of the abandoned channel of Petaluma Creek or River lying within the boundaries of the following-described parcel of land situated in the County of Sonoma, State of California, to wit: Authority to sell land

Beginning at the most easterly corner of the land described in the deed from W. A. Giles to the City of Petaluma, dated Description

June 23, 1908, and recorded March 12, 1909, in Liber 253 of Deeds, page 361, Sonoma County Records; thence along the southeasterly boundary of said parcel of land, south 35° 14′ west 835.5 feet, to the point of beginning of the property herein described; from said point of beginning extending north 54° 46′ west 440.5 feet; thence south 35° 14′ west 1356.76 feet, to the present easterly bank of Petaluma River; thence along said easterly bank of Petaluma River south 57° 29′ east 375 feet; thence north 15° 30′ west 160 feet; thence north 1° 20′ west 170 feet; thence north 14° east 140 feet; thence north 39° 30′ east 620 feet; thence north 75° 5′ east 460.3 feet, to the point of beginning.

The description of the said abandoned channel of Petaluma Creek or River lying within the boundaries of the above-described land is as follows, to wit: Commencing at the most easterly corner of the land described in the deed from W. A. Giles to the City of Petaluma, dated June 23, 1908, and recorded March 12, 1909, in Liber 253 of Deeds, page 361, Sonoma County Records; thence along the southeasterly boundary of said parcel of land south 35° 14′ west 835.5 feet; thence north 54° 46′ west 440 5 feet; thence south 35° 14′ west 110 feet to the point of beginning of the tract of land to be herein described; thence south 1° west 270 feet; thence south 39° 30′ west 620 feet; thence south 14° west 140 feet; thence south 1° 20′ east 170 feet; thence south 15° 30′ east 160 feet to a point on the northerly bank of the present channel of the Petaluma Creek or River; thence along said northerly bank north 57° 29′ west 50 feet; thence north 15° 30′ west 122.5 feet; thence north 1° 20′ west 170 feet; thence north 14° east 140 feet; thence north 39° 30′ east 620 feet; thence north 1° east 200 feet, more or less; thence north 35° 14′ east 75 feet, more or less, to the point of beginning. Containing 68,000 square feet.

Preference to abutting owners

SEC. 2. The owners of land abutting upon said lands of, and under said abandoned channel of Petaluma Creek, shall be preferred purchasers for a period of six (6) months following the date upon which the State Lands Commission shall give notice by publication in one or more newspapers of general circulation published in said county that it has determined the price and conditions of sale of said parcels of land, and such publication shall be made for not less than five (5) consecutive days. In the event said parcels of land shall remain unsold at the end of said six-months period, the State Lands Commission shall thereupon proceed to offer the same for sale, and to sell the same, after giving notice of such sale, at public auction, to the highest bidder for cash, in the manner prescribed by Section 1274 of the Code of Civil Procedure; provided, that no bid which is less than the sum determined by the State Lands Commission to be the value of the parcels for which it is offered shall be accepted.

Conveyances

SEC. 3. All deeds or other conveyances as may be necessary to pass title to the purchasers of such tract, shall be in

the name and by the authority of the people of the State of California and shall be signed by the Governor, countersigned by the Secretary of State, sealed with the Great Seal of the State, and delivered to the persons entitled thereto. All such deeds or other conveyances shall reserve to the State all oil, gas and mineral deposits as provided by law. Reservations

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CHAPTER 392

An act to amend Sections 372, 704 and 705, and to repeal Sections 702 and 703 of the Vehicle Code, relating to weight limitations imposed upon vehicles and combinations of vehicles, and the registration thereof. Stats 1935, p 93, amended

[Approved by Governor May 27, 1941. Filed with Secretary of State May 27, 1941.] In effect September 13, 1941

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

SECTION 1. Section 372 of the Vehicle Code is amended to read as follows: Stats 1937, p 615

372 Weight Fees for Commercial Vehicles. (a) In addition to the registration fee specified in Section 370, there shall be paid fees for the registration of every vehicle of a type subject to registration used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property as set forth in this section. Weight fees for commercial vehicles

(b) For any electric vehicle designed, used or maintained as described in subdivision (a) hereof fees shall be paid for registration according to the following schedule: Electric vehicles

Unladen weight	Fee
(1) Less than 6,000 pounds	$28 25
(2) 6,000 pounds or more but less than 10,000 pounds	$50 00
(3) 10,000 pounds or more	$80 00

(c) For any vehicle designed, used or maintained as described in subdivision (a) hereof other than an electric vehicle when equipped wholly with pneumatic tires fees shall be paid for registration according to the following schedule: Vehicles, other than electric, with pneumatic tires

Weight	Fee
(1) When unladen, 3,000 pounds or more, but less than 6,000 pounds	$8 00
(2) When unladen, 6,000 pounds or more but less than 10,000 pounds and equipped with not more than two axles	$40 00
(3) When unladen, 10,000 pounds or more and equipped with not more than two axles	$50 00
(4) When unladen, 6,000 pounds or more and equipped with three or more axles	$70 00

Vehicles, other than electric, not equipped with pneumatic tires

(d) Any vehicle designed, used or maintained as described in subdivision (a) hereof other than an electric vehicle when not equipped wholly with pneumatic tires shall pay fees for registration amounting to twice the fees imposed upon other vehicles having corresponding weights and axles as specified in subdivision (c) hereof.

Stats 1939, p 2319

SEC. 2. Section 704 of the Vehicle Code is amended to read as follows:

Weight on one axle

704. Axle Weight Limits. The gross weight imposed upon the highway by the wheels on any one axle of a vehicle shall not exceed 18,000 pounds and the gross weight upon any one wheel, or wheels, supporting one end of an axle, and resting upon the roadway shall not exceed 9,500 pounds except as follows: As to vehicles first registered prior to January 1, 1930, the gross weight imposed upon the highway by the wheels on any one axle shall not exceed 18,000 pounds and the weight upon any one wheel shall not exceed 11,000 pounds but this exception shall terminate December 31, 1942.

Stats 1937, p 617

SEC. 3. Section 705 of the Vehicle Code is amended to read as follows:

Ratio of weight to length

705. Ratio of Weight to Length. (a) On and after January 1, 1942, except as otherwise provided in subdivision (c) of this section, and subject to all other limitations imposed by this code, no vehicle, whether operated singly or in a combination of vehicles, and no combination of vehicles shall be operated whose gross weight, with load, exceeds that given by the formula $W = 800$ multiplied by (L plus 40). In said formula W equals the total gross weight, with load, in pounds; L equals the distance in feet between the first and last axles of the vehicle or combination of vehicles

(b) On and after January 1, 1942, except as provided in subdivision (d) of this section, and subject to all other limitations imposed by this code, the total gross weight, with load, imposed on the highway by any two or more consecutive axles of a vehicle, or of a combination of vehicles, where the distance between the first and last axles of said two or more axles is 18 feet or less, shall not exceed that given by the formula $W = 700$ multiplied by (L plus 40). In said formula W equals total gross weight with load in pounds, imposed on the roadway by the group of axles under consideration; and L equals the distance in feet between the first and last axles of the group under consideration.

(c) Until January 1, 1952, there shall be an exception to the provisions of subdivision (a) of this section, applicable only to vehicles first registered prior to January 1, 1942, which vehicles or combinations thereof have a distance of not less than 25 feet and not more than 45 feet between the first and

last axles of the vehicle or combination. The formula applicable to such vehicle or combinations shall be W = 850 multiplied by (L plus 40), but no such vehicle or combination of vehicles shall be operated whose gross weight with load exceeds 68,000 pounds. In such formula W equals the total gross weight with load in pounds, L equals the distance in feet between the first and last axle of the vehicle or combination of vehicles The exception prescribed in this subdivision shall be applicable only to vehicles and combinations of vehicles having the distances between axles above mentioned. This subdivision shall not apply to any combination of vehicles, unless each vehicle of such combination was first registered prior to January 1, 1942. On and after January 1, 1952, the provisions of subdivision (a) shall be applicable to all vehicles and combinations of vehicles.

(d) Until January 1, 1952, there shall be an exception to the provisions of subdivision (b) of this section applicable only to vehicles or combinations of vehicles registered prior to January 1, 1942, which vehicles or combinations have a group of two or more axles where the distance between the first and last axles of said two or more axles is between 14 and 18 feet, both inclusive. As to such groups of two or more axles, the formula applicable shall be W = 800 multiplied by (L plus 40). In said formula W equals the total gross weight with load in pounds imposed on the roadway by the group of axles under consideration; L equals the distance in feet between the first and last axles of the group of axles under consideration. The exception prescribed in this subdivision shall be applicable only to groups of two or more axles within the distances above mentioned This subdivision shall not apply to any combination of vehicles unless each vehicle of such combination was first registered prior to January 1, 1942. On and after January 1, 1952, the provisions of subdivision (b) shall be applicable to all vehicles, combinations of vehicles and groups of axles thereof.

(e) The limitations imposed by this section are in addition and supplemental to all other provisions of this code imposing limitations upon the size and weight of vehicles Every vehicle, whether operated singly or in a combination of vehicles, and every combination of vehicles, shall comply with both subdivisions (a) and (b) of this section, subject only to the exceptions contained in subdivisions (c) and (d) and such exceptions automatically expire on January 1, 1952.

SEC. 4. Sections 702 and 703 of the Vehicle Code are hereby repealed. Stats 1939, p 2096

SEC. 5. This act shall not become operative until January 1, 1942. Operative date

CHAPTER 393

Stats 1933, p 60, amended

An act to amend Section 785 of the Agricultural Code, relating to the disposal of fruits, nuts, and vegetables not conforming to standardization requirements.

In effect September 13, 1941

[Approved by Governor May 27, 1941 Filed with Secretary of State May 27, 1941]

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

Stats 1939, p 2272

SECTION 1. Section 785 of the Agricultural Code is hereby amended to read as follows:

Fruits, etc., as nuisances

785. Any fruits, nuts or vegetables, packed, stored, delivered for shipment, loaded, shipped, or being transported or sold in violation of any of the provisions of this chapter and their containers, are public nuisances, and shall be held by the person in whose possession they may be and shall not be moved from the place where they may be, except under the specific direction of a proper enforcing officer. The

Destruction

enforcing officer may affix a warning tag or notice to such nuisance. If, after notice of such violation is given to the packer or owner of such fruits, nuts or vegetables, or to the agent of such packer or owner, such person, so notified, refuses, or fails within 24 hours, to recondition or re-mark the same so as to comply with all requirements of this chapter and legally to dispose of such as do not comply with all requirements of this chapter, all such noncomplying lots of fruits, nuts or vegetables, and their containers may be seized by the director or any enforcing officer. The district attorney of the county in which any such nuisance is found, on the relation of the director or of any enforcing officer, shall maintain, in the name of the people of the State of California, an action to abate and prevent such nuisance; and upon judgment and by order of the court, such nuisance shall be condemned and destroyed, or released upon such conditions as the court in its discretion may impose to insure that the nuisance will be abated

In actions arising under the provisions of this section, municipal courts shall have original jurisdiction where the value of the property seized amounts to two thousand dollars ($2,000) or less; justices' courts of class A shall have original jurisdiction where the value amounts to one thousand dollars ($1,000) or less; and justices' courts of class B shall have jurisdiction where the value amounts to three hundred dollars ($300) or less.

It is unlawful to fail to comply with the directions of any officer relating to the disposition of such fruits, nuts or vegetables, or with any order of court respecting the same.

CHAPTER 394

An act to amend Section 11102 of, and to add Article 1a to Chapter 5 of Division 10 of, and add Section 11331.5 to, the Health and Safety Code, relating to narcotics and the use, production, cultivation, prescribing, possession or transportation thereof.

Stats 1939, p 482, amended

[Approved by Governor May 27, 1941. Filed with Secretary of State May 27, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 11102 of the Health and Safety Code is hereby amended to read as follows:

Stats 1939, p 757

11102. The State division shall enforce all laws regulating the cultivation, production, sale, giving away, prescribing, administering, furnishing, or having in possession narcotic or other dangerous drugs other than those drugs enumerated in schedules "A" and "B" of Chapter 102, Statutes of 1907.

Enforcement of laws

SEC. 2. Section 11331.5 is hereby added to the Health and Safety Code, to read as follows:

New section

11331.5. In order to provide a supply of narcotics as may be necessary to handle emergency cases, any hospital which does not employ a resident pharmacist and which is under the supervision of a licensed physician, may purchase narcotics on Federal order forms for said institution, under the name of said licensed physician, said supply to be made available to a registered nurse for administration to patients in emergency cases, upon direction of a licensed physician.

Hospitals without resident pharmacist

A report showing the kind and amount of narcotics purchased on the Federal order form shall be forwarded, by registered mail, to the Division of Narcotic Enforcement, at the time such narcotics are purchased.

SEC. 3. Article 1a, comprising Sections 11540 and 11541, is hereby added to Chapter 5 of Division 10 of the Health and Safety Code, to read as follows:

New article

Article 1a. Opium Poppies

11540 No person shall produce, cultivate, or grow any opium poppy (Papaver somniferum) or any other poppy from which narcotics may be obtained without having first obtained a permit so to do from the State division.

Permits

11541. No permit shall be issued under Section 11540 unless and until the applicant therefor has furnished proof satisfactory to the State division:

Contents of permit

(a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.

(b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

Prohibitions against grant of permit

No permit shall be granted to any person who has within five years been convicted of a wilful violation of any law of the United States, or of any State, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict. The State division may suspend or revoke any permit for cause.

CHAPTER 395

An act providing for the publication and distribution of a State Blue Book.

In effect September 13, 1941

[Approved by Governor May 27, 1941. Filed with Secretary of State May 27, 1941.]

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

State Blue Book

SECTION 1. The State Printer is hereby authorized, with the approval of the Department of Finance, to compile or cause to be compiled, published and distributed a State Blue Book.

Such Blue Book shall be compiled following the adjournment of the Fifty-fourth Session of the Legislature and material therein pertaining to the Legislature shall be compiled under the direction of the Secretary of the Senate and the Chief Clerk of the Assembly as pertaining to their respective houses.

Distribution

SEC. 2. The volumes shall be distributed as follows: To each member of the Senate and to the Secretary thereof, 10 copies; to each member of the Assembly and to the Chief Clerk thereof, 10 copies; to the Governor, 25 copies; to the Secretary of State, the Controller, the Attorney General and the Treasurer each 5 copies; to the director of each State department, 2 copies; to the State Library, 50 copies.

Sale

SEC. 3. All volumes, excepting those the distribution of which is provided for by Section 2 hereof shall be sold for such price as may be fixed by the Department of Finance.

CHAPTER 396

An act to amend Sections 2983 and 2985 of, and to repeal Sections 2981 and 2982 of, the Streets and Highways Code, relating to the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, including the determination of the ratio of assessed value to true value.

Stats. 1935, p. 248, amended Stats. 1931, p. 1372

[Approved by Governor May 27, 1941. Filed with Secretary of State May 27, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2983 of the Streets and Highways Code is hereby amended to read as follows:

Stats. 1941, p. 763

2983. To determine the true value of property for the purpose of this division, the assessed value of such property as shown on the last equalized assessment roll of the county in which such property is situated shall be multiplied by two and the result expressed in dollars shall be the true value of such property.

Determination of true value

SEC. 2. Section 2985 of the Streets and Highways Code is hereby amended to read as follows:

Stats. 1941, p. 764

2985. If a correction factor is established as provided in Section 2984 that factor shall be divided by two and the quotient of such division shall be used in the manner following, to wit: To determine the true value of property for the purpose of this division, the assessed value of such property as shown on the last equalized assessment roll of the city in which such property is situated shall be divided by that quotient, and the quotient resulting from such last division expressed in dollars shall be the true value of such property for the purposes of this division.

Use of correction factor

SEC. 3. Sections 2981 and 2982 of the Streets and Highways Code are hereby repealed.

Repeals

CHAPTER 397

An act to amend Section 6.406 of the School Code, relating to school book depositories.

[Became law without Governor's signature, May 28, 1941. Filed with Secretary of State May 28, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 6.406 of the School Code is hereby amended to read as follows:

Sch. C., 1929, p. 351

6.406 Fifth—That the publisher will maintain an office in California or designate two or more separate agents or

Publisher's office and depositories

arrange with two or more independently owned and operated depositories which are recommended as such depositories by the State Department of Education, to receive and handle orders for said book or books.

CHAPTER 398

An act to validate and legalize the conversions of building and loan associations organized under the laws of this State into Federal savings and loan associations.

In effect September 13, 1941

[Became law without Governor's signature, May 28, 1941. Filed with Secretary of State, May 28, 1941.]

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

Validation of conversion of building and loan associations

SECTION 1. In all cases in which a copy of a charter of a Federal savings and loan association, issued by the Federal Home Loan Bank Board pursuant to the laws of the United States of America, has heretofore been filed with the Secretary of State of the State of California, with the intent of converting a building and loan association organized and existing under the laws of this State into a Federal savings and loan association, such conversions are hereby validated, legalized, ratified and confirmed.

CHAPTER 399

An act to amend School Code Section 5.350 and 5.352, relating to fees for credentials, renewal of credentials, and life diplomas issued by the State Board of Education.

In effect September 13, 1941

[Approved by Governor May 28, 1941. Filed with Secretary of State May 28, 1941.]

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

Sch. C., 1929, p. 233

SECTION 1. School Code Section 5.350 is hereby amended to read as follows:

Credential fee

5.350. The application of each person for a credential or renewal of credential must be accompanied by a fee of three dollars ($3).

Sch. C., 1929, p. 234

SEC. 2. School Code Section 5.352 is hereby amended to read as follows:

Life diploma fee

5.352. The application of each person for a life diploma must be accompanied by a fee of three dollars ($3).

CHAPTER 400

An act to add Section 96.5 to the State Civil Service Act, relating to State civil service employees, declaring the urgency of this act and that it shall take effect immediately.

Stats 1937, p 2085, amended

[Approved by Governor May 28, 1941. Filed with Secretary of State May 28, 1941.]

In effect immediately

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

SECTION 1. Section 96.5 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 96.5. Any person who holds a position with permanent status and whose name appears on a departmental reemployment, general reemployment or promotional list and who enters the armed forces of the United States before such list upon which his name appears is abolished shall retain his place on such list until the expiration of three years from the termination of his service with the armed forces; provided, however, this section does not apply to any person who refuses to accept appointment to a position after certification thereto subsequent to his discharge from the armed forces, or who has not been certified during his service with the armed forces of the United States, or who is not discharged from the armed forces of the United States within two years after the effective date of this section.

Retention of names during service with armed forces

No promotional lists upon which the names of such persons appear may be abolished, except that they may be replaced by more recently prepared lists if the names of such persons are placed in the order in which they appeared on the former list and at the same place as they appeared on said list.

SEC. 2. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of this State and shall therefore take effect immediately. The facts constituting such necessity are as follows:

Urgency

In view of the necessity for providing an adequate National defense as promptly as possible, it is anticipated that many present and former civil service employees will enter the armed forces of the United States. It is therefore necessary to provide for the retention of the civil service rights of those so entering the armed forces. The preservation of a sound civil service system requires that this protection be afforded these present and former employees, and in order to make this act fully effective it is necessary that it take effect immediately.

CHAPTER 401

Stats 1937, p 185, amended

An act to add Section 132a to the Labor Code, relating to the Industrial Accident Commission.

In effect September 13, 1941

[Approved by Governor May 28, 1941 Filed with Secretary of State May 28, 1941.]

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

New section

SECTION 1. Section 132a is hereby added to the Labor Code, to read as follows:

Discrimination by employer

132a. Any employer who discharges, or threatens to discharge, or in any other manner discriminates against any employee because the latter has filed or made known his intention to file an application or complaint with the commission, or because the employee has testified or made known an intention to testify in any investigation or proceeding held by the commission, is guilty of a misdemeanor.

No prosecution under this section shall be commenced until the commission shall have notified the accused of the demand for prosecution, afforded him an opportunity to be heard before it or a referee thereof, and following said hearing shall have recommended that such prosecution be commenced.

CHAPTER 402

Stats 1935, p 93, amended

An act to amend Sections 692, 694, 699, 710 and 624 of the Vehicle Code, relating to the size, weight, and equipment upon vehicles.

In effect September 13, 1941

[Approved by Governor May 28, 1941 Filed with Secretary of State May 28, 1941.]

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

Stats 1937, p 1993

SECTION 1. Section 692 of the Vehicle Code is hereby amended to read as follows:

Exemptions

692. Exemptions. None of the provisions of this division except those requiring a permit for overweight loads shall apply to motor trucks equipped with snow removal devices.

Stats 1939, p 2318

SEC. 2. Section 694 of the Vehicle Code is hereby amended to read as follows:

Width

694. Width of Vehicles. (a) The total outside width of any vehicle or the load thereon shall not exceed 96 inches, except as otherwise provided in this section.

(b) When any vehicle is equipped with pneumatic tires the maximum width from the outside of one wheel and tire to the

outside of the opposite outer wheel and tire shall not exceed 100 inches, but in such event the outside width of the body of such vehicle or the load thereon shall not exceed 96 inches.

(c) When any vehicle carries a load of loosely piled agricultural products such as hay, straw, or leguminous plants in bulk but not crated, baled, boxed or sacked, such load of loosely piled material and any loading racks retaining the same shall not exceed 120 inches in width.

(d) When any vehicle was registered in this State prior to August 31, 1923, the total outside width of such vehicle or the load thereon shall not exceed 102 inches but from and after December 31, 1942, any such vehicle shall be subject to the limitations of paragraph (a) of this section.

(e) The above limitations as to width shall not apply to implements of husbandry incidentally operated or moved over a highway or to special mobile equipment, nor to highway construction or maintenance equipment, but such special mobile equipment and highway construction or maintenance equipment shall not exceed a width of 120 inches.

(f) Any city organized under a freeholders' charter may by ordinance permit a total outside width of vehicle and load in excess of the limits set forth in this section when such vehicle is used exclusively within the boundary limits of such city.

(g) Motor coaches or buses operated by common carriers of passengers, for hire, in urban or suburban service may have a maximum outside width not exceeding 104 inches when operated on streets or highways having a clear width equal to four or more lanes of 11 feet each in width available for vehicular traffic. Urban and suburban service referred to herein means such service as has not less than two regular stops for loading or unloading passengers in each mile covered by such service.

SEC. 3. Section 699 of the Vehicle Code is hereby amended to read as follows: Stats 1937, p 1994

699. Exceptions to Length Limitations. The limitations of Sections 697 and 698 hereof as to length of vehicles and loads shall not apply to pole or pipe dollies used in connection with a motor vehicle solely for the purpose of transporting poles or pipes. The limitations of Sections 697 and 698 hereof as to height and length of vehicles shall not apply to implements of husbandry incidentally operated or moved over a highway. Exceptions as to certain vehicles and equipment

SEC. 4. Section 710 of the Vehicle Code is hereby amended to read as follows: Stats 1935, p. 232

710. Permits for Increased Size, Weight, Etc. (a) The State Department of Public Works with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction may at their discretion Permits for increased size, weight, etc

upon application in writing and if good cause appears issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles or special mobile equipment of a size or weight of vehicle or load exceeding the maximum specified in this code, or to use corrugations on the periphery of the movable tracks on a traction engine or tractor the propulsive power of which is not exerted through wheels resting upon the roadway but by means of a flexible band or chain, or, under emergency conditions, to operate or move a type of vehicle otherwise prohibited hereunder, upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which said party is responsible.

(b) The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways over which permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(c) The State Department of Public Works or local authority is authorized to issue or withhold such permit at its discretion; or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicle or vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to protect the highways and bridges from injury, or to provide indemnity for any injury resulting from such operation.

(d) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection of any peace officer or traffic officer, any authorized agent of the Department of Public Works or any other officer or employee charged with the care or protection of such highways.

(e) It is a misdemeanor for any person to violate any of the terms or conditions of any such special permit.

Stats 1935, p 204

SEC. 5. Section 624 of the Vehicle Code is hereby amended to read as follows:

Lamps on nonexempt vehicles not provided for

624. Lamps on Other Vehicles (a) All vehicles not heretofore mentioned in this chapter shall at the times specified in Section 618 hereof be equipped with at least one lighted lamp exhibiting a white light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle and with a lamp exhibiting a red light visible under like conditions from a distance of 500 feet to the rear of such vehicle.

(b) In addition thereto, every such vehicle shall be equipped with an amber reflector on the front near the left side and a

red reflector on the rear near the left side. Such reflectors shall be of a type approved by the department, mounted on the vehicle not lower than 16 inches nor higher than 60 inches above the ground and so designed and maintained as to be visible, during the times mentioned in Section 618 hereof, from all distances within 500 feet from such vehicle when directly in front of a motor vehicle displaying lawful lighted headlamps, not depressed.

CHAPTER 403

An act to add Section 21.5 to the Municipal Court Act of 1925, relating to mileage of judges of the municipal court in any city or city and county of the first and one-half class.

Stats 1925, p 648, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 21.5 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 21.5. In addition to the salaries in this act provided, the judges of the municipal court in any city or city and county of the first and one-half class shall be allowed their necessary traveling expenses, not exceeding seven cents ($0.07) per mile, when the business of the court shall require their attendance in any department of the court, situated at a greater distance than 12 miles from the principal office of the court; provided, such mileage allowance shall in no case be computed upon a greater distance than that between the principal office and such department of the court.

Traveling expenses

CHAPTER 404

An act to add Section 996 to the Civil Code, relating to property and other rights in and to fur bearing animals.

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 996 is hereby added to the Civil Code, to read as follows:

New section

996. Whenever fur bearing animals, which are by their nature known as wild animals, have been brought into, or born in, restraint or captivity upon any farm or ranch for the purpose of cultivating or pelting their furs, such animals, together with their offspring or increase, shall be the subjects

Fur bearing animals

of ownership, lien, and all kinds of absolute and other property rights, the same as purely domestic animals, in whatever situation, location, or condition such fur bearing animals may thereafter come or be, and regardless of their remaining in or escaping from such restraint or captivity. Such fur bearing animals shall receive the same protection of law, and in the same way and to the same extent shall be the subject of trespass or larceny as other personal property and shall be considered and classified as domestic animals for the purpose of and within the meaning of any statute or law relating generally to domestic animals, other than dogs and cats or other pets, or relating to farming, to animal husbandry, or to the encouragement of agriculture, unless any such statute or law is impossible of application to such fur bearing animals.

CHAPTER 405

In effect September 13, 1941

An act to add Section 1985.5 to the Code of Civil Procedure, relating to subpena.

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

New section

SECTION 1. Section 1985.5 is hereby added to the Code of Civil Procedure, to read as follows:

Subpena for attendance out of court

1985.5. If a subpena requires the attendance of a witness before an officer or commissioner out of court, it shall, for a refusal to be sworn, or to answer as a witness, or to subscribe an affidavit or deposition when required, also require the witness to attend a session of the court issuing the subpena at a time and place thereof to be fixed by said officer or commissioner.

CHAPTER 406

An act to amend Section 1991 of the Code of Civil Procedure, relating to disobedience of subpena.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1907, p 731

SECTION 1. Section 1991 of the Code of Civil Procedure is hereby amended to read as follows:

Disobedience to subpena

How punished

1991. Disobedience to a subpena, or a refusal to be sworn, or to answer as a witness, or to subscribe an affidavit or deposition when required, may be punished as a contempt by the court issuing the subpena.

Report of disobedience

When the subpena, in any such case, requires the attendance of the witness before an officer or commissioner out of

court, it is the duty of such officer or commissioner to report any such disobedience or refusal to be sworn or to answer a question or to subscribe an affidavit or deposition when required, to the court issuing the subpena. The witness must not be punished for any refusal to be sworn or to answer a question or to subscribe an affidavit or deposition, unless, after a hearing upon notice, the court orders him to be sworn, or to so answer or subscribe and then only for disobedience to such order.

Order to perform

Any judge, justice, or other officer mentioned in Subdivision 3 of Section 1986, may report any such disobedience or refusal to be sworn or to answer a question or to subscribe an affidavit or deposition when required to the superior court of the county in which such attendance was required; and such court thereupon has power, upon notice, to order the witness to perform the omitted act, and any refusal or neglect to comply with such order may be punished as a contempt of such court.

Alternative procedure Notice of intention to report

In lieu of the reporting of such refusal as hereinabove provided, the party seeking to obtain the deposition or to have the deposition or affidavit signed, at the time of such refusal may request the officer or commissioner aforesaid to notify the witness that at a time stated, not less than five days nor more than 20 days from the date of such refusal, he will report the refusal of said witness to the court and that the said party will, at said time, or as soon thereafter as he may be heard, apply to the court for an order directing the witness to be sworn, or to answer as a witness, or subscribe said deposition or affidavit, as the case may be, and that the witness is required to attend said session of said court.

Record entry of notice

The officer or commissioner shall enter in the record of the proceedings an exact transcription of the request made of him that he notify the witness that the party will apply for an order directing the witness to be sworn or to answer as a witness or subscribe the deposition or affidavit, and of his notice to the witness, and such transcription shall be attached to his report to the court of the refusal of the witness. Such report shall be filed by the officer with the clerk of the court issuing the subpena, and said witness shall attend said session of said court, and for failure or refusal to do so may be punished for contempt.

Order to perform

At the time so specified by the said officer, or at such subsequent time to which the court may have continued the matter, if the officer has theretofore filed a report showing the refusal of said witness, the court shall hear the matter, and without further notice to the witness, may order the witness to be sworn or to answer as a witness or subscribe the deposition or affidavit, as the case may be, and may in such order specify the time and place at which compliance be made or to which the taking of the deposition is continued. Thereafter if the witness refuses to comply with such order he may be punished for contempt.

CHAPTER 407

Stats 1933, p 60, amended

An act to add Sections 106.1 and 106.2 to Chapter 1 of Division 2 of the Agricultural Code, relating to plant quarantine inspection.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

New section

SECTION 1. Section 106.1 is hereby added to the Agricultural Code, to read as follows:

Failure to stop vehicle

106.1. It shall be unlawful for any person in possession or in charge of any vehicle to fail to stop such vehicle at a properly signed inspection station or upon demand of a uniformed plant quarantine officer for the purpose of determining whether any quarantine established pursuant to the provisions of this chapter is being violated.

New section

SEC. 2. Section 106.2 is hereby added to the Agricultural Code, to read as follows:

Concealment of plants

106.2. It shall be unlawful for any person to conceal from plant quarantine officers any plants or to fail to present the same or any quarantined article for inspection at the request of such officer.

CHAPTER 408

Stats 1933, p 60, amended

An act to amend Section 118 of the Agricultural Code, relating to the admissibility of the hosts of fruit flies.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1933, p 78

SECTION 1. Section 118 of the Agricultural Code is hereby amended to read as follows:

Fruit fly

118. It is unlawful to import into, or transport thereafter within, the State any plant, fruit or vegetable which is now known to be, or hereafter may become a host of any species of the fruit fly family Trypetidae from any Territory, State or district where such species of Trypetidae is known to exist except under permit and regulation of the director if it is found that the species is harmless to agriculture or that an effective treatment of such hosts eliminates fruit fly risk. Any such plant, fruit or vegetable, together with its containers and packing shall be refused entry or transportation within the State and shall be immediately destroyed at the expense of the owner or bailee unless under permit and in accordance with regulations of the director.

CHAPTER 409

An act to amend Section 120 of the Agricultural Code, relating to nursery licenses.

Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 120 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1963

120. It is unlawful to ship or sell any nursery stock without first having obtained an annual license so to do from the director. Such license for the fiscal year shall be issued to any person who ships or sells plants at any place in the State upon receipt of payment of a minimum fee of ten dollars ($10), to which shall be added the sum of two dollars ($2) for each branch salesyard, store or sales location owned and operated in the State as an additional fee, and the sum of fifty cents ($0.50) for each acre or portion thereof after the first acre; provided, that in no case shall the fee for such acreage exceed fifteen dollars ($15). Nursery stock license

The fees for the renewal of the annual license shall be paid between the first day of April and the first day of July of each year for the fiscal year beginning July 1st of such year. Failure to pay the renewal license fee prior to the first day of July of each year, for the year ensuing, shall ipso facto work a forfeiture of the right to ship or sell nursery stock. Any person who has been previously licensed to ship or sell nursery stock and whose right to so ship or sell has been forfeited shall not be issued a renewal license except upon written application to the department, accompanied by a sum equal to the regular license fee plus a restoration fee in an amount twice that of the regular license fee; but no such restoration fee shall be required of any person whose application for renewal of license is accompanied by his affidavit that prior to the date of his application he has neither sold nor shipped any nursery stock during any part of the fiscal year for which he applies for renewal of license. Renewals

A person not regularly engaged in the nursery business, shall not be required to pay the above-mentioned fee if his sales of plants amount to less than one hundred dollars ($100) within any one fiscal year and if he has reported to the commissioner his intention to make such sales. All plants sold by him must be of his own production, and sold for planting within the county where grown. Exception

The license may be suspended or revoked or issuance refused when, after investigation and hearing, it is determined that the licensee or the applicant has wilfully refused to comply with the laws and regulations relative to nursery stock, or to any pest which might be carried by such nursery stock. Suspension or revocation

Exemptions

Retail florists and others who sell plants at retail for indoor decorative purposes only are exempt as to such plants from the provisions of this section.

Persons who sell or ship seeds and who do not sell or ship any other kinds of nursery stock are exempt from the provisions of this section.

CHAPTER 410

Stats 1933, p 60, amended

An act to add a new section to the Agricultural Code to be numbered 120.5, relating to plant registrations and certifications.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

New section

SECTION 1. A new section to be numbered 120.5 is hereby added to the Agricultural Code, to read as follows:

Inspection, registration, etc

120.5. The director, for the purpose of promoting and protecting the agricultural industry of the State, may upon request inspect plants and the premises upon or near which they are growing and the records of their sources and qualities and, based upon information thus determined, may maintain registries of such plants as are found not to be infested or infected or liable to become infested or infected with pests; may certify as to the pest freedom of such plants as may have been inspected or registered or may certify as to the true pest condition thereof; may issue tags, labels or certificates in evidence of inspection or registry; may supervise or conduct any special treatments which may be necessary to insure the pest freedom of plants for propagation or planting purposes; may fix uniform fees to be charged for inspections, registrations, certifications and special treatments, which fees shall be based upon the cost of the service rendered, and may establish and enforce rules and regulations necessary to carry out the purposes of this section. Any service rendered in accordance with the provisions of this section shall be paid from the Department of Agriculture Fund out of moneys derived under the provisions of this section and shall not be a charge against the General Fund of the State.

The services authorized in this section shall not be duplicative of those being rendered by commissioners.

It shall be unlawful to alter, deface or misuse any statement of registry, certificate, label or tag issued in accordance with the provisions of this section.

CHAPTER 411

An act to amend Section 121 of the Agricultural Code, relating to moneys to be paid into the Department of Agriculture Fund.

Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 121 of the Agricultural Code is hereby amended to read as follows:

Stats 1933, p 80

121. All moneys received by the department under the provisions of Sections 120 and 120.5 shall be paid into the State Treasury and be credited to the Department of Agriculture Fund.

Credit of payments

CHAPTER 412

An act to add Sections 432.6, 990.1, 990.2, 990.3, 990.4, 990.5, 990.6, 990.7, 994, 995, 995.1 and 995.2 to the Fish and Game Code, relating to commercial fishing licenses and permits to operate vessels for transporting persons for the purpose of taking fish.

Stats 1933, p 394, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 432.6 is hereby added to the Fish and Game Code, to read as follows:

New section

432.6. All of the provisions of Sections 990.1, 990.2, 990.3, 990.4, 990.5, 990.6, 990.7, 994, 995, 995.1 and 995.2 shall apply to applicants for or holders of permits pursuant to Section 432.5 in the same manner and to the same extent as said provisions apply to applicants for or holders of commercial fishing licenses.

Application of provisions

SEC. 2. Section 990.1 is hereby added to said code, to read as follows:

New section

990.1. The application for a commercial fishing license shall contain a statement of the applicant's age, height, and weight, a description of his complexion and color of eyes and hair, and a statement as to whether or not he is a citizen of the United States, and, if not, the name of the country of which he is a citizen and whether he has duly made a declaration of intention to become a citizen of the United States, as provided by law.

Contents of application

New section SEC. 3. Section 990.2 is hereby added to said code, to read as follows:

Identification 990.2. Every applicant for a commercial fishing license who does not present at the time of his application a valid, unexpired identification card shall furnish the commission with two photographs of himself taken within six months prior to the date of the filing of his application. Each such photograph shall be of a size and be made of such material and in such manner as shall be prescribed by the commission and as shall provide a ready means of identification. One such photograph shall be attached by the commission to the identification card of the licensee issued to him pursuant to this article, and one shall be placed in the files of the commission.

New section SEC. 4. Section 990.3 is hereby added to said code, to read as follows:

Fingerprints 990.3. Each applicant for a commercial fishing license shall consent to the taking of his fingerprints by the commission as a condition to the issuance of the license; but the fingerprints of an applicant need not be taken if the applicant presents at the time of application a valid, unexpired identification card issued to him pursuant to this article.

Every fingerprint record made pursuant to this section shall be secret and confidential, and shall be made available only to such persons and agencies as may be designated by the commission, with the consent of the Attorney General.

New section SEC. 5. Section 990.4 is hereby added to said code, to read as follows:

Form of license 990.4. Each commercial fishing license issued by the commission shall set forth the distinguishing number assigned to the licensee, the expiration date of the license, the licensee's name and residence address, a brief description of the licensee for the purpose of identification. The license shall bear the number of the identification card of the licensee

The name of the licensee shall be written legibly on the license by the licensee in a space provided for that purpose.

New section SEC. 6. Section 990.5 is hereby added to said code, to read as follows:

Identification card 990.5. The commission shall at the time of issuing a commercial fishing license issue to each applicant for such a license an identification card unless the applicant presents a valid and unexpired identification card at the time of application. The identification card shall contain a statement of the applicant's age, height and weight, a description of his complexion and color of eyes and hair, and a statement whether or not he is a citizen of the United States, and if not, the name of the

country of which he is a citizen and whether he has duly made a declaration of intention to become a citizen of the United States as provided by law.

Photograph

The photograph of the applicant shall be affixed to the identification card issued to him and he shall sign the identification card, in the presence of the officer or employee of the commission issuing it, in such manner that a portion of his signature appears on the photograph and a portion upon the card.

Fingerprints

Each identification card shall contain a space sufficient for recording the prints of the thumb and index finger of the licensee. Such prints shall not, however, be required to be placed in the spaces unless the licensee freely and voluntarily assents to the taking of such prints for such purpose.

New section

SEC. 7. Section 990 6 is hereby added to said code, to read as follows:

Expiration of identification card

990.6. The identification card issued to the applicant for a commercial fishing license shall expire at the end of five years from the date of its issuance, but shall not be valid at any time if it is defaced, mutilated, or altered to such an extent as to be illegible or so as to fail accurately to describe and portray the person to whom it was issued. Such identification card shall be kept in the possession of the licensee at all times while he is engaged in any activity for which a commercial fishing license is required.

New section

SEC. 8. Section 990.7 is hereby added to said code, to read as follows:

Application by existing licensee

990.7. All persons holding valid commercial fishing licenses upon the date this section takes effect shall forthwith apply to the commission for an identification card and the commission shall issue such card in conformity with this article without charge. The first identification card issued to each licensee shall bear the same date as the then current license validly held by said licensee and such first card shall expire at the end of five years from said date. At the time of application for his first identification card the licensee shall present his license to the commission and the number of the identification card issued to the licensee shall be placed upon his license.

New section

SEC. 9. Section 994 is hereby added to said code, to read as follows:

Suspension or revocation of license

994. The commission may suspend or revoke the commercial fishing license of any licensee who operates a vessel in waters within the territorial jurisdiction of the State of California and approaches

(a) Within 500 yards of any vessel owned or operated by the United States Government or any department or agency

thereof, except when necessary to comply with the laws or rules of navigation governing the safe movement of vessels; or

(b) So close to any vessel owned or operated by the United States or any department or agency thereof and engaged in transporting naval or military equipment or personnel as to interfere with such transportation or to enable the observation thereof, except when necessary to comply with the laws or rules of navigation governing the safe movement of vessels.

New section

SEC. 10. Section 995 is hereby added to said code, to read as follows:

Complaint

995. No license shall be suspended or revoked pursuant to Section 994 until after a reasonable notice and hearing to be prescribed by the commission, and only after the filing of a complaint with the commission by any of the following:

(a) The commanding officer of a vessel owned or operated by the United States or any department or agency thereof.

(b) Any other officer of any such vessel who is authorized by his commanding officer to file such complaint.

(c) Any commanding officer of any military or naval activity affected by the licensee's operation of a vessel, or any other officer of such activity authorized by such commanding officer to file a complaint.

New section

SEC. 11. Section 995.1 is hereby added to said code, to read as follows:

Notice and hearing

995.1. No commercial fishing license shall be revoked or suspended for any violation of this article until after reasonable notice and opportunity to be heard.

New section

SEC. 12. Section 995.2 is hereby added to said code, to read as follows:

Review

995.2. Any action of the commission suspending or revoking a commercial fishing license shall be subject to review by any court of competent jurisdiction in accordance with law.

CHAPTER 413

An act to amend Sections 806, 828.4 and 829.2 of the Agricultural Code, relating to standard containers for fruits and the marking and use thereof.

Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 828.4 of the Agricultural Code is hereby amended to read as follows:

Stats 1939, p 1484

828.4. Lug boxes

22A	Special lug box	$3\frac{5}{8}$	11	$14\frac{5}{8}$
22B	Special lug box	$4\frac{1}{4}$	$12\frac{1}{2}$	$16\frac{1}{8}$
22C	Standard lug box	$3\frac{3}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$
23	Standard lug box	4	$13\frac{1}{2}$	$16\frac{1}{8}$
24	Standard lug box	$4\frac{1}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$
25	Standard lug box	$4\frac{3}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$
26	Standard lug box	$5\frac{1}{16}$	$13\frac{1}{2}$	$16\frac{1}{8}$
27	Standard lug box	$5\frac{3}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$
27A	Bay City lug	$7\frac{3}{4}$	$13\frac{1}{2}$	$16\frac{1}{8}$

SEC. 2. Section 806 of the Agricultural Code is hereby amended to read as follows:

Stats 1939, p 1469

806. Plum and prune standards

Plums and fresh prunes shall be mature but not overripe, shall be free from insect injury which has penetrated or damaged the flesh, and from unsealed skin breaks or cuts, mold, brown rot, decay, and free from serious damage due to bruises, growth cracks, sunburn, hail, doubles, insects, or other causes.

Damage to any one plum or fresh prune is serious if it is caused by:

(a) Bruises which affect the flesh more than three-sixteenths of an inch in depth or more than an aggregate surface area of one-half of an inch in diameter.

(b) Growth cracks over one-half of an inch in length or over three-sixteenths of an inch in depth.

(c) Sunburn affecting the flesh.

(d) Hail resulting in one or more depressions over three-sixteenths of an inch in depth or affecting more than an aggregate surface area of one-half of an inch in diameter.

(e) Doubles, when one portion is one-fourth or less in size than the other portion of the plum or fresh prune.

(f) Thrip marks or other similar insect injury when 15 per cent or more of the surface of the plum or fresh prune is affected or causing one or more depressions or raised portions (bumps or welts) one-fourth of an inch or more in depth or height.

Tolerance

Not more than 10 per cent, by count, of the plums or fresh prunes in any one container or bulk lot may be below these

requirements, but not to exceed one-half of this tolerance shall be allowed for any one cause.

Plums and fresh prunes shall not vary in size between the fruits, in any one container, more than one-fourth of an inch in diameter when measured through the widest portion of cross section.

Markings on containers

All containers of plums and fresh prunes, shall bear upon them in plain sight and in plain letters on one outside end all of the following information:

(a) The name of the person who authorized the packing of the plums and fresh prunes or the name under which he is engaged in business.

(b) A sufficiently explicit address to permit ready location of such person.

(c) The name of the variety of plums or fresh prunes, if known, and if not known, the words "unknown variety."

(d) A designation indicating the size of the plums or fresh prunes in the container as follows:

(1) When packed in the four-basket crate, the description of the arrangement of the pack in the top layer of the baskets.

(2) When wrapped and packed throughout in a straight side container, the count.

(3) When packed without wrappers throughout the container or by the "face and fill" method, in any container other than the four-basket crate, the "row count" directly followed by the word "row," "rows" or the letter "R" all in like size type, or the numerical description.

(4) When loose in any closed container, the numerical description.

Definitions

"Row count" shall mean the number of rows of plums or fresh prunes packed laterally across the end of the container.

"Numerical description" shall mean the numerical arrangement which the plums and fresh prunes would pack in the top layer of a basket if packed in the standard four-basket crate and the designations shall indicate the minimum diameters as follows:

"4 x 4 size" means $1\frac{11}{16}$ inches minimum diameter
"4 x 5 size" means $1\frac{9}{16}$ inches minimum diameter
"5 x 5 size" means $1\frac{7}{16}$ inches minimum diameter
"5 x 6 size" means $1\frac{5}{16}$ inches minimum diameter
"6 x 6 size" means $1\frac{3}{16}$ inches minimum diameter

Other sizes larger or smaller than the numerical descriptions defined herein shall have proportionate minimum diameter requirements.

The "minimum diameter" shall mean the smallest diameter measured through the center of the plum or fresh prune at a right angle to a straight line drawn from the stem end to the distal end thereof.

When the numerical description is used to designate the contents of a container the plums or fresh prunes therein shall

conform to the minimum diameter requirements for the numerical description marked on the container.

When the actual count is used to designate the contents of the container, a variation of four plums or fresh prunes more or less than the number stated shall be allowed. Standard containers

Plums and fresh prunes shall be in standard containers numbers 1, 1A, 5, 6, 7, 8, 9, 12A, 12B, 14, 15, 16, 17, 18A, 22B, 23, 24, 25, 26 or 27.

Container number 23 shall be standard for plums and fresh prunes only when such fruits are wrapped and packed throughout the container.

Container number 25 shall be standard for plums and fresh prunes only when used with a three-eighths inch cleat or an eleven-sixteenths inch cleat regardless of any other provision of Section 828.85.

Container number 25 may be used without a cleat or with any cleat other than those provided for in this section and other size containers than those provided in this section may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such containers, in letters not less than one-half inch in height, "irregular container." Irregular containers

SEC. 3. Section 829.2 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1486

829.2. 7. Fresh peaches, numbers 1, 1A, 5, 6, 7, 8, 9, 9A, 9B, 12B, 15, 16, 17, 18, 18A, 26, 27 or 27A. Peaches

8. Fresh pears, numbers 1A, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 26, 27 or 29A. Container number 19 shall be standard only when used with three pads or cushions. Pears

9. Oriental persimmons, numbers 6, 7, 8, 13, 14, 15, 16, 17, 18, 27 or 32. Persimmons

10. Plums or fresh prunes, numbers 1, 1A, 5, 6, 7, 8, 9, 12A, 12B, 14, 15, 16, 17, 18A, 22B, 23, 24, 25, 26 or 27. Plums and prunes

11. "Wonderful" pomegranates, numbers 33 or 34. Pomegranates

CHAPTER 414

An act to amend Section 243 of the State Civil Service Act, relating to the State Personnel Board and the executive officer thereof. Stats 1937, p 2085, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 243 of the State Civil Service Act is hereby amended to read as follows: Stats 1937, p 2112

Sec. 243. The intention of the Legislature in enacting this act is hereby declared to be that the executive officer of the Legislative intent

State Personnel Board shall perform and discharge under the direction and control of the board the powers, duties, purposes, functions and jurisdiction vested in the board and delegated to him by it.

Delegation of authority

Any power, duty, purpose, function, or jurisdiction which the board may lawfully delegate shall be conclusively presumed to have been delegated to the executive officer unless it be shown that the board by affirmative vote recorded in its minutes specifically has reserved the same for its own action. The executive officer shall have full power to redelegate to his subordinates unless by rule of the board or by express provision of law he is specifically required to act personally.

CHAPTER 415

Stats 1933, p 60, amended

An act to amend Sections 781, 782, 784.2, 784.3 and 787 of, and to add Sections 782.3, 782.6 and 784.8 to the Agricultural Code, relating to fruit, nut and vegetable standards.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1935, p 1623

SECTION 1. Section 781 of the Agricultural Code is hereby amended to read as follows:

Definitions

781. As used in this chapter:

(a) "Container" means any box, crate, lug, chest, basket, carton, barrel, keg, drum, sack, or other receptacle.

(b) "Subcontainer" means any container when being used within another container.

(c) "Closed container" means any container the contents of which are hidden or partially hidden from view by a cover or wrapping of any kind.

(d) "Pack," "packing," or "packed" means the regular compact arrangement of all or part of the fruit or vegetables in any container or subcontainer.

(e) "Deceptive pack" means any container or subcontainer which has in the outer layer or any exposed surface, fruits, nuts or vegetables which are in quality, size, condition, or in any other respect so superior to those in the interior of the container or subcontainer or in the unexposed portion as to materially misrepresent the contents. Such pack is deceptive when the outer or exposed surface is composed of products whose size is not an accurate representation of the variation of size of the products in the entire container, even though the fruits, nuts or vegetables in the container are virtually uniform in size or comply with the specific commodity size variation requirements of this chapter.

(f) "Deceptive arrangement" or "deceptive display" of fresh or dried fruits, nuts or vegetables means any bulk lot or load, arrangement or display of such products which has in the exposed surface, fresh or dried fruits, nuts or vegetables which are so superior in quality, size, condition, or in any other respect so superior to those which are concealed, or the unexposed portion, as to materially misrepresent any part of the bulk lot or load. Definitions

(g) "Fruits, nuts, or vegetables" means the food product of any tree, vine or plant.

(h) "Mature," except when otherwise specifically defined, means having reached that stage of ripeness which will insure the completion of the ripening process to a degree which will insure palatability, after the removal of the product from the tree, plant or vine.

(i) "Overripe" means having reached an advanced state of maturity which causes the product to be undesirable for human consumption in a fresh state.

(j) "By-product" means any product commercially processed, preserved or manufactured from fruits, nuts or vegetables, except fresh citrus fruit juices, with or without the addition of other ingredients.

(k) "Processing," "preserving," or "manufacturing" includes canning, preserving, fermenting, which materially alters the flavor, keeping quality, or any other property, and extracting of juices or other substances, and making of any substantial change of form, but does not include refrigeration at temperatures above the freezing point nor any other treatment which merely retards or accelerates the natural processes of ripening or decomposition.

(*l*) "Agent" includes broker, commission merchant, auctioneer, solicitor, seller on consignment, and any other person acting upon the actual or implied authority of another.

(m) "Mislabel" means the placing or presence of any false or misleading statement, design, or device, upon any container, or upon the label or lining of any such container, or upon the wrapper of any fresh or dried fruit, nut or vegetable, or upon any fruit, nut or vegetable, or upon any placard used in connection therewith and having reference to such fresh or dried fruits, nuts or vegetables. A statement, design or device is false or misleading, when the fresh or dried fruit, nut or vegetable, or container to which it apparently or actually refers, does not conform in every respect to such statement.

(n) A "bulk lot" or "bulk load" of any fresh or dried fruit, nut or vegetable is any one group of specimens of such product which is not in a container and which is set apart or is separate from any other group or groups.

(o) A "placard" is any sign, label, or designation other than an oral designation used in connection with any fresh or dried fruit, nut or vegetable as a description or identification thereof.

(p) "Cross section" means the section of the fruit or vegetable taken at a right angle to a straight line drawn from the stem end to the distal end thereof.

Stats 1937, p 2498

SEC. 2. Section 782 of the Agricultural Code is hereby amended to read as follows:

Enforcement

782. The director and the commissioners of each county of the State, their deputies and inspectors, under the supervision and control of the director shall enforce this chapter. The refusal of any officer authorized under this chapter to carry out the orders and directions of the director in the enforcement of this chapter is neglect of duty.

Sampling methods

The director may prescribe methods of selecting samples of lots or containers of fruits, nuts and vegetables on a basis of size or other specific classification, which shall be reasonably calculated to produce by such sampling fair representations of the entire lots or containers sampled; establish and issue official color charts depicting the color standards and requirements established in this chapter; and make such other rules and regulations as are necessary to secure uniformity in the enforcement of this chapter.

Evidence of condition

Any sample taken under the provisions of this chapter shall be prima facie evidence, in any court in this State, of the true condition of the entire lot in the examination of which said sample was taken. A written notice of violation, issued by a duly qualified representative of the director or by commissioners, their deputies and inspectors holding valid standardization certificates of eligibility as enforcing officers of this chapter, stating that a certain lot of produce is in violation of the provisions of this chapter and based upon the examination of such sample, shall be prima facie evidence, in any court in this State, of the true condition of the entire lot.

New section

SEC. 3. Section 782.3 is hereby added to the Agricultural Code, to read as follows:

Inspection

782.3. The director, through the chief of the branch of the department having jurisdiction over the enforcement of the provisions of this chapter, or any deputy, inspector or agent of the department may enforce and make inspections of grade, standard of quality and other provisions of fruit, nut and vegetable marketing programs adopted under authority of the United States or this State.

New section

SEC. 4. Section 782.6 is hereby added to the Agricultural Code, to read as follows:

Inspection stations

782.6. The director may maintain State inspection stations at such places within this State as he deems necessary, for the purpose of enforcing the standardization provisions of this code.

SEC. 5. Section 784.2 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 2372

784.2. It is unlawful to mislabel any fruit, nut, or vegetable, or place or have any false or misleading statement or designation of quality, grade, trade-mark or trade name, on any wrapper or container, or on the label or lining of any container of any fresh or dried fruit, nut, or vegetable, or on any placard used in connection with or having reference to any fresh or dried fruit, nut or vegetable or container, bulk lot, bulk load, load, arrangement, or display of fresh or dried fruits, nuts, or vegetables. Mislabeling

SEC. 6. Section 784.3 of the Agricultural Code is hereby amended to read as follows: Stats 1937, p 2499

784.3. It is unlawful to make any statement, representation or assertion orally, by public outcry or proclamation, or in writing, or by any other manner or means whatever concerning the quality, size, maturity, condition of, or any other matter relating to fruits, nuts or vegetables, which is false, deceptive or misleading in any particular. False statements

SEC. 7. Section 784.8 is hereby added to the Agricultural Code, to read as follows: New section

784.8. It is unlawful to alter in any respect any certificate of inspection, notice of violation, report, statement or other document referred to in this chapter, issued by an enforcing officer. Alteration of document

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CHAPTER 416

An act to amend the Agricultural Code by amending Section 1043; and to provide exemption from the provisions of said section to nonprofit, cooperative, agricultural marketing associations. Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1043 of the Agricultural Code is hereby amended to read as follows: Stats 1939 p 2787

1043. Every person who sells or deals in any of the substances defined in subdivisions (a), (b) and (c) of Section 1022, before engaging in such occupation, shall be licensed by the director. If the applicant is employed in such business the application shall state the name and address of the employer. All licenses issued under the provisions of this section shall expire on December 31st of each year. Each Licenses of sellers of fertilizers

application shall be accompanied by a fee of two dollars ($2). When a license is issued to a corporation upon an application signed by or bearing the name of the president of the corporation a display license shall be issued to the corporation and a personal license to the president. For each officer and employee engaged in selling, other than the president, an additional fee of two dollars ($2) shall be paid, and a personal license issued to each such person. When the license is issued to a partnership a display license shall be issued to the partnership and a personal license issued to one member of the partnership whose name is designated in the application. For each additional member or employee engaged in selling, an additional fee of two dollars ($2) is required and a personal license shall be issued to each such person; pro-

Exception vided, that employees of persons or firms who sell packaged goods only from a fixed place of business and solicit no sales outside thereof shall not be required to have the employee

Penalty license herein required. If a new license is not obtained within one calendar month after the expiration of a license there shall be added to the fee a penalty of two dollars ($2) for each license. No penalty shall be collected if the licensee makes an affidavit that no business was done during the period he was not licensed. The payment of such fee or penalty is not a bar to prosecution for doing business without a license. When a license is issued to an individual engaged in such business both a display license and a personal license shall be issued to him. All display licenses shall be posted conspicuously in the place of business of the licensee. Where a licensee maintains more than one place of business duplicate display licenses shall be applied for and issued upon the pay-

Revocation ment of a fee of one dollar ($1) each. The director may investigate the actions of any licensee and may, after notice and hearing, suspend or revoke the license.

Exception No such license shall be required of a nonprofit, cooperative, agricultural marketing association by reason of such association's selling any of the substances defined in subdivisions (a), (b) and (c) of Section 1022 to its members.

CHAPTER 417

Stats 1933, p 394, amended *An act to amend Sections 660 and 660.5 of the Fish and Game Code, relating to salmon.*

In effect September 13, 1941 [Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1933, p. 456 SECTION 1. Section 660 of the Fish and Game Code is hereby amended to read as follows:

Districts 15, 16, 17 and 18 Open season 660. In Districts 15, 16, 17 and 18, salmon may be taken with hook and line, between April 1st and August 15th. There

is no bag limit. The size limit is as provided in Section 661 of this code.

SEC. 2. Section 660.5 of the Fish and Game Code is hereby amended to read as follows: New section

660.5. In Districts 15, 16, 17 and 18, not more than two salmon may be taken or possessed by any person during one day, between August 1st and August 31st, and no salmon taken during said period in said districts may be sold. The size limit is as provided in Section 661 of this code. Same Limit

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CHAPTER 418

An act to add Section 500.5 to, and to amend Section 501 of, the Agricultural Code, relating to inspection of dairies, milk and milk products and the fees to be paid therefor. Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.] In effect September 13, 1941

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

SECTION 1. A new section, to be numbered 500.5, is hereby added to the Agricultural Code, to read as follows: New section

500.5. Every person, engaged in the business of producing, processing, selling or distributing any grade of market milk, shall obtain a permit from the director or from the approved milk inspection service in whose jurisdiction the market milk is sold for each separate dairy, milk plant or place of business. Upon receipt of application for such permit, the director or approved milk inspection service shall cause an investigation to be made of the dairy, milk plant or place of business where milk is produced, sold or distributed and, in the case of a dairy, of the herd producing the milk. Permit for dairy, etc

Minimum construction standards for new dairies and extensive repairs to existing dairies shall not be less than the requirements established by the director in accordance with Section 498, subdivision (b) of this division. Minimum construction standards

If the provisions of this division and the standards established by or adopted pursuant to the authority granted in this division are complied with a permit shall be issued by the director or the approved milk inspection service, if the applicant's milk is to be sold or distributed within a city or county or combination thereof maintaining an approved milk inspection service, to such dairy, milk plant or place of business. Such permit shall expire at the end of the calendar year in which it is issued. Issuance of permit Expiration

Stats. 1941, p 1395

SEC 2. Section 501 of the Agricultural Code is hereby amended to read as follows:

Inspection fee

501. Every person engaged in the production, sale or distribution of market milk, outside the jurisdiction of any approved milk inspection service, shall pay an inspection fee to the director. Said inspection fee shall be payable three (3) months in advance during the first week of January, April, July and October of each year. Said inspection fee is hereby fixed at:

(a) For producers who sell market milk at wholesale to be sold as graded market milk, two mills ($0.002) for each gallon of graded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(b) For distributors who purchase market milk from producers to be sold as graded market milk or who distribute their own graded market milk, two mills ($0.002) for each gallon of graded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(c) For producers who sell market milk at wholesale, one mill ($0.001) for each gallon of ungraded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable;

(d) For distributors who purchase market milk from producers or who distribute their own market milk, one mill ($0.001) for each gallon of ungraded market milk sold during the quarter-year period preceding the date such inspection fee becomes due and payable.

Milk inspection service

Whenever applications for permits to be issued by the director are received from applicants totaling fifty-one per cent (51%) or more in number of the persons desiring to engage in the business of producing, processing, selling or distributing any grade of market milk in an area in which no inspection service has been established by the director, then the director shall establish a milk inspection service in accordance with the provisions of Section 485; provided, however, that whenever the funds derived under the provisions of this section are inadequate to maintain the milk inspection service subject to establishment by the director, then the establishment of such milk inspection service shall not be required and the producers and distributors of market milk in that area shall be required to pay only the inspection fee or fees specified in paragraphs (c) and (d) of this section.

Report to State Controller and disposition of moneys

The director, at least once each month, shall report to the State Controller the total amount of moneys collected under the provisions of paragraphs (a), (b), (c) and (d) of this section and at the same time shall pay into the State Treasury the entire amount of such receipts which shall be credited to the Department of Agriculture Fund and expended in carrying out the provisions of the division relating to the inspection of market milk.

The director shall, within 30 days prior to each regular session of the Legislature, submit to the Governor a full and true report of all transactions under this chapter during the current biennium, including a complete statement of receipts and expenditures during the period. Report to Governor

CHAPTER 419

An act to amend Section 12416 of the Business and Professions Code, relating to measurement of logs. Stats 1937, p 1229, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 12416 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 155

12416. There shall be but one standard for the measurement of logs throughout this State; provided, however, that the parties to any contract may agree upon the use of any other table, scale, or method for the measurement of logs under the contract. Log measurement

CHAPTER 420

An act to add Sections 775 and 776 to the Agricultural Code, relating to grapes for by-products purposes. Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 775 is hereby added to Chapter 1b of Division 5 of the Agricultural Code, to read as follows: New section

775. The provisions of this chapter do not apply to grapes marketed by or through a nonprofit cooperative marketing association unless the board of directors of the association elects to have the soluble solid determination of the grapes of its members determined as provided in this chapter and notifies the agricultural commissioner of each county in which the association operates a winery or wineries of such election. Exception Nonprofit cooperative marketing association

SEC. 2. Section 776 is hereby added to said chapter of said code, to read as follows: New section

776. Nothing in this chapter affects the right of a purchaser of grapes for by-products purposes when the price to be paid is to be determined other than on the basis of the soluble solid content of the grapes to specify a minimum percentage of soluble solids as a definition of maturity of the grapes. Scope of chapter

CHAPTER 421

An act to amend Section 737ccc of the Political Code, relating to the salary of the judge of the Superior Court in and for the County of Tuolumne.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1927, p 564

SECTION 1. Section 737ccc of the Political Code is hereby amended to read as follows:

Superior judge, Tuolumne County

737ccc. The annual salary of the judge of the Superior Court in and for the County of Tuolumne is six thousand dollars ($6,000).

CHAPTER 422

An act to amend Section 737uu of the Political Code, relating to the salary of superior judges in and for the County of Siskiyou.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1933 p 2304

SECTION 1. Section 737uu of the Political Code is hereby amended to read as follows:

Superior judge, Siskiyou County

737uu. The annual salary of the judge of the Superior Court in and for the County of Siskiyou is six thousand dollars ($6,000).

CHAPTER 423

Stats 1933, p 60, amended

An act to amend Section 366 of the Agricultural Code, relating to live stock inspection.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1939, p 2279

SECTION 1. Section 366 of the Agricultural Code is hereby amended to read as follows:

Inspection before transportation

366. No owner or producer of cattle or agent thereof, shall transport or offer for transportation any cattle, the carcasses of cattle with hide on or the hides thereof until the same have been inspected under the provisions of this article, and said owner or producer has been furnished with duplicate certificates, signed by an inspector, showing the brand or brands and marks, the names of the shipper and consignee and the

origin and destination of the shipment. No common carrier, or owner or driver of any conveyance engaged for hire in the business of freighting or transporting cattle, the carcasses of cattle with hide on or the hides thereof, shall receive such cattle, or the hides or the carcasses thereof for transportation until the same have been inspected under the provisions of this article, and said carrier, owner or driver, has been furnished with duplicate certificates signed by an inspector, showing the brands, or brands and marks, the names of the shipper and consignee and the origin and destination of the shipment. But when hides have been previously tagged and the bundles or packages of the same are so arranged that the tags are all visible, the certificates shall simply state the number of hides and the fact that they are officially tagged. No inspector shall issue such certificate for dressed carcasses with the hides thereon, until the official tag has been attached. One copy of said certificate of inspection shall accompany said shipment and the other copy shall be sent to the consignee forthwith. In lieu of regulation in this section, a release of shipment may be given by the director, but such cattle shall be inspected en route or at destination. In cases where no sale is made, and cattle are transported or shipped by the owner for other purposes than marketing or slaughter, no inspection shall be required; provided, that cattle are only moved between points within the same county, or to a point in a county the boundary line of which passes through the ranch from which said cattle are removed by the owner for transportation.

Release of shipment

Exception

CHAPTER 424

An act to add Section 802.5 to the Fish and Game Code, relating to abalones in Marin County.

Stats 1933, p 394, amended

[Approved by Governor May 29, 1941 Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 802.5 is hereby added to the Fish and Game Code, to read as follows:

New section

802.5. In any district or part of a district within the geographical limits of Marin County, notwithstanding any other provisions of this article, not more than 10 abalones may be taken or possessed by any person during one day, except that any person conducting a market or restaurant where abalones are sold or served to the public may possess any number of lawfully taken abalones.

Limit Marin County

CHAPTER 425

An act to amend Section 737tt of the Political Code, relating to the salary of the judge of the Superior Court in and for the County of Sierra.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1933, p 1608

SECTION 1. Section 737tt of the Political Code is hereby amended to read as follows:

Superior judge Sierra County

737tt. The annual salary of the judge of the Superior Court in and for the County of Sierra is five thousand five hundred dollars ($5,500).

CHAPTER 426

Stats 1933, p 60, amended

An act to amend Section 1032 of the Agricultural Code, relating to agricultural minerals.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1939, p 2787

SECTION 1. Section 1032 of the Agricultural Code is hereby amended to read as follows:

Brand and brand names

1032. Every registered producer, manufacturer, importer, agent, or dealer, who makes or sells any commercial fertilizer or agricultural mineral under a brand or a brand name, shall file prior to issuance of registration in each year a statement with the director, stating such brand or such brand name, and in addition thereto for the substance to be sold or manufactured under each brand name, or to be sold as an agricultural mineral, shall file a statement of (1) the percentage of every constituent of agricultural value claimed to be therein, and (2) the materials from which each of said constituents is derived.

For the purposes of this article "brand" shall refer to the commercial term under which a series of different fertilizing materials may be sold. "Brand name" shall refer to a coined or specific designation applied to an individual fertilizing material of a fixed composition and derivation.

CHAPTER 427

An act to amend Section 1030 of, and to add a new section to be numbered 1031 to, of the Agricultural Code, relating to registration of fertilizing materials.

Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1030 of the Agricultural Code is hereby amended to read as follows:

Stats 1935, p 1173

1030. Every producer of, manufacturer of, importer of, or dealer in any commercial fertilizer not exempt from registration under the provisions of Section 1026 of this code, or any agricultural mineral, except dealers or agents selling these materials in packages filled and labeled by a registrant, before the same is offered for sale shall obtain from the director a certificate of registration authorizing the registrant to sell commercial fertilizers or agricultural minerals, as the case may be. Any person may obtain both a certificate for the sale of commercial fertilizers and a certificate for the sale of agricultural minerals, but for each a separate application shall be filed and a separate fee paid.

Certificate of registration of fertilizer producers, etc

Any person who purchases commercial fertilizers or agricultural minerals for resale to registrants only may obtain from the director, in lieu of any certificate hereinabove provided, a jobber certificate of registration, authorizing him to sell commercial fertilizers or agricultural minerals to commercial fertilizers registrants only, and to sell agricultural minerals to agricultural minerals registrants only.

Jobber's certificate of registration

Each application for a certificate of registration shall be accompanied by the proper fee, as follows:

Fees

For a certificate of registration for the sale of commercial fertilizers, fifty dollars ($50).

For a certificate of registration for the sale of agricultural minerals, fifty dollars ($50).

For a jobber certificate of registration, twenty-five dollars ($25).

All certificates of registration shall expire on the thirtieth day of June of the fiscal year for which they are issued. If reregistration is not obtained within one calendar month after the expiration of a registration there shall be added to the fee a penalty of ten per cent (10%), to which shall be added an additional penalty of five per cent (5%) of the original amount due, for each succeeding calendar month, but the total penalty shall not exceed fifty per cent (50%) of the original amount due. No penalty shall be collected if the person reregistered makes an affidavit that no business was done during the period of nonregistration. The payment of

Penalty

such fee or penalty is not a bar to any prosecution for doing business without proper registration.

New section

SEC. 2. A new section, to be numbered 1031, is hereby added to the Agricultural Code, to read as follows:

Sale of unlabeled fertilizer

1031. It is unlawful to sell any commercial fertilizer or any agricultural mineral except in a lot properly labeled by, or a package filled and labeled by, a registrant as provided in this article.

CHAPTER 428

Stats 1933, p 394, amended

An act to amend Section 83 of the Fish and Game Code, relating to Fish and Game District 15.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1937, p 1396

SECTION 1. Section 83 of the Fish and Game Code is hereby amended to read as follows:

District 15

83. District 15. The following shall constitute Fish and Game District 15: The waters and tidelands to high water mark of that portion of Monterey Bay lying within the area described and bounded as follows:

Beginning at a point on the coast line four miles west of the Santa Cruz Lighthouse; thence south to a point where the water reaches a depth of 10 fathoms; thence easterly along the contour of said 10 fathom depth to a point directly south of the mouth of Aptos Creek; thence north to the said mouth of Aptos Creek; thence westerly following the high tide line of Monterey Bay to the point of beginning.

CHAPTER 429

Stats. 1933, p 60, amended

An act to repeal Chapter 7 of Division 6 of the Agricultural Code, relating to deciduous fruit dealers.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Repeal

SECTION 1. Chapter 7 of Division 6 of the Agricultural Code, comprising Sections 1281 to 1298, inclusive thereof, relating to deciduous fruit dealers, is hereby repealed.

CHAPTER 430

An act to amend Section 737jj of the Political Code, relating to salaries of superior court judges of San Bernardino County.

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 737jj of the Political Code is hereby amended to read as follows: Stats 1933, p 2624

737jj. The annual salary of each of the judges of the Superior Court in and for the County of San Bernardino is seven thousand dollars ($7,000). Superior judges San Bernardino County

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CHAPTER 431

An act to amend Section 1011 of the Agricultural Code, relating to spray residue. Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1011 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 35

1011. It is unlawful to pack, ship, store, deliver for shipment, or sell any fresh or dried fruits or vegetables carrying spray residue or other added deleterious ingredients in excess of the maximum quantity or permissible tolerance established in accordance with the provisions of this section. Spray residue

Until a different maximum quantity or permissible tolerance is established as hereinafter provided, the maximum quantity of certain deleterious ingredients per pound of fruit or vegetable is as follows: Fluorine, 0.020 grain per pound; arsenic, expressed as arsenic trioxide, 0.025 grain per pound; lead, 0.050 grain per pound. Tolerance

The director after investigation may establish by proclamation a different maximum quantity or permissible tolerance in excess of the amounts hereinbefore stated, but any such maximum quantity or permissible tolerance so established by the director shall not be greater than that prescribed by the Federal Security Agency, or by any Federal agency having authority to establish maximum quantities or permissible tolerances for spray residues or other deleterious ingredients upon fresh or dried fruits or vegetables moving in interstate commerce. Alteration

Any maximum quantity or permissible tolerance established by the director shall be effective upon the date of proclamation.

CHAPTER 432

Stats 1933, p 60, amended

An act to amend Section 341 of the Agricultural Code, relating to live stock inspection.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1933, p 116

SECTION 1. Section 344 of the Agricultural Code is hereby amended to read as follows:

Limitations on issuance of certificate

344. It is unlawful for any inspector or other employee to issue any certificate of inspection unless such inspection shall have been personally made by him by daylight and all inspection fees collected, or to neglect or refuse to forward the original certificate of inspection and fees collected to the director within 15 days after the inspection has been made. The inspection fees need not be paid and collected at the time of inspection if there is on deposit with the department a bond in amount and form approved by the director to cover the payment of such fees.

CHAPTER 433

Stats 1933, p 60, amended

An act to amend Section 363 of the Agricultural Code, relating to bills of sale for live stock.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1933, p 119

SECTION 1. Section 363 of the Agricultural Code is hereby amended to read as follows:

Bills of sale

363. No person shall buy or sell a bovine animal, the carcass of any bovine animal from which the hide has not been removed, or the hide thereof, unless the seller give, and the buyer receive, at the time of the delivery of such animal, carcass or hide, a written bill of sale, giving the number, kind, and brand or brand and marks of each such hide, carcass or animal, signed by the party giving the same and two subscribing witnesses who have been freeholders of the county for at least two years. No witness shall be necessary if each of the parties is known to the other to have been freeholders of the county for at least two years immediately preceding the date of sale. Failure of the seller to give a bill of sale to the buyer shall have no effect upon the validity of any sale or contract of sale of bovine animals nor upon the rights of either the buyer or seller thereunder.

CHAPTER 434

An act to amend Section 1300.3 of the Agricultural Code, relating to processors.

Stats 1933, p 60, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1300.3 of the Agricultural Code is hereby amended to read as follows:

Stats 1939, p 2338

1300.3. The director, upon his own motion or upon the verified complaint of any interested party, shall investigate, examine, or inspect any transaction involving the failure of the processor to make payment for farm products within the time specified for such payment in the contract of sale and purchase between the producer and the processor, and in accordance with the terms of said contract, or any transaction involving the rejection, without reasonable cause, of farm products, or involving the failure or refusal, without reasonable cause, to accept and pay for farm products bought or contracted to be bought from a producer by a processor; provided, however, that the director shall have no jurisdiction to act upon any such complaint if the substance of such complaint is included in any dispute that has been submitted to, or settled by, arbitration in accordance with the provisions of a written contract or if such processor within ten (10) days after notice by the director of the filing of such verified complaint has submitted such dispute to arbitration in accordance with the terms of such written contract; provided, however, that the jurisdiction otherwise reserved to the director in this chapter shall be deemed restored for the purposes of this chapter if the processor fails, refuses or neglects to select, within ten (10) days after submission, arbitrators as provided in said written contract, or if said processor otherwise fails, refuses or neglects to proceed to said arbitration, or otherwise obstructs or unreasonably delays the procedure of said arbitration; provided, also, that the director shall have jurisdiction over any such complaint or dispute if the processor has failed to perform in accordance with any arbitration award made in accordance with the terms of such written contract. If the director has jurisdiction to entertain the complaint and is unable to effect a settlement satisfactory to him and to both parties to the controversy, he shall cause a copy of such complaint, together with a notice of the time and place of hearing of such complaint, to be served personally or by mail upon the processor against whom the complaint is filed. Such service shall be made at least ten (10) days before the hearing, which hearing shall be held in the city or town in which is situated the principal place of business of the licensee or respondent, or in which the transaction or violation complained of is said

Investigation of complaints

Hearing

to have occurred, or in the county seat of the county in which the transaction or violation complained of is said to have occurred, or in the nearest office of the State Department of Agriculture, at the discretion of the director. At the time and place appointed for such hearing the director, or his agent, shall hear the parties to such complaint and shall enter in the office of the director at Sacramento an order dismissing such complaint or specifying the facts established on such hearing. A copy of such order shall be furnished to the respective parties to the controversy. At such hearing the director or his duly appointed agent shall have full authority to administer oaths, and take testimony thereunder; to issue subpenas requiring the attendance of witnesses before him, together with such books, memoranda, papers, and other documents, articles or instruments as may be pertinent to the controversy as set forth in the complaint, to compel the disclosure by such witnesses of all facts known to them relative to the controversy, and all parties disobeying the orders or subpenas of said director or his duly authorized agent shall be guilty of contempt and shall be certified to the superior court of the State for punishment for such contempt.

CHAPTER 435

Stats 1933, p 60, amended

An act to amend Sections 821, 822, 823, 826 and 827 of, and to add Sections 821.1, 821.15, 821.2, 821.25, 821.3, 821.35, 821.4, 821.45, 821.5, 821.55, 821.6, 821.65, 821.7, 821.75, 821.8 and 824.5 to the Agricultural Code, relating to apples.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1937, p 2495

SECTION 1. Section 821 of the Agricultural Code is hereby amended to read as follows:

Apple standards

821. Apples shall conform to the following standards:

(a) The "extra fancy" grade consists of well grown, properly matured apples of one variety which are clean, well colored, normally shaped for the locality where produced, free from decay, visible Baldwin spot, Jonathan spot, scald, internal breakdown, visible watercore, bruises (except such bruises as are necessarily caused in proper sorting or packing), broken skin, insect pests, limb rub, spray burn, sun scald, russeting except within the basin of the stem, drought spot, hail mark, frost injury, internal browning, apple scab and other diseases, insect bites, and other defects.

(b) The "fancy" grade consists of well grown, properly matured apples of one variety which are clean, normally shaped for the locality where produced, free from decay,

visible Baldwin spot, Jonathan spot, soft scald, internal breakdown, visible watercore, bruises (except such bruises as are necessarily caused in proper sorting or packing), broken skin, and insect pests; and free from appreciable damage caused by limb rub, spray burn, sun scald, russeting, drought spot, hail mark, frost injury, internal browning, apple scab, flyspeck fungus and other diseases, insect pests, sun spots, and other defects.

(c) The "C" grade consists of properly matured apples of one variety which are virtually clean, free from decay, soft scald, internal breakdown, visible watercore, bruises (except such bruises as are necessarily caused in proper sorting or packing), broken skin, and insect pests; and free from serious damage caused by stem punctures, visible Baldwin spot, Jonathan spot, sun scald, spray burn, hail marks, frost injury, internal browning, apple scab, insect pests and blossom end cracks.

The grades established by this section are the standard grades for apples. The "extra fancy" is the highest, "fancy" the next highest, and "C" grade the lowest of such grades.

SEC. 2. Section 821.1 is hereby added to said code, to read as follows: New section

821.1. Apples may conform to any of the standard grades or to any combination of such grades. When apples are in a combination of grades, the grade markings shall be preceded by either "combination" or "comb." Combination of grades

SEC. 3. Section 821.15 is hereby added to said code, to read as follows: New section

821 15. Apples of a standard grade or combination of such grades shall be well packed, place packed, loose in containers, or in bulk. Grade terms used to designate apples which are place packed shall not be followed by the term "loose." Packing

SEC. 4. Section 821.2 is hereby added to said code, to read as follows: New section

821 2. Apples of a standard grade or combination of such grades shall be of such size that the apple will not pass through a ring two and one-fourth inches in diameter. This size requirement does not apply to apples which are well packed, nor to apples of "C" grade when loose in the container or in bulk and not in combination with any other grade Size requirement

New section SEC. 5. Section 821.25 is hereby added to said code, to read as follows:

Well packed
Place packed 821.25. Apples which are well packed shall be uniform in size and shall be in clean, standard boxes. Apples which are place packed shall be in clean boxes.

New section SEC. 6. Section 821.3 is hereby added to said code, to read as follows:

Picking 821.3. Apples shall be hand picked, except in the case of apples of "C" grade when loose in containers or in bulk, and except those apples of "C" grade in combination with any other grade or grades and when the combination is loose in containers or in bulk.

New section SEC. 7. Section 821.35 is hereby added to said code, to read as follows:

Two grades 821.35. When apples are in combination of two grades all of the apples in the container or bulk lot shall meet the requirements of the lower grade and at least 50 per cent, by count, shall conform to the requirements of the higher grade.

New section SEC. 8. Section 821.4 is hereby added to said code, to read as follows:

Three grades 821.4. When apples are in combination of three grades all of the apples in the container or bulk lot shall meet the requirements of the lowest grade, at least 25 per cent, by count, shall conform to the requirements of the highest grade, and at least an additional 25 per cent, by count, shall conform to the requirements of the next highest grade.

New section SEC. 9. Section 821.45 is hereby added to said code, to read as follows:

Tolerances
One grade 821.45. Tolerances, where apples in a container or bulk lot are of one grade, shall be as follows:

At least 90 per cent of the apples in any container or bulk lot shall at least comply with the requirements of the grade; and not more than one-half of the tolerance shall be allowed for any one cause.

New section SEC. 10. Section 821.5 is hereby added to said code, to read as follows:

Same:
More than
one grade 821.5. Tolerances, where apples are in a combination of two or more grades, shall be as follows:

At least 90 per cent of the apples in any container or bulk lot shall at least comply with the requirements of the lowest

grade in the combination; and not more than one-half of the tolerance shall be allowed for any one cause.

When in a combination of any two grades, at least 50 per cent of the apples shall comply with the requirements of the higher grade. When in a combination of three grades, at least 25 per cent shall comply with the requirements of the highest and at least an additional 25 per cent shall comply with the requirements of the next highest grade.

SEC. 11. Section 821.55 is hereby added to said code, to read as follows: New section

821.55. When a lot of apples are in containers, the apples in each of such containers, not to exceed one-fourth, in number of containers, shall be permitted to exceed, by not more than 50 per cent, the tolerance therefor above provided; but the entire lot must average within the established tolerance; and the apples in no container shall have more insect pests or decay than the amount permitted by such established tolerance. Same In containers

SEC. 12. Section 821.6 is hereby added to said code, to read as follows: New section

821.6. An emergency grade to be known as the "commercial" grade may be declared in effect by the director in conformity with the provisions of Sections 821.7, 821.75, and 821.8. "Commercial grade"

The "commercial" grade shall apply only to Bellefleur apples and Newtown Pippin apples, or either, and shall conform to the standards required for a combination of fancy and "C" grade, except that Baldwin spot and internal browning shall be permitted without limitation as to tolerance.

SEC. 13. Section 821.65 is hereby added to said code, to read as follows: New section

821.65. The "commercial" grade shall be used only for apples which (a) have been held in cold storage for a period of at least 15 consecutive days, (b) have been removed from cold storage not earlier than December 15th of the current cold storage season, (c) and loose in containers or in bulk. Apples of the "commercial" grade shall not be in combination with apples of any of the standard grades. Scope of commercial grade

SEC. 14. Section 821.7 is hereby added to said code, to read as follows: New section

821.7. A petition for a declaration by the director that an emergency exists and that the "commercial" grade is in effect may be filed by either: Petition for emergency declaration

(a) Seventy-five per cent or more by number of the persons controlling the sale of the Bellefleur or Newtown Pippin

apples, or the Bellefleur and Newtown Pippin apples, as the case may be, then held in cold storage; or

(b) The persons controlling the sale of 60 per cent or more of such apples then so held.

New section

SEC. 15. Section 821.75 is hereby added to said code, to read as follows:

Contents of petition

821.75. The petition shall contain all of the following:

(a) A statement whether the declarations are sought as to Bellefleur apples, Newtown Pippin apples or both.

(b) A statement of the facts constituting the petitioners the persons or number of persons qualified under Section 821.7 to file the petition.

(c) A statement that an abnormal amount of Baldwin spot or internal browning has developed in the apples as to which the declarations are sought.

(d) A statement that there is imminent danger of great loss to the owners of the apples as to which the declarations are sought unless the "commercial" grade is declared in effect as to such apples.

(e) A request that the director declare the existence of an emergency and the "commercial" grade in effect as to the apples for which the declarations are sought.

New section

SEC. 16. Section 821.8 is hereby added to said code, to read as follows:

Declaration of emergency

821 8. If the director, by investigation or otherwise, determines that the petition has been signed by persons qualified to file it and that the matters stated in the petition are true, he shall, at a time not less than 15 days after the filing of the petition, declare that, as to the apples as to which the declarations are sought, an emergency exists and the "commercial" grade shall be in effect for a period designated by him but not to extend beyond the thirtieth day of June of the then current cold storage season.

Stats 1937, p 2496

SEC. 17. Section 822 of the Agricultural Code is hereby amended to read as follows:

Containers of apples

Markings

822. All containers of apples shall bear upon them in plain sight and in plain letters on one outside end: The name of the person who first authorized the packing of the apples or the name under which such packer is engaged in business, together with a sufficiently explicit address to permit ready location of such packer; name of variety of the apples contained therein, if known, and when not known the words "unknown variety"; the grade of such apples; the date when such apples were first packed, or if repacked, the date of repacking; the minimum net weight of the apples contained therein, or the cubical contents of the package, and in the case of wrapped packed apples

the numerical count. A variation of five apples, more or less, than the number stated, shall be allowed. Containers of apples which are place packed shall be required to show only the name and address of the person who first packed or authorized the packing of the apples, the variety of apples, date of packing, and the designation of grade. Open containers of apples which are not packed shall be required to show only the name and address of the person who first packed or authorized the packing of the apples, and the designation of grade.

United States standards

In lieu of the standard grade markings required by this section any container of apples may be marked with the name of the equivalent grade established for such apples in the United States standards for apples promulgated by the United States Department of Agriculture and approved by the director.

Stats 1939, p 2267

SEC. 18. Section 823 of the Agricultural Code is hereby amended to read as follows:

Wrapped apples

823. All wrapped apples shall be in one of the following containers: Standard wooden apple box, depth inside, $10\frac{1}{2}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches. Standard fibreboard apple box, depth inside, $11\frac{3}{8}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches, with a tolerance of one-fourth inch in all dimensions. Half wooden apple box, depth inside, $5\frac{1}{4}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches. Half fibreboard apple box, depth inside, $5\frac{11}{16}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches, with a tolerance of one-fourth inch in all dimensions Apples which are not wrapped shall be in one of the standard containers defined in this section, or in one of the standard apple lugs of the following dimensions: (a) Depth inside, $7\frac{1}{2}$ inches; width inside, $13\frac{1}{2}$ inches; length inside, $21\frac{1}{4}$ inches. (b) Depth inside, $7\frac{3}{4}$ inches; width inside, 14 inches; length inside, $22\frac{3}{4}$ inches. Containers designated as (a) and (b) shall be considered as standard when used with or without cleats. Apples which are not wrapped may be in other size containers, and wrapped apples may be in containers smaller than the half apple box, if these are conspicuously marked, in letters not less than one-half inch in height, "irregular container." Such marking is not required on open containers of apples which are not place packed or well packed.

Apples not wrapped

New section

SEC. 19. Section 824.5 is hereby added to said code, to read as follows:

Effect of inspection

824.5. When any lot of apples of the Newtown Pippin or Bellefleur variety has been inspected and certified by an enforcing officer as conforming to a specified grade or combination of grades and the identity of the lot is established to the satisfaction of the enforcing officer then having jurisdiction of the lot, such lot shall not, at any time within 10 days

after the date of such certification, be deemed to be in violation of the provisions of this chapter because of an excess of damage caused by Baldwin spot or by internal browning.

Stats 1933, p 199

SEC. 20. Section 826 of the Agricultural Code is hereby amended to read as follows:

Meaning of "serious damage"

826. As to apples, "serious damage" means any injury or defect which seriously detracts from the appearance or quality of the apple. The following defects are not serious damage:

(a) Stem punctures, when affecting apples of the Newtown Pippin and Bellefleur varieties, if the punctures are slight and if such punctures affect less than 50 per cent, by count, of such apples in any one container or bulk lot. Stem punctures to any extent are serious when affecting any other variety of apples.

(b) Jonathan spot and/or Baldwin spot, when affecting apples of the Newtown Pippin and Bellefleur varieties if no more than 25 per cent, by count, of such apples in any one container or bulk lot are affected by no more than three spots each of either or both of such defects. Jonathan spot and/or visible Baldwin spot in any extent are serious in all other varieties of apples.

(c) Sun scald and spray burn, where there is no blistering or cracking of the skin or where the flesh is not seriously discolored or injured.

(d) Hail marks or frost injury, where such defects do not cover more than an aggregate area of one-tenth of the surface of the apple or materially deforms or disfigures the fruit.

(e) Internal browning, which can not be detected by external examination or pressure.

(f) Scab spots on any one apple which in the aggregate do not exceed one-half of one inch in diameter.

(g) Five well healed case bearer, codlin moth, or aphid stings on an apple, none of which may exceed one-eighth of an inch in diameter exclusive of any encircling green ring.

(h) Slight blossom end cracks.

Stats 1937, p 2497

SEC. 21. Section 827 of the Agricultural Code is hereby amended to read as follows:

Definition: "Hand picked"

827. As used with reference to apples in this chapter:

(a) "Hand picked" means apples which do not show evidence of having been on the ground.

"Clean"

(b) "Clean" means free from dust or dirt and free from visible spray residue.

"Well packed"

(c) "Well packed" means packed in regular, compact, diagonal arrangement of all of the fruit in any container, the fruit being compacted, at the time of packing, with sufficient solidity so that it will not move in the container when lidded, the top and bottom of the standard wooden box, when lidded, having a bulge of not less than one-half inch, and, where

wrappers are used, all of the apples in the box being properly wrapped, with the exception of the bottom layer, which may be flagged.

(d) "Place packed" means that the apples are not wrapped and are arranged compactly in layers throughout the container. Such apples need not be uniform in size or in count between the layers. "Place packed"

(e) "Flagged" means incompletely covered by the use of wrappers which are not closed. "Flagged"

(f) "Uniform in size" means in boxes containing 125 apples, or less, a variation of not more than one-half of one inch in diameter, when measured through the widest portion of the cross-section between the fruits in any one container; in boxes containing 138 apples, or more, a variation of not more than three-eighths of one inch when so measured. "Uniform in size"

(g) "Cross-section" means that section of the apple taken at a right angle to a straight line drawn from the stem end to the blossom end thereof. "Cross-section"

(h) "Properly matured" means that the apples to which it refers, at the time they were taken or fell from the tree, had reached that stage of development necessary to insure the proper completion of the ripening process. Apples of the varieties Alexander, Red Astrachan, White Astrachan, Beitigheimer, White Winter Pearmain, Greening, and Fall Pippin need not be properly matured in order to meet the requirements of any grade except extra fancy. Apples of the Gravenstein variety, which are of a size that will not pass through a ring $2\frac{1}{4}$ inches in diameter, and of the Bellefleur variety, which are of a size that will not pass through a ring $2\frac{3}{4}$ inches in diameter, need not be properly matured to meet the requirement of "C" grade when the apples are place packed or loose, but apples of the Gravenstein and Bellefleur varieties shall be properly matured to meet the requirements of the C grade when in the combination grades. "Properly matured"

(i) "Insect pests" include San Jose scale, codlin moth and other insects or the larvae, nymphs or pupae thereof, and any apple which has been infested with codlin moth and bears evidence of such infestation, with the exception of superficial well healed codlin moth stings. "Insect pests"

CHAPTER 436

Stats 1933, p. 394, amended

An act to amend Sections 668 and 670 of the Fish and Game Code, relating to salmon.

In effect September 13 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1933, p 457

SECTION 1. Section 668 of the Fish and Game Code is hereby amended to read as follows:

Sale

668. In District 12, 12B, 12C and 13, salmon may not be sold at any time when fishing with nets is prohibited in said districts. Salmon taken by commercial fishermen in Districts 12, 12B, 12C and 13, shall not be canned.

Stats 1935, p 1514

SEC. 2. Section 670 of said code is hereby amended to read as follows:

Stamping cans

670. Any cannery or packing plant in which salmon that have been taken on a sport fishing license are canned, must stamp on the top of each can the words "NOT FOR RESALE" in letters of such size as to be clearly legible. Said stamp must remain affixed to each can and such canned salmon may not be sold, purchased or offered for sale. Any violation of this section is punishable by a fine of not more than five hundred dollars ($500), or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment.

CHAPTER 437

Stats 1933, p 60, amended

An act to amend Sections 347 and 363.2 of the Agricultural Code, relating to live stock sold or slaughtered without consent of the owner.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 29, 1941.]

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

Stats 1933, p 117

SECTION 1. Section 347 of the Agricultural Code is hereby amended to read as follows:

Slaughter-house license

Bond

347. Every person slaughtering cattle as a business shall do so in a designated slaughterhouse. Before beginning business he must procure from the director a license to carry on such a business and execute a bond to the State in the sum of one thousand dollars ($1,000), to be approved by the director, conditioned that such person shall not slaughter, sell or expose for sale any cattle or the meat thereof, without first

being the owner thereof, or being authorized so to do by such owner and that in case he shall slaughter any cattle without being the owner or so authorized by the owner, he shall, in addition to all other statutory penalties, pay therefor double the value of such animal. All amounts recovered on said bonds shall be paid as follows: One-half to the owner of such animal, or if there is an intervening innocent person who has paid for the cattle, to such person, and the remaining one-half to the Department of Agriculture Fund to be used for the purpose of carrying out this article. Penalty

SEC. 2. Section 363.2 of said code is hereby amended to read as follows: Stats 1937, p 2458

363.2. No person, partnership or corporation, or their agent shall engage as a business in the sale of cattle at a public sales yard unless he has procured from the director a license to carry on such business, and executed a bond to the State in the sum of one thousand dollars ($1,000), to be approved by the director, conditioned that such person shall not sell any cattle without first being the owner thereof or being authorized to do so by such owner and that, in case he does sell any cattle without being the owner thereof or authorized to do so, he shall, in addition to all other statutory penalties, pay double the value of such animals. All amounts recovered upon said bond shall be paid as follows: One-half to the owner of said animals or if there is an intervening innocent person who has paid for the cattle, to such person, and the remaining one-half to the Department of Agriculture Fund to be used for the purpose of carrying out this article. The director shall grant to every applicant who complies with the provisions of this article and the rules and regulations promulgated for its enforcement, a license to operate for the balance of the current calendar year. Said applicant shall pay to the director for such license an annual fee of twenty-five dollars ($25). Such license shall be renewed on or before the first day of each succeeding year. This section shall not apply to or include any person or exchange dealing in live stock and operating at a public live stock market and subject to and operating under a bond required by the United States to secure the performance of their obligations. License to sell in public sales yard. Bond. Penalty. License fee.

CHAPTER 438

An act to add Section 1107 to Chapter 4 of Title 1 of Part 3 of the Code of Civil Procedure, relating to the issuance of writs of review, mandate and prohibition.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

New section

SECTION 1. Section 1107 is hereby added to Chapter 4 of Title 1 of Part 3 of the Code of Civil Procedure, to read as follows:

Issuance of prerogative writs

1107. When an application is filed for the issuance of any prerogative writ, the application shall be accompanied by proof of service of a copy thereof upon the respondent and the real party in interest named in such application. Within five days after such service, the real party in interest or the respondent or both may serve upon the applicant and file with the court points and authorities in opposition to the granting of the writ.

The court in which the application is filed, in its discretion and for good cause, may grant the application ex parte, without notice or service of the application as herein provided.

Exception

The provisions of this section shall not be applicable to applications for the writ of habeas corpus, or to applications for writs of review of the Industrial Accident or Railroad commissions.

CHAPTER 439

An act to repeal Sections 2.464, 2.465, 6.383 and 6.384 of, to amend Sections 2.505, 3.301 and 4.250 of, and to add Sections 3.321, 3.322, 3.323, 3.324, 3.325 and 3.326 to, the School Code, all relating to the payment of the costs of providing for the education of high school pupils not residing in a high school or unified school district.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Repeals

SECTION 1. Sections 2.464, 2.465, 6.383 and 6.384 of the School Code are hereby repealed.

Sch. C., 1929, p. 54

SEC. 2. Section 2.505 of said code is hereby amended to read as follows:

Annexation of district prohibited

2.505. Where the high school district which is most accessible to a majority of the pupils of the elementary school

district attending high school is governed by an appointive school board, the board of supervisors shall not annex the elementary school district to such high school district.

SEC. 3. Section 3.301 of said code is hereby amended to read as follows: Stats 1937, p 1708

3.301. Any person who is, under the provisions of this article, eligible to attend high school and who does not reside in a high school district or in a unified school district may attend high school in any high school district or unified school district in the county in which he resides or in another county. High school attendance by district nonresident

SEC. 4. Section 3.321 is hereby added to said code, to read as follows: New section

3.321. Whenever a person residing in an elementary school district but not in any high school district or in any unified school district attends a high school in any district within the State, the governing board of the district maintaining the high school shall on or before July 15th of the succeeding school year certify, separately, to the county superintendent of schools having jurisdiction over such elementary school district the amount chargeable to such elementary school district and the amount chargeable to the unapportioned county high school fund under the jurisdiction of the county superintendent of schools, as hereinafter provided, as tuition for the education of any such person during the preceding school year. Certificate of tuition

SEC. 5. Section 3.322 is hereby added to said code, to read as follows: New section

3.322. The tuition for the education of any such person shall be computed by adding to the total current expenditures of the high school district or unified school district, as defined by the State Department of Education, for the preceding school year the payment of principal and interest of the bonded indebtedness of the high school district or unified school district made during the preceding school year, from which sum shall be subtracted the entire income of the high school or unified school district from the apportionments received from the State, and the remainder shall be divided by the total number of units of average daily attendance of the high school district or unified school district during the preceding school year. Computation of tuition

The total tuition chargeable to any elementary school district shall be computed by multiplying the resulting quotient by the units of average daily attendance during the preceding school year of persons residing in the elementary school district, and not residing on a military reservation of

the United States of America, and attending the high schools of the high school district or unified school district.

The total amount chargeable against the unapportioned county high school fund of any county shall be determined by multiplying such quotient by the units of average daily attendance during the preceding school year of persons residing in the elementary school district, and on a military reservation of the United States of America, and attending the high schools of the high school district or unified school district.

New section SEC. 6. Section 3.323 is hereby added to said code, to read as follows:

Transmittal of certificate 3.323. The county superintendent of schools shall transmit a copy of the certificate certifying the amount chargeable against any elementary school district under his jurisdiction not later than the succeeding July 20th to the board of supervisors of each county within which any part of the elementary school district is located.

New section SEC. 7. Section 3.324 is hereby added to said code, to read as follows:

Tax levy 3.324. If the elementary school district is located entirely within one county, the board of supervisors thereof shall at the time and in the manner prescribed by Article 8 of Chapter 1 of Part 3 of Division 4 of this code levy a tax on all taxable property in the elementary school district sufficient to raise the amount set forth in the certificate. If the elementary school district is located in more than one county, the tax shall be determined, levied, and collected at the time and in the manner prescribed by Articles 8 and 10 of Chapter 1 of Part 3 of Division 4 of this code.

New section SEC. 8. Section 3.325 is hereby added to said code, to read as follows:

Credit of tax receipts 3.325. The receipts of the tax shall be credited by the county treasurer of each county to the credit of the high school district or unified school district, except that if the county superintendent of schools of another county has jurisdiction over the high school district or unified school district, the county treasurer of each county shall transmit the receipts of the tax to the county treasurer of such county, who shall credit the amount to the credit of the high school district or unified school district. The county treasurer of any county crediting the receipts of the tax to a high school district or unified school district hereunder shall notify the county superintendent of schools and county auditor of such county and the governing board of the high school district or unified school district of such fact, naming the amount so credited.

SEC. 9. Section 3.326 is hereby added to said code, to read as follows: New section

3.326. The county superintendent of schools shall pay to each high school district and unified school district from the unapportioned county high school fund under his jurisdiction, the amount chargeable to such fund as shown by the certificate of the governing board of the high school district or unified school district. Payment

SEC. 10. Section 4.250 of said code is hereby amended to read as follows: Stats 1933, p 2700

4.250. The unapportioned county high school fund shall be employed by the county superintendent of schools to pay such charges as are stipulated elsewhere in this code, and to provide, with the approval of the county board of education, additional apportionments to the high school districts of the county for current expenses because of temporary emergency conditions arising in such districts. Purpose of fund

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CHAPTER 440

An act to repeal School Code Section 2.1095 and to add Section 2.998 to said code, both relating to the traveling expenses of governing boards of school districts.

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941] In effect September 13, 1941

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

SECTION 1. School Code Section 2.1095 is hereby repealed. Sch C, 1929, p 338

SEC. 2. Section 2.998 is hereby added to the School Code, to read as follows: New section

2.998. Each member of the governing board of a school district may be allowed for travel necessary to attend annual, regular monthly and special meetings of the governing board, the same rate of mileage as is allowed members of the county board of education under the provisions of this code; provided, that no mileage shall be allowed to any member except for travel required in excess of 10 miles to attend any such meeting. Orders therefor shall be drawn upon the funds of the district and signed by a majority of the governing board exclusive of the payee. Travel expenses

CHAPTER 441

Stats 1883, p 93, amended

An act to amend Section 862a of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, as amended, relating to organization, incorporation and government of cities of the sixth class.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1933, p 1329

SECTION 1. Section 862a of the act cited in the title hereof is hereby amended to read as follows:

Council, powers

Sec. 862a. In any city of the sixth class the city council shall have power:

Hospital

Election to establish

(a) Upon a petition signed by 15 per cent of the registered, qualified electors of the city, to submit to the electors of the city, the question whether a municipal hospital shall be established in said city; provided, that no municipal hospital has been already established therein. Said proposition may be submitted either at a general or special election and said election shall be conducted and the results thereof declared in conformity with the general election laws governing elections in cities of the sixth class. If a majority of the votes cast at said election are in favor of said proposition, the municipal hospital for said city shall be deemed established and shall be managed and conducted in accordance with the provisions of this section.

Erection

Bonds

Stats 1901, p 27

(b) To erect and maintain a municipal hospital whenever the same has been established as provided in subdivision (a) of this section and to issue bonds and provide for the payment thereof in accordance with the provisions of the act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements and regulating the acquisition, construction and completion thereof," approved February 25, 1901, as amended.

There may be submitted to the electors of the city at the same election, the question whether a municipal hospital shall be established in said city, and also the question whether (if a municipal hospital is to be established) indebtedness shall be incurred therefor.

Government

(c) To prescribe rules for the government and management of any such hospital and the terms upon which patients may be admitted thereto.

Physicians and employees

(d) To appoint and fix the compensation of physicians, surgeons and other necessary officers and employees of such municipal hospital who shall hold their positions during the pleasure of the city council.

Buildings

(e) To acquire any and all property, real or personal by purchase or donation, and construct and equip such buildings as the city council may deem necessary and suitable for the

proper conduct of any such municipal hospital. In receiving any donation of money, the city may agree to pay the donor or donors interest upon the principal at a rate not exceeding 7 per cent per annum, during the lifetime of the donors, or of any of them, or of the survivor, but not exceeding a period of 40 years, and without repayment of the principal or any part thereof. In the case of the incurring of such indebtedness in favor of donors, the indebtedness shall be incurred and means for the payment thereof shall be provided in the manner prescribed by the provisions of the act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements and regulating the acquisition, construction and completion thereof," in effect February 25, 1901, as amended, so far as the same may be applicable; provided, however, that the ordinance calling the election shall not contain any statement as to bonds that are to be issued, but shall in general terms describe the proposed donation, the purpose for which it is to be used, and the terms upon which the same is to be made and accepted.

Tax for maintenance

(f) To levy and collect annually a property tax for the maintenance of such municipal hospital and the interest charged on any donation accepted in accordance with the provisions of subdivision (e) of this section, and also for interest upon any bonded indebtedness created for the purchase or acquisition of any real or personal property for any such hospital, and the construction and equipment thereof, including a sinking fund for the payment of such bonds in the amount provided for in any such bond issue.

Lease agreements

(g) To provide for the operation and maintenance through tenants of the whole or any part of any hospital acquired or constructed by it pursuant to this section, and for such purpose to enter into any lease agreement which it believes will best serve the interests of the city. No such lease shall run for a term in excess of 10 years.

CHAPTER 442

An act to add Section 72 to the State Civil Service Act, relating to adjustment of compensation.

Stats 1937, p. 2085, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 72 is hereby added to the State Civil Service Act, to read as follows:

New section

Sec. 72. When the compensation of an employee is established at a fixed amount per unit of work with a maximum limit for his total annual or monthly compensation as an

Employee paid per unit of work

alternative method of compensation for the salary fixed for the class, the board shall provide for annual increases in the maximum limit equal in amount and payable under the same conditions as the intermediate steps provided for salary adjustments for the class in accordance with Section 70 of this act.

CHAPTER 443

Stats. 1923, p. 1067; amended

An act to amend the Palo Verde Irrigation District Act, approved June 21, 1923, by reenacting Sections 68, 69 and 72; and by adding to said act, as amended, new Section 74, relating to statutes to be codified in the proposed Water Code; declaring the legislative intention as to unconstitutionality and declaring the urgency of this act, to take effect immediately.

In effect immediately [Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats. 1939, p. 2070

SECTION 1. Section 68 of said act, as amended, is hereby reenacted, to read as follows:

Rehabilitation plan

Sec. 68. Whenever the board of trustees of the district, by resolution, has approved any rehabilitation plan for the district and such plan has been approved by the board of supervisors of any county in which lies the majority in acreage of the lands of the district, and such rehabilitation plan generally provides for the handling, sale, conveyance and disposal of lands heretofore or hereafter deeded to the district for delinquent taxes, to the end that such lands may be promptly returned to private ownership and to the district and county tax rolls, any such rehabilitation plan and such acts and proceedings of the board of trustees of the district and all acts of boards of supervisors approving such rehabilitation plan and all acts of public officers in connection therewith heretofore taken are hereby legalized, ratified, confirmed and declared valid to all intents and purposes and the power of the district and of such boards of supervisors to approve, carry out and perform such rehabilitation plan is hereby in all respects ratified, confirmed and declared.

Stats. 1939, p. 2071

SEC. 2. Section 69 of said act, as amended, is hereby reenacted, to read as follows:

Incorporation of lands once publicly owned

Sec. 69. All lands which are now privately owned and situate within the exterior boundaries of the district but which were public lands of the United States or lands of this State at the time of the organization of said district and have not heretofore been included within said district are hereby incorporated within and made a part of said district for all purposes. The Legislature hereby finds and determines that all such lands are and will be benefited by the accomplishment

of the purposes of this act and should now be and become a part of said district.

SEC. 3. Section 72 of said act, as amended, is hereby reenacted, to read as follows: Stats 1939, p 2071

Sec. 72. Whenever proceedings have heretofore been taken by the district for the inclusion of land within the district and a certified copy of order of inclusion has been recorded in the offices of the county recorders of the counties wherein the district lies, for more than six months prior to the effective date of this act, such inclusion of land and all acts and proceedings of the district, its board of trustees and officers in relation to such inclusion are hereby legalized, ratified, confirmed and declared valid to all intents and purposes and the boundaries of the district are hereby recognized and validated as being those described in the most recent certified copy of order of inclusion so recorded. Inclusion of lands

SEC. 4. A new section is hereby added to said act, as amended, to be numbered 74 and to read as follows: New section

Sec. 74 If and when a Water Code is adopted and becomes effective, all references herein to any statutes codified in such Water Code shall be deemed to refer to the corresponding provisions of such Water Code, as enacted and as thereafter amended. References to Water Code

SEC. 5. In hereby amending Sections 68, 69 and 72 of said act, as amended, it is the intention of the Legislature to repeal and reenact each of said sections with the same force and effect as if each and every provision thereof were for the first time enacted at the time of this amendment to said act, notwithstanding any provision to the contrary expressed in Section 325 of the Political Code. Declaration of intent

SEC. 6. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have adopted this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases of this act may be declared unconstitutional. Constitutionality

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV of the Constitution of the State of California and shall take effect immediately. Urgency

The facts constituting such urgency are as follows:

Palo Verde Irrigation District has gone through a financial collapse, having defaulted on its bonds in the year 1930, due to the agricultural depression and other causes and practically all of the land in the district having been deeded for delinquent taxes to the district and the State. The district has actively developed plans for rehabilitation of its financial

structure and the return of said land to the tax rolls and certain of the amendments herein contained are necessary to eliminate pressing legal questions and to permit the district to progress.

CHAPTER 444

An act to amend Section 564 of the Code of Civil Procedure, relating to appointment of receivers.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats. 1933, p. 1867

SECTION 1. Section 564 of the Code of Civil Procedure is hereby amended to read as follows:

Appointment of receivers

564. A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which such court is empowered by law to appoint a receiver.

In superior courts a receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases:

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured;

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to discharge the mortgage debt;

3. After judgment, to carry the judgment into effect;

4. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or in proceedings in aid of execution, when an execution has been returned unsatisfied, or when the judgment debtor refuses to apply his property in satisfaction of the judgment; or after sale of real property under execution of a judgment or pursuant to a decree of foreclosure and sale, during the period provided by law for the redemption thereof from sale, to collect rents thereon, and to expend and disburse such rents as may be directed by the court or otherwise provided by law;

5. In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights;

6. In an action of unlawful detainer;

7. In all other cases where receivers have heretofore been appointed by the usages of courts of equity.

CHAPTER 445

An act to amend Sections 3.618, 3.624, 4.875 and 4.887 of, and to add Section 3.625 to, the School Code, relating to the education of physically handicapped minors.

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941] In effect September 13, 1941

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

SECTION 1. School Code Section 3.618 is hereby amended to read as follows: Stats 1939, p 1467

3.618. Four hours of actual attendance of physically handicapped pupils in special classes shall count as one day of attendance. Each clock hour of teaching time devoted to individual instruction of physically handicapped pupils shall count as one day of attendance. The average daily attendance of all physically handicapped pupils shall be computed by dividing the total number of days of attendance of such pupils by the number of days taught in the regular schools of the district. Attendance

SEC. 2. Section 3.624 of the School Code is hereby amended to read as follows: Stats 1939, p 1469

3.624. Four hours of actual attendance of physically handicapped pupils educated under the provisions of Section 3.622 of this code in special classes shall count as one day of attendance. Each clock hour of teaching time devoted to individual instruction of physically handicapped pupils under the provisions of said Section 3.622 shall count as one day of attendance Hours constituting day

SEC. 3. Section 4.875 of the School Code is hereby amended to read as follows: Stats 1931, p 2496

4.875. After making all other apportionments required from the State High School Fund he shall apportion the balance of the fund to the several high school districts and to the unapportioned county high school funds of the State pro rata on the total average daily attendance credited to such districts and funds during the preceding school year as reported by the county superintendent of schools. Appropriation of balance of fund

Stats 1933, p 2705

SEC. 4. Section 4.887 of the School Code is hereby amended to read as follows:

Proration of remainder

4.887. He shall prorate the remainder of the apportionment to each county from the General Fund to the several high school districts and to the unapportioned county high school fund of the county on the basis of the total average daily attendance credited to such districts and fund during the preceding school year.

New section

SEC. 5. Section 3.625 is hereby added to the School Code, to read as follows:

Annual report

3.625. Each county superintendent of schools providing for the education of physically handicapped children as authorized in Section 3.622 of this code shall report annually to the Superintendent of Public Instruction on forms provided by the latter the total average daily attendance of physically handicapped pupils by types of instruction provided, the cost of educating such pupils, and such other information as may be required, for each elementary and high school district in which such education is provided.

CHAPTER 446

An act to amend Section 725a of the Code of Civil Procedure, relating to foreclosure.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1939, p 1990

SECTION 1. Section 725a of the Code of Civil Procedure is hereby amended to read as follows:

Foreclosure of trust deed or mortgage with power of sale

725a. The beneficiary or trustee named in a deed of trust or mortgagee named in a mortgage with power of sale upon real property or any interest therein to secure a debt or other obligation, or if there be a successor or successors in interest of such beneficiary, trustee or mortgagee, then such successor or successors in interest, shall have the right to bring suit to foreclose the same in the manner and subject to the provisions, rights and remedies relating to the foreclosure of a mortgage upon such property, except that real property, when the estate therein is more than a leasehold of two years unexpired term, sold under a decree in an action brought pursuant to this section, may be redeemed from such sale any time within three months after the sale in the manner and upon the terms provided by law for the redemption of real property sold under execution; provided, however, that in any case wherein the property shall be sold for a sum less than the judgment sum, in addition to interest thereon and costs of action and expenses of sale, the period for redemption shall be one year.

CHAPTER 447

An act to amend Section 1550 of the Probate Code, relating to the inventory and appraisement of estates of wards, and the delivery of a copy thereof to the county assessor.

Stats 1931, p 587, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1550 of the Probate Code is hereby amended to read as follows:

Stats 1931, p 678

1550. Within three months after his appointment, or within such further time as the court or judge for a reasonable cause may allow, the guardian must file with the clerk of the court an inventory and appraisement of the estate of his ward, together with a copy of the same which copy shall be delivered by the clerk to the county assessor. The guardian must make oath to the inventory, and the property therein described must be appraised, by an appraiser or appraisers appointed by the court or judge, in the manner provided for the inventory and appraisement of estates of decedents. The inventory and appraisement must be recorded by the clerk in a book kept for that purpose, and whenever any ward is or has been during the guardianship confined in a State hospital in this State the guardian must deliver or mail a copy of the inventory to the Director of Institutions or the Attorney General. Whenever any property of the ward is discovered which was not included in the inventory, and whenever any other property has been inherited or acquired by the ward, other than by purchase by the guardian, like proceedings must be had for the inventory and appraisement thereof and the delivery or mailing of a copy thereof as are herein provided in relation to the first inventory.

Inventory and appraisement

CHAPTER 448

An act to amend Section 4986 of the Revenue and Taxation Code, relating to property taxation and the cancellation of taxes.

Stats 1939, p 1274, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 4986 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1366 See also Stats 1941, p 2641

4986. All or any portion of any uncollected tax, penalty, or costs, heretofore or hereafter levied, may, on satisfactory

Procedure for cancellation

proof, be canceled by the auditor on order of the board of supervisors with the written consent of the district attorney if it was levied or charged:

(a) More than once.

(b) Erroneously or illegally.

(c) On a portion of an assessment in excess of the cash value of the property by reason of the assessor's clerical error.

(d) On improvements when the improvements did not exist on the lien date.

(e) On property acquired after the lien date by the United States of America, the State or by any county, city, school district or other political subdivision and because of this public ownership not subject to sale for delinquent taxes.

CHAPTER 449

An act to validate the assessment and equalization of property for tax purposes, and the levy of taxes thereon, by sixth class cities, and to validate tax sales, certificates of tax sales, tax deeds and other conveyances resulting therefrom.

In effect September 13, 1941

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941]

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

Validation
Tax proceedings

SECTION 1. Every act and proceeding heretofore taken by any city of the sixth class organized under the provisions of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, or of the officers thereof, relative to the assessment and equalization of property, and to the levy of taxes thereon, for municipal purposes, and to tax sales, certificates of tax sales, tax deeds and other conveyances resulting from such assessment, equalization and levy, are hereby confirmed, validated and declared legally effective.

Stats 1883, p 93

Scope

SEC. 2. (a) This act is limited to the correction of defects, irregularities and ministerial errors which the Legislature originally could have omitted from the statutory requirements of law under which the acts or proceedings hereby confirmed, validated and declared legally effective were taken.

(b) This act is limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) Nothing contained in this act shall be construed to render the creation of any city, or any change in the boundaries of any city, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Section 3720 of the Political Code, is filed in the manner and within the time required by that section.

CHAPTER 450

An act to amend Section 810 of, and to add Section 810.5 to, the Fish and Game Code, relating to clams.

Stats 1933, p. 394, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 810 of the Fish and Game Code is hereby amended to read as follows:

Stats. 1933, p. 466

810. In Districts 2 (except Marin County) and 10 the bag limit on Washington clams (Saxidomus) is 15 per day. Not more than one daily bag limit of Washington clams may be possessed by any person during one day.

Washington clams Districts 2 and 10

SEC. 2. Section 810.5 is hereby added to the Fish and Game Code, to read as follows:

New section

810.5. In any district or part of a district within the geographical limits of Marin County the bag limit on clams in the aggregate of the species (Schizothaerus nuttallii) (variously known as gaper, horse clam, or big neck clam) and (Saxidomus) Washington clam is 15 per day, but not more than 10 clams of the species first mentioned shall be included. Not more than one such daily bag limit may be possessed by any person during one day.

Same: Marin County

CHAPTER 451

An act to add Section 987a to the Penal Code, relating to the compensation of counsel appointed to defend persons charged with crime.

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 987a is hereby added to the Penal Code, to read as follows:

New section

987a. The board of supervisors may by ordinance provide that in any case in which counsel is assigned in the superior court to defend a person who is charged therein with crime and who desires but who is unable to employ counsel, such counsel, upon recommendation of the court or a judge thereof, may receive a reasonable sum for compensation and for necessary expenses the amount of which shall be determined by the supervisors, to be paid out of the general fund of the county.

Compensation of assigned counsel

This section shall not apply in any county or city and county in which a public defender is elected or appointed.

CHAPTER 452

Stats 1937, p. 1229, amended

An act to add Chapter 5 to Division 3 of the Business and Professions Code, consisting of Sections 6300 to 6365, inclusive, and to repeal Sections 4190 to 4204, inclusive, of the Political Code, relating to boards of law library trustees and law libraries.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

New chapter

SECTION 1. Chapter 5 is hereby added to Division 3 of the Business and Professions Code, to read as follows:

CHAPTER 5. LAW LIBRARIES

Article 1. Boards of Law Library Trustees

Board of law library trustees

6300. There is in each county of this State a board of law library trustees, which governs the law library established for the county under the provisions of this chapter.

How constituted

6301. A board of law library trustees is constituted of five members, as follows:

(a) In a county where there are three judges of the superior court, the three are ex officio trustees; in a county where there are more than three judges of the superior court, the judges of the court shall elect three of their number to serve as trustees; in a county where there are less than three judges of the superior court, the one or two judges are ex officio trustees, and the board of supervisors of the county shall appoint sufficient members of the bar of the county to secure the requisite number of trustees.

(b) The chairman of the board of supervisors of the county is ex officio a trustee, or the board of supervisors may appoint a member of the bar of the county to serve as a trustee in place of the chairman.

(c) The fifth trustee is a member of the bar of the county appointed by the board of supervisors of the county to serve as a trustee.

Appointment of trustees

6302. Appointments of trustees which are to be made by the board of supervisors of the county shall be made at the first meeting of the board of supervisors after the establishment of a law library in the county, the appointees to serve until the first meeting of the board of supervisors in the succeeding January. The board shall, at any such meeting in each succeeding January, appoint such trustees to serve for the term of one year.

Compensation

6303. The office of trustee is honorary, without salary or other compensation.

Meetings

6304. Boards of law library trustees shall meet the first Tuesday of each month, and any board may meet at such other times as it may appoint, at a place to be designated for that purpose. A majority of the members constitutes a quorum for business, and an affirmative vote of a majority of the members is required to exercise the powers of the board.

Removal

6305. A board of law library trustees may remove any trustee, except an ex officio trustee, who neglects to attend or who absents himself from the meetings of the board, and may fill all vacancies that from any cause occur in the board.

President

6306. Each board shall appoint one of its number as president.

Secretary

6307. Each board shall elect a secretary, who shall keep a full statement and account of all property, money, receipts and expenditures, and shall keep a record and full minutes in writing, with the ayes and noes at length, of all proceedings of the board.

The secretary may certify to such proceedings, or any part thereof, under his hand, verified by an official seal adopted and provided by the board for that purpose.

Article 2. Law Library Funds

"Law library fund"

See also Stats 1941, p 1747

6320. All money collected for the law library in each county, must be paid into the hands of the treasurer of the county, who must keep the same separate and apart in a fund designated the "law library fund," to be expended by the board of law library trustees. Money may be drawn from this fund only as in this chapter provided, and only for the purposes herein authorized.

Filing fee

6321. On the commencement in, or the removal to, the superior court of any county in this State, of any civil action, proceeding, or appeal, and on the commencement in, or removal to, the municipal court of any municipality or a class A justice's court in any county, of any civil action or proceeding, the party instituting such proceeding, or filing the first papers, shall pay to the clerk of the court, for the law library, on filing the first papers, the sum of one dollar ($1) as costs, in addition to the fees fixed by law.

First appearance fee

See also Stats 1941, p 1747

6322. Thereafter, any defendant, respondent, adverse party, or intervening party, on his first appearance in a superior court, or any number of such defendants, respondents, or parties, appearing jointly, shall pay to the clerk of the court, for the law library, the sum of one dollar ($1) as costs, in addition to the fees fixed by law.

Exceptions
See also Stats 1941, p 1747

6323. Such costs shall not be collected, however, in small claims courts, nor shall they be collected on the filing of a petition for letters of adoption, or the filing of a disclaimer.

Additional appropriation
See also Stats 1941, p 1748

6324. The board of supervisors of any county may set apart each month from the fees collected by the county clerk, a sum not exceeding one hundred dollars ($100) in any one month, to be paid by the county clerk into the law library fund in addition to the moneys otherwise provided to be deposited in that fund by law. When so paid into the law library fund, such sums shall constitute a part of the fund and be used for the same purposes.

Auditing

6325. The orders and demands of the trustees of the law library, when duly made and authenticated as hereinafter provided, shall be verified and audited by the auditing officer, and paid by the treasurer of the county out of the law library fund. Full entry and record shall be kept as in other cases.

Article 3. Duties and Powers of Boards

Maintenance of law library

6340. Each board of law library trustees shall establish and maintain a law library at the county seat of the county in which it is appointed.

Branch library

6341. Any board of law library trustees may establish and maintain a branch of the law library in any city in the county, other than the county seat, in which a session of the superior court or of a municipal court is held.

A branch is in all respects a part of the law library and is governed accordingly.

Expenditures

6342. A board of law library trustees may order the drawing and payment, upon properly authenticated vouchers, duly certified by the president and secretary, of money from out of the law library fund, for any liability or expenditure herein authorized, and generally do all that may be necessary to carry into effect the provisions of this chapter.

Rules and regulations
See also Stats 1941, p 1748

6343. A board may make and enforce all rules, regulations, and by-laws necessary for the administration, government, and protection of the law library, and of all property belonging thereto, or that may be loaned, devised, bequeathed, or donated to it.

Purchases

6344. A board may purchase books, journals, other publications, and other personal property.

Librarian

6345. A board may appoint a librarian and define the powers and prescribe the duties of any officers, determine the number, and elect all necessary subordinate officers and assistants, and at its pleasure remove any officer or assistant.

Salaries
See also Stats 1941, p 1749

6346. A board may fix the salaries of the secretary, librarian, and other officers and assistants.

Contracts

6347. A board may contract with any law library association to make use of its library as a public law library, under proper rules and regulations to be prescribed by the board, either by lease or such other contracts as may best carry into effect the purposes of this chapter.

Real property

6348. A board may expend surplus funds in excess of ten thousand dollars ($10,000) under its control, not necessary for use to maintain the law library, to acquire real property and erect thereon a library building to house the law library. In the alternative, a board of law library trustees may appropriate from such surplus funds in excess of ten thousand dollars ($10,000), so much as in the discretion of said board may be necessary to obtain adequate quarters for the law library in any building hereafter erected by the board of supervisors of the county in which the law library is maintained. The moneys so appropriated shall not be more than the proportion of the total cost of such building which the space allotted to the law library bears to the total usable space in the building. The moneys so appropriated may be transferred to the board of supervisors of the county for use in erecting the building, or may be paid directly on contracts for the erection thereof made by the board of supervisors.

Annual report

6349. Each board of law library trustees, on or before the fifteenth day of July of each year, shall make an annual report to the board of supervisors of the county in which the law library is maintained, for the preceding fiscal year ending on the thirtieth day of June. A copy of the report shall be filed with the auditor of the county.

The report shall give the condition of their trust, with full statements of all their property and money received, whence derived, how used and expended, the number of books, periodicals and other publications on hand, the number added by purchase, gift, or otherwise during the year, the number lost or missing, and such other information as might be of interest.

Financial report

6350. A financial report, showing all receipts and disbursements of money, shall be made by the secretary, duly verified by his oath, at the same time that the report of the board is made.

Article 4. General Provisions

Use of library
See also Stats 1941, p 1749

6360. A law library established under the provisions of this chapter shall be free to the judiciary, county officials, and members of the bar of the county, and to all inhabitants of the county.

The board of law library trustees may provide that no books may be removed from the library, except by the judiciary, county officials and members of the bar, without the payment of such dues as the board may ordain, and under such rules and regulations as may be by it provided.

Quarters 6361. The board of supervisors of the county in which the law library is established shall provide sufficient quarters for the use of the library, upon request of the board of law library trustees.

State publications 6362. The Secretary of State shall transmit to the county clerk of each county of the State, for the use of the law library, a copy of every publication which may hereafter be made by the State, and especially a copy of each report of the decisions of the Supreme Court and the district courts of appeal, and a copy of the statutes of this State. He shall also transmit a copy of all such reports and statutes not previously sent for this purpose.

Declaration of intent 6363. Whenever a law library, and a board of trustees to govern the same, is in existence under the provisions of any law, in any county, or city and county, in this State, this chapter shall not be considered a repeal of any legislation under which such library was established and is now governed, but shall be deemed to confer upon such library the benefits of Sections 6321 and 6322.

See also Stats 1941, p 1750

Discretion of supervisors 6364. It is discretionary with the board of supervisors of any county to provide by ordinance for the application of the provisions of this chapter to the county.

Discontinuance 6365. Whenever the board of supervisors in any county in this State which shall have adopted the provisions of this chapter and established a law library, desire to discontinue such law library, they shall by ordinance declare their intention so to do, and shall provide in such ordinance that the books already in the library shall be transferred to and kept in the chambers of the judges of the superior court of such county. All moneys on hand in the law library fund of such county shall be by the same ordinance transferred to the school fund of such county, and the office of member of the board of law library trustees of such law library shall be abolished. After such an ordinance takes effect, the county clerk of such county shall not collect the fees and costs provided for the law library.

Repeals SEC. 2. Sections 4190 to 4204 of the Political Code, constituting Article 10 of Chapter 6 of Title 2 of Part 4 of said code, are hereby repealed.

SEC. 3. No provision of this act is intended to make a substantive change in the law of this State relating to law libraries in effect prior to the enactment hereof, nor in the character of the trusts under which they exist. Where any board of law library trustees or law library has been established and exists under provisions of law superseded by this act, the provisions of this act shall be deemed to have been adopted and applied to the county. Declaration of intent

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CHAPTER 453

An act to amend Sections 6320, 6322, 6323, 6324, 6343, 6346, 6360 and 6363 of the Business and Professions Code, and to add Sections 6326, 6348.3 and 6348.5 thereto, relating to boards of law library trustees and law libraries. Stats 1937, p 1229, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941] In effect September 13, 1941

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

SECTION 1. Section 6320 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 1743

6320. All money collected for the law library in each county, must be paid into the hands of the treasurer of the county, who must keep the same separate and apart in a fund designated the "law library fund," to be expended by the board of law library trustees. Money may be drawn from this fund only as in this chapter provided, and only for the purposes herein authorized. "Law library fund"

Whenever a law library and a board of trustees to govern the same, is in existence under the provisions of any law, in any county, or city and county, in this State, money so collected shall be paid into the hands of those, and in the manner, provided by such law.

SEC. 2. Section 6322 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 1743

6322. Thereafter, any defendant, respondent, adverse party, or intervening party, on his first appearance in a superior or municipal court, or any number of such defendants, respondents, or parties, appearing jointly, shall pay to the clerk of the court, for the law library, the sum of one dollar ($1) as costs, in addition to the fees fixed by law. First appearance fee

SEC. 3. Section 6323 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 1744

6323. Such costs shall not be collected, however, in small claims courts, nor shall they be collected in justices' courts in Exceptions

counties in which there are more than 25 municipal court judges, nor shall they be collected on the filing of a petition for letters of adoption, or the filing of a disclaimer.

Stats 1941, p 1744

SEC. 4. Section 6324 of the Business and Professions Code is hereby amended to read as follows:

Additional appropriation

6324. The board of supervisors of any county may set apart from the fees collected by the county clerk, sums not exceeding one thousand two hundred dollars ($1,200) in any one fiscal year, to be paid by the county clerk into the law library fund in addition to the moneys otherwise provided to be deposited in that fund by law. The board of supervisors may also appropriate from the county treasury for law library purposes such additional sums as may in their discretion appear proper When so paid into the law library fund, such sums shall constitute a part of the fund and be used for the same purposes.

New section

SEC. 5. Section 6326 is hereby added to the Business and Professions Code, to read as follows:

Revolving fund

6326. A revolving fund of not more than five hundred dollars ($500) may be established from money in the law library fund, by resolution of the board of law library trustees, for expenditures of not exceeding fifteen dollars ($15) each for purposes for which the law library fund may lawfully be expended. The board shall prescribe the procedure by which money may be drawn from the revolving fund, the records to be kept, and the manner in which reimbursements shall be made to the revolving fund by demand and order from the law library fund. All or any part of the money in the revolving fund may be deposited in a commercial account in a bank, subject to payments of not exceeding fifteen dollars ($15) each by check on the signature of the secretary or any other person or persons designated by the board.

Stats 1941, p 1744

SEC. 6. Section 6343 of the Business and Professions Code is hereby amended to read as follows:

Rules and regulations

6343. A board may make and enforce all rules, regulations, and by-laws necessary for the administration, government, and protection of the law library, and of all property belonging thereto, or that may be loaned, devised, bequeathed, or donated to it. A board may make expenditures for the suitable maintenance, repair, protection and insurance against loss of such property, both real and personal.

Expenditures

SEC. 7. Section 6346 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 1745

6346. A board shall fix the salaries of the secretary, librarian, and other officers and assistants, and may require a bond of any officer or assistant, in such sum as it may fix. The premium on any such bond given by an authorized surety company may be paid from the law library fund. Salaries, bonds, etc

SEC. 8. Section 6348.3 is hereby added to the Business and Professions Code, to read as follows: New section

6348.3. A library building erected to house the law library may include not more than four courtrooms with offices in connection therewith, and an office for a notary public and public stenographer, which courtrooms and offices the board of law library trustees may lease, the income to be deposited in the law library fund. Library building

SEC. 9. Section 6348.5 is hereby added to the Business and Professions Code, to read as follows: New section

6348.5. A board of law library trustees may invest surplus funds, with the approval of the county treasurer, in excess of the average annual expenditures of the library for the four fiscal years immediately preceding the investment, in bonds of the Government of the United States or of this State. Bonds so purchased may be sold at any time in the discretion of the board. Surplus funds

SEC. 10. Section 6360 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 1745

6360. A law library established under the provisions of this chapter shall be free to the judiciary, to State and county officials, to members of the State Bar, and to all residents of the county, for the examination of books and other publications at the library or its branches. Use of library

The board of law library trustees may permit the removal of such books and other publications from the library and its branches as it considers proper, subject to such rules, and, in its discretion, the giving of such security, as it may provide to insure the safekeeping and prompt return thereof, but no security shall be required of members of the judiciary or county officials. The board may provide for the levying of fines and charges for violation of the rules, and may make charges to cover the cost of special services, such as the making of photo copies of pages of library books, and messenger service.

The board of law library trustees may require persons other than members of the judiciary, county officials, and members of the bar resident in the county, to pay such dues as the

board may fix for the privilege of removing books and other publications from the library.

Stats 1941, p 1746

SEC. 11 Section 6363 of the Business and Professions Code is hereby amended to read as follows:

Declaration of intent

6363. Whenever a law library, and a board of trustees to govern the same, is in existence under the provisions of any law, other than the law superseded by this chapter, in any county, or city and county, in this State, this chapter shall not be considered a repeal of any legislation under which such library was established and is now governed, but shall be deemed to confer upon such library the benefits of Sections 6321, 6322, 6326 and 6346.

CHAPTER 454

An act to amend Sections 396 and 439 of the Code of Civil Procedure, relating to transfer of cases.

In effect September 13, 1941

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941]

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

Stats 1935, p 1947

SECTION 1. Section 396 of the Code of Civil Procedure is hereby amended to read as follows:

Transfer of action for lack of jurisdiction

396. If an action or proceeding is commenced in a court which lacks jurisdiction of the subject matter thereof, as determined by the complaint or petition, if there is a court of this State which has such jurisdiction, the action or proceeding shall not be dismissed (except as provided in Section 581b, and as provided in Subdivision 1 of Section 581 of this code) but shall, on the application of either party, or on the court's own motion, be transferred to a court having jurisdiction of the subject matter which may be agreed upon by the parties, or, if they do not agree, to a court having such jurisdiction which is designated by law as a proper court for the trial or determination thereof, and it shall thereupon be entered and prosecuted in the court to which it is transferred as if it had been commenced therein, all prior proceedings being saved. In any such case, if summons is served prior to the filing of the action or proceeding in the court to which it is transferred, as to any defendant, so served, who has not appeared in the action or proceeding, the time to answer or otherwise plead shall date from service upon such defendant of written notice of the filing of such action or proceeding in the court to which it is transferred.

If an action or proceeding is commenced in or transferred to a court which has jurisdiction of the subject matter thereof

as determined by the complaint or petition, and it thereafter appears from the verified pleadings, or at the trial, or hearing, that the determination of the action or proceeding, or of a counterclaim, or of a cross-complaint, will necessarily involve the determination of questions not within the jurisdiction of the court, in which the action or proceeding is pending, the court, whenever such lack of jurisdiction appears, must suspend all further proceedings therein and transfer the action or proceeding and certify the pleadings (or if the pleadings be oral, a transcript of the same), and all papers and proceedings therein, to a court having jurisdiction thereof which may be agreed upon by the parties, or, if they do not agree, to a court having such jurisdiction which is designated by law as a proper court for the trial or determination thereof.

An action or proceeding which is transferred under the provisions of this section shall be deemed to have been commenced at the time the complaint or petition was filed in the court from which it was originally transferred.

Nothing herein shall be construed to preclude or affect the right to amend the pleadings as provided in this code.

Nothing herein shall be construed to require the superior court to transfer any action or proceeding because the judgment to be rendered, as determined at the trial or hearing, is one which might have been rendered by a municipal or justices' court in the same county or city and county.

In any case where the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be remitted and the action may continue in the court where it is pending.

Upon the making of an order for such transfer, proceedings shall be had as provided in Section 399 of this code, the costs and fees thereof, and of filing the case in the court to which transferred, to be paid by the plaintiff unless the court ordering the transfer shall otherwise direct.

SEC. 2. Section 439 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p. 1940

439. If the defendant omits to set up a counterclaim upon a cause arising out of the transaction set forth in the complaint as the foundation of the plaintiff's claim, neither he nor his assignee can afterwards maintain an action against the plaintiff therefor. Failure to assert counterclaim

CHAPTER 455

An act to amend Section 164 of the Civil Code, relating to property acquired after marriage.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1935, p 1912

SECTION 1. Section 164 of the Civil Code is hereby amended to read as follows:

Property acquired after marriage

164. All other property acquired after marriage by either husband or wife, or both, including real property situated in this State and personal property wherever situated, heretofore or hereafter acquired while domiciled elsewhere, which would not have been the separate property of either if acquired while domiciled in this State, is community property; but whenever any real or personal property, or any interest therein or encumbrance thereon, is acquired by a married woman by an instrument in writing, the presumption is that the same is her separate property, and if acquired by such married woman and any other person the presumption is that she takes the part acquired by her, as tenant in common, unless a different intention is expressed in the instrument; except, that when any of such property is acquired by husband and wife by an instrument in which they are described as husband and wife, unless a different intention is expressed in the instrument, the presumption is that such property is the community property of said husband and wife. The presumptions in this section mentioned are conclusive in favor of any person dealing in good faith and for a valuable consideration with such married woman or her legal representatives or successors in interest, and regardless of any change in her marital status after acquisition of said property.

Presumptions

Limitation of actions

In cases where a married woman has conveyed, or shall hereafter convey, real property which she acquired prior to May 19, 1889, the husband, or his heirs or assigns, of such married woman, shall be barred from commencing or maintaining any action to show that said real property was community property, or to recover said real property from and after one year from the filing for record in the recorder's office of such conveyances, respectively.

CHAPTER 456

An act to add Section 4986.2 to the Revenue and Taxation Code, relating to property taxation and the cancellation of taxes, to take effect immediately.

Stats 1937, p 1229, amended

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

In effect immediately

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

SECTION 1. Section 4986.2 is hereby added to the Revenue and Taxation Code, to read as follows:

New section

4986.2. All or any portion of uncollected city taxes, penalties or costs may be canceled on any of the grounds specified in Section 4986. If the city taxes are collected by the county, the procedure outlined in Section 4986 for the cancellation of taxes, penalties or costs shall be followed, except that the consent of the city attorney, in lieu of the consent of the district attorney, is necessary before cancellation. If the taxes are collected by the city, the taxes, penalties, or costs shall be cancelled by the officer having custody of the records thereof on order of the governing body of the city, with the written consent of the city attorney.

Cancellation of city taxes

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately.

Urgency

The following is a statement of facts constituting such necessity:

The complex procedure for the taxation of property unfolds from the first Monday in March, on which date taxes become a lien on property for the ensuing fiscal year. Also, the Revenue and Taxation Code, which consolidates and revises the law relating to taxation and the raising of revenue, takes effect on February 1, 1941. It is imperative that this act take effect immediately in order that the orderly process of property taxation may not be obstructed by this act's going into effect subsequent to the lien date. Also it is essential that the provisions of this act take effect no later than the effective date of the Revenue and Taxation Code in order that the transition from operating under the existing provisions of law to acting under the Revenue and Taxation Code may be accomplished with a minimum of confusion and with the greatest possible continuity of action. For this act not to go into effect immediately would result in needless uncertainty and unnecessary litigation, together with the delay of essential governmental activities due to the inability to cancel taxes on property acquired by a governmental entity after the lien date.

CHAPTER 457

Stats 1939, p 49, amended

An act to amend Section 2837 of the Elections Code, relating to county central committees.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1939, p. 156

SECTION 1. Section 2837 of the Elections Code is hereby amended to read as follows:

Membership of county central committee. —Less than 5 Assembly districts

2837. In all counties containing less than five Assembly districts the county central committee shall be elected by supervisor districts, and the number to be elected from any supervisor district shall be determined as follows: There shall be taken the number of votes cast in the supervisor district at the last gubernatorial election for that party's candidate for Governor, or, if the party had no candidate for Governor, for the candidate of the party voted on throughout the State who received the greatest number of votes and who was the candidate of that party alone. This number shall be divided by one-twentieth of the number of votes cast in that county for Governor or, where the party had no candidate for Governor, for the candidate mentioned above. The integer next larger than the quotient obtained by such division shall constitute the number of members of the county central committee to be elected by that party in that supervisor district.

The county central committees in counties containing less than five Assembly districts shall be composed of not less than 21 members. If the procedure outlined in the preceding paragraph would result in less than 21 members being elected for any county central committee, the number of votes cast for that party's candidate in each supervisor district shall be divided by an amount sufficiently smaller than one-twentieth of the votes cast for Governor in that county as to give a membership in the county central committee equal to or the nearest amount which is greater than 21 members.

CHAPTER 458

Stats 1897, p 254, amended

An act to amend Section 23 of, and to add Section 23 5 to the California Irrigation District Act, relating to irrigation district elections.

In effect September 13, 1941

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

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

Stats 1897, p 261

SECTION 1. Section 23 of the act cited in the title hereof is hereby amended to read as follows:

Voting, and counting of votes

Sec. 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls

remain open, and shall be conducted, and the canvass at the polls made, except as otherwise herein provided as nearly as practicable in accordance with the provisions of the Elections Code pertaining to general elections. As soon as all the votes are counted, a certificate shall be drawn up on or attached to at least one of the tally lists designating the number of votes each one voted for has received and the office to fill which he was voted for. The certificate shall be signed by the clerk, judge, and the inspector. During the counting thereof the voted ballots shall be strung upon a cord or thread by the inspector in the order in which they are entered upon the tally lists by the clerks. The voted ballots shall then be sealed in an envelope, and the envelope, said certificate with the roster of voters, tally lists, and the marked copy of index to voters if it is used, shall be sealed in an envelope by the inspector in the presence of the judge and clerk, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some safe and responsible carrier designated by said inspector, to said secretary. The envelopes containing the ballots shall be kept unopened for at least six months; and if any voter by affidavit filed with the board shows facts sufficient reasonably to justify the belief that the vote of any precinct has not been correctly counted to the extent that a recount would change the result of the election, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

SEC. 2. Section 23.5 is hereby added to the act cited in the title hereof, to read as follows:

Sec. 23.5. No informalities in the conduct of the election or any matters related to it, including the form of ballot used, shall invalidate the election if fairly conducted.

CHAPTER 459

An act to amend the Palo Verde Irrigation District Act, approved June 21, 1923, as amended, by adding thereto new Sections 21.1 and 21.2, relating to allocation of proceeds of contracts or other sources of payment to the payment of bonds and 21.3, relating to redemption of bonds and declaring the urgency thereof, to take effect immediately.

Stats 1923, p 1067, amended

[Approved by Governor May 29, 1941 Filed with Secretary of State May 30, 1941.]

In effect immediately

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

SECTION 1. A new section is hereby added to the act cited in the title hereof, to be numbered 21 1 and to read as follows:

New section

Sec. 21.1. The board of trustees may by resolution allocate any proceeds of any existing or proposed contract or

Payment of bonds

contracts or source or sources of payment, or any portion thereof, other than taxes or assessments, designated by the board, to the payment of the principal, or interest, or both, of any bonds or issue or issues of bonds of the district, original or refunding, outstanding or to be issued, or any portion of such principal, or interest, or both, designated by the board. After such allocation and until the payment or retirement of the bonds for the benefit of which such allocation was made, such proceeds so allocated shall be applied solely to the payment of the obligation specified in the resolution. Any such allocation shall be irrevocable until all of the designated principal, or interest, or both, has been paid or retired. Any such proceeds of the district may by resolution of said board be irrevocably allocated to any reserve fund established to pay the interest or principal, or both, of any bonds. If the board, with the approval of the California Districts Securities Commission, provides that the principal, or interest, or both, of any bonds, or any portion thereof, hereafter issued shall be payable solely from such designated proceeds other than taxes or assessments, then the district shall not be held for payment otherwise. Any bonds of the district, original or refunding, may be made payable as to both principal and interest, in whole or in part, from any such proceeds designated by the board or said bonds may be made payable from taxes or assessments as in this act provided and such proceeds may be allocated to the payment of such principal and interest, or portion thereof, as additional security therefor. The board may also, with the approval of said commission, designate any bank or trust company as its agent for the purpose of making payment of principal, or interest, or both, of any bonds of the district, or for receiving any such proceeds, other than taxes or assessments, so allocated for payment of bonds and applying such revenue to such payment, as designated and may from time to time with the consent of said commission, substitute another bank or trust company as such agent in place of a bank or trust company so designated or substituted.

Irrevocable allocation

Designation of agent

New section

SEC. 2. A new section is hereby added to said act, as amended, to be numbered 21 2 and to read as follows:

Prohibition: Tax levy

Sec. 21 2. If any such proceeds other than taxes or assessments shall be allocated to the payment of bonds and the board of trustees, with the approval of the California Districts Securities Commission, shall provide that such bonds shall be payable solely from such allocated proceeds, then no provision of law relative to estimate for, or levy of, taxes or assessments for payment of such bonds shall apply and no taxes or assessments shall be levied therefor. In such event a brief statement of the proceeds allocated and the purpose of the allocation, and that no taxes or assessments shall be levied to pay such bonds, shall be set forth in such bonds, and if applicable to interest, in the coupons therefor.

SEC. 3. A new section is hereby added to said act, as amended, to be numbered 21.3 and to read as follows: New section

Sec. 21.3. The board of trustees may, with the approval of the California Districts Securities Commission, provide for the call and redemption of any bonds in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at not exceeding the par value thereof and accrued interest, in which event a statement to that effect shall be set forth on the face of the bonds Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the county in which the office of the district is located, the first publication of which shall be at least 30 days and not more than 90 days prior to the date fixed for such redemption. After the date fixed for such redemption, if the district shall have provided funds available for the payment of the principal and interest of the bonds so called, interest on such bonds shall thereafter cease. Call of bonds

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV of the Constitution of the State of California and shall take effect immediately. The following is a statement of the facts constituting such urgency: Palo Verde Irrigation District has under consideration the issuance of bonds for power purposes under conditions which are now favorable but are likely not to be so at the time this act would regularly take effect. This act contains remedial provisions which are necessary and advisable in aid of such bond issue and unless this act takes effect immediately it is likely to be impossible or impracticable to issue such bonds or enter upon such power project. Urgency

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CHAPTER 460

An act to amend the Palo Verde Irrigation District Act, approved June 21, 1923, as amended, by amending Section 26, relating to annual estimate for taxes, and Section 28, relating to annual tax levy; and declaring the urgency thereof, to take effect immediately. Stats 1923, p 1067, amended

[Approved by Governor May 29, 1941 Filed with Secretary of State May 30, 1941.] In effect immediately

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

SECTION 1. Section 26 of the Palo Verde Irrigation District Act, as amended, is hereby amended to read as follows: Stats 1931, p 35

Sec. 26. The board of trustees of the district shall each year, on or before the first Monday after the eighteenth day Annual budget

of August, and at such other times as they may deem advisable, cause to be prepared a detailed statement showing separately the estimated amounts of money that will be required before the collection of taxes for the next ensuing year to pay the following:

1. The maintenance, repair and operation of the levees of the district.

2. Maintenance, repair and operation of the drainage and reclamation system of the district.

3. Installments of interest and principal to become due, if any, upon all outstanding original bonds of the district.

4. Installments of principal and interest to become due, if any, upon all outstanding refunding bonds of the district.

5. Maintenance, repair and operation of the irrigation system of the district.

6. Any other sums needed for the operation and maintenance of the district and for carrying into effect the purposes of this act for the next ensuing year.

The board of trustees, in making said detailed statement, shall deduct from the amount estimated as required in connection with each subdivision hereof except Subdivisions 3 and 4 the estimated amount, if any, which will be raised and available for said purposes from water tolls or charges made by said district, and they may deduct from the amount estimated as required in connection with Subdivisions 3 and 4 the amount, if any, which is then on hand and available for said two purposes and not needed for maintenance or operation and which has been raised from water tolls or charges.

Stats 1931, p 1890

SEC. 2. Section 28 of said act, as amended, is hereby amended to read as follows:

Annual tax levy

Sec. 28. On or before the first Monday after the eighteenth day of August of each year the board of trustees, taking as a basis the detailed statement required in Section 26 of this act and the valuation of the lands and improvements thereon within the district in accordance with the district assessment roll, must levy a tax sufficient to raise the amount set forth in said detailed statement, which tax shall be levied as follows:

1. A separate rate shall be fixed for raising the amount necessary for the maintenance, repair and operation of the levees constructed by Palo Verde Joint Levee District of Riverside and Imperial counties, California, which said rate shall be levied upon and in accordance with the assessed value of the lands and improvements within the boundaries of said levee district.

2. A separate rate shall be fixed for raising the amount necessary for the maintenance, repair and operation of the drainage and reclamation system of the district, which said rate shall be levied upon and in accordance with the assessed value of all lands within the district.

3. A separate rate shall be fixed for raising the amount necessary to meet the principal and accruing interest on the original bonds of this district, which said rate shall be levied

upon and in accordance with the assessed value of all lands and improvements thereon within the district.

4. A separate rate shall be fixed for raising the amount necessary to meet the principal and accruing interest on the refunding bonds of the district, which rate shall be levied upon and in accordance with the assessed value of all lands within the district, exclusive of improvements.

5. A separate rate shall be fixed for raising the amount necessary to maintain, repair and operate the irrigation system of the district, which said rate shall be levied upon and in accordance with the assessed value of all lands within the district.

6. A separate rate shall be fixed for raising all other amounts set forth in said detailed statement required in Section 26 of this act, as amended, which said rate shall be levied upon and in accordance with the assessed value of all lands and improvements thereon within the district.

Notwithstanding any other provision of this act, it shall be mandatory for the board of trustees to make the tax levy each year for said rates numbered 3 and 4 of this section in accordance with the estimates made as to the requirements under said rates under the provision of Section 26 of this act, as amended.

Funds of district

There shall be two funds of said district kept by the county treasurer: The bond and interest fund and the general fund. Moneys collected from the levies for the principal and accruing interest on the bonds of the district shall be placed in the appropriate fund and used only for said purposes. All other moneys collected from the other levies shall be placed in the general fund.

All properties acquired by this district after its organization and all construction work and improvements in the way of providing, maintaining and operating protection work or reclamation work in the entire district shall be deemed to be and are hereby declared to be for the benefit of all lands and improvements within the district and the cost thereof shall be apportioned and raised by taxation uniformly over the entire district in accordance with the assessed value of the real estate and improvements thereon within the district, but all construction work and improvements in the way of maintaining and operating the irrigation system in the entire district shall be deemed to be and are hereby declared to be for the benefit of all lands (excluding improvements) within the district and the cost thereof shall be apportioned and raised by taxation uniformly over the entire district in accordance with the assessed valuation of the lands (excluding improvements) within the district.

Determination of rate of taxation

In ascertaining the above mentioned rates of taxation, 15 per cent shall be deducted for anticipated delinquencies from the aggregate value of the property to be levied on in respect to each separate rate, as shown by the assessment roll of the district, and then the sum necessary to be raised shall be

divided by the remainder of the proper aggregate assessed value. The secretary of the board must forthwith compute and enter in a separate column of the assessment roll the respective sums in dollars and cents to be paid on the respective properties therein enumerated.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV of the Constitution of the State of California and shall take effect immediately. The following is a statement of the facts constituting such urgency:

Within the next 90 days Palo Verde Irrigation District will complete the refinancing of bond issues heretofore made by the district and by its predecessors Palo Verde Joint Levee District of Riverside and Imperial counties, California, and Palo Verde Drainage District and a refunding bond issue will be made by the district in favor of Reconstruction Finance Corporation. Before such refunding bonds are issued the provisions of Section 26 and 28 of the act governing estimate for and levy of the district's annual taxes should be revised to eliminate requirements for principal and interest of bonds issued by such predecessor districts and to provide for estimate for and levy of taxes for such refunding bonds. Unless this act goes into effect immediately, it would not have legal effect until the retirement of the refunding bond issue, approximately 30 years hence.

CHAPTER 461

Stats 1907, p 569, amended

An act to amend Section 2 of an act entitled "An act to provide for drainage by irrigation districts," approved March 18, 1907, relating to the duties of irrigation districts and their officers to drain land.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1907, p 569

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Duty of board of directors

Sec. 2. Whenever it appears necessary to drain land within an irrigation district or any portion thereof on account of the irrigation which has been done, or which is intended to be done by the district under such laws, whether for the purpose of more beneficially carrying on such irrigation, or to protect such district from liability by reason of such irrigation whether the irrigation works have already been constructed or not, it shall be the duty of the board of directors, if it is reasonable from an economic standpoint that such drainage be provided, to provide for such drainage and do all

necessary and proper acts for the construction, repair, maintenance and management of drainage work for such purpose. But no drainage need be provided for land as to which the district is relieved from liability for seepage or flooding by reason of grant, waiver, prescription, statute, decree, or condemnation.

CHAPTER 462

An act to amend Sections 975, 977 and 980 of the Code of Civil Procedure, and to add Sections 980a, 980b and 980c to said code, relating to appeals from justices' and police courts.

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. Section 975 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1937, p. 1504

975. Any party dissatisfied with any special order made after judgment in a civil action, in a police or justice court, may appeal therefrom in the manner provided in the preceding section. When a party appeals to the superior court on questions of law alone, he must, within 10 days after notice of the rendition of judgment or special order made after judgment, prepare a statement of the case, serve the same upon the adverse party and file it with the justice or judge. The statement must contain the grounds upon which the party intends to rely upon the appeal, and so much of the evidence and other proceedings as may be necessary, for a determination of the appeal on the grounds stated, and no more. Within 10 days after service of the statement the adverse party, if dissatisfied with the same, may serve and file amendments. The proposed statement and the amendments, if any, must be settled by the justice or judge, who shall correct or alter such statement as may be necessary to make it a fair and true statement of the evidence and proceedings relating to the stated grounds of appeal, shall order it engrossed, if engrossment is necessary, and shall certify it as correct. Upon the filing of proposed amendments, the justice or judge shall fix a time for the settlement thereof, and shall mail notice thereof, or cause such notice to be mailed by the clerk of the court, if there be one, at least five days before the time fixed, to each party, or if any party appears by attorney, then to his attorney, if the mailing address of such party or attorney appears in the files of the case in which the appeal is taken. Appeal on question of law

Stats 1897, p 210

SEC. 2. Section 977 of the Code of Civil Procedure is hereby amended to read as follows:

Duty of judge or justice on appeals

977. Upon the filing of the notice of appeal, the payment of the fees of the justice or judge, payable on appeal and not included in the judgment, and any other fees required by law, and the filing of an undertaking as required in the next section, and after settlement of the statement, if any, the justice or judge must, within five days, transmit to the clerk of the superior court the following papers, which shall constitute the record on appeal and may be used on the hearing of the appeal or the trial of the action or hearing of the order anew in the superior court:

Appeal on question of law

1. If the appeal be on questions of law alone, a certified copy of the entries in the docket relating to the action, all written pleadings filed in the action, the statement as settled, all exhibits, notices, affidavits, orders, and other papers and documents on file with the court in such action which are referred to in the statement by designations sufficient to identify them, the notice of appeal and the undertakings filed; or,

Appeal on question of fact, or law and fact

2. If the appeal be on questions of fact, or both law and fact, a certified copy of the entries in the docket relating to the action, the pleadings, all exhibits, notices, motions, and all other papers and documents filed in the action, the notice of appeal, and the undertakings filed.

The justice or judge may be compelled by the superior court, by an order entered upon motion, to transmit such papers, and may be fined for neglect or refusal to transmit the same. A certified copy of such order may be served on the justice or judge by either party or his attorney. In the superior court, either party may have the benefit of all legal objections made in the justice's or police court and presented by the record on appeal.

Stats 1937, p 1505

SEC. 3. Section 980 of the Code of Civil Procedure is hereby amended to read as follows:

Powers of superior court on appeal

980. Upon an appeal upon questions of law alone, the superior court may review all orders and proceedings affecting the judgment or order appealed from, may affirm, reverse or modify the judgment or order appealed from, may direct the proper judgment or order to be entered, may set aside, or confirm, or modify any or all of the proceedings subsequent to and dependent upon such judgment or order, and may, if necessary or proper, order a new trial or new hearing on the order or may order other further proceedings. Upon the final determination of such an appeal, the clerk of the superior court shall remit to the court from which the appeal was taken a certified copy of the judgment of the superior court, and of its opinion, if any, and also all original pleadings, exhibits, and other papers and documents which were sent

to said superior court in connection with such appeal, except the notice of appeal, the statement and the undertakings.

SEC. 4. Section 980a is hereby added to the Code of Civil Procedure, to read as follows: New section

980a. When the action is tried anew or the application for an order is heard anew on appeal the trial or hearing must be conducted in all respects as other trials or hearings in the superior court. The provisions of this code as to trials in the superior court, are applicable to trials on appeal in the superior court, except that no written findings of fact or conclusions of law shall be required. Trial anew

SEC. 5. Section 980b is hereby added to the Code of Civil Procedure, to read as follows: New section

980b. For a failure to prosecute an appeal, or unnecessary delay in bringing it to a hearing, the superior court, after notice, may order the appeal to be dismissed, with costs; and if it appear to such court that the appeal was taken solely for delay, it may add to the costs such damages as may be just, not exceeding 25 per cent of the judgment appealed from. Failure to prosecute appeal

SEC. 6. Section 980c is hereby added to the Code of Civil Procedure, to read as follows: New section

980c Judgments rendered in the superior court on appeal shall have the same force and effect and may be enforced in the same manner as judgments in actions commenced in the superior court. Judgment

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CHAPTER 463

An act to amend Section 49 of the Alcoholic Beverage Control Act, relating to the importation of alcoholic beverages and consignment thereof. Stats 1935, p 1123, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941] In effect September 13, 1941

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

SECTION 1. Section 49 is hereby amended to read as follows: Stats 1941, p 1557

Sec. 49. Alcoholic beverages shall be brought into this State from without this State for delivery or use within the State only by common carriers and only when such alcoholic beverages are consigned to a licensed importer, and only when consigned to the premises of such licensed importer or to the premises of a public warehouse licensed under this act; provided, however, that a shipment shall be deemed to be con- Imported alcoholic beverages

signed to a licensed importer, although originally consigned to a person not so licensed, when such shipment is, before delivery and without leaving the possession of the common carrier transporting the same, reconsigned or diverted in transit by either the consignor or the consignee or consignees to a licensed importer to whom final delivery by the common carrier is made. It is further provided that a railroad, sleeping car, dining car, boat or steamship company carrying interstate or foreign passengers on trains or boats shall not be deemed to be importers or subject to an importer's license for bringing into this State from without this State alcoholic beverages for the purpose of sale within this State on the trains, cars or boats on which the same are brought into this State, exclusively to passengers or employees, and carrying the same or any unsold portion thereof out of this State in due course of operation. Alcoholic beverages which are consigned to a destination within this State shall be presumed to be for delivery or use within this State. Alcoholic beverages imported into this State contrary to the provisions hereof shall be seized by the board. Every person violating the provisions of this section shall be guilty of a misdemeanor.

CHAPTER 464

Stats 1933, p 394, amended

An act to amend Section 653 of the Fish and Game Code, relating to salmon in Districts 2 and 2½.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1935, p 1552

SECTION 1. Section 653 of the Fish and Game Code is hereby amended to read as follows:

Salmon seasons Districts 2 and 2½

653. In Districts 2, 2½, salmon may be taken with hook and line between May 1st and the last day of February. The bag limit is two per day. In District 2½ not more than two salmon taken in District 2½ may be possessed by any person during one day, except salmon taken for commercial purposes in ocean districts.

CHAPTER 465

An act to amend an act entitled "An act providing for the joint exercise of powers by counties, by municipalities, or by municipalities and counties," by amending Section 1 thereof to extend the provisions of the act to other public agencies including a county, city and county, city, public corporation, municipal corporation and public district, and defining public agencies.

Stats 1921, p 542, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1 of the act cited in the title hereof, is hereby amended to read as follows:

Stats 1921, p 542

Section 1. Two or more public agencies as herein defined, by agreement entered into respectively by them, and authorized by their legislative bodies, may jointly exercise any power or powers common to the several contracting parties.

Joint exercise of powers by public agencies

The term "public agency" shall include a county, city and county, city, public corporation, municipal corporation or public district.

CHAPTER 466

An act to authorize the execution of contracts between any irrigation district or districts and any county water district or districts organized under the laws of this State, each of which districts shall, before or after the execution of each contract or contracts, have executed with the United States a contract or contracts under the provisions of the Federal Reclamation Law for construction of works, acquisition, purchase, extension, operation or maintenance of such works or for a water supply or electric power rights or privileges or assumption as principal or guarantor of indebtedness to the United States, or for any of said purposes and which such districts shall propose to divert or carry water for use in such districts by means of a single main canal or system of works and providing certain purposes for which such contracts between such districts may be executed, providing for the manner of authorization of such contracts and validating such contracts heretofore executed, and repealing Chapter 17 of the Statutes of 1935.

Stats 1935, p. 75, repealed

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Whenever any irrigation district or districts and any county water district or districts organized under

Contracts authorized

the laws of this State shall each, before or after the execution of the contract or contracts between them hereinafter mentioned, have executed with the United States a contract or contracts under the provisions of the Federal Reclamation Law for the construction of works, whether for irrigation, drainage, flood control, or for the development of electric or other power or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States, or for any of said purposes, and such districts shall propose to divert or carry water for use in such districts by means of a single main canal or system of works, then and in that event such irrigation district or districts and county water district or districts shall have the power to contract with each other for the purposes provided in this act, and shall have full power to carry out, perform and observe such contracts in accordance with the tenor and spirit thereof, and such contracts shall be liberally construed so as to effectuate the same according to their true intent and meaning.

Construction

Purposes

SEC. 2. In any such contract or contracts between such districts, whether executed before or after the execution of the above mentioned contract or contracts with the United States, such irrigation district or districts and county water district or districts are hereby authorized to contract among other things for the following purposes:

Use of water

(a) Compromising and settling as between themselves any controversy or controversies existing between them as to the extent or priority of their respective rights and claims to the use of water, and agreeing between themselves upon the limitation and definition of the areas within such districts respectively upon which such waters shall be beneficially used.

(b) Providing that applications theretofore filed by such districts respectively with the Division of Water Resources of this State shall be amended to conform to the provisions of such contract, and that permits and licenses be issued to them respectively in accordance therewith.

Power

(c) Compromising and settling any controversy or controversies existing between such districts as to power possibilities, power rights, power resources and power privileges, (hereinafter collectively styled power rights), upon any such canal or other water system, and for such purposes any of such districts may demise to another such district or districts all of such power rights which such demising district may then have or thereafter obtain. Such lease may be made for any term not exceeding 99 years and may vest in the lessee district or districts the operation, management, development and control of such power rights and the use, sale and control of power produced therefrom and may provide for the payment of rentals and such other matters relevant to the leasing of such power rights as such districts may in their discretion deem advisable, not in conflict with the Constitution of this

State nor contrary to the express terms of the statutes under which such districts are respectively organized and exist, nor acts amendatory thereof or supplementary thereto.

(d) Providing that when any such lease has been executed, the lessor district or districts may be required upon such terms as may be agreed to procure for the lessee district or districts contracts or applications for electrical energy signed by certain consumers in the lessor district or districts; and that the lessee district or districts shall serve electrical energy in the lessor district or districts upon such rates and under such terms and conditions as may be prescribed in such contract. Use of energy

(e) Providing that the parties to such contract shall cooperate to obtain permits and licenses to appropriate water for power purposes and to construct power facilities from the Division of Water Resources of this State and/or Federal Power Commission or other Federal agency in such manner as may be prescribed in such contract.

(f) Providing for such other matters as may be authorized by law.

SEC. 3. The execution of any such contract may be authorized by resolution of the respective boards of directors of the contracting districts. Execution of contracts

SEC. 4. Any and all such contracts as have heretofore been executed by and between any such districts and all acts of boards of directors and other officers of such districts leading up to and including the execution of such contract or contracts, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such districts to execute, carry out, perform and observe such contracts and every provision thereof is hereby ratified, confirmed and declared valid and such contracts are hereby declared to be in all respects the legal and binding obligations of, against and in favor of each of such contracting districts. Contracts validated

SEC. 5. Chapter 17 of the Statutes of California of 1935 is hereby repealed. Stats 1935, p 75

CHAPTER 467

An act to amend Sections 1, 7, 9 and 11 of the Irrigation District Improvement Act, relating to formation of, government of, and assessments in irrigation district improvement districts. Stats 1927, p 1415, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1931, p 697

Section 1. Any tract or contiguous tracts of land may be formed into an irrigation district improvement district for one or more of the following: Irrigation improvement districts

(a) Irrigation or domestic water service by a system of pumps or conduits or both.

(b) Drainage.

(c) Acquisition of existing works incidental to a water distribution system separate from or supplemental to the works of the district.

(d) Change or improvement of the water distribution system of the district.

(e) Maintenance of irrigation works of the district and works for water supply or drainage or both in or for the improvement district.

(f) Control of weeds in or along conduits.

The formation of an irrigation district improvement district may be proposed and the petition therefor shall be signed by two-thirds in number of the holders of title or evidence of title to the land in the proposed improvement district.

Stats 1931, p 399

SEC. 2. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Warrants

Sec. 7. Said irrigation district shall have power to issue warrants signed by the president and secretary of the board of directors of said irrigation district, in face amount not exceeding in the aggregate the cost of said improvement and/or acquisition, exclusive of interest and amounts paid prior to the issuance of these warrants on the assessment levied to pay for the improvement, which warrants shall be made payable in amounts and at the times corresponding substantially to the amounts and times of payments of the installments of said improvement district assessment, and shall bear interest at such rate of interest as may have been fixed on the levy of said improvement district assessment. Coupons for the interest on said warrants may be attached thereto which may be made payable semiannually. Said warrants may be made payable to bearer or to persons furnishing work, labor or material, or if said work of improvement is done under contract as hereinafter provided, then to such contractor. Said warrants may be sold by the board of directors of the irrigation district for not less than par at either public or private sale. Said warrants shall be payable only out of funds derived from the levy and collection of said improvement district assessment on said lands, and shall be used solely for the acquisition or construction of the improvement for the acquisition or construction of which the improvement district shall have been organized, and the necessary incidental expenses. The board of directors of said irrigation district may, in their discretion, invest in such improvement district warrants any money held by such district in sinking or depreciation funds. Any landowner of the improvement district who shall desire at any time to lessen or remove the lien upon his land of any improvement district assessment on which warrants have been or hereafter may be issued, may deliver to the district treasurer for cancellation warrants payable out of said assessment, and the treasurer shall credit against the assessment on his land the principal and interest of said warrants; provided, however, that the

board of directors of said district may require that such warrants so delivered and canceled shall be substantially of the average maturities of such issue of warrants.

SEC. 3. Section 9 of the act cited in the title hereof is hereby amended to read as follows: Stats 1931, p 700

Sec. 9. If said improvement district desires to do additional work or acquire additional property at any time upon the petition of two-thirds in numbers of the holders of title or evidence of title to said lands in said improvement district, an additional assessment, or assessments, may be levied substantially in the same manner as on the original assessment. If at any time it is desired that additional lands be included in said improvement district, a petition for such inclusion signed by the owners of such lands to be included and by two-thirds in number of the holders of title or evidence of title of lands in said improvement district, may be filed with the board of directors of said irrigation district, and the same proceedings had as upon the original petition for the organization of said improvement district. Said petition shall describe the boundaries of said improvement district as enlarged by such inclusions, and give the names and addresses of the owners of said lands in substantially the same manner as in said original petition. Should the assessments levied upon said lands in such improvement district be insufficient to pay in full the cost of such improvements or to pay the warrants issued for said improvements, an additional and supplemental assessment shall be made and levied upon all of said lands sufficient to pay said cost or said warrants in full, and the procedure followed in making such additional and supplemental levy of assessment shall be substantially the same as the levy of the original assessment, but without the necessity of a petition. If the proceeds from any assessment levied for acquisition and construction purposes shall exceed the final amount necessary for such purposes, the excess may either be held in a special fund to be used for the maintenance and operation of the works of said improvement district, or transferred to the general fund of the irrigation district to be used as the board deems proper for the benefit of the land in the improvement district. Additional assessments

At any time prior to the incurring of any indebtedness or upon the full payment of all indebtedness of such improvement district, a petition signed and acknowledged by not less than the number of the holders of title, or evidence of title to the tracts of land constituting such improvement district required to organize such improvement district, may be filed with the board of directors of such irrigation district requesting that such improvement district be dissolved. A hearing shall be had in the same manner and after the same notice as is required for the organization of such improvement district, and the board of directors may, after such hearing, order such improvement district dissolved, which order shall

be recorded in the same manner as the order organizing such improvement district.

Upon a change or resubdivision upon the assessment book of the irrigation district of any parcel of land within such improvement district, the board of directors, upon a petition of the owner or owners of such parcel of land so changed or resubdivided, may reapportion the improvement district assessment upon such parcel of land, and the order of such reapportionment shall be recorded in the same manner as the order levying the original assessment.

Stats 1929, p 347

SEC. 4. Section 11 of the act cited in the title hereof is hereby amended to read as follows:

Annual assessment

Sec. 11. The board of directors of said irrigation district may include in the annual assessment, provided for by Section 39 of the California Irrigation District Act, levied upon the lands in said improvement district, such additional amount as they may consider necessary for the operation, maintenance and repair of the canals and works in or for such improvement district for the ensuing year, and such funds when collected shall be deposited and kept in a separate fund for the benefit of such improvement district to be used for said purposes and shall be disbursed only upon warrants drawn upon said fund authorized and issued in the same manner as other warrants of such irrigation district.

CHAPTER 468

Stats 1933, p 60, amended

An act to amend Sections 1268, 1268.1, 1268.5 and 1269 of the Agricultural Code, relating to produce dealers.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1939, p 2331

SECTION 1. Section 1268 of the Agricultural Code is hereby amended to read as follows:

Inspection and investigation

1268. The director on his own motion may or upon the verified complaint of any interested party shall investigate, examine or inspect any transaction involving solicitation, receipt, sale or attempted sale of farm products by any person or persons acting or assuming to act as a commission merchant, dealer, broker or agent; failure to make proper and true account of sales and settlement thereof as in this chapter required; the intentional making of false statements as to condition and quantity of any farm products received or in storage; the intentional making of false statements as to market conditions; the failure to make payment for farm products within the time required by this chapter; or investigate, examine or inspect any and all other injurious transactions, and in furtherance of any such investigation,

examination or inspection, the director or any authorized representative, may examine that portion of the ledgers, books, accounts, memoranda and other documents, farm products, scales, measures, and other articles and things used in connection with the business of such person relating to the transactions involved. When a producer-consignor, or seller, of farm products fails to obtain settlement satisfactory to him in any transaction after having notified the consignee, or buyer, a verified complaint may be filed with the director who shall undertake to effect a settlement, and in the event that he shall fail to effect such settlement, he shall cause a copy of such complaint, together with a notice of the time and place of hearing of such complaint, to be served personally or by mail upon such person. Such service shall be made at least 10 days before the hearing, which shall be held in the city or town in which is situated the business location of the licensee, or in which the transaction complained of is said to have occurred, or in the county seat of the county in which the transaction or violation complained of is said to have occurred, or at the nearest office of the State Department of Agriculture. At the time and place appointed for such hearing the director or his agents, shall hear the parties to such complaint, and shall enter in the office of the director at Sacramento a decision either dismissing such complaint or specifying the facts established on such hearing. A copy of such decision shall be furnished to each, every and all the respective parties thereto.

Failure to obtain settlement

Hearing

Such decision may include an order refusing, revoking or suspending the license applied for or held by the respondent, or affixing such other conditional or probationary orders as may be proper for the enforcement of this chapter or any of the provisions thereof.

Decision

Should the licensee or respondent fail, refuse or neglect to attend such hearing after due and proper notice, and in the absence of a valid excuse, the director is thereupon empowered to hear the complaint, and if the facts warrant, to enter the default of the licensee and to make such order as the facts may warrant.

Default

SEC. 2. Section 1268.1 of the Agricultural Code is hereby amended to read as follows:

Stats. 1939, p. 2430

1268.1. Upon receiving a verified complaint, as in this chapter provided, the director, upon his own motion, may examine and audit all pertinent books, records, weight tags, receipts, ledgers, papers, contracts, and other documents of the licensee against whom said verified complaint is filed which relate to the matters complained of and upon receipt of verified complaints filed by three or more complainants alleging violation of this act and/or fraud against a licensee during any 12-month period the director, upon his own motion, may have free access to and may examine and audit all books,

Examination and audit of books

records, weight tags, receipts, ledgers, papers, contracts, and other documents of said licensee which show or tend to show facts regarding the number and status of accounts of growers doing business with said licensee; should such examination disclose evidence of violation of this chapter, the director may then and thereupon and upon his own motion issue a complaint directed against the licensee, either on his own behalf or on behalf of producers affected by such violation or violations, together with such other process for the enforcement of the provisions of this chapter as is in said chapter provided.

Complaint

Stats 1935, p 1641

SEC. 3. Section 1268.5 of the Agricultural Code is hereby amended to read as follows:

Order to show cause

1268.5. At the time of the filing of the verified complaint as in this chapter provided, or after any decision as in this chapter likewise provided, the director may thereupon and in the premises issue to and serve upon the person against whom the proceeding is pending an order directing said person or respondent to show cause why the license of said person or respondent should not be suspended or revoked for the violation complained of in the verified complaint or specified in the decision.

Notice

In such case, a copy of said order to show cause, together with notice of the time and place of hearing upon said order, shall be served personally or by mail upon said person, together with an attached copy of verified complaint, copy of decision, or such other notice, affidavit, or official document generally advising and informing the respondent of the charge or violation upon which said order is based and pursuant to which it is issued. Such service shall be made at least 10 days before said hearing, which shall be held in the city or town in which is situated the business location of the licensee, or at an office of the Department of Agriculture nearest to said city or town, or in the county seat of the county in which the transaction or violation complained of is said to have occurred.

Hearing

At the time and place appointed for such hearing the director or his agents shall hear the matter set forth in the order, and the showing of the licensee in the premises, and shall enter in the office of the director at Sacramento an order and decision specifying the facts, dismissing the order to show cause, or directing the suspension or revocation of the license or licenses held by the licensee, or making such other conditional or probationary orders as may be proper. A copy of said order and decision shall be furnished to the licensee.

Suspension or revocation of license

Nothing in this section contained may be construed as limiting the power of the director to revoke or suspend a a licensee when he is satisfied of the existence of any of the facts specified in Section 1269 of this chapter.

SEC. 4. Section 1269 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 2332

1269. The director may refuse to grant a license and may revoke or suspend any license, as the case may require, when after a hearing as herein provided, he is satisfied of the existence of any of the following facts, the existence of which is hereby declared to be a violation of this chapter: Revocation of licenses. Grounds

(a) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale or storage of, or for rendering of any service in connection with the handling, sale or storage of any farm products.

(b) That the applicant, or licensee, has failed or refused to render a true account of sales, or to make a settlement thereon, or to pay for farm products received, within the time and in the manner required by this chapter.

(c) That the applicant, or licensee, has made any false statement as to the condition, quality or quantity of farm products received, handled, sold or stored by him.

(d) That the applicant, or licensee, directly or indirectly, has purchased for his, or its own account farm products received by him upon consignment without prior authority from consignor together with price fixed by consignor or without promptly notifying the consignor of such purchase. This shall not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of farm products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(e) That the applicant, or licensee, has intentionally made any false or misleading statement as to the conditions of the market for any farm products.

(f) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the producer.

(g) That a commission merchant to whom any consignment is made has reconsigned such consignment to another commission merchant and has received, collected, or charged by such means more than one commission for making the sale therefor for the consignor, unless by consent of such consignor.

(h) That the licensee was intentionally guilty of fraud or deception in the procurement of such license.

(i) That the licensee or applicant has failed or refused to file with the director a schedule of his charges for services in connection with produce handled on account of or as an agent of another; that the applicant, or licensee has indulged in any unfair practice.

(j) That the licensee has rejected, without reasonable cause, or has refused to accept, without reasonable cause, any farm product bought or contracted to be bought from a producer by such licensee.

(k) That the licensee has otherwise violated any provision of this chapter.

(*l*) That the licensee has knowingly employed an agent, as defined in this chapter, without causing said agent to comply with the licensing requirements of this chapter applicable to agents.

Previous violation by the applicant or by any person connected with him or it of any of the provisions of this chapter shall be good and sufficient ground for denial of a license.

The director, after a hearing, may refuse to grant a license and may revoke or suspend any license as the case may require, when he is satisfied that the licensee has become bankrupt or insolvent, and is thereby unable to pay producer-creditors of the licensee, or producers with whom the licensee has executory or executed contracts for the purchase of farm products.

CHAPTER 469

Stats 1933, p 60, amended

An act to add Section 787.5 to the Agricultural Code, relating to markings on containers of fruits, nuts and vegetables.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

New section

SECTION 1. Section 787.5 is hereby added to the Agricultural Code, to read as follows:

Markings on containers of nuts, fruits and vegetables

787.5. Unless otherwise required in the standards established in this chapter, all containers of fruits, nuts and vegetables specifically mentioned in Section 790 and offered for sale and distribution in California shall bear upon them in plain sight and in plain letters on one outside end of each box, lug or carton and either on one side or the top cover of each basket, barrel, sack or other similar containers, the name of the buyer, packer, or other person who authorized the packing of the fruits, nuts or vegetables, together with a sufficiently explicit address to permit ready location of such packer. Such marking requirements shall not apply to any subcontainers of fruits, nuts and vegetables.

When the name and address of any person is required by any of the specific commodity standards of this chapter to be placed on any container, the address shall be a California address, unless the section of this code establishing the standard specifies otherwise.

CHAPTER 470

An act to amend Section 2957 of the Civil Code, relating to mortgages of personal property.

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2957 of the Civil Code is hereby amended to read as follows: Stats. 1937, p. 525

2957. A mortgage of personal property or crops is void as against creditors of the mortgagor and subsequent purchasers and encumbrancers of the property in good faith and for value, unless: Formalities relative to validity against third parties

1. It is acknowledged, or proved and certified, in like manner as grants of real property;

2 The mortgage, if of animate personal property other than crops growing or to be grown, is recorded in the office of the recorder of the county where the mortgagor resides at the time the mortgage is executed, or in case the mortgagor is a nonresident of this State, in the office of the recorder of the county where the property mortgaged is located at the time the mortgage is executed;

3 The mortgage, if of crops growing or to be grown, is recorded in the office of the recorder of the county where the land is located upon which such crops are growing or to be grown;

4. The mortgage, if of personal property other than crops growing or to be grown or animate personal property, is recorded in the office of the recorder of the county where the mortgagor resides at the time the mortgage is executed, and also in the county where the property mortgaged is located, at the time the mortgage is executed, and to which such property is thereafter removed;

5. Each such mortgage is clearly entitled on the face thereof, apart from and preceding all other terms of the mortgage, to be a mortgage of crops and chattels, or either; and

6 Within four years from the last recording or rerecording thereof, it be rerecorded in its entirety or in lieu thereof there be recorded a certificate executed by the mortgagor or mortgagee, or the successor in interest of either thereof, and recorded in the office of the recorder of each county in which the mortgage has been recorded, which said certificate shall be in substantially the following form: Certificate of rerecordation

CERTIFICATE OF RERECORDATION

Form

By this Certificate of Recordation that certain mortgage made by _____, mortgagor, to _____, mortgagee, and dated the _____ day of _____, in the year _____,

and recorded in the office of the recorder of the county of -------- on the -------- day of --------, in the year --------, in Book -------- of -------- at page -------- (set forth if available the date and place of each recordation), be and the same hereby is rerecorded. (signed) A.B.

Said certificate shall be acknowledged, or proved and certified, in like manner as grants of real property. No certificate shall be deemed defective because it does not refer to all of the recordations of the original mortgage. The provisions of subdivision 6 of this section shall not apply to any mortgage heretofore or hereafter made pursuant to an order, judgment, or decree of court of record, or heretofore or hereafter made to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations, or heretofore or hereafter made by a public utility subject to the provisions of the Public Utilities Act, but such a mortgage when once recorded as provided by law, shall remain valid and effective as against creditors of the mortgagor and subsequent purchasers and encumbrancers of the property mortgaged without rerecording, anything in this section to the contrary notwithstanding. The term "rerecording" as used in this section shall include the recording of a certificate of rerecordation, and the provisions of this section, as amended in 1941, shall apply to all mortgages of personal property or crops whether recorded or rerecorded prior or subsequent to the enactment of this section or any amendment thereto.

Exceptions

"Rerecordation"

CHAPTER 471

Stats 1931, p 587, amended

An act to amend Section 587 and Section 1515 of the Probate Code, relating to the powers and duties of guardians, executors and administrators.

In effect September 13, 1941

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941]

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

Stats 1935, p 1971

SECTION 1. Section 587 of the Probate Code is hereby amended to read as follows:

Dedication by executor

587. When it is for the advantage, benefit and best interests of the estate, and those interested therein, that an easement over any real property of the estate, be dedicated or conveyed, either with or without other consideration, to the State or any county or municipal corporation, or any district or to any person, firm, association or public or private corporation the executor or administrator may so dedicate or convey any such easement upon order of court based upon the petition of the executor or administrator or of any person interested in the estate, and after notice of the hearing given for the

period and in the manner required by Section 1200 of this code.

SEC. 2 Section 1515 of the Probate Code is hereby amended to read as follows: Stats 1935 p 1973

1515. When it is for the advantage, benefit and best interests of the estate and those interested therein that an easement over any real property of the estate, be dedicated or conveyed, either with or without other consideration, to the State, or any county or municipal corporation or any district or to any person, firm, association or public or private corporation, the guardian may so dedicate or convey any such easement upon order of court based upon the petition of the guardian or of any person interested in the estate, and after notice of the hearing given for the period and in the manner required by Section 1200 of this code. Dedication by guardian

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CHAPTER 472

An act to add Section 1557.1 to the Probate Code, relating to the investment of funds in guardianship matters. Stats 1931, p 587, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. A new section is hereby added to the Probate Code, to be numbered 1557.1 and to read as follows: New section

1557.1. Any order of court made pursuant to the foregoing section shall be final and shall release the guardian and his sureties from all claims of any persons affected thereby based upon any act directly authorized in said order providing said guardian has fully and fairly complied with the same. This release shall not operate in favor of a guardian or a surety where said order was obtained by fraud, conspiracy or misrepresentation as to any material fact contained therein. Effect of order of investment of funds

CHAPTER 473

Stats 1931, p 587, amended

An act to add Section 1483.2 to the Probate Code, relating to guardian's petition for substitution and discharge of surety.

In effect September 13, 1941

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

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

New section

SECTION 1. A new section is hereby added to the Probate Code, to be numbered 1483.2 and to read as follows:

Substitution of surety

1483.2. Any guardian who desires a substitution and discharge of a surety may file a petition with the court for that purpose together with an accounting. The court shall issue a citation to the existing surety directing him to appear before the court at a designated time and place to show cause why he should not be substituted and discharged. The citation shall be served on the surety personally at least five days before the return day. If the surety can not be found or has left or removed from the State, the citation may be served by leaving a copy of it at his residence or by such publication as the court may order.

CHAPTER 474

Stats 1911, p 1460, repealed

An act to repeal an act entitled "An act to provide for the release of all claims and liens arising from irrigation district bonds and interest coupons voluntarily surrendered for cancellation, and to provide for the establishment of record of such release," approved May 1, 1911.

In effect September 13, 1941

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

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

Repeal

SECTION 1. The act cited in the title hereof is hereby repealed.

CHAPTER 475

An act to amend Sections 1 and 5 of the California Irrigation District Act, relating to the formation and government of irrigation districts.

Stats 1897, p 254, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1919, p 714

Section 1. A majority in number of the holders of title or evidence of title to lands susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, such holders of title or evidence of title representing a majority in value of said lands, may propose the organization of an irrigation district, under the provisions of this act; or the organization of such an irrigation district may be proposed by not less than 500 petitioners, each petitioner to the number of at least 500 to be an elector residing in the proposed district or the holder of title or evidence of title to land therein; provided, that the said petitioners must include the holders of title or evidence of title to not less than 20 per cent in value of the lands included within the proposed district. The lands proposed to be included within any such irrigation district need not consist of contiguous parcels. Any holder of land under a possessory right acquired by entry or purchase from the United States or the State of California shall be deemed to be a holder of evidence of title to said land within the meaning of this act. The county assessment roll of the county in which any lands included within such proposed irrigation district are situated, which assessment roll has been last equalized at the time of the first publication of said petition as provided in Section 2 of this act, shall be conclusive evidence as to the value of said lands and the holders of title or evidence of title to said lands. If any parcel of land is assessed on any assessment roll to unknown or fictitiously named owners, or to unnamed owners in addition to any owner or owners named thereon, said parcel of land shall be deemed, for any of the purposes of any petition provided for in this act, to have but one owner in addition to any owner or owners whose true name or names may be purported to be given on such assessment roll. The holder of title or evidence of title to an undivided interest in any land affected by any of the provisions of this act may sign any petition provided for in this act, and such undivided interest shall be counted and valued as though it were a separate interest, and if the assessment roll shall fail to indicate the extent of any such undivided interest, the holders of title or evidence of title whose undivided interests in any land are not specifically defined shall be deemed to have equal shares

Majority of owners may organize irrigation district

Petitioners must hold twenty per cent in value of land

Evidence of title

Holder of title of undivided interest

therein. Guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any State, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioners under this act.

Stats 1915, p 1368

SEC. 2. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Divisions in district and election of directors

Sec. 5. If, on said final hearing the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth and fifth, and one director shall be elected for each division by the electors thereof; provided, that if so requested in said petition, the board shall order that there shall be only three divisions and three directors in said district and that the directors be elected by the district at large, or by divisions, as such petition shall provide, but in any event such directors shall be elected to represent separate divisions and shall be residents of the respective divisions they are elected to represent.

CHAPTER 476

An act to amend Sections 103 and 103½ of, and to add Section 103n to, the Code of Civil Procedure, relating to justices' courts in townships and cities.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1941, p 1165

SECTION 1. Section 103 of the Code of Civil Procedure is amended to read as follows:

Justices' courts and justices

103. (a) There shall be at least one justice's court in each of the townships of the State, for which one justice of the peace must be elected by the qualified electors of the township, at the general State election next preceding the expiration of the term of office of his predecessor. In any county where, in the opinion of the board of supervisors, the public convenience requires it, the said board may, by order, provide that two justices' courts may be established in any township, designating the same in such order; and in such case, one justice of the peace must be elected, in the manner herein provided, for each of said courts; provided, however, that in every township containing a population of over 200,000 and less than

400,000 in counties containing a population of over 400,000 and less than 600,000 and in which no municipal court has been established pursuant to the provisions of Section 11 of Article VI of the Constitution, whenever in the opinion of the justice of the peace of such township, the public interests so justify or require, one or more sessions of said justice court, to be known as extra sessions thereof, may be held in addition to and at the same time as the sessions held by the justice of the peace of such township, which extra sessions shall have all of the powers and jurisdiction prescribed and conferred by law upon justices of the peace. Extra sessions

(b) The justice of the peace of a township containing a population of over 200,000 and less than 400,000 in such counties, may request any other qualified justice of the peace, or judge of any city court in such county, to hold court in such township, and while so holding court, or acting as a justice of the peace therein, he shall receive for his services the same compensation as the justice of the peace of the township in which he is requested to act, together with actual traveling expenses at the rate of twenty-five cents ($0.25) per mile, while traveling from his residence to the court and return therefrom. The extra compensation of the justice of the peace, or judge sitting in said court pursuant to such request shall be paid by the county which, by law is charged with the payments of the compensation of the justice of the peace making the request. The board of supervisors of such county shall provide a suitable place for the holding of extra sessions of said justice's court. Request to hold court

(c) In counties containing a population of more than 400,000 and less than 600,000, justices of the peace shall each receive the following salaries to be paid by warrants drawn each month upon the salary fund, or, if there be no salary fund, then upon the general fund of the county, such warrants to be audited and paid as the salary of any county or township officer, and which salaries shall be in full for all services rendered by such justices of the peace; in any townships in said counties which have a population of more than 200,000, six thousand dollars ($6,000) per annum; in any of said townships having a population of 100,000 and less than 200,000, six thousand dollars ($6,000) per annum; in any of said townships having a population of 35,000 and less than 50,000, three thousand three hundred dollars ($3,300) per annum; in any of said townships having a population of 30,000 and less than 35,000, three thousand three hundred dollars ($3,300) per annum; in any of said townships having a population of less than 30,000, two thousand seven hundred dollars ($2,700) per annum; provided, however, that no justice of the peace in any such township shall receive a salary of more than six thousand dollars ($6,000). Alameda County Salaries

(d) In every township containing a population of over 30,000 in counties containing a population of over 144,000 and less than 145,000, as determined by the Federal census taken in the year anno Domini 1930, in which no municipal court Fresno County

has been established, pursuant to the provisions of Section 11, Article VI of the Constitution, there shall be a justice's court composed of two justices of the peace which shall have all the powers and jurisdiction prescribed and conferred by law upon justices of the peace. Any of said justices may hold court and there may be as many sessions of said court at the same time as there are justices thereof. The board of supervisors shall provide in a convenient locality a suitable office for the justices, justices' clerks and rooms suitable for holding sessions of said court separate from each other for each of said justices of the peace.

Salaries (e) The salary of each of said justices of the peace shall be three thousand dollars ($3,000) a year and shall be paid by warrant drawn each month upon the salary fund, or if there be no salary fund, then upon the general fund of the county, such warrants to be audited and paid as salary of any county or township officer.

City justice courts (f) In every city of the second and one-fourth, second and three-eighths, second and one-half, second and three-fourths, third and fourth classes, save and except cities of the second and three-fourths class lying within a township wherein two township justice courts have been created and are in existence on September 15, 1931, there must be one justice of the peace, to be elected in like manner, by the electors of such cities or towns, respectively; and such justices of the peace of cities Jurisdiction shall have the same jurisdiction, civil and criminal, as justices of the peace of townships and township justice's courts. Said justices of the peace of cities and justice's courts of cities shall also have jurisdiction of all proceedings for the violation of any ordinance of any city in which courts are established both civil and criminal and of all actions for the collection of any license required by any ordinance of any such city, and generally exercise all powers, duties and jurisdiction, civil and criminal, of police judges, judges of police courts, recorder's courts or mayor's courts, within such city.

Qualification of justices (g) No person is eligible to the office of justice of the peace in any city of the second and one-fourth, second and three-eighths, second and one-half, second and three-fourths or third class, who has not been admitted to practice law in this State; and no justice of the peace shall be permitted to practice law before another justice of the peace in the city, town or county in which he resides, or to have a partner engaged in the practice of law in any justice's court in any such city, town or county.

Salaries (h) Every city justice of the peace in any city of the second and one-fourth class shall receive a salary of three thousand dollars ($3,000) per annum. Every city justice of the peace in any city of the second and three-eighths class shall receive a salary of four thousand six hundred dollars ($4,600) per annum, and in any city of the second and one-half class shall receive a salary of six thousand dollars ($6,000) per

annum Every city justice of the peace in any city of the second and three-fourths class shall receive a salary of two thousand four hundred dollars ($2,400) per annum. Every city justice of the peace in any city of the third class shall receive a salary of three thousand three hundred dollars ($3,300) per annum. Every city justice of the peace in any city of the fourth class shall receive a salary of one thousand five hundred dollars ($1,500) per annum.

Offices

(i) Each of said justices of the peace shall be provided by the city authorities, or by the board of supervisors, in counties where the salary of the city justice of the peace is paid by the county, with a suitable office in which to hold his court. The compensation of the justice of the peace of any city shall be paid by warrants drawn each month upon the salary fund, or if there be no salary fund, then upon the general fund of such city or county as the case may be; such warrants to be audited and paid as salaries of any other city or county officials.

Fees

(j) All fees which are chargeable by law for services rendered by such city justice of the peace in cities aforesaid shall be by them respectively collected and on the first Monday of each month, every such city justice, or his clerk, shall make a report under oath, to the city or county treasurer, as the case may be, of the amount of fees so by him collected, and pay the amount so collected into the city or county treasury, as the case may be, to the credit of the general fund thereof. Said salaries shall be the sole compensation of said city justice.

Vacancies

(k) Where the number of city justices herein fixed for any city exceeds the number elected at the last general election, the board of supervisors of the county in which such city is situated shall, as soon as is practicable after this amendment takes effect, make appointments in the manner provided by law, to fill such vacancies.

SEC. 2. Section 103½ of the Code of Civil Procedure is hereby amended to read as follows:

Stats 1939, p 2978

Clerks of justices' courts

103½. Every city justice's court in any city or town of the second and one-fourth, second and three-eighths, second and three-fourths and third classes shall have a clerk. Every city justice's court in any city or town of the second and three-eighths class and the second and one-half class where there is a police court or other inferior court organized under the city charter shall have one clerk and every city justice's court in any city or town of the second and three-eighths class and the second and one-half class where there is no police court or other inferior court organized under the city charter shall have one clerk and two deputy clerks. Said clerks shall be respectively appointed by the justice of the peace of said court and shall hold office during the pleasure of said justice. Said clerks and deputy clerks shall each give a bond in the sum of five thousand dollars ($5,000) with at least two sureties to

Clerks of justices' courts

be approved by the mayor or, if the clerk's salary is paid by the county, to be approved as provided for county officers, conditioned for the faithful discharge of the duties of their office. They shall keep a record of the proceedings of said court and issue all process ordered by the justice of said court. The clerk of said court or a deputy clerk in the discretion of the justice of the peace, shall receive and pay into the city treasury, or into the county treasury if the salary of the clerk is paid by the county, all fines, forfeitures and fees paid into said court, and shall render each month to the city council or county board of supervisors where the salary of the clerk is paid by the county an exact account under oath of all fines, forfeitures and fees paid and collected. Said clerks and deputy clerks shall prepare bonds, justify bail when the amount has been fixed by the court or justice and may administer and certify oaths, and shall remain in the courtrooms of said court during court hours and during such reasonable times thereafter as may be necessary for the proper performance of their duty. The clerk of the court shall have custody of all records and papers of said justice's court. Every clerk of the justice's court in any city or town of the second and one-fourth class shall receive a salary of one thousand six hundred dollars ($1,600) per annum. Every clerk of the justice's court in any city or town of the second and one-half class, where there is a police court or other inferior court organized under the city charter, shall receive an annual salary of two thousand one hundred dollars ($2,100). Every clerk of the justice's court in any city or town of the second and three-eighths class, where there is a police court or other inferior court organized under the city charter, shall receive an annual salary of two thousand two hundred five dollars ($2,205). Every clerk of the justice's court in any city or town of the second and three-eighths class where there is no police court or other inferior court organized under the city charter, shall receive an annual salary of two thousand seven hundred dollars ($2,700), and every clerk of the justice's court in any city or town of the second and one-half class where there is no police court or other inferior court organized under the charter, shall receive an annual salary of three thousand three hundred dollars ($3,300), and the deputy clerks of said city or town shall each receive an annual salary of one thousand eight hundred dollars ($1,800). Every clerk of the justice's court in any city or town of the second and three-fourths class shall receive an annual salary of one thousand five hundred dollars ($1,500). Every clerk of the justice's court of any city or town of the third class shall receive an annual salary of one thousand eight hundred dollars ($1,800); said salaries shall respectively be payable in equal monthly installments by warrants drawn each month upon the salary fund, or if there be no salary fund, then upon the general fund, of such city or county as the case may be, such warrants to be audited and paid as salaries of

any other city or county officials respectively, and said salaries shall be the full compensation for all services rendered by the clerks of said courts.

Sacramento, city justices' court

SEC. 3. All other provisions of law applicable to justice's courts in cities of the second and one-half class are applicable to justice's courts in cities of the second and three-eighths class.

Compensation

SEC. 4. The compensation of justices of the peace of any township whose compensation the Legislature is not authorized to fix under Section 5 of Article XI of the Constitution and Section 4056d of the Political Code is not affected by the amendments made by this act in the Code of Civil Procedure and their compensation shall continue to be paid in accordance with the terms of the Code of Civil Procedure as if they had not been amended by this act, unless and until the proper board of supervisors exercises the power granted to it under the provisions of Section 4056d of the Political Code and Section 5 of Article XI of the Constitution.

New section

SEC. 5. Section 103n is hereby added to the Code of Civil Procedure, to read as follows:

Jurisdiction of Oakland city justices' courts

103n. Justices of the peace of cities of the second class shall have the same jurisdiction, civil and criminal, as justices of the peace of townships and township justice's courts. Said justices of the peace and justice's courts of cities of the second class shall also have jurisdiction of all proceedings for the violation of any ordinance of any city in which courts are established, both civil and criminal, and of all actions for the collection of any license required by any ordinance of any such city, and generally exercise all powers, duties and jurisdiction, civil and criminal, of police judges, judges of police courts, recorder's courts or mayor's courts, within such city.

CHAPTER 477

An act to add Chapter 1a, comprising Section 961, to Title 13 of Part 2 of the Code of Civil Procedure, relating to the promulgation by the Judicial Council of rules having the force of law to govern appeals in civil actions.

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941]

In effect September 13, 1941

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

New chapter

SECTION 1. Chapter 1a, comprising Section 961, is hereby added to Title 13 of Part 2 of the Code of Civil Procedure, to read as follows:

CHAPTER 1a. JUDICIAL COUNCIL RULES

Rules of Judicial Council to govern appeals

961. The Judicial Council shall have the power to prescribe by rules for the practice and procedure on appeal, and

for the time and manner in which the records on such appeals shall be made up and filed, in all civil actions and proceedings in all courts of this State.

Report The Judicial Council shall report the rules prescribed by it to the Legislature within 10 days after the Legislature convenes for its Fifty-fifth Regular Session.

When rules effective The rules reported as aforesaid shall take effect on the ninetieth day after the day on which the Legislature convenes for its Fifty-fifth Regular Session, and thereafter all laws in conflict therewith shall be of no further force or effect.

CHAPTER 478

Stats. 1931, p. 587, amended *An act to add Section 1483.1 to the Probate Code, relating to reduction of bond of guardian.*

In effect September 13, 1941 [Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

New section SECTION 1. A new section is hereby added to the Probate Code, to be numbered 1483.1, and to read as follows:

Reduction of bond 1483.1. If a guardian desires to have the amount of his bond reduced, he may make application to the court or a judge thereof for such relief. The guardian shall file with the court an accounting, together with and as a part of the application. The court or judge may, at any time, after the filing of such accounting by the guardian and the approval thereof by the court, reduce the amount of the bond of a guardian to any amount or sum which in the discretion of the court may seem proper under the circumstances, subject to the limitations of Section 1480 of this code, and said guardian may furnish new sureties who shall qualify for such reduced amount.

CHAPTER 479

An act to add Section 5.29 to the School Code, relating to the leasing of property of a State college.

In effect September 13, 1941 [Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

New section SECTION 1. Section 5.29 is hereby added to the School Code, to read as follows:

Lease to student cooperative 5.29. The Director of Education is hereby authorized to lease any property of a State college to a nonprofit organization composed exclusively of students of the college or of

members of the faculty of the college, or of both, for purposes related to the activities of the college or to activities of organizations of students or members of the faculty.

CHAPTER 480

An act to amend Section 974 of the Political Code, relating to discharge of sureties.

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. Section 974 of the Political Code is hereby amended to read as follows: 1872 Code

974. A copy of the statement must be served on the officer named in such official bond and due return or affidavit of service made thereon as in other cases. If the officer has removed himself from the State, or has absconded, or conceals himself within the State to avoid service or can not, after due diligence and inquiry, be found therein, and the facts so appear to the satisfaction of the judge, court, board, officer or other person authorized in the foregoing section to hear said petition, said judge, court, board, officer or other person authorized to hear the petition may make an order that service shall be had by mailing a copy of said statement to the last known address of said officer, or, if his address out of the State be known to the surety, to said address. Service shall be deemed complete upon compliance with said requirement and shall have the same validity and effect as if personal service thereof had been made upon said officer. Release of sureties

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CHAPTER 481

An act to add Section 1483.3 to the Probate Code, relating to order of court substituting sureties. Stats. 1931, p. 587, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1483.3 is hereby added to the Probate Code, to read as follows: New section

1483.3. The court shall hear the matter on the return of the citation or at such other time as it may appoint. If, upon such hearing, the accounting is approved and it appears to the court that the substitute surety is satisfactory and that Substitution of surety

no injury can result to the estate, it may order a substitution of surety and discharge the existing surety from liability on his bond for any subsequent act, default, or misconduct of the guardian.

CHAPTER 482

An act to add Article 5, comprising Sections 1953e to 1953h, inclusive, to Chapter 3, Title 2, Part 4 of the Code of Civil Procedure, relating to business records as evidence.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

New article

SECTION 1. Article 5, comprising Sections 1953e to 1953h, inclusive, is hereby added to Chapter 3, Title 2, Part 4 of the Code of Civil Procedure, to read as follows:

Article 5. Uniform Business Records as Evidence Act

"Business"

1953e. The term "business" as used in this article shall include every kind of business, profession, occupation, calling or operation of institutions, whether carried on for profit or not.

Identity and mode of preparation

1953f. A record of an act, condition or event, shall, in so far as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.

Interpretation

1953g. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

Short title

1953h. This article may be cited as the Uniform Business Records as Evidence Act.

CHAPTER 483

An act to amend Section 40 of the State Civil Service Act, relating to hearings and subpenas.

Stats 1937, p 2085, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 40 of the State Civil Service Act is hereby amended to read as follows:

Stats 1937, p 2089

Sec. 40. Such hearings and investigations may be conducted by the board, any member, or any authorized representative of the board. Any authorized person conducting such hearing or investigation may administer oaths and shall have power to subpena and require the attendance of witness and the production of books or papers, and may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law, for like depositions in civil cases in the superior court of this State. A witness, other than a State officer, can not be compelled, however, to attend an investigation or hearing unless he resides in the county, or within 100 miles of the place where the investigation is held. No subpena shall be issued to compel any State officer to attend outside of the county in which he resides and more than 100 miles from his residence unless it is shown to the satisfaction of a member of the board, or the secretary thereof, by affidavit stating the facts, that such officer is a material witness. In that event the subpena shall be marked "Statewide" or otherwise have indicated thereon that attendance is required regardless of distance, and must be served at least five days prior to the date of the hearing.

Conduct

Subpenas

CHAPTER 484

An act to amend Section 41b of the California Irrigation District Act, relating to the segregation of land on irrigation district assessment rolls.

Stats 1897, p 254, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 41b of the act cited in the title hereof is hereby amended to read as follows:

Stats 1939, p 1038

Sec. 41b. Any person, firm, or corporation claiming an interest in any parcel of land described on the current assessment book against which there are no delinquent assessments,

Segregation and separate valuation of taxable land

desiring to have the parcel segregated into two or more portions and separately valued and assessed on the current assessment book may:

Application for segregation

(a) File with the collector of the district at any time after the current assessment is due but not later than five days prior to the regular meeting of the board of directors in December of the year in which the assessment was levied, an application with descriptions, sufficient for assessment purposes, of each portion into which the applicant desires the parcel to be segregated, valued, and assessed. Such application must be signed by each of the persons assessed on the current assessment book with the parcel to be segregated, as evidence of their approval.

Fee

(b) Accompany such application with a fee of fifty cents ($0.50) for each separate portion into which the applicant desires the parcel to be segregated.

If the portions into which the applicant desires the land to be segregated have separate valuations shown on the current assessment book, the collector shall upon such valuations estimate the amount of the current assessment due on each portion.

Estimate of current assessment

If the portions into which the applicant desires the land to be segregated do not have separate valuations shown on the current assessment book the collector shall submit the descriptions to the assessor who shall place a valuation on each described portion. Upon such valuations the collector shall estimate the amount of the current assessment due on each portion as segregated.

Reference to board of directors

In either case, upon estimating the assessments due on the segregated portions, the collector shall refer the segregated descriptions, valuations, and estimated assessments due to the board of directors who may either:

(a) Confirm, modify, or set aside the same.

(b) Refuse to authorize the segregation, separate valuation and assessment.

The aggregate of the valuations of the segregated portions shall be the same as the valuation of the parcel before segregation.

Entry in assessment book

If the segregation and separate valuations and assessments are confirmed or modified, the board shall notify the collector who shall cause the assessment book to be changed to show the segregation and separate valuations and assessments as confirmed or modified by the board, and he shall separately number the portions as segregated, and the assessment may thereafter be paid separately on any of them

The decision of the board shall be final and the collector shall conform with it.

CHAPTER 485

An act to amend Section 19 of, and to add Section 24.1 to, the Water Commission Act, relating to water and the determination and administration of water rights.

Stats 1913, p 1012, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 19 of the Water Commission Act is hereby amended to read as follows:

Stats 1925, p 593

Sec. 19. Immediately upon completion, in accordance with law, the rules and regulations of the State Water Commission, and the terms of the permit, of the project under such application, the holder of a permit for the right to appropriate water shall report said completion to the State Water Commission. The said commission shall as soon as practicable thereafter cause to be made a full inspection and examination of the works constructed and the use of water therefrom, and shall determine whether the construction of said works and the use of water therefrom is in conformity with law, the terms of the approved application, the rules and regulations of the State Water Commission, and the permit. The said water commission shall, if said determination is favorable to the applicant, issue a license which shall give the right to the diversion of such an amount of water as has been found by inspection to have been applied to beneficial use. Said license shall be in such form and shall contain such terms as may be prescribed by the State Water Commission under the provisions of this act. But if the said commission shall find, upon inspection and examination of the works constructed and the use of water therefrom, that the construction and condition of said works and the use of water therefrom are not in conformity with the law, the rules and regulations of the State Water Commission, the terms of the approved application and the terms of the permit, then and in that case the said commission may, after due notice in writing and in the manner provided in Sections 1011, 1012 and 1013 of the Code of Civil Procedure to the applicant or the holder of the permit, and a public hearing thereon, refuse to issue said license. And 30 days after the refusal of said commission to issue said license all rights of the applicant and the holder of the permit under said application and permit shall lapse and cease. But the holder of any permit to whom the said water commission may have refused to issue said license, shall have the right to bring an action within 30 days after the said refusal, in the superior court to review said order and to obtain a decree requiring the issuance of such license. And the rights of the holder of any permit so bringing an action shall continue under said permit until the decree in such action has been entered and become final. But until the refusal of the

Report on completion of project

Inspection

License

May refuse license

Review of order

commission to issue said license shall be finally determined by the courts, the permittee shall not take or use any of the water, the taking and using of which is granted to him by said permit. And if the holder of any permit which has been revoked by the State Water Commission shall not bring an action within said 30 days in the superior court to determine the validity of said revocation, then and in that case all rights of the applicant and of the holder of said permit shall lapse and cease.

Filing of water licenses

As to licenses for the appropriation of water issued by the State Water Commission on or after September 1, 1925, a true copy of each license issued or of each order allowing a change in point of diversion or place of use or otherwise modifying or changing a license shall within 30 days after issuance thereof be filed by the commission in the office of the recorder of that certain county wherein the point of diversion specified in said license lies or in case there are points of diversion lying in more than one county then in each of those counties wherein a point of diversion lies and in case the place or places of use specified in said license are in different counties than the point or points of diversion then a true copy of said license or order shall also be filed by said licensee in the county or counties wherein the place or places of use lie; provided, however, that whenever an order revoking a license in whole or in part shall have become final a true copy of said order revoking said license in whole or in part shall be filed promptly by the State Water Commission in the office or offices wherein a copy of the license affected is on file or in case the order of revocation shall have been modified by a court the order as finally decreed by the court shall be filed as herein provided.

New section

SEC. 2. Section 24.1 is hereby added to the Water Commission Act, to follow immediately Section 24 thereof, and to read as follows:

Interim payments

SEC. 24.1 During the pendency of any reference, upon motion of the commission and upon a hearing by the court after at least 10 days' notice to the parties, the court may order such interim or partial payments of the expense to be made by the parties as it deems proper and equitable under the circumstances.

CHAPTER 486

An act authorizing the conveyance to the County of Ventura, State of California, of easements and rights of way for road and highway purposes along, in, through, or across property of the State known as the Camarillo State Hospital grounds.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Easements and rights of way

SECTION 1. The Director of Finance and the Director of Institutions are hereby authorized and empowered to grant

unto the County of Ventura, State of California, the necessary easements and rights of way for all purposes of a public road on the Camarillo State Hospital property. This public road shall be located on the flood control levee which is to be constructed by the State of California on the Camarillo State Hospital property, for the protection against Calleguas Creek flood waters. The road shall have the necessary approaches on the north from that portion constructed on the levee to Lewis Road, a county road, and on the south, such public road shall have an approach continuing from the southerly terminus of the levee along the base of Round Mountain to an intersection with the existing county road, at or near the Ventura County Calleguas Creek Bridge. Camarillo State Hospital

SEC. 2. The Director of Finance and the Director of Institutions are hereby authorized and empowered to enter into a contract or agreement with the County of Ventura in which contract shall be specified the terms and conditions upon which such easements and rights of way shall be granted to the County of Ventura, and terms and conditions governing the construction of the public road and the levee on which such public road is to be located. Contract with Ventura County

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CHAPTER 487

An act to amend Sections 1205, 1212 and 1214 of the Health and Safety Code, relating to clinics and dispensaries. Stats. 1939, p. 482, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1205 of the Health and Safety Code is hereby amended to read as follows: Stats. 1939, p. 509

1205. A teaching and research clinic is: Teaching and research

(a) A clinic operated in connection with and as a part of any institution of learning, approved as to the mode of healing taught by the State agency having jurisdiction for the teaching of any mode of healing recognized by the laws of this State.

(b) A clinic operated for the purposes of teaching medicine, surgery, dentistry, optometry, osteopathy, chiropractic, or drugless healing, or for research in subjects pertaining thereto or to public health, and supported in whole or part by any trust donation, bequest or foundation, the purposes of which are approved by the State Board of Public Health.

Stats 1939, p 510

SEC. 2. Section 1212 of said code is hereby amended to read as follows:

Private pay clinic

1212. No private pay clinic shall be operated by a corporation or by any person not duly licensed under the laws of the State to practice medicine, surgery, dentistry, optometry, osteopathy, chiropractic, or drugless healing.

Stats 1939, p 510

SEC. 3. Section 1214 of said code is hereby amended to read as follows:

Application of chapter

1214. This chapter does not authorize any person other than a licensed practitioner of a healing art, or any corporation, except as expressly provided in this chapter, to furnish to any person medical or surgical advice, services, or treatment.

This chapter does not authorize any person other than a licentiate of a healing art to engage directly or indirectly in the practice of medicine, or surgery, or dentistry, or optometry

This chapter does not regulate, govern, or affect in any manner the practice of medicine, surgery, dentistry, optometry, osteopathy, chiropractic, or drugless healing by any person duly licensed to engage in such practice.

This chapter does not repeal, alter, modify, or otherwise affect any act defining, or governing, or regulating the practice of medicine, surgery, dentistry, optometry, osteopathy, chiropractic, or drugless healing.

CHAPTER 488

Stats 1937, p 2085, amended

An act to amend Sections 93, 95 and 172 of, and to add Section 16.5 to, the State Civil Service Act, relating to layoffs.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

New section

SECTION 1. A new section, to be numbered 16.5, is hereby added to the State Civil Service Act, to read as follows:

"Subdivisional reemployment list"

Sec. 16.5. "Subdivisional reemployment list" means a list of persons who have permanent status and who have been laid off from a particular class in a particular subdivision of a State agency.

Stats 1937, p 2097

SEC. 2. Section 93 of the State Civil Service Act is hereby amended to read as follows:

Departmental reemployment list

Sec. 93. For each class there shall be maintained a separate departmental reemployment list within a given State agency, which shall consist of the names of persons as defined in Section 92 but employed in such State agency at the time of separation. There shall also be maintained a separate subdivisional reemployment list within a given State agency

which shall consist of the names of persons employed in a subdivision of a State agency at the time of separation if subdivisions for such State agency have been set up as provided in subdivision (c) of Section 172 of this act.

Stats 1937, p 2097

SEC. 3. Section 95 of the State Civil Service Act is hereby amended to read as follows:

Certification Order of preference

Sec. 95. The order of preference in certifying eligibles shall be: Subdivisional reemployment list, if such have been created as provided in subdivision (c) of Section 172 of this act, departmental reemployment list, promotional eligible list, general reemployment list, eligible list. Any such list must be completely exhausted before certification may be made from the list next in order.

Stats 1939, p 2510 See also Stats 1941, p 2917

SEC. 4. Section 172 of the State Civil Service Act is hereby amended to read as follows:

Lay-off

Sec. 172. (a) Whenever it is necessary because of lack of work or lack of funds or whenever it is advisable in the interests of economy to reduce the staff of any State agency, the appointing power may lay off employees according to the procedure set forth in this act and the rules of the board.

(b) The duties performed by the employee or employees so laid off may be assigned to any other employee or employees in the State agency holding positions in appropriate classes.

(c) With the approval of the board, only the employees of a designated geographical, organizational, or functional subdivision of a State agency need be considered for layoff, and in such event reemployment lists shall be established for such subdivision, which lists shall take priority over the departmental and other reemployment or employment lists.

(d) Layoff shall be made in accordance with the relative efficiency and seniority of the employee or employees of the class in which the layoff is to be made as determined by seniority and by performance reports on file with the board. In determining seniority two points shall be allowed for each complete year of State service performing work which would fall in the series of classes related to the employee's present class.

(e) The employee or employees in the class under consideration having the lowest combined score or scores for efficiency and seniority, up to the number of positions to be abolished or discontinued, shall be laid off, but as between two or more such employees who have the same score, their respective performance rating or ratings shall be considered, and such employee or employees having the lowest performance rating or ratings shall be the first laid off.

(f) When an employee has previously served the State with permanent status in the class next below that of the class under consideration or its equivalent in any previous classification, the employee shall be afforded the option of being demoted to the lower class in lieu of being laid off to replace the employee in said lower class having the lowest score for

Lay-off efficiency and seniority; provided, such score is lower than that of the employee being demoted.

(g) Any employee replaced by such demotion who has previously served the State with permanent status in the class or its equivalent in any previous classification next below that in which he was serving at the time of replacement shall have the same option of demotion as though his position were abolished or discontinued, and under the conditions provided in this act may replace the employee in said next lower class.

(h) The names of employees thus laid off or demoted shall be placed upon the reemployment list for the subdivision from which they were laid off, if such a subdivision was created pursuant to paragraph (e) of this section, upon the departmental reemployment list for the class from which they were laid off or demoted and also upon the general reemployment list for such class, and for such other appropriate classes as the board may determine. Any employee certified to a position from any reemployment list for a class different than that held by him when laid off shall serve a probationary period before attaining permanent status in such position.

(i) Whenever any employee accepts a voluntary demotion under the provisions of Section 147, or is demoted to a lower class by reason of a layoff or replacement in accordance with subdivision (f) or (g), his performance rating in such lower class shall be the same as his last previous rating in such class, if any, and shall continue to be for all purposes until the first regular date, next following such demotion, for making and submitting performance ratings.

(j) All employees compensated on a monthly basis who are to be laid off under the provisions of this act shall be given 15 days' notice of such layoff prior to the effective date thereof.

(k) Any employee may appeal to the board within 30 days of receiving notice of layoff on the grounds that the procedure herein prescribed has not been complied with or that the layoff has not been made in good faith or was otherwise improper. The board shall within 30 days of such appeal hold such hearing or investigation as it may deem necessary. The board may also conduct any such hearing or investigation within 30 days of receiving notice of layoff on its own motion. In rendering a decision as a result of any hearing or investigation held pursuant to this subdivision the board may order the reinstatement of the employee with or without pay if it appears that the proper procedure has not been followed or that the layoff was not made in good faith or was otherwise improper.

CHAPTER 489

An act to amend Sections 673 and 674 or Sections 2600, 2601 and 3055, of the Penal Code, relating to civil rights of persons sentenced to State prisons.

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

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

SECTION 1. Section 673 of the Penal Code is hereby amended to read as follows: Stats 1919, p 34 See Sec 6

673. A sentence of imprisonment in a State prison for any term less than life suspends all the civil rights of the person so sentenced, and forfeits all public offices and all private trusts, authority, or power during such imprisonment. Suspension of civil rights

Provided, however, that the Board of Prison Directors may restore to such person, during his imprisonment such civil rights as said board may deem proper, except the right to act as a trustee, or hold public office or exercise the privilege of an elector, or to give a general power of attorney. Restoration of rights

Provided further, that if the person so sentenced be liberated from prison by parole under the terms and conditions of the parole laws of this State, the Board of Prison Terms and Paroles may permit to such person so paroled, civil rights, other than the right to act as a trustee, or hold public office, or exercise the privilege of an elector, during the term of such parole. The scope or extent of such civil rights shall be determined by such board, either at the time the parole is granted or at such other time as, in the judgment of such board, is for the best interest of society and such paroled person. Civil rights of paroled prisoner

The board of directors or the Board of Prison Terms and Paroles shall, at the time of permitting civil rights, make a permanent record thereof, and such record shall be a public record for the benefit of all persons requiring information in that behalf. Record of order

SEC. 2. Section 674 of the Penal Code is hereby amended to read as follows: Stats 1919, p 35 See Sec 6

674. A person sentenced to imprisonment in the State prison for life is thereafter deemed civilly dead; provided, however, that the Board of Prison Directors may restore to such person during his imprisonment, such civil rights as said board may deem proper, except the right to act as a trustee, or hold public office or exercise the privilege of an elector, or to give a general power of attorney. Civil death

Provided further, that if the person so sentenced be liberated from prison by parole under the terms and conditions of the parole laws of this State, the Board of Prison Terms and Paroles may permit to such person so paroled, civil rights, other than the right to act as a trustee, or hold public office, Civil rights of paroled prisoner

or exercise the privilege of an elector, during the term of such parole. The scope or extent of such civil rights shall be determined by such board, either at the time the parole is granted or at such other time as, in the judgment of such board, is for the best interest of society and such paroled person.

Record of order

The board of directors, or the Board of Prison Terms and Paroles shall, at the time of permitting civil rights, make a permanent record thereof, and such record shall be a public record for the benefit of all persons requiring information in that behalf.

Stats 1941, p 1091

SEC. 3 Section 2600 of said code is hereby amended to read as follows:

Suspension of civil rights

2600. A sentence of imprisonment in a State prison for any term less than life suspends all the civil rights of the person so sentenced, and forfeits all public offices and all private trusts, authority, or power during such imprisonment. But the board may restore to said person during his imprisonment such civil rights as the board may deem proper, except the right to act as a trustee, or hold public office or exercise the privilege of an elector or give a general power of attorney.

Stats 1941, p 1091

SEC. 4. Section 2601 of said code is hereby amended to read as follows:

Civil death

2601. A person sentenced to imprisonment in the State prison for life is thereafter deemed civilly dead. But the board may restore to such person during his imprisonment such civil rights as the board may deem proper, except the right to act as a trustee, or hold public office, or exercise the privilege of an elector, or give a general power of attorney.

Stats 1941, p 1113

SEC. 5. Section 3055 of said code is hereby amended to read as follows:

Record of order

3055. The board shall, at the time of permitting such civil rights, make a permanent record thereof, and such record shall be a public record for the benefit of all persons requiring information in that behalf.

Effect· Stats 1941, p 1080

SEC. 6. Sections 3, 4 and 5 of this act shall take effect only if Sections 673 and 674 of the Penal Code are repealed, and their provisions incorporated into Part 3 of the Penal Code by an act entitled "An act to repeal Part 3, except Section 1595, to repeal certain other sections of the Penal Code, to amend Sections 107, 109, 110, 171, 171a, 171b, 273b, 606, 644, 667, 681, 1168, 1202a, to repeal other acts and parts of acts specified herein, and to add Part 3 to the Penal Code, relating to prisons, jails, prisoners, terms and conditions of imprisonment, the death penalty, parole, reprieves, commutations, pardons, and convict-made goods," enacted at the Regular Session of the Fifty-fourth Legislature; at which time Sections 673 and 674 of the Penal Code as amended by this act, are hereby repealed.

CHAPTER 490

An act to add Section 1.5 to the State Civil Service Act, relating to services performed by independent contractors for the State.

Stats 1937, p 2085, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941]

In effect September 13, 1941

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

SECTION 1. Section 1.5 is hereby added to the State Civil Service Act, to read as follows:

New section

Sec. 1.5. Nothing contained in this act shall prohibit any State department, officer, board or commission which is authorized by law to contract for such services from contracting with an independent contractor for the performance of work of a character for which a license is required under the provisions of Chapter 9 of Division 3 of the Business and Professions Code, the performance of which work can not satisfactorily be secured by appointment or appointments under the provisions of this act.

Contracts with independent contractor

CHAPTER 491

An act to amend Section 131 5 of the Code of Civil Procedure, relating to probation, and including probation committees and probation officers and deputies.

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 131.5 of the Code of Civil Procedure is hereby amended to read as follows:

Stats 1939, p 3024

131.5. It is the intention of Sections 131, 131.1, 131.2, 131.3, 131.4 and 131 6 that the same probation committees, the same probation officers and deputy probation officers shall be appointed and serve under those sections as under Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, and if the provisions of that chapter relating to the manner of appointment, removal or expenses of the members of probation committees, probation officers, and deputy probation officers are in conflict with the provisions of Sections 131, 131.2 and 131 6 of this code, the provisions of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code shall govern as to such matters.

Personnel

CHAPTER 492

An act to amend Section 718 of the Civil Code, relating to the leasing by municipalities, or departments or boards thereof, of property owned thereby, or held thereby, or under the management and control thereof.

In effect September 13, 1941

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941]

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

Stats 1935, p 1393

SECTION 1. Section 718 of the Civil Code is hereby amended to read as follows:

Lease or grant of municipal property

718. No lease or grant of any town or city lot, which reserves any rent or service of any kind, and which provides for a leasing or granting period in excess of 99 years, shall be valid. The property owned by, or that held by, or under the management and control of, any municipality, or any department or board thereof, may be leased for a period not to exceed 25 years; excepting that the property of any municipality not acquired for park purposes may, for the purpose of producing, or effecting the production of minerals, oil, gas or other hydrocarbon substances, be leased for a period not to exceed 35 years; and excepting that any tidelands or submerged lands, granted to any city by the State of California, may be leased for a period not to exceed 50 years unless the grant from the State of the use thereof provides specifically the term for which said lands may be leased; and excepting that tidelands and submerged lands owned or controlled by any city, together with the wharves, docks, piers and other structures or improvements thereon, and so much of the uplands abutting thereon as, in the judgment of the city council, or other governing body, of said city, may be necessary for the proper development and use of its water front and harbor facilities, may be leased for a period not to exceed 50 years. Said tidelands, submerged lands and uplands may be so leased only for industrial uses, the improvement and development of any harbor, or harbors, of said city, the construction and maintenance of wharves, docks, piers or bulkhead piers, or any other public use or purpose consistent with the requirements of commerce or navigation at, or in, any such harbor or harbors.

CHAPTER 493

An act to provide for the alteration of the existing boundary lines between counties, for the transfer of territory from one county to another county and for the adjustment and fulfillment of the rights and obligations arising between such counties.

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. The boundary lines now existing between the several counties of the State may be changed, altered and re-formed in the manner set forth in this act. Change in county boundaries

SEC. 2. No existing boundary line or lines between the counties of the State of California shall be changed, altered or re-formed so as to cause the same to pass within five miles of the county seat of any county affected by such proposed change in said boundary line or lines. In no case shall any boundary line or lines be so changed, altered, or re-formed that the same shall be moved to a distance in excess of five miles from its original location from which it is proposed to move the same. Nor shall any county boundary line be altered which shall reduce by more than 5 per cent the area of the county from which territory is taken. Nor shall any county boundary be altered which shall reduce the population of the county affected by more than 3 per cent. Limitations on change

SEC. 3. Whenever it is desired to alter, change or re-form the boundary line or lines of two counties, by changing and moving same and by the transfer of a portion or portions of the territory from one county to another county a petition shall be prepared, presented and filed with the board of supervisors of the county from which territory is proposed to be taken and transferred, and also with the board of supervisors of the county to which territory is proposed to be added and transferred. Petition

SEC. 4. The petition which is filed with the board of supervisors from which territory is proposed to be transferred must be signed by at least 25 qualified electors of that county and the petition which is filed with the board of supervisors of the county to which territory is added and transferred as a result of the changing, altering or re-forming of the existing boundary line or lines must also be signed by at least 25 qualified electors of that county. The signer of each petition must sign his name in the same manner as signed on the great register of voters, and must give his address, showing city, and street number, if any. If signer lives outside of a city he must give his address in such manner as to show the location of his residence. Signatures

SEC. 5. Each of the foregoing petitions must have attached thereto a statement in writing consenting to the proposed change in boundary line or lines signed by at least 50 per Consent of landowners

cent of all the landowners owning land within the territory which will be transferred and which will be affected by the proposed change, alteration and re-forming of any such boundary line or lines. The same person may sign both the petition and the statement; provided, he is qualified so to do in accordance with the terms and provisions hereof.

Circulators of petition

SEC. 6. The person or persons circulating the foregoing petitions may be a qualified elector of either county which will be affected by the proposed change, alteration or re-forming of the county boundary line or lines and the same person who circulates the petitions or petition must circulate the written statement amongst the landowners at the same time.

Circulation in sections

SEC. 7. All signatures need not be affixed to one paper but may be signed to several petitions, but each must be identical in form and when so signed the several petitions may be fastened together and shall be treated and presented as one petition.

Contents

SEC. 8. The petition or petitions shall contain in substance the following information and facts:

A particular description of the proposed new boundary line or lines as same will appear or exist if and when the proposed existing boundary line or lines is changed, altered and re-formed as proposed

A statement that the proposed new boundary line or lines will not pass within five miles of the county seat of any county affected and that the distance which the proposed new boundary line or lines is located from the existing boundary line or lines will not exceed five miles.

A statement of the area in square miles of the territory which will be affected by the proposed change in boundary line or lines and which territory will be transferred as a result of the proposed change, alteration and re-formation of the existing boundary line or lines, and that the area does not exceed more than 5 per cent of the county from which it is taken.

A statement that the proposed change shall not reduce the population of the county affected by more than 3 per cent

A statement that the petition is accompanied by a written consent signed by not less than 50 per cent of all the landowners owning land within the territory which will be affected by the proposed change in boundary line or lines and which territory will be transferred to the county other than the one where said territory was originally located.

Map of boundary change

SEC. 9. There must be attached to the petition a map showing the proposed new boundary line or lines, and showing the location of the existing boundary line or lines and upon which map shall be clearly indicated the territory which will be affected by the proposed change and which will be transferred as a result of the proposed change in boundary line or lines.

Affidavit of circulator

SEC 10. There shall be attached to and filed with each petition the affidavit of the person who circulated each petition showing that he has read the petition and knows the contents

thereof and believes it to be true; that the petition is signed by at least twenty-five (25) qualified electors within the county in which the petition was circulated and filed; that he saw each person sign his signature to said petition; that each signature is genuine and that each signer is a qualified elector of the county in which the said petition was circulated and filed at the date he signed same.

Same

SEC. 11. There must also be affixed to each written statement of landowners of the territory to be affected by the proposed change in boundary line or lines, an affidavit that the person who circulated same saw each person affix his signature thereto and that same was signed in his presence; that he believes said statement to be true and that to the best of his knowledge, information and belief each signer whose signature appears upon said written statement is a landowner within the territory which will be affected by the proposed change in boundary line or lines and which territory will be transferred to another county in case the proposed change is made in said boundary line or lines.

Petitions as evidence

SEC. 12. Petitions so verified, and the verification thereof shall be accepted in all proceedings provided for in this act, as prima facie evidence of the truth of the facts and matters therein set forth.

Date for hearing

SEC. 13. Upon the filing of the petition or petitions, and affidavits with the clerk of each of the boards of supervisors the boards of supervisors shall forthwith fix a date to hear the proof of petitioners, and of any opponents thereto, which date must not be less than 20 or more than 40 days subsequent to the filing of the petition with the clerks of the respective boards of supervisors

Notice

Each of the boards of supervisors shall also, at the same time, designate a newspaper of general circulation published within the county or if there be no such newspaper then notices must be posted at three places within the county to be designated by the board of supervisors, publication shall be at least once a week for two weeks next preceding the date fixed for the hearing of the petitions as specified in the notice, the posting shall be for a like period of time.

Hearing

SEC. 14. At the time fixed for hearing the board of supervisors of each county wherein the petition has been filed, shall proceed to hear the petitioners and opponents, and may adjourn the hearing from time to time not exceeding 14 days in all, and shall receive the proofs offered to establish or controvert the facts set forth in the petitions, and on final hearing of the petition or petitions the boards in each of the counties wherein petitions have been filed shall, by a resolution entered on its minutes, determine the following:

Facts to be determined

First: The proposed new boundary or boundaries as set forth and shown on the map attached to the petition on file with the board of supervisors.

Second: Whether the proposed new boundary line or lines passes within five (5) miles of any county seat of the counties

affected, and whether or not the proposed new boundary line or lines have been moved a greater distance than five (5) miles from the original location of the boundary line or lines as it existed before the petitions for change of boundary line was filed, and whether the territory proposed to be transferred as a result of the proposed change, alteration and re-formation of the existing boundary line exceeds 5 per cent of the county from which it is taken.

Third: That all of the signers of the petition filed with the board of supervisors are qualified electors within the county wherein the petition was circulated and filed, and also whether or not signers on the written statement attached to and filed with the petition are landowners within the territory affected by the proposed change and alteration of the boundary line or lines between the counties involved in the petition.

Fourth: The population of the territory affected by the proposed change of boundary line or lines and ascertain whether or not the change will reduce the population of the county affected by more than 3 per cent.

Findings

SEC. 15. If each of the board of supervisors determine that the proposed alteration of boundary lines by the proposed transfer of territory will not reduce the population of the county affected by more than 3 per cent and that the area proposed to be transferred as a result of the proposed change, alteration and re-formation of the existing boundary line does not exceed 5 per cent of the county from which it is taken and that no line of the territory proposed to be transferred passes within five miles of the county seat of any county affected, and that the petition contains the genuine signatures of at least 25 of the qualified electors residing within the county to which the proposed transfer is to be made, and that the petitions contain the genuine signatures of at least 25 of the qualified electors residing within the county from which the territory is proposed to be transferred, and the written consent of at least 50 per cent of all the landowners owning land within the territory which will be transferred, then the board of supervisors of the county from which territory is proposed to be transferred and the board of supervisors of the county to which said transfer of territory is proposed to be made may grant the prayer of each of the petitions so filed with them. If each of the board of supervisors grant the prayer of the petition, the proposed transfer shall be made in the manner hereinafter set forth; but if either of the boards of supervisors shall refuse to grant the prayer of the petition, no transfer shall be made.

Granting prayer of petition

Resolution declaring grant of petition

SEC. 16. If the prayer of the petition shall be granted by each of the boards of supervisors with which the petitions were filed, each of the boards of supervisors shall, by a resolution entered upon its minutes so declare.

When transfer deemed made

SEC. 17. After the expiration of 30 days from the passage of the resolutions each board of supervisors shall forthwith

cause a copy of its resolution duly certified, to be filed in the office of the Secretary of State and from and after the date of filing of the later of the resolutions the territory shall be deemed fully transferred.

Apportionment of indebtedness

SEC. 18. Upon the completion of the transfer of territory, the board of supervisors of the county from which the territory is transferred shall ascertain the indebtedness of the county from which territory was taken, as the same existed at the time the transfer became effective, and also the total value of all property at that time belonging to the county. It shall also ascertain the assessed value of all property in the county, according to the last completed assessment, and also the assessed value, under the same assessment, of all property within the territory transferred. It shall then find the difference between the amount of the indebtedness and the value of the property belonging to the county at the time the transfer became effective, and if such indebtedness exceeds the value of the property belonging to the county, the county to which the territory was transferred shall pay to the county from which the territory was transferred a due proportion thereof, to be determined as follows: As the assessed value of the property in the county is to the assessed value of the property in the territory transferred, so is the amount of excess to be paid by the county to which the territory is transferred.

Certification of indebtedness

SEC. 19. The board of supervisors of the county from which the territory is transferred shall certify forthwith to the board of supervisors of the county to which the territory is transferred the amount constituting the due proportion of the excess.

Payment

Payment shall be made in not more than three equal annual payments from a fund raised by a tax levied upon the county to which the property was transferred.

Mutual transfers

SEC. 20. In the event that alterations of boundaries shall result in mutual transfers of territory from one county to another, only the difference between the amounts due shall be paid.

Filing statement of boundary change for tax purposes

SEC. 21. Whenever county boundaries are altered pursuant to the provisions hereof it shall be the duty of the boards of supervisors of the counties whose boundaries are altered to file or cause to be filed before the first of February with the State Board of Equalization and with the assessors of such counties a statement setting forth the legal description of the boundaries as the same have been altered, together with a map or plat indicating such boundaries. The alteration of boundaries shall not be effective for purposes of assessment or taxation unless the statement, together with a map or plat herein required, is filed with the county assessors and with the State Board of Equalization on or before the first of February of the year in which the assessments or taxes are to be levied.

CHAPTER 494

An act to amend Section 596 of the Penal Code, relating to the use of poisons.

In effect September 13, 1941 [Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats. 1931, p. 1503 SECTION 1. Section 596 of the Penal Code is hereby amended to read as follows:

Poisoning animals 596. Every person who, without the consent of the owner, wilfully administers poison to any animal, the property of another, or exposes any poisonous substance, with the intent that the same shall be taken or swallowed by any such animal, is guilty of a misdemeanor.

However, the provisions of this section shall not apply in the case of a person who exposes poisonous substances upon premises or property owned or controlled by him for the purpose of controlling or destroying predatory animals or live-stock-killing dogs and if, prior to or during the placing out of such poisonous substances, he shall have posted upon the property conspicuous signs located at intervals of distance not greater than one-third of a mile apart, and in any case not less than three such signs having words with letters at least one inch high reading "Warning—Poisoned bait placed out on these premises," which signs shall be kept in place until the poisonous substances have been removed. Whenever such signs have been conspicuously located upon the property or premises owned or controlled by him as hereinabove provided, such person shall not be charged with any civil liability to another party in the event that any domestic animal belonging to such party becomes injured or killed by trespassing or partaking of the poisonous substance or substances so placed.

CHAPTER 495

Stats. 1937, p. 1005, amended *An act to add Section 5078 to the Welfare and Institutions Code, relating to the restoration to competency of persons committed to the care and custody of the psychopathic probation officer.*

In effect September 13, 1941 [Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

New section SECTION 1. Section 5078 is hereby added to the Welfare and Institutions Code, to read as follows:

Adjudication of competency 5078. Any person committed to the care and custody of the psychopathic probation officer under the provisions of

Section 5076, and for whom no guardian has been appointed under the provisions of the Probate Code, or a relative or a friend in his behalf, may make application, by petition duly verified, to a judge of the superior court of the county where such commitment was ordered, for an order adjudging that such person is competent. The judge shall set the application for hearing and notice of the hearing of the application shall be given, in the manner directed by the court, to the psychopathic parole officer, to the person committed if he is not the applicant, and to such relative or relatives of such person residing in the county as the court directs, and those to whom notice is given shall be given an opportunity to appear and be heard on the hearing of the application.

Hearing

The hearing shall be conducted in the same manner as civil cases, and on demand by the petitioner shall be tried by a jury in the same manner as civil cases. If on the hearing the decision of the court or the verdict of the jury is that the person is competent, an appeal may be taken as in civil cases. If the court decides or the jury renders a verdict declaring the person is competent, the court shall make an order declaring the person to be competent and discharging his commitment. If three-fourths of the jury fail to unite in a verdict, or the court or the jury decides that the person is not then competent, the proceeding shall be dismissed and no new application to have the person declared competent shall be made for six months thereafter.

Order

CHAPTER 496

An act to add Section 4024 to the Penal Code, relating to discharge of prisoners from the county jail.

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 4024 is hereby added to the Penal Code, to read as follows:

New section

4024. The sheriff may discharge any prisoner from the county jail at such time on the last day such prisoner may be confined as the sheriff shall consider to be in the best interests of the prisoner.

Discharge of prisoners

CHAPTER 497

An act to amend Sections 925 and 1008 of the Penal Code, relating to accusations against district, county, township or municipal officers.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1933, p 2021

SECTION 1. Section 925 of the Penal Code is hereby amended to read as follows:

Grand jury Who may be present

925. The grand jury may, at all times, ask the advice of the court, or the judge thereof, or of the district attorney; but unless such advice is asked, the judge of the court must not be present during the sessions of the grand jury. The district attorney of the county may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable by them, and may interrogate witnesses before them whenever he thinks it necessary; except that when a charge against or involving the district attorney, or assistant district attorney, or deputy district attorney, or any one employed by or connected with the office of the district attorney, is being investigated by the grand jury, such district attorney, or assistant district attorney, or deputy district attorney, or either or any of them, shall not be allowed to be present before such grand jury when such charge is being investigated, in an official capacity but only as a witness, and he shall only be present while a witness and after his appearance as such witness must leave the place where the said grand jury is holding its session. The Attorney General is empowered when requested so to do by the grand jury of any county or city and county, to employ special counsel and special investigators, whose duty it shall be to investigate and present the evidence in such investigation to the said grand jury of such county or city and county.

The services of such special counsel and special investigators shall be a county charge of such county or city and county.

Reporter

The grand jury, whenever criminal causes are being investigated before them, must appoint a competent stenographic reporter to be sworn and to report the testimony that may be given in such causes in shorthand, and to transcribe the same in all cases where an indictment is returned or accusation presented. If an indictment has been found or accusation presented against a defendant, the said reporter shall, within 10 days thereafter, unless the court for good cause shall make an order extending the time, which time shall not be extended more than 20 days, certify and file with the county clerk an original transcription of his shorthand notes and as many copies as there are defendants (other than fictitious defendants), regardless of the number of charges or

fictitious defendants included in the same investigation. The county clerk shall deliver the original of said transcript so filed with him to the district attorney immediately upon his receipt thereof and shall deliver a copy of said transcript upon each such defendant or his attorney; provided, that if the copy of the testimony shall not be served as herein provided the court shall on motion of the defendant continue the trial to such time as may be necessary to secure to the defendant receipt of a copy of such testimony 10 days before such trial. The county clerk shall not exhibit said transcript to any person other than the district attorney nor divulge any of the contents thereof until after the defendant is in custody. If several criminal charges be investigated against a defendant on one investigation and thereafter separate indictments are returned or accusations presented upon said several charges, the delivery to said defendant or his attorney of one copy of the transcript of said investigation shall be a compliance with this section as to all of said indictments or accusations.

Compensation of reporter

The reporter shall draw no salary or fees from the county for preparing said transcript in any case until all such transcripts of testimony in said case so taken by him are written up and delivered. Before making the order for payment to the reporter as hereinafter set forth, the judge of the superior court shall require the reporter to show by affidavit or otherwise that he has written up and delivered all testimony taken by him, in accordance with this section. The services of such stenographic reporter shall constitute a charge against the county, and such stenographic reporter shall be compensated for reporting and transcribing at the same rates as prescribed in Section 274, Code of Civil Procedure, to be paid out of the county treasury on a warrant of the county auditor when ordered by the judge of the superior court. No person other than those specified in this and the succeeding section is permitted to be present during the session of the grand jury except the members and witnesses actually under examination, and no person must be permitted to be present during the expression of their opinions, or giving their votes upon any matter before them. The grand jury or district attorney may require by subpena the attendance of any person before the grand jury as interpreter, and such interpreter may, while his services are necessary, be present at the examination of witnesses before the grand jury. The compensation for services of such interpreter constitutes a charge against the county, and shall be fixed by the grand jury, in an amount not to exceed ten dollars ($10) a day and paid out of the county treasury on a warrant of the county auditor upon an order of the judge of the superior court.

Stats 1927, p 1040

SEC. 2. Section 1008 of the Penal Code is hereby amended to read as follows:

Amendment of indictment, accusation or information

1008. An indictment, accusation, or information may be amended by the district attorney without leave of court, at any time before the defendant pleads. The court may order

its amendment for any defect or insufficiency, at any stage of the proceedings; and the trial shall continue as if it had been originally filed as amended, unless the substantial rights of the defendant would be prejudiced thereby, in which event a reasonable continuance, not longer than the ends of justice require, may be granted. If the defect or insufficiency be one that can not be remedied by amendment, the proceeding shall be dismissed, but the defendant shall not be discharged if the court shall direct the filing of a new information or the submission of the case to the same or a new grand jury. An indictment or accusation can not be amended so as to change the offense charged, nor an information so as to charge an offense not shown by the evidence taken at the preliminary examination.

CHAPTER 498

An act to add Section 1.92 to the School Code, relating to school buses.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

New section

SECTION 1. Section 1.92 is hereby added to the School Code, to read as follows:

Excess loading of school buses

1.92. Any officer, agent or employee of a school district, or any other person, knowingly operating, or permitting or directing the operation of, a school bus when it is loaded with school children in excess of the limits of its seating capacity shall be guilty of a misdemeanor.

CHAPTER 499

An act to amend Sections 842 and 844 of the Civil Code, relating to joint use of conduits, wells and pumping plants.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1905, p 600

SECTION 1. Section 842 of the Civil Code is hereby amended to read as follows:

Obligations of owners of ditch, flume, well, etc

842. When two or more persons are associated by agreement in the use of a ditch, flume, pipe line, or other conduit, or well, or pumping plant, for the conveyance or obtaining

of water, or are using such ditch, flume, pipe line, conduit, well or pumping plant, or any part thereof, for any lawful purpose, to the construction of which they or their grantors have contributed, he is liable, in the absence of any agreement to the contrary, to the others for the reasonable expenses of maintaining and repairing the same proportionately to the use actually made of the water.

Liability of one to the other

SEC. 2. Section 844 of the Civil Code is hereby amended to read as follows:

Stats. 1935, p. 1069

844. When two or more persons are using any ditch, flume, pipe line, conduit, well or pumping plant for the conveyance of water or any part thereof for the irrigation of land or for any other lawful purpose, to the construction of which they or their grantors have contributed, and which is not under the control or management of any public agency or authority, any one or more of them may bring an action in the superior court of the county in which said ditch, flume, pipe line, conduit, well or pumping plant, or some part thereof, is situated, for a declaration of the respective rights of the users of water in such ditch, flume, pipe line, conduit, well or pumping plant; including a determination of the manner in which such ditch, flume, pipe line, conduit, well or pumping plant shall be administered with respect to repair, upkeep, improvement and otherwise. The decree or judgment in said action shall include a determination of the proportionate amount which all users shall contribute to the maintenance, repair, improvement and otherwise of said ditch, flume, pipe line, conduit, well or pumping plant. The court shall determine the manner in which all improvements, repairs, maintenance and otherwise shall be authorized, and thereafter no user of such ditch, flume, pipe line, conduit, well or pumping plant may make claim for any funds expended for improvements, repairs, maintenance and otherwise except as determined by the court in said action. No authorization for such claim shall be valid except as made under the authority set forth by the decree or judgment of the court.

Declaratory action respecting water conduit, well, etc., rights

The complaint must contain the names of all users, if known, or a statement that they are unknown, who must be styled defendants.

The summons must contain the names of the parties, and an order to the defendants to appear and show cause why the determination of rights as prayed for in the complaint should not be granted. In all other particulars it must be in the form of a summons in civil actions, and must be served in like manner.

CHAPTER 500

An act to amend School Code Sections 3.122 and 3.172, relating to the admission of pupils to public schools.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1933, p 2285

SECTION 1. School Code Section 3.122 is hereby amended to read as follows:

Age for admission to kindergarten

3.122. A child shall be admitted to a kindergarten in any term during the first school month of such term, if he is of the age herein prescribed. For good cause the governing board of a school district may permit a child of proper age to be admitted to such a class after the first school month of the school term.

If there is but one term during the school year, such child must be four and one-half years of age on or before September 1st, of the then current school year. If there are two terms maintained during the school year such child must be four years and nine months of age on or before September 1st, of the then current school year, before he may be admitted in the first term of the school year, or four years and nine months of age on or before February 1st, of the then current school year, before he may be admitted in the second term of any school year.

Stats 1935, p 849

SEC. 2. School Code Section 3.172 is hereby amended to read as follows:

Age for admission to elementary school

3.172. A child shall be admitted to the first grade of an elementary school during the first month of any school term if he is of the age herein prescribed. For good cause, the governing board of a school district may permit a child of proper age to be admitted to such a class after the first school month of the school term.

If there be but one term during the school year, such child must be five and one-half years of age on or before September 1st, of the then current school year. If there are two terms maintained during the school year such child must be five years and nine months of age on or before September 1st, of the then current school year, before he may be admitted in the first term of the school year, or five years and nine months of age on or before February 1st, of the then current school year, before he may be admitted in the second term of any school year.

CHAPTER 501

An act to add Section 1.51 to the School Code, relating to the maintenance of activities by student organizations on property of a school district.

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941] In effect September 13, 1941

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

SECTION 1. Section 1.51 is hereby added to the School Code, to read as follows: New section

1.51. The governing board of any school district may authorize any organization composed entirely of pupils attending the schools of the district to maintain such activities as may be approved by the governing board of the district. Student organizations

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CHAPTER 502

An act to add Section 5567 to the Elections Code, relating to the conduct of elections. Stats 1939, p 49, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941] In effect September 13, 1941

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

SECTION 1. Section 5567 is hereby added to the Elections Code, to read as follows: New section

5567. All proceedings at the polls shall be conducted in the English language. No election official while on duty shall speak other than in the English language. Use of English language

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CHAPTER 503

An act to amend Section 24204 of the Health and Safety Code, relating to air pressure tanks. Stats 1939, p 482, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941] In effect September 13, 1941

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

SECTION 1. Section 24204 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 961

24204. The following air pressure tanks are not subject to this chapter: Exemptions

(a) Air pressure tanks under the jurisdiction or inspection of the United States Government. Air pressure tanks

(b) Air pressure tanks used in household domestic service.

(c) Air pressure tanks of one and one-half cubic feet or less in capacity and installed as part of a motor vehicle or its trucking or accessory equipment and not subject to a maximum pressure of more than 150 pounds per square inch.

(d) Air pressure tanks installed on units of transportation, including trucks, buses and streetcars, which units of transportation are operated by any person, firm or corporation subject to the jurisdiction of the Interstate Commerce Commission or the California Railroad Commission.

CHAPTER 504

Stats 1935, p 93, amended

An act to amend Sections 623.5, 625 and 627 of the Vehicle Code, relating to lights, other equipment, and loading of vehicles.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1935, p 204

SECTION 1. Section 623.5 of the Vehicle Code is hereby amended to read as follows:

Exemptions of highway equipment

623.5. Exemptions of Highway Equipment. None of the provisions of Chapters 1, 2 and 3 of this division, except those of Section 624, requiring or restricting the types or use of lights, shall apply to highway construction or maintenance equipment, nor to motor trucks equipped with snow removal or sanding devices, but shall apply to motor trucks and automobiles used independently of such equipment.

Stats 1939, p 2316

SEC. 2. Section 625 of the Vehicle Code is hereby amended to read as follows:

Clearance lamps

625. Side Clearance Lamps on Wide Vehicles. (a) Every vehicle having a body or load width in excess of 80 inches, at the times specified in Section 618 hereof, shall be equipped with at least four clearance lamps, one on each side near the front displaying a green light visible from a distance of 500 feet to the front and to the side of the vehicle on which it is located, and one on each side near the rear displaying a green light visible from a distance of 500 feet to the rear and to the side of the vehicle on which it is located. The provisions of this section shall not apply to passenger common carrier vehicles.

(b) Every trailer coach having a body width of less than 80 inches shall be equipped with two clearance lamps, one on each side near the rear, each of which shall display a green light visible for a distance of 500 feet to the rear and to the side of the vehicle on which it is located.

(c) The light source of clearance lamps shall not be less than three nor more than six standard candlepower.

(d) On and after January 1, 1940, the color of the light emitted from clearance lamps on new vehicles sold or operated in this State and required to be equipped with clearance lamps as provided in this section shall be amber. Vehicles sold or operated prior to January 1, 1940, may be equipped with and display amber clearance lamps. The clearance lamps on combinations of vehicles shall be uniform in color.

SEC. 3. Section 627 of the Vehicle Code is hereby amended to read as follows: Stats 1935, p 205

627 Lamps on Parked Vehicles. (a) Within a business or residence district whenever there is sufficient light within the lateral boundaries of a highway to reveal a vehicle at a distance of 200 feet no lights need be displayed upon a vehicle parked or standing upon such highway with a right-hand wheel within 18 inches of the right-hand curb. Parking lights

(b) Under conditions not hereinbefore covered the headlamps upon a motor vehicle need not be lighted when said motor vehicle is parked or standing with right-hand wheels within 18 inches of the right-hand curb or edge of the roadway on any highway.

(c) Outside of a business or residence district and during the times mentioned in Section 618 hereof a rear light meeting the requirements of Section 621 hereof must be displayed upon any vehicle parked or standing upon a highway.

CHAPTER 505

An act to amend Section 155 of the State Civil Service Act, relating to reinstatements. Stats 1937, p 2087 amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. Section 155 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2510

Sec. 155. The board on the request of an appointing power may approve the reinstatement within three years of any person having probationary or permanent status who is separated from his position through resignation without fault or delinquency on his part, if within that time there is need for his services in a position in the class from which the employee was separated or in a position in another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range. The board on the request of an appointing power may also approve the reinstatement of any Reinstatement after resignation

person having probationary or permanent status who is separated from his position through resignation without fault or delinquency on his part, who has applied therefor within three years subsequent to the adoption of Article XXIV of the Constitution of this State, if such person makes reapplication therefor and if at the time of reinstatement there is need for his services in a position in the class from which the employee was separated or in a position in another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range.

CHAPTER 506

Stats 1925, p 648, amended

An act to amend Section 16 of "An act authorizing the establishment of municipal courts, prescribing their constitution, regulation, government, procedure and jurisdiction, and providing for the election and appointment of the judges, clerks, and other attaches of such courts, their terms of office, qualifications and compensation and for the selection of jurors therein," approved May 23, 1925, relating to the terms of office and election of judges of such courts.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1925, p 654

SECTION 1. Section 16 of the act cited in the title hereof is hereby amended to read as follows:

First election

Sec. 16. The first election of judges of the municipal court shall be held at the time of the first general municipal election following the expiration of four months after the establishment of the court. The judges elected at such election shall take office at the same time as the municipal officers elected at such election.

Designation of terms

In cities having municipal elections biennially, the judges shall immediately after the first election divide their number by lot so that not less than one-third thereof (but as near one-third as possible) shall have a six-year term, a like number shall have a four-year term and the remainder a two-year term. In cities holding municipal elections triennially, the judges shall immediately after their first election divide their number so that not less than one-half, but as near one-half as possible, shall have a six-year term, and the remainder shall have a three-year term.

Separately designated offices

The laws respecting the nomination and election of municipal officers of the city for which any municipal court has been established shall be applicable to the judges of such court; provided, however, that each judge of the municipal court shall be deemed to hold a separate office, for all purposes

of such election, and at any election at which more than one judge of a municipal court is to be elected, the several offices shall be distinguished one from the other by appropriate designations, and no person may be a candidate for more than one such office at any election.

If the time for the election of judges or a judge should be at a time when by reason of a change made by the city of its time of holding general municipal elections, there is no general municipal election to be held, then the term of such judges or judge to be filled by election in such city, shall continue until their successors have been elected and qualified, said election to be held at the next general municipal election of said city.

CHAPTER 507

An act to repeal Sections 3.331 to 3.339, both inclusive, of, and to add Sections 3.331 to 3.339a, both inclusive, to the School Code, and to add Chapter 8 to Part 1 of Division 3 of said code, all relating to the interstate attendance of public school pupils.

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. Sections 3.331 to 3.339, both inclusive, of the School Code are hereby repealed. Repeals

SEC. 2. Section 3.331 is hereby added to the School Code, to read as follows: New section

3.331. The county superintendent of schools of any county contiguous to an adjoining State may grant permission to pupils residing in said county to attend high school in a high school district of said adjoining State and may provide for the transportation of such pupils to said high school. Out of State high school attendance

SEC. 3. Section 3.332 is hereby added to the School Code, to read as follows: New section

3.332. The county superintendent of schools shall have power and it shall be his duty to pay for the transportation and tuition of high school pupils residing in his county and attending high school in an adjoining State from the county high school tuition fund of his county in the manner provided in this article. The payment for transportation shall not exceed twenty dollars ($20) per month per pupil transported. Transportation and tuition expense

New section SEC. 4. Section 3.333 is hereby added to the School Code, to read as follows:

Payment of transportation costs 3.333. Any costs incurred by the county superintendent of schools for the transportation of high school pupils to a high school in an adjoining State, not to exceed twenty dollars ($20) per month per pupil transported, shall be paid by him by requisition drawn against the county high school tuition fund.

New section SEC. 5. Section 3.334 is hereby added to the School Code, to read as follows:

Certification of A D A and expenses by outside schools 3.334. The superintendent of schools of any high school district, or the principal of any high school, in an adjoining State attended by pupils residing in an adjoining county in California shall certify to the county superintendent of schools of said county not later than July 2d of each year the average daily attendance of pupils from said county attending said high school and the current expenditure, including transportation, incurred for the education of said high school pupils. Such certification shall be made on forms furnished by the Superintendent of Public Instruction.

New section SEC. 6. Section 3 335 is hereby added to the School Code, to read as follows:

Verification and certification by county superintendent 3 335. The county superintendent of schools shall verify the certificates of attendance and cost of education of pupils attending high schools in adjoining States and shall certify to the county auditor and the board of supervisors the amount of money required to be levied as a county high school tuition tax, but such amount shall not include any costs for the transportation of such pupils in excess of twenty dollars ($20) per month per pupil transported. Said amount shall be determined by subtracting from the total cost of the tuition and transportation allowed under this article, the amount to be apportioned by the Superintendent of Public Instruction to the county high school tuition fund during the school year.

New section SEC. 7. Section 3.336 is hereby added to the School Code, to read as follows:

County high school tuition tax 3.336. The board of supervisors shall levy a county high school tuition tax upon the taxable property of the county sufficient to produce the amount required by this article.

New section SEC. 8. Section 3.337 is hereby added to the School Code, to read as follows:

Report of tax receipts 3.337. The county auditor shall report to the county superintendent of schools all amounts received from county high school tuition taxes.

SEC. 9. Section 3.338 is hereby added to the School Code, to read as follows: New section

3.338. The county superintendent of schools shall pay all costs of transportation and all verified claims for tuition of high school pupils attending high school in adjoining States allowed under the provisions of this article, by requisition drawn against the county high school tuition fund. Payment by requisition

SEC. 10. Section 3.339 is hereby added to the School Code, to read as follows: New section

3.339. All requisitions drawn by the county superintendent of schools under the provisions of this article shall be approved by the county auditor and paid by the county treasurer. Requisitions

SEC. 11. Section 3.339a is hereby added to the School Code, to read as follows: New section

3.339a. The county superintendent of schools may with the approval of the county auditor transfer any unnecessary surplus in the county high school tuition fund to the unapportioned county high school fund whenever in his judgment said surplus will not be needed for the payment of high school tuition as provided in this article. Transfer of funds

SEC. 12. Chapter 8 is hereby added to Part 1 of Division 3, of the School Code, to read as follows: New chapter

CHAPTER 8. ADMISSION OF PUPILS

3.105. The governing board of any school district of any type or class may, with the approval of the county superintendent of schools, admit to the schools thereof pupils living in an adjoining State which is contiguous to such school district; provided, that an agreement shall be entered into between such governing board and the governing board or authority of the school district in which such pupils reside providing for the payment by the latter of such tuition as shall be agreed upon. The amount of such tuition per unit of average daily attendance of pupils from such adjoining State shall not exceed the average current expenditure, exclusive of all transportation expenditures, per unit of average daily attendance in the district of attendance, plus the actual expenditure, not to exceed ten dollars ($10) per pupil per month for the transportation of such pupils. Admittance of nonresident pupils

CHAPTER 508

An act to amend Section 4.910 of the School Code, relating to high school courses.

In effect September 13, 1941

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Sch. C., 1929, p. 97

SECTION 1. Section 4.910 of the School Code is hereby amended to read as follows:

Apportionments to elementary school districts

4.910. State apportionments computed on the basis of the average daily attendance of pupils in high school courses maintained by the governing boards of elementary school districts, as provided elsewhere in this code, shall be made to the elementary school districts maintaining such high school courses.

CHAPTER 509

An act to amend Section 403d of the Civil Code, relating to unclaimed and disputed shares and debts.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats. 1933, p. 1413

SECTION 1. Section 403d of the Civil Code is hereby amended to read as follows:

Unclaimed and disputed shares and debts

403d. If the holders of shares be unknown or fail or refuse to accept their distributive shares in cash or property or if their whereabouts can not be ascertained after diligent inquiry, or if the ownership of any shares be in dispute, the corporation shall deposit the distributive shares of such claimants or shareholders with a savings bank or trust company in the county in which the principal office of the corporation is located, at interest if possible, for the benefit of those who lawfully are entitled thereto. Such distributive shares shall be paid over by such bank or trust company to the lawful owners of the said shares, their representatives or assigns, upon satisfactory proof of the title being made.

In case of winding up under court supervision, whether voluntary or involuntary, such distributive shares shall be deposited with the State Treasurer, for the benefit of those who lawfully are entitled thereto. Such distributive shares shall be paid over by said State Treasurer to the lawful owners of said shares, their representatives or assigns, upon satisfactory proof of title being made.

If no claimants have made satisfactory proof of title within three years from the time of such deposit the property so unclaimed shall be distributed pro rata among those others who were shareholders at the time of distribution and their successors. Such unclaimed property may be distributed at any time among the known and existing shareholders upon a suitable bond or security being given to the bank or trust company or to the State Treasurer with which such deposit was made, for the payment of any claimants who appear and establish their claims against the corporation within three years from the time of such deposit. Distribution

If a corporation be in process of being wound up or dissolved and there be any unclaimed deposit or dividend or any debt owned by it to any person whose whereabouts is unknown to the directors or trustees or other persons conducting the winding up, they shall deposit the amount due such person with the State Treasurer or with some bank or trust company in this State accompanied with a statement of the name of the person entitled to such deposit or entitled to such dividend or debt, the time when the deposit was made, the dividend declared, or the debt created, and any information possessed as to the residence of the person entitled to the deposit or dividend or debt. Unclaimed deposits or dividends

The amount of all unclaimed deposits, dividends or debts, so deposited with the State Treasurer or deposited with a bank or trust company shall be deposited at interest if possible for the benefit of those who appear and establish their claim thereto within three years from the time of such deposit after which time any such deposits shall be dealt with in the same manner as deposits of distributive shares of unknown claimants or shareholders as provided in this section. Deposit at interest, etc

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CHAPTER 510

An act to add Section 2877 to the Penal Code, relating to prisons and prisoners.

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2877 is hereby added to the Penal Code, to read as follows: New section

2877. The board may provide for the manufacture of small articles of handiwork by the prisoners out of raw materials purchased by the prisoners with their own funds, which articles may be sold to the public at the State prisons. State-owned property shall not be sold or given to prisoners for use under this section. The board may provide that all or a part of the sale price of the articles be deposited to the account of the prisoner manufacturing the article. Sale of prison made goods

CHAPTER 511

An act to add Article 4, comprising Section 2690, to Chapter 4, Title 1, Part 3 of the Penal Code, relating to prisons and prisoners.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

New article

SECTION 1. Article 4, comprising Section 2690, is hereby added to Chapter 4, Title 1, Part 3 of the Penal Code, to read as follows:

Article 4. Temporary Removal of Prisoners

Temporary removal of prisoners

2690. The Governor may, upon the certification of the prison physician and the request of either the State Board of Prison Directors or the Board of Prison Terms and Paroles, authorize the temporary removal of a prisoner from a State prison in the custody of a prison guard. The prisoner so removed shall be deemed to be in the custody of the State Board of Prison Directors until his return. Any such prisoner so removed shall be returned as soon as the requirements of his case permit.

CHAPTER 512

An act to add Section 3404 to the Penal Code, relating to prisons and prisoners.

In effect September 13, 1941

[Approved by Governor May 29, 1941. Filed with Secretary of State May 30, 1941.]

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

New section

SECTION 1. Section 3404 is hereby added to the Penal Code, to read as follows:

Removal of women prisoners for safekeeping

3404. When there is any reasonable grounds to believe that a prisoner may be forcibly removed from the California Institution for Women, the superintendent shall report the fact to the Governor, who may order the removal of such prisoner to any California State prison for safekeeping, and it is hereby made the duty of the warden of such prison to accept and detain such prisoner for the further execution of her sentence. The Governor may thereafter order the prisoner returned to the California Institution for Women for the further execution of her sentence according to law.

The necessary costs and expenses incurred in carrying out the provisions of this section shall be a proper charge against any fund hereafter appropriated as an emergency fund, or similar appropriation for contingencies, notwithstanding any limitations or restrictions that may be imposed upon the expenditure of any such appropriation.

CHAPTER 513

An act to amend Section 1 of an act entitled "An act to provide for the classification of municipal corporations," approved March 2, 1883, relating to the classification of municipal corporations and the applicability thereof.

Stats. 1883, p. 24, amended

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats. 1921, p. 1654

Section 1. All municipal corporations within the State are hereby classified as follows: Those having a population of more than 500,000 and not exceeding 550,000 shall constitute the first class; those having a population of more than 550,000 shall constitute the first and one-half class; those having a population of more than 100,000 and not exceeding 500,000 shall constitute the second class; those having a population of more than 70,000 and not exceeding 100,000 shall constitute the second and one-fourth class; those having a population of more than 60,000 and not exceeding 70,000 shall constitute the second and three-eighths class; those having a population of more than 55,000 and not exceeding 60,000 shall constitute the second and one-half class; those having a population of more than 35,000 and not exceeding 55,000 shall constitute the second and three-fourths class; those having a population of more than 23,000 and not exceeding 35,000 shall constitute the third class; those having a population of more than 20,000 and not exceeding 23,000 shall constitute the fourth class; those having a population of more than 8,000 and not exceeding 20,000 shall constitute the fifth class; those having a population of not exceeding 8,000 shall constitute the sixth class; provided, nothing herein shall change the classification of existing cities organized under the Municipal Corporation Act.

Classification of municipal corporations

CHAPTER 514

Stats 1935, p 496, amended

An act to amend Section 1679 of the Insurance Code, relating to insurance and insurance agents, brokers, and solicitors, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

Stats 1941, p 440

SECTION 1. Section 1679 of the Insurance Code is hereby amended to read as follows:

Renewal of license

1679. (a) Unless sooner suspended, revoked, or terminated, the license of every insurance agent, broker, or solicitor expires July 1st of each year unless application for renewal is filed as provided in subdivision (b).

(b) Application for renewal of such license may be filed on or before June 3d, upon payment of the renewal fee.

(c) Such license may be renewed upon application filed between June 3d and July 31st upon payment of the renewal fee plus an additional fee equal to the renewal fee.

(d) The commissioner shall mail notice for forfeiture of renewal rights not later than July 20th, to:

(1) The licensee.

(2) The employing agent or broker, if any.

(3) The appointing insurers, if any.

Failure to mail such notice shall not continue the right of renewal.

(e) Such license shall not be renewed after July 31st, but the person may make application for a new license as provided in this code, and shall take and pass the qualifying examination.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall therefore take effect immediately. The following is the statement of the facts constituting such necessity:

Chapter 23 of the Statutes of 1941 requires applications for renewal of licenses to be filed prior to June 1, 1941. Due to Memorial Day holiday, and the proclamation of the Governor proclaiming May 31, 1941, a holiday, it is undecided as to whether the last day to file applications for renewal of licenses is May 29 or June 2, 1941. Due to this uncertainty, and a misunderstanding on the part of many agents, brokers, and solicitors that it was possible to file prior to June 3, 1941, many of such agents, brokers, and solicitors have failed to file their applications for renewal of their licenses, and will be unable to do so until June 2, 1941. It is therefore essential that this bill go into effect immediately in order that the last day for filing applications for the renewal of licenses may be clarified and the imposition of penalties prevented.

CHAPTER 515

An act to amend Section 1861a of the Civil Code, relating to liens.

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1861a of the Civil Code is hereby amended to read as follows: Stats. 1939, p. 1831

Sec. 1861a. Keepers of furnished apartment houses, furnished apartments, furnished cottages, or furnished bungalow courts shall have a lien upon the baggage and other property of value belonging to their tenants or guests, and upon all the right, title and interest of their tenants or guests in and to all property in the possession of such tenants or guests which may be in such furnished apartment house, furnished apartment, furnished cottage, or furnished bungalow court, for the proper charges due from such tenants or guests, for their accommodation, rent, services, meals, and such extras as are furnished at their request, and for all moneys expended for them, at their request, and for the costs of enforcing such lien, with the right to the possession of such baggage and other property of value until such charges are paid, and such moneys are repaid. Unless such charges shall be paid and unless such moneys shall be repaid within 60 days from the time when such charges and moneys, respectively, become due, said keeper of a furnished apartment house, furnished apartment, furnished cottage, or furnished bungalow court, may sell said baggage and property, at public auction to the highest bidder, after giving notice of such sale by publication of a notice containing the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of such sale, once every week for four successive weeks, prior to the date of sale, in a newspaper of general circulation in the county in which said furnished apartment house, furnished apartment, furnished cottage, or furnished bungalow court is situated, and also by mailing, at least 15 days prior to the date of sale, a copy of such notice addressed to such tenant or guest at his post-office address, if known, and if not known, such notice shall be addressed to such tenant or guest at the place where such furnished apartment house, furnished apartment, furnished cottage, or furnished bungalow court is situated; and, after satisfying such lien out of the proceeds of such sale, together with any reasonable costs, that may have been incurred in enforcing said lien, the residue of said proceeds of sale, if any, shall, upon demand made within six months after such sale, be paid by said keeper of a furnished apartment house, furnished apartment, furnished cottage, or furnished bungalow court to such tenant or guest;

Liens of furnished apartment houses, cottages, etc

Sale

Notice

Proceeds of sale

and if not demanded within six months from the date of such sale, said residue, if any, shall be paid into the treasury of the county in which such sale took place; and if the same be not claimed by the owner thereof, or his legal representative, within one year thereafter, it shall be paid into the general fund of the county; and such sale shall be a perpetual bar to any action against said keeper of a furnished apartment house, furnished apartment, furnished cottage, or furnished bungalow court for the recovery of such baggage or property, or of the value thereof, or for any damages, growing out of the failure of such tenant or guest to receive such baggage or property.

Exception This section does not apply to any musical instrument of any kind or description which is used by the owner thereof to earn all or a part of his living.

CHAPTER 516

An act to add Section 1.253 to the School Code, relating to assistant county supervisor of attendance.

In effect September 13, 1941 [Approved by Governor May 30, 1941. Filed with Secretary of State May 30, 1941.]

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

New section SECTION 1. Section 1.253 is hereby added to the School Code, to read as follows:

Assistant county supervisors of attendance 1.253. Whenever a county superintendent of schools shall have appointed a county supervisor of attendance under the provisions of this article, the said county superintendent of schools may thereafter, with the approval of the county board of education, appoint, subject to the provisions of this article, such assistant county supervisors of attendance as may be necessary. Each assistant county supervisor of attendance shall have all the powers and duties conferred by law on a county supervisor of attendance.

CHAPTER 517

An act to amend Section 19 of the "Assessment Bond Refunding Act of 1933," relating to certification of delinquencies to tax collector.

Stats. 1933, p 1915, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 30, 1941] In effect September 13, 1941

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

SECTION 1. Section 19 of the Assessment Bond Refunding Act of 1933 is hereby amended to read as follows: Stats 1933, p 1931

Sec. 19. During the period of four (4) years immediately following the due date of the last installment upon any bond issued by the city treasurer under this act, it shall be the duty of the city treasurer one month prior to the date it is provided by law or by ordinance or charter of the municipality that taxes are due, or, in case taxes are collected by the county for the city, on or before the fourth Monday in September of each year to certify to the city tax collector, or, in case the city taxes are collected by the county, to the county tax collector, a list of the properties within said city upon which any payment either of principal or interest has not been paid when due upon any bond issued by said city treasurer under this act. The tax collector shall cause to be pasted or attached to or stamped or printed upon the tax bill or tax receipt a notice which shall in substance be as follows: Delinquencies

"Notice of Delinquency

There is a street improvement bond chargeable against this property, payment upon which is delinquent, which must be paid to the city treasurer without delay to avoid foreclosure." Form of notice

In case the county collects city taxes, the notice herein provided to be attached to or pasted to the tax bill or tax receipt shall, if the county tax collector so requires, be prepared by the city treasurer and shall be forwarded to the county tax collector on or before the dates herein provided for forwarding said list, and the city treasurer shall, if the county tax collector so requires, stamp or attach said notices to the tax bill or receipt. If the refunding bonds are issued by the county treasurer, the county treasurer during the period of four (4) years immediately following the due date of the last installment upon any such bond, shall certify the list herein required to the proper tax collector and the notice shall show that payment is to be made to the county treasurer. In case the assessment district is partly within one or more cities and partly within unincorporated territory of the county or partly within two or more cities, the city or the county treasurer, whichever issued the refunding bonds, shall certify, during the four (4) year period hereinbefore mentioned, such delinquent list to the county tax collector who shall cause the said notice to be given.

CHAPTER 518

An act to amend School Code Sections 2.870, 2.871, 2.879 and 2.879½, all relating to the election of members of governing boards of school districts.

In effect September 13, 1941

[Approved by Governor May 31, 1941. Filed with Secretary of State May 31, 1941.]

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

Stats 1935, p 913

SECTION 1. School Code Section 2.870 is hereby amended to read as follows:

Election for school trustees

2.870. An election for school trustees must be held in each school district on the third Friday of May of each year, at the district school house, if there is one, and if there is none, at the place to be designated by the board of trustees.

Stats 1935, p 913

SEC. 2. School Code Section 2.871 is hereby amended to read as follows:

Election of new school district trustees

2.871. In a new school district the school trustees shall be elected on the third Friday of May subsequent to the formation of the district, to hold office for one, two and three years, respectively, from the first day of July next succeeding their election.

At the first meeting of the governing board of a newly formed district elected under the provisions of this part, the members of the board shall determine, by lot, the term for which each member shall hold office subject to the provisions of this code prescribing the length of such terms of office and the number of members of the governing board of a school district who may hold office for the same term.

Stats 1939, p 1005

SEC. 3. School Code Section 2.879 is hereby amended to read as follows:

Declaration of candidacy for office of school trustee

2.879. Any person desiring to become a candidate for office of school trustee shall 30 days prior to the date of the election, file a written statement with the county superintendent of schools substantially as follows:

"I, _____, do hereby declare myself as a candidate for the office of school trustee of_____district, of the county of_____, and request my name be placed on the official ballots of said district, for the election to be held May_____, 19___.

_____

Address_____."

Stats 1939, p 1704

SEC. 4. School Code Section 2.879½ is hereby amended to read as follows:

Signatures, etc

2.879½. The declaration referred to in Section 2.879¼ shall be signed by not less than three nor more than 10 persons each

of whom is a parent of a pupil attending a school of the district and a voter in the district, give their residence and occupation, shall contain an acceptance of nomination signed by the candidate, and shall be filed not less than 30 days prior to the election.

CHAPTER 519

An act to amend Section 1145 of the Agricultural Code, relating to imported egg products.

Stats 1933, p 60, amended

[Approved by Governor May 30, 1941 Filed with Secretary of State May 31, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1145 of the Agricultural Code is hereby amended to read as follows:

Stats 1933, p. 249

1145. The container in which egg products imported into the State from without the United States are sold in the State shall have the words "frozen eggs (or liquid eggs, dried eggs, or egg products, as the case may be) imported from without the United States" displayed on said case or container in letters not less than two inches high and said container shall bear the name of the manufacturer by whom the product was prepared or manufactured and the country in which the product was prepared or manufactured All retailers of egg products imported into the State from without the United States shall sell the same from the container in which the retailers received such products and shall inform each purchaser of the origin of said eggs or egg products. All restaurants, hotels, cafes, bakeries and confectioneries using or serving egg products imported from without the United States must place a sign in letters not less than four inches high in some conspicuous place in their places of business so that the customer entering their places of business can see it, which sign shall read "frozen eggs (or dried eggs, or liquid eggs, or egg products, as the case may be) imported from without the United States used here."

Labels on imported eggs and products thereof

All food products including bakery products and confectionery products containing egg products imported from without the United States shall have stamped on the outside of each individual package or container thereof in plain view and in conspicuous letters not less than one-quarter inch in height the words "Made with imported egg products."

Every person selling food products, in the manufacture of which are used egg products imported from without the United States, where such food products are not packed in individual packages or containers, and marked as provided herein, shall display, in a conspicuous place in the place of business where such food products are sold so that a customer

entering such place of business can see it, a sign in letters not less than four inches in height reading "Imported egg products are used in the manufacture of food products sold here."

CHAPTER 520

Stats 1913, p 23, amended

An act to amend an act entitled "An act to provide for the registration of bonds issued by the State of California, or any county, city and county, municipal corporation, or other public corporation," approved April 14, 1913, as amended, by adding a new section thereto to be numbered Section 5, relating to the reconversion of registered bonds into coupon bonds.

In effect September 13, 1941

[Approved by Governor May 31, 1941. Filed with Secretary of State May 31, 1941.]

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

New section

SECTION 1. A new section is hereby added to the above designated act, to be numbered Section 5 and to read as follows:

Reconversion of bonds

Sec. 5. Bonds registered under this act may, with the consent of the State Treasurer or of the legislative body of the county, city and county, municipal corporation, or other public corporation which issued the bonds, be reconverted into coupon bonds at the expense of the holder thereof. The fee to be charged the holder of any bond for such reconversion shall be fixed by such State Treasurer or legislative body.

CHAPTER 521

Stats 1937, p 1229, amended

An act to amend Sections 2551 and 2553 of the Business and Professions Code, relating to registered dispensing opticians

In effect September 13, 1941

[Approved by Governor May 31, 1941. Filed with Secretary of State May 31, 1941.]

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

Stats 1939, p 2692

SECTION 1. Section 2551 of the Business and Professions Code is hereby amended to read as follows:

Registration required

2551. Individuals and firms engaged in such business on the effective date of this act shall apply for such registration within 90 days from the effective date hereof. Thereafter, before engaging in such business application shall be made for

Application

registration. Application for such registration shall be on forms prescribed by the board, shall bear the signature of the

individual, or individuals if a copartnership, or the president or secretary if a corporation, and shall contain the name under which he, they or it proposes to do business and the business address. Separate applications shall be made for each place of business and each application must be accompanied by a registration fee of fifty dollars ($50). Upon refusal or denial of a certificate upon such application the board shall refund to the applicant thirty-five dollars ($35) of the application fee. Fee

SEC. 2. Section 2553 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 2693

2553. If the board, after investigation, approves such application and finds the applicant to be competent and qualified to engage in the business of dispensing optician it shall register such applicant and issue to the applicant a certificate of dispensing optician. If the board does not so determine it shall deny the application. A separate certificate of registration shall be required for each address where the business is to be conducted. Such certificate authorizes the applicant, its agents and employees acting therefor without further license, to engage in the business defined in Section 2550 of this code. Such certificate of registered dispensing optician shall be at all times displayed in a conspicuous place at the place of business licensed. Such certificate shall not be transferable, but on application to the Board of Medical Examiners and the payment of a fee of fifteen dollars ($15) there may be registered a change of address of such certificate. Registration and certificate

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CHAPTER 522

An act to amend Sections 12422 and 12423 of the Insurance Code, relating to mortgage insurers. Stats 1935, p 496, amended

[Approved by Governor May 31, 1941. Filed with Secretary of State May 31, 1941.] In effect September 13, 1941

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

SECTION 1. Section 12422 of the Insurance Code is hereby amended to read as follows: Stats 1937, p 2547

12422. "Authorized real estate security" means security which complies with all the following conditions: "Authorized real estate security" defined

(a) The securing mortgage is a first mortgage upon the title in fee to real estate, such real estate being improved or productive or a building being in process of construction thereon by means of a building loan.

(b) The principal loaned on such security, or if a number of securities are secured by a single mortgage, the aggregate principal so secured, plus the amount of the lien of any public

bonds, or assessments upon the property or properties loaned upon, does not exceed 66⅔ per cent of the fair market value of the real estate.

Stats 1935, p 748

SEC. 2. Section 12423 of the Insurance Code is hereby amended to read as follows:

"First mortgage" defined

12423. "First mortgage" means a mortgage constituting a lien or charge on the title in fee to real estate, such lien or charge being prior and superior to all other liens or charges on the real estate except:

(a) The lien of any public bond, assessment or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(b) Outstanding mineral, oil or timber rights, rights of way, easements or rights of wall or support, sewer rights, building restrictions or other restrictions or covenants or conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

For the purposes of this section, delinquent taxes funded on any deferred payment plan shall be deemed delinquent.

CHAPTER 523

Stats 1935, p 93, amended

An act to add a new section, to be numbered 604.2, to the Vehicle Code, prohibiting the throwing of substances at vehicles.

In effect September 13, 1941

[Approved by Governor May 31, 1941. Filed with Secretary of State May 31, 1941.]

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

New section

SECTION 1. A new section, to be numbered 604.2, is hereby added to the Vehicle Code, to read as follows:

Throwing substances at vehicles

604.2. Throwing Any Substance at a Vehicle.

(a) Any person who shall throw any substance at a vehicle or any occupant thereof on a highway is guilty of a misdemeanor; provided, that any person who with intent to do great bodily injury shall maliciously and wilfully throw or project any rock, brick, bottle, metal or other missile, or project any other substance capable of doing serious bodily harm, or shall discharge a firearm at such vehicle or occupant thereof is guilty of a felony and upon conviction shall be punished by imprisonment for not less than one year or more than five years in the State prison

CHAPTER 524

An act to add Article 3 to Chapter 11 of Part 1 of Division 2 of the School Code, relating to junior college districts.

[Approved by Governor May 31, 1941 Filed with Secretary of State May 31, 1941.] In effect September 13, 1941

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

SECTION 1. Article 3 is hereby added to Chapter 11 of Part 1 of Division 2 of the School Code, to read as follows: New article

Article 3. Uniting of Junior College Districts

2.700. Two or more contiguous junior colleges may be united to form a single junior college district in the same manner as provided elsewhere in this code for the uniting of two or more contiguous elementary school districts. Uniting junior college districts

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CHAPTER 525

An act to add Section 653h to the Penal Code, relating to installation of dictographs.

[Approved by Governor May 31, 1941 Filed with Secretary of State May 31, 1941.] In effect September 13, 1941

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

SECTION 1. Section 653h is hereby added to the Penal Code, to read as follows: New section

653h. Any person who, without consent of the owner, lessee, or occupant, installs or attempts to install or use a dictograph in any house, room, apartment, tenement, office, shop, warehouse, store, mill, barn, stable, or other building, tent, vessel, railroad car, vehicle, mine or any underground portion thereof, is guilty of a misdemeanor; provided, that nothing herein shall prevent the use and installation of dictographs by a regular salaried peace officer expressly authorized thereto by the head of his office or department or by a district attorney, when such use and installation are necessary in the performance of their duties in detecting crime and in the apprehension of criminals. Dictographs Exceptions

CHAPTER 526

Stats 1937, p 1229, amended

An act to add Part 2, comprising Chapters 1 to 4, inclusive, Sections 16600 to 17101, inclusive, to Division 7, and to add Section 30028 to Division 30 of the Business and Professions Code, thereby consolidating and revising the law relating to the preservation and regulation of competition, and repealing acts and parts of acts specified herein.

In effect September 13, 1941

[Approved by Governor May 31, 1941. Filed with Secretary of State May 31, 1941.]

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

New part

SECTION 1. Part 2, consisting of Chapters 1 to 4, inclusive, Sections 16600 to 17101, inclusive, is hereby added to Division 7 of the Business and Professions Code, to read as follows:

PART 2. PRESERVATION AND REGULATION OF COMPETITION

CHAPTER 1. CONTRACTS IN RESTRAINT OF TRADE

Void contracts

16600. Except as provided in this chapter, every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void.

Sale of good will

See also Stats 1941, p 2427

16601. Any person who sells the good will of a business may agree with the buyer to refrain from carrying on a similar business within a specified county, city, or a part thereof, so long as the buyer, or any person deriving title to the good will from him, carries on a like business therein.

Partners

16602. Partners may, upon or in anticipation of a dissolution of the partnership, agree that none of them will carry on a similar business within the same city or town or a specified part thereof, where the partnership business has been transacted.

CHAPTER 2. COMBINATIONS IN RESTRAINT OF TRADE

Article 1. General Provisions

Cumulative

16700. The provisions of this chapter are cumulative of each other and of any other provision of law relating to the same subject in effect May 22, 1907.

Separability

16701. Section 24 of this code shall not determine the separability of the provisions of this chapter, one from another. Such separability shall be determined by whether the provisions of Chapter 530 of the Statutes of 1907 and the provisions of Chapter 362 of the Statutes of 1909 are separable among themselves and as to each other.

If the words "or reduce" (following the word "increase") were not effectively deleted from Subdivision 2 of Section 1 of Chapter 530 of the Statutes of 1907 by Section 1 of Chapter 362 of the Statutes of 1909, a combination of capital, skill or acts by two or more persons for the purpose of reducing the price of merchandise or of any commodity is a trust. Reduction of prices

16702. As used in this chapter "person" or "persons" includes corporations, firms, partnerships and associations existing under or authorized by the laws of this State or any other State, or any foreign country. "Person" defined

16703. Within the meaning of this chapter, labor, whether skilled or unskilled, is not a commodity. Labor

Article 2. Prohibited Restraints on Competition

16720. A trust is a combination of capital, skill or acts by two or more persons for any of the following purposes: "Trust" defined

(a) To create or carry out restrictions in trade or commerce.

(b) To limit or reduce the production, or increase the price of merchandise or of any commodity.

(c) To prevent competition in manufacturing, making, transportation, sale or purchase of merchandise, produce or any commodity.

(d) To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, barter, use or consumption in this State.

(e) To make or enter into or execute or carry out any contracts, obligations or agreements of any kind or description, by which they do all or any or any combination of any of the following:

(1) Bind themselves not to sell, dispose of or transport any article or any commodity or any article of trade, use, merchandise, commerce or consumption below a common standard figure, or fixed value.

(2) Agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure.

(3) Establish or settle the price of any article, commodity or transportation between them or themselves and others, so as directly or indirectly to preclude a free and unrestricted competition among themselves, or any purchasers or consumers in the sale or transportation of any such article or commodity.

(4) Agree to pool, combine or directly or indirectly unite any interests that they may have connected with the sale or transportation of any such article or commodity, that its price might in any manner be affected.

Trust certificates

16721. It is unlawful for any person, or his agent, to issue or to own trust certificates, or for any person or his agent, officer, or employee, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or with any stockholder or director of a corporation, the purpose and effect of which is to place the management or control of the combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any such article.

Any person who enters into any such combination, contract or agreement which violates this section is guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than fifty dollars ($50), nor more than five thousand dollars ($5,000).

Violations

16722. Any contract or agreement in violation of this chapter is absolutely void and is not enforceable at law or in equity.

Exceptions

16723. No agreement, combination or association is unlawful or within the provisions of this chapter, the object and purpose of which are to conduct operations at a reasonable profit or to market at a reasonable profit those products which can not otherwise be so marketed.

Same

16724. It is not unlawful, or within the provisions of this chapter, for persons engaged in the business of selling or manufacturing commodities of a similar or like character, to employ, form, organize or own any interest in any association, firm or corporation which has as its object or purpose the transportation, marketing or delivery of such commodity.

Same

16725. It is not unlawful to enter into agreements or form associations or combinations, the purpose and effect of which is to promote, encourage or increase competition in any trade or industry, or which are in furtherance of trade.

Public policy

16726. Except as provided in this chapter, every trust is unlawful, against public policy and void.

Article 3. Enforcement

Suits

16750. Any person who is injured in his business or property by reason of anything forbidden or declared unlawful by this chapter, may sue therefor in any court having jurisdiction in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover twofold the damages sustained by him, and the costs of suit.

New parties

16751. Whenever it appears to the court before which any proceedings under this chapter are pending that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether or not they reside in the county where such action is pending.

Forfeiture of charters

16752. Upon a violation of this chapter by any corporation or association the Attorney General or the district attorney of the proper county shall institute proper proceedings in a court of competent jurisdiction for the forfeiture of charter rights, franchises or privileges and powers exercised by such corporation or association, and for the dissolution of the corporation or association.

Foreign corporations

16753. Every foreign corporation or association, exercising any of the powers, franchises or functions of a corporation in this State, which violates this chapter, is hereby denied those powers, franchises or functions and is prohibited from doing any business in this State. The Attorney General shall enforce this provision by bringing proper proceedings by injunction or otherwise. The Secretary of State may revoke the license of any such corporation or association heretofore authorized to do business in this State.

Penalty

16754. Every person who violates this chapter shall for each day that such violations are committed or continued, after due notice given by the Attorney General or any district attorney, forfeit and pay the sum of fifty dollars ($50), which may be recovered in the name of the people of this State in any county where the offense is committed, or where either of the offenders resides. The Attorney General, or the district attorney of any county on the order of the Attorney General, shall prosecute for the recovery of the forfeit. When the action is prosecuted by the Attorney General against a corporation or an association of persons, he may begin the action in the superior court in and for the county where the defendant resides or does business.

Conspiracy against trade

16755. (a) Any violation of this chapter is a conspiracy against trade, and any person who engages in any such conspiracy or takes part therein, or aids or advises in its commission, or who as principal, manager, director, agent, servant or employee, or in any other capacity, knowingly carries out any of the stipulations, purposes, prices, rates, or furnishes any information to assist in carrying out such purposes, or orders thereunder or in pursuance thereof, is punishable by a fine of not less than fifty dollars ($50) nor more than five thousand dollars ($5,000), or by imprisonment for not less than six months nor more than one year, or by both such fine and imprisonment.

(b) Each day's violation of this chapter is a separate offense.

Pleading 16756. In any indictment, information or complaint for any offense named in this chapter, it is sufficient to state the purpose or effects of the trust or combination, and that the accused is a member of, acted with, or in pursuance of it, or aided or assisted in carrying out its purposes, without giving its name or description, or how, when and where it was created.

Proof 16757. (a) In prosecutions under this chapter, it is sufficient to prove that a trust or combination exists, and that the defendant belonged to it, or acted for or in connection with it, without proving all the members belonging to it, or proving or producing any article of agreement, or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all.

(b) The character of the trust or combination alleged may be established by proof of its general reputation as such.

Immunity 16758. In any action or proceeding brought by the Attorney General or any district attorney for the violation of this chapter no person shall be excused from attending, testifying or producing books, papers, or documents in obedience to subpena or under order of court on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to any penalty.

No individual shall be prosecuted or subjected to any penalty for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence in any action or proceeding brought by the Attorney General or a district attorney under this chapter.

CHAPTER 3. FAIR TRADE CONTRACTS

Short title 16900. This chapter may be cited as the Fair Trade Act.

Definitions 16901. As used in this chapter:

(a) "Producer" means grower, baker, maker, manufacturer or publisher.

(b) "Commodity" means any subject of commerce.

Resales 16902. (a) No contract relating to the sale or resale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or owner of such commodity and which is in fair and open competition with commodities of the same general class produced by others violates any law of this State by reason of any of the following provisions which may be contained in such contract:

(1) That the buyer will not resell such commodity except at the price stipulated by the vendor.

(2) That the vendee or producer require the person to whom he may resell such commodity to agree that he will not, in turn, resell except at the price stipulated by such vendor or by such vendee.

(b) Such provisions in any contract imply conditions that such commodity may be resold without reference to such agreement in the following cases: Exceptions

(1) In closing out the owners' stock for the purpose of discontinuing delivering any such commodity.

(2) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof.

(3) By any officer acting under the orders of any court.

16903. All the provisions of this chapter extend to any commodity sold through vending equipment, if such vending equipment bears the trade-mark, brand or name of the producer or owner of the commodity and if the commodity is in fair and open competition with commodities of the same general class produced by others. Other commodities

16904. Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to this chapter, whether the person so advertising, offering for sale or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby. Third parties

16905. This chapter does not apply to any contract or agreement between producers or between wholesalers or between retailers as to sale or resale prices. Exception

CHAPTER 4. UNFAIR TRADE PRACTICES

Article 1. General Provisions

17000. This chapter may be cited as the Unfair Practices Act. Short title

17001. The Legislature declares that the purpose of this chapter is to safeguard the public against the creation or perpetuation of monopolies and to foster and encourage competition, by prohibiting unfair, dishonest, deceptive, destructive, fraudulent and discriminatory practices by which fair and honest competition is destroyed or prevented. Declaration of purpose

17002. This chapter shall be liberally construed that its beneficial purposes may be subserved. Construction

Article 2. Definitions

17020. The definitions in this article shall be used in construing this chapter. Definitions

"Person" 17021. "Person" includes any person, firm, association, organization, partnership, business trust, company, corporation or municipal or other public corporation.

"Sell" 17022. "Sell" includes selling, offering for sale or advertising for sale.

"Give" 17023. "Give" includes giving, offering to give or advertising the intent to give.

"Article or product" 17024. "Article or product" includes any article, product, commodity, thing of value, service or output of a service trade.

Motion picture films when licensed for exhibition to motion picture houses are not articles or products under this chapter.

Nothing in this chapter applies:

(1) To any service, article or product for which rates are established under the jurisdiction of the Railroad Commission of this State and sold or furnished by any public utility corporation, or installation and repair services rendered in connection with any services, articles or products.

(2) To any service, article or product sold or furnished by a publicly owned public utility and upon which the rates would have been established under the jurisdiction of the Railroad Commission of this State if such service, article or product had been sold or furnished by a public utility corporation, or installation and repair services rendered in connection with any services, articles or products.

"Vendor" 17025. "Vendor" includes any person who performs work upon, renovates, alters or improves any personal property belonging to another person.

"Cost" 17026. "Cost" as applied to production includes the cost of raw materials, labor and all overhead expenses of the producer.

"Cost" as applied to distribution means the invoice or replacement cost, whichever is lower, of the article or product to the distributor and vendor, plus the cost of doing business by the distributor and vendor.

Proof of cost 17027. In establishing the cost of a given article or product to the distributor and vendor, the invoice cost of the article or product purchased at a forced, bankrupt, closeout sale, or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost as of the date of the sale of the article or product replaced through the ordinary channels of trade, unless the article or product is kept separate from goods purchased in the ordinary channels of trade and unless the article or product is advertised and sold as merchandise purchased at a forced, bankrupt, closeout sale, or by means other than through the ordinary channels of trade.

Such advertising shall state the conditions under which the goods were purchased, and the quantity of the merchandise to be sold or offered for sale.

"Ordinary channels of trade"

17028. "Ordinary channels of trade" means those ordinary, regular and daily transactions in the mercantile trade whereby title to an article or product, in no way damaged or deteriorated, is transferred from one person to another.

"Ordinary channels of trade" does not include sales of bankrupt stocks, closeout goods, dents, sales of goods bought from a business or merchant retiring from business, fire sales and sales of damaged or deteriorated goods, which damage or deterioration results from any cause whatsoever. This listing is not all inclusive but as example only.

"Cost of doing business"

17029. "Cost of doing business" or "overhead expense" means all costs of doing business incurred in the conduct of the business and shall include without limitation the following items of expense: labor (including salaries of executives and officers), rent, interest on borrowed capital, depreciation, selling cost, maintenance of equipment, delivery costs, credit losses, all types of licenses, taxes, insurance and advertising.

"Loss leader"

17030. "Loss leader" means any article or product sold at less than cost:

(a) Where the purpose is to induce, promote or encourage the purchase of other merchandise; or

(b) Where the effect is a tendency or capacity to mislead or deceive purchasers or prospective purchasers; or

(c) Where the effect is to divert trade from or otherwise injure competitors.

"Locality discrimination"

17031. Locality discrimination means a discrimination between different sections, communities or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this State, by selling or furnishing an article or product, at a lower price in one section, community or city, or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another.

Article 3. Offenses Against the Chapter

Locality discrimination prohibited

17040. It is unlawful for any person engaged in the production, manufacture, distribution or sale of any article or product of general use or consumption, with intent to destroy the competition of any regular established dealer in such article or product, or to prevent the competition of any person who in good faith, intends and attempts to become such dealer, to create locality discriminations.

Nothing in this section prohibits the meeting in good faith of a competitive price.

Exception

17041. Nothing in this chapter prohibits locality discriminations which make allowances for differences, if any, in the grade, quality or quantity when based and justified in the cost of manufacture, sale or delivery, or the actual cost of transportation from the point of production, if a raw product or commodity, or from the point of manufacture if a manufactured product or commodity, or from the point of shipment to the point of destination.

Same

17042. Nothing in this chapter prohibits any of the following:

(a) A selection of customers.

(b) A functional classification by any person of any customer as broker, jobber, wholesaler or retailer.

(c) A differential in price for any article or product as between any customers in different functional classifications.

Sales prohibited

17043. It is unlawful for any person engaged in business within this State to sell any article or product at less than the cost thereof to such vendor, or to give away any article or product, for the purpose of injuring competitors or destroying competition.

Same

17044. The practice of using any article or product as a "loss leader" is included among the prohibitions of this chapter.

Rebates

17045. The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers purchasing upon like terms and conditions, to the injury of a competitor and where such payment or allowance tends to destroy competition, is unlawful.

Coercion

17046. It is unlawful for any person to use any threat, intimidation, or boycott, to effectuate any violation of this chapter.

Solicitation

17047. It is unlawful for any manufacturer, wholesaler, distributor, jobber, contractor, broker, retailer, or other vendor, or any agent of any such person, to solicit any violation of this chapter.

Collusion

17048. It is unlawful for any manufacturer, wholesaler, distributor, jobber, contractor, broker, retailer, or other vendor, or any agent of any such person, jointly to participate or collude with any other such person in the violation of this chapter.

17049. The prohibitions of this chapter against locality discrimination and sales below cost embrace any scheme of special rebates, collateral contracts or any device of any nature

whereby such discrimination or sale below cost is in substance or fact effected in violation of the spirit and intent of this chapter.

Exceptions

17050. The prohibitions of this chapter against locality discriminations, sales below cost, and loss leaders do not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such article or product and in the case of the sale of seasonal goods or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation; provided, notice is given to the public thereof.

(b) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof.

(c) By an officer acting under the orders of any court.

(d) In an endeavor made in good faith to meet the legal prices of a competitor selling the same article or product, in the same locality or trade area and in the ordinary channels of trade.

(e) In an endeavor made in good faith by a manufacturer, selling an article or product of his own manufacture, in a transaction and sale to a wholesaler or retailer for resale to meet the legal prices of a competitor selling the same or a similar or comparable article or product, in the same locality or trade area and in the ordinary channels of trade.

The notice required to be given under this section shall not be sufficient unless the subject of such sales is kept separate from other stocks and clearly and legibly marked with the reason for such sales, and any advertisement of such goods must indicate the same facts and the number of items to be sold.

Illegal contracts

17051. Any contract, express or implied, made by any person, firm, or corporation in violation of this chapter is an illegal contract and no recovery thereon shall be had.

Article 4. Civil Liability

Injunction

17070. Any person or trade association may bring an action to enjoin and restrain any violation of this chapter and, in addition thereto, for the recovery of damages.

Proof

17071. In all actions brought under this chapter proof of one or more acts of selling or giving away any article or product below cost or at discriminatory prices, together with proof of the injurious effect of such acts, is presumptive evidence of the purpose or intent to injure competitors or destroy competition.

17072. Where a particular trade or industry, of which a person complained against is a member, has an established cost

Cost survey survey for the locality and vicinity in which the offense is committed, that cost survey is competent evidence to be used in proving the costs of such person.

Overall cost 17073. Proof of average overall cost of doing business for any particular inventory period when added to the cost of production of each article or product, as to a producer, or invoice or replacement cost, whichever is lower, of each article or product, as to a distributor, is presumptive evidence of cost of each such article or product involved in any action brought under this chapter.

Tariffs 17074. Proof of transportation tariffs when fixed and approved by the Railroad Commission of the State of California is presumptive evidence of delivery cost.

Wage scale 17075. In any action where it is alleged and shown that the person complained against is selling below his cost of doing business, and such person is including labor at less than the prevailing wage scale in the trade in which such person is engaged for the locality or vicinity in which he is doing business, evidence of such prevailing wage scale shall be admissible to prove the intent or purpose of such person to violate this chapter.

Free services 17076. In any action brought under this chapter, where persons are employed or performing services for any person or in the conduct of the business wherein such person is charged with a violation of this chapter, and are so employed or performing such services without compensation or at a wage lower than that prevailing at the time and place of the service for the particular services performed, such services shall be charged as an expense of the business in which rendered and at the rate of the wage for the services rendered prevailing at the time of the service at the place where rendered.

Raw material 17077. In any action or prosecution for sales below cost in violation of this chapter, if the defendant acquires his raw materials for a consideration not wholly or definitely computable in money, the cost of the raw materials shall be presumed to be the prevailing market price for similar raw materials in the ordinary channels of trade in the locality or vicinity in which such raw materials were acquired, at the time of the acquisition.

Temporary order 17078. If it appears to the court upon any application for a temporary restraining order, or upon the hearing of any order to show cause why a preliminary injunction should not be issued, or upon the hearing of any motion for a preliminary injunction, or if the court shall find, in any such action, that

any defendant therein is violating, or has violated, this chapter, then the court shall enjoin the defendant from doing all acts which are prohibited by the section, or sections, of which any provision thereof is being violated, or has been violated, by the defendant.

Further restraint

17079. The court may, in its discretion, include in any injunction against a violation of this chapter such other restraint as it may deem expedient in order to deter the defendant from, and insure against, his committing a future violation of this chapter.

All articles

17080. Any injunction against a violation of this chapter, whether interim or final, shall cover every article or product and not merely the particular article or product involved in the action.

Bond

17081. It is not necessary for the plaintiff, in any action under this chapter, to provide or file any undertaking or bond for the issuance of any interim or final injunction.

Damages

17082. In any action under this chapter, it is not necessary to allege or prove actual damages or the threat thereof, or actual injury or the threat thereof, to the plaintiff. But, in addition to injunctive relief, any plaintiff in any such action is entitled to recover the amount of the actual damages, if any, sustained by the plaintiff, as well as the actual damages, if any, sustained by any person who has assigned to the plaintiff his claim for damages resulting from a violation of this chapter.

Depositions

17083. The testimony of any witness in any action brought under this chapter may be taken by deposition even though the case is not one specified in Section 2021 of the Code of Civil Procedure, but otherwise the provisions of Part 4, Title 3, Chapter 3 of the Code of Civil Procedure are applicable to the witness, his testimony and deposition.

In addition, the books and records of any party, or of any such witness, may be subpenaed into court and introduced into evidence, or introduced, by reference, into evidence, and may be required to be produced at the taking of the deposition of any party or of any such witness and there inquired into.

Inspection

17084. Any party to any action brought under this chapter may, upon notice, apply to the court in which the action is pending, or to any judge thereof, for an order requiring any other party to give to the applicant, within a specified time, an inspection and copy, or permission to take a copy, of entries of accounts in any book, or of any documents, papers, or memoranda in such party's possession or under his control containing evidence relating to the merits of any such action or any defense therein.

If a compliance with the order is refused, the court shall exclude the entries of accounts in any such book, or any such document, paper, or memorandum from being given in evidence by the other party, or if wanted as evidence by the applicant the court shall presume them to be as the applicant alleges.

Reference 17085. If, at any time while any action for a violation of this chapter is pending, it appears to the court that an extensive examination of books, papers, records, or documents is or may become material or relevant to the issues in the action, the court may, in its discretion, upon the application of any party to the action, or upon its own motion, order a reference to be had in the manner and form provided in Part 2, Title 8, Chapter 6 of the Code of Civil Procedure.

Immunity 17086. No information obtained under any provision of this article, or under Part 4, Title 6, Chapter 2 of the Code of Civil Procedure, may be used against any such party, or any such witness, as a basis for a misdemeanor or felony prosecution in any court of this State.

Article 5. Liability of Agents

Agents 17095. Any person, who, either as director, officer or agent of any firm or corporation or as agent of any person, violating the provisions of this chapter, assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which he acts.

Intent 17096. In any injunction proceeding against any person as officer, director or agent, it is sufficient to allege and prove the unlawful intent of the person, firm or corporation for which he acts.

Article 6. Penal Provisions

Penalty 17100. Any person, whether as principal, agent, officer or director, for himself, or for another person, or for any firm or corporation, or any corporation, who or which violates this chapter is guilty of a misdemeanor for each single violation and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment not exceeding six months or by both such fine and imprisonment, in the discretion of the court.

Intent 17101. In the prosecution of any person as officer, director or agent, it is sufficient to allege and prove the unlawful intent of the person, firm or corporation for which he acts.

SEC. 2. Section 30028 is hereby added to Division 30 of the Business and Professions Code, to read as follows: New section

30028. The following acts, together with all acts amendatory thereof, and supplementary thereto, are hereby repealed: Repeals

General Laws

Year	Chapter	Page
1913	276	508
1931	278	583
1933	1037	2632
1933	1039	2637
1933	1041	2640
1935	814	2212
1937	396	1215

Civil Code

Section
1673
1674
1675

CHAPTER 527

An act to amend Section 3719 of the Political Code, to grant to junior college districts the right to borrow under the provisions of said section.

[Approved by Governor May 31, 1941. Filed with Secretary of State May 31, 1941.] In effect September 13, 1941

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

SECTION 1. Section 3719 of the Political Code is hereby amended to read as follows: Stats. 1939, p. 1271

3719. When funds shall be needed for the immediate requirements of any county, any city, any regional park district, any school district or junior college district in any fiscal year to pay obligations lawfully incurred in such fiscal year and before the receipt of income for such fiscal year sufficient to meet such payments, the board of supervisors of such county or the board of supervisors of the county having the largest area within the regional park district, as the case may be, on the recommendation of the auditor and treasurer, or such school district or junior college district on the request of two-thirds of the members of its governing board, approved by the auditor and treasurer of the county, or such regional park district on the request of four-fifths of the members of its board of directors, approved by the auditor and treasurer of the county having the largest area within the district, and the legislative body of such city on the recommendation of the chief accounting officer and treasurer of such city, shall have power at any time subsequent to approval of the final budget of such county, city, regional park district, school district Borrowing money in anticipation of revenues

or junior college district and the levy of taxes for such fiscal year to borrow money on notes, tax anticipation warrants or other evidences of indebtedness on behalf of such county, city, regional park district, school district or junior college district in an amount not to exceed 50 per cent of the revenue from taxes provided for such current fiscal year, or that portion thereof remaining uncollected at the time of such borrowing, where such borrowing is on behalf of a county, city or regional park district, and in an amount not to exceed 50 per cent of the estimated income and revenue provided for such current fiscal year, or of that portion thereof remaining uncollected at the time of such borrowing, where such borrowing is on behalf of a school district or junior college district; provided, that in addition to the authority hereinabove granted, any school district or junior college district shall also have power, to be exercised at any time subsequent to July 15th and prior to August 30th of any fiscal year, to borrow money in accordance with and subject to all other provisions of this section in an amount not to exceed 25 per cent of the estimated income and revenue to be received during such current fiscal year by such district from apportionments of the State, high school or junior college fund, as the case may be, and of the State General Fund, based on the average daily attendance of pupils in the schools, high schools, junior high schools or junior colleges, as the case may be, of such district, for the preceding school year, except that such notes shall be repaid not later than December 31st in such fiscal year exclusively from such State apportionments

In anticipation of State apportionment

All such notes, tax anticipation warrants or other evidences of indebtedness shall be issued only after the adoption by a four-fifths vote of all the members of the board of supervisors, or by a four-fifths vote of all members of the legislative body of such city, of a resolution setting forth the necessity for such borrowing and stating the amount of revenue from taxes provided for such county, for such regional park district or for such city for such current fiscal year, or, in the case of a school district or junior college district, setting forth the necessity for such borrowing and stating the amount of income and revenue provided for such school or junior college district for such current fiscal year, or the estimated amount of income and revenue to be received during the current fiscal year from apportionments from the State school, high school fund or junior college fund, as the case may be, and from the State General Fund, if such borrowing is on behalf of a school, high school or junior college district and occurs before taxes are levied. All such notes, tax anticipation warrants or other evidences of indebtedness shall be offered at public sale by the board of supervisors or legislative body of such city after not less than two days advertising in a newspaper of general circulation within the county, or within the county having the largest area within such regional park district, or

Vote required

Sale of notes, etc.

within the city as the case may be and not less than three days after the last day on which such advertisement is published. Each such sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the county, city, regional park district, junior college district or school district; provided, however, that the rate of interest shall not exceed 5 per cent per annum. Such notes, tax anticipation warrants or other evidences of indebtedness shall be signed on behalf of the county, regional park district, junior college district or school district by the chairman of the board of supervisors, countersigned by the auditor and treasurer of such county, or of the county having the largest area within such regional park district, as the case may be, or on behalf of such city by its mayor, countersigned by the chief accounting officer and treasurer of such city. The repayment of any sum so borrowed by any county, city or regional park district pursuant to the authority of this section shall constitute a first lien and charge against the taxes levied for the fiscal year in which said money was borrowed and shall be repaid from the first moneys received by such county, city or regional park district from said taxes. The repayment of any sum so borrowed by any school or junior college district pursuant to the authority of this section shall constitute a first lien and charge against the taxes, revenue and other income collected during the fiscal year in which said money was borrowed and shall be repaid from the first moneys received by such school or junior college district from said taxes, revenue and income. All such notes, tax anticipation warrants or other evidences of indebtedness issued for funds borrowed prior to December 31st in any fiscal year shall be repaid not later than said December 31st, and all other evidences of indebtedness for funds borrowed in any fiscal year shall be repaid not later than May 30th of such fiscal year, and no notes, tax anticipation warrants or other evidences of indebtedness shall be issued after December 31st in any fiscal year in the event that funds borrowed prior to said December 31st are not repaid prior to said date. It is the intention of this section that such loans shall be made solely for the purpose of anticipating receipt of income, and, in the case of a county, a city or a regional park district, shall be made solely upon the credit of revenue from taxes provided for the fiscal year in which said loans are made, and, in the case of a school or junior college district, shall be made solely upon the credit of income and revenue provided for the fiscal year in which said loans are made. The board of supervisors, the legislative body of each city, the board of directors of each regional park district and the governing board of each school or junior college district may include in the respective budgets of the county, city, regional park district, junior college district or school district, separately stated amounts of anticipated disbursement to meet the interest to be paid on any funds borrowed under the authority of this section.

Repayment of money borrowed

Legislative intent

CHAPTER 528

Stats 1935, p 1123, amended

An act to amend Sections 67.1 and 23 of the Alcoholic Beverage Control Act, relating to the tax on wine.

In effect September 13, 1941

[Approved by Governor May 31, 1941 Filed with Secretary of State May 31, 1941.]

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

Stats 1937, p 2176

SECTION 1. Section 67.1 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Sale of alcohol, etc., for industrial use

Sec. 67.1. No tax under this act shall be imposed upon the sale of alcohol, distilled spirits, or wine by distilled spirits manufacturers, brandy manufacturers, rectifiers, industrial alcohol dealers, or wine manufacturers for use in the trades, professions, or industries, but not for beverage use. Complete information concerning sales of distilled spirits or wine for use in the trades, professions or industries by persons holding industrial alcohol dealers' licenses, distilled spirits manufacturers' licenses, brandy manufacturers' licenses, rectifiers and wine manufacturers' licenses shall be reported to the board each month by such licensees on forms prescribed by the board.

Reports

Diversion for beverage purposes

Any person who shall divert or who shall conspire with others to divert for beverage use any alcohol or other distilled spirits or wine sold tax free for use in the trades, professions or industries shall be guilty of a felony.

Stats 1937, p 2143

SEC. 2. Section 23 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Excise tax on beer and wine

Sec. 23. An excise tax is hereby imposed upon all beer and wine sold in this State by a manufacturer or importer, except as otherwise in this act provided, at the following rates:

(a) On all beer, sixty-two cents ($0.62) for every barrel containing 31 gallons, and at a proportionate rate for any other quantity;

(b) On all natural dry wines one cent ($0.01) per wine gallon and at a proportionate rate for any other quantity; (c) on all other still wines two cents ($0.02) per wine gallon and at a proportionate rate for any other quantity; (d) on champagne, sparkling wine, except sparkling hard cider, whether naturally or artificially carbonated twenty-four cents ($0.24) per wine gallon and at a proportionate rate for any other quantity; (e) on sparkling hard cider two cents ($0.02) per wine gallon and at a proportionate rate for any other quantity.

CHAPTER 529

An act to repeal Sections 301 to 304, both inclusive, and to amend Section 300 of the Labor Code, all relating to assignment of wages.

Stats. 1937, p. 185, amended

[Approved by Governor May 31, 1941. Filed with Secretary of State May 31, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 301 of the Labor Code is hereby repealed.

Stats. 1937, p. 202

SEC. 2. Section 302 of the Labor Code is hereby repealed.

Stats. 1937, p. 202

SEC. 3. Section 303 of the Labor Code is hereby repealed.

Stats. 1937, p. 202

SEC. 4. Section 304 of the Labor Code is hereby repealed.

Stats. 1937, p. 202

SEC. 5. Section 300 of the Labor Code is hereby amended to read as follows:

Stats. 1937, p. 202

300. No assignment of, or order for wages or salary, earned or to be earned, shall be valid unless:

Assignment of wages conditions necessary to validity

(a) Such assignment is contained in a separate written instrument, signed by the person by whom the said wages or salary have been earned or are to be earned, and identifying specifically the transaction to which the assignment relates; and

(b) Where such assignment of, or order for wages or salary is made by a married person, the written consent of the husband or wife of the person making such assignment or order is attached to such assignment or order; and

(c) Where such assignment or order for wages or salary is made by a minor, the written consent of a parent or guardian of such minor is attached to such order or assignment; and

(d) Where such assignment of or order for wages or salary is made by a person who is unmarried or who is an adult or who is both unmarried and adult, a written statement by the person making such assignment or order, setting forth such facts, is attached to or included in such assignment or order;

(e) No other assignment or order exists in connection with the same transaction or series of transactions and a written statement by the person making such assignment or order to that effect, is attached thereto or included therein; and

(f) A copy of such an assignment or order and of the written statement provided for in subdivision (d) hereof, authenticated by a notary public, shall have been filed with the employer, accompanied by an itemized statement of the amount then due to the assignee; provided, that at such time no other assignment or order for the payment of any wages or salary is subject to payment, and no attachment or levy on execution against said wages or salary is in force. Any

valid assignment, when filed in accordance with the provisions contained herein, shall have priority with respect to any subsequently filed assignment or order or subsequent attachment or levy on execution. Any power of attorney to assign or collect wages or salary shall be revocable at any time by the maker thereof.

Validity

No assignment of, or order for wages or salary shall be valid unless at the time of the making thereof, such wages or salary have been earned, except for the necessities of life and then only to the person or persons furnishing such necessities of life directly and then only for the amount needed to furnish such necessities. Under any assignment of, or order for wages or salary to be earned, a sum not to exceed 50 per centum of the assignor's wages or salary, and not to exceed 25 per centum of the assignor's wages or salary, upon the showing that such wages or salary are necessary for the support of his mother, father, spouse, children or other members of his family, residing in this State and supported in whole or in part by his labor, shall be collectible from the assignor's employer at the time of each payment of such wages or salary.

Reliance of employer on employee's statements

The employer shall be entitled to rely upon the statements of fact in the written statement provided for in subdivisions (d) and (e) hereof, without the necessity of inquiring into the truth thereof, and the employer shall incur no liability whatsoever by reason of any payments made by him to an assignee under any assignment or order, in reliance upon the facts so stated.

No assignment of or order for wages or salary earned or to be earned shall be valid under any circumstances, if the wages or salary earned or to be earned are paid under a plan for payment at a central place or places established under the provisions of Section 204a of this code.

Where section inapplicable

This section shall not apply to deductions which the employer may be requested by the employee to make for the payment of life, retirement, disability or unemployment insurance premiums, for the payment of taxes owing from the employee, for contribution to funds, plans or systems providing for death, retirement, disability, unemployment, or other benefits, for the payment for goods or services furnished by the employer to the employee or his family at the request of the employee, or for similar purposes.

CHAPTER 530

An act to add Section 1144 to the Penal Code, relating to criminal jury trials in municipal courts.

[Became law without Governor's signature June 2, 1941. Filed with Secretary of State June 2, 1941.] In effect September 13, 1941

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

SECTION 1. A new section is hereby added to the Penal Code, to be numbered 1144 and to read as follows: New section

1144. The provisions of this chapter and each section thereof shall be applicable to criminal trials in municipal courts. Application of chapter

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CHAPTER 531

An act to add Section 2.1521 to the School Code, relating to educational societies.

[Became law without Governor's signature June 2, 1941. Filed with Secretary of State June 2, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2.1521 is hereby added to the School Code, to read as follows: New section

2.1521. The governing board of any school district of any type or class, including the governing board of any junior college district may subscribe for membership in, or otherwise become a member of, any State or local organization of governing boards of school districts or members thereof which has for its primary purpose the promotion and advancement of public education through research and investigation, and the cooperation with persons and associations whose interests and purposes are the betterment of the educational opportunities of the children of California. Membership in school district board associations

CHAPTER 532

An act to add a new article to Chapter 1 of Part 2 of Division 2 of the School Code, to be known as Article 10, relating to the attendance of school members of governing boards of school districts of State-wide educational meetings.

In effect September 13, 1941

[Became law without Governor's signature June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

New article

SECTION 1. A new article is hereby added to Chapter 1 of Part 2 of Division 2 of the School Code, to be known as Article 10 and to read as follows:

Article 10. Attendance of Members of Governing Boards at State-wide Meetings

Attendance at conventions

2.868. The governing board of each school district may select a member or members of said board to attend meetings of any society, association or organization for which the school district has subscribed for membership, or any convention to which it might pay the expenses of any employee and the actual expenses of such member or members shall be allowed and paid out of the funds of the district.

CHAPTER 533

An act making an appropriation for the contingent expenses of the Senate, the act to take effect immediately.

In effect immediately

[Approved by Governor June 2, 1941, with reduction of amount of appropriation from $62,500 to $10,000. Filed with Secretary of State June 2, 1941. Passed in amount of $62,500, notwithstanding reduction by Governor. Certificate filed with Secretary of State June 7, 1941.]

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

Appropriation. Contingent expenses of Senate

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of sixty-two thousand five hundred dollars ($62,500) is hereby appropriated for contingent expenses of the Senate to be expended for such purposes and in such manner as the Senate shall by resolution direct. This appropriation shall be available without regard to fiscal year.

Current expenses

SEC. 2. Inasmuch as this act provides an appropriation for the usual current expenses of the State, it shall under the provisions of Section 1 of Article IV of the Constitution take effect immediately.

CHAPTER 534

An act to amend Section 4240 of the Political Code, relating to compensation for public services in counties of the eleventh class.

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.] In effect September 13, 1941

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

SECTION 1. Section 4240 of the Political Code is hereby amended to read as follows: Stats. 1941, p. 1608

4240. In counties of the eleventh class the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums: Orange County. Salaries

1. The auditor, three thousand six hundred dollars ($3,600) per annum. Auditor

2. The district attorney, five thousand dollars ($5,000) per annum for his full time services. While in receipt of this salary, the district attorney shall not engage in the private practice of the law. District attorney

3. Each supervisor shall receive two thousand five hundred fifty dollars ($2,550) per annum, payable in monthly installments, and the necessary and actual expenses incurred by him while engaged in county business outside of his own district, not exceeding in the aggregate the sum of two hundred dollars ($200) per annum. Supervisors

4. In counties of this class grand and trial jurors, in superior courts shall receive for each day's attendance, per day, the sum of three dollars ($3). In justice courts in civil cases, jurors shall receive for each day's attendance, per day, the sum of two dollars ($2). In justice courts and city courts in criminal cases jurors shall receive for each day's attendance, per day, the sum of one dollar and fifty cents ($1.50) and all jurors shall receive for each mile actually and necessarily traveled from their residences to the place of service, in going only, the sum of ten cents ($0.10) per mile, such mileage to be allowed but once during the trial of any single cause and in any event not more than once in any one day, during any session of the court where such jurors serve; provided, however, that the fees of all trial jurors in civil cases shall be paid by the litigants as other costs are paid, and jurors in criminal cases in city court shall be paid by the municipality in which such court is or may be established. Jurors

SEC. 2. The changes made by this act in the compensation of each of those officers whose compensation is subject to the provisions of Section 4240 of the Political Code shall not apply to his compensation until the expiration of his present term of office and, from the effective date of this act to the time that his term expires, the provisions of law applicable to his compensation prior to the enactment of this act shall, notwithstanding this act, continue to apply to his compensation. Application of act

CHAPTER 535

Stats 1939, p 49, amended

An act to amend Section 7962 of the Elections Code, relating to the canvass and return of results at primary elections.

In effect September 13, 1941

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

Stats 1939, p 257

SECTION 1. Section 7962 of the Elections Code is hereby amended to read as follows:

County clerk may canvass

7962. The board of supervisors of any county may order by resolution duly adopted and entered upon its minutes that the county clerk shall canvass the returns of the election in the stead of the board of supervisors. If the canvass be made by the county clerk it may be made at any public place in the county which the board designates by order entered upon its minutes. If the canvass be made at a place other than the usual place of meeting of the board it shall conspicuously post at its usual place of meeting for at least three (3) days before the time for making the canvass and during all the time while the canvass is being made, a notice which shall state clearly and fully the designation and description of the place where the canvass will be made and conducted. This notice may be posted prior to the election.

CHAPTER 536

An act to amend Section 4251 of the Political Code, relating to compensation for public services in counties of the twenty-second class.

In effect September 13, 1941

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

Stats 1941, p 1617

SECTION 1. Section 4251 of the Political Code is hereby amended to read as follows:

Marin County: Salaries

4251. In counties of the twenty-second class the following shall receive, as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, four thousand five hundred dollars ($4,500) per annum.

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum. The district attorney shall devote his entire time to the duties of his office and shall not engage in private practice of the law during his term of office.

Supervisors

3. Each member of the board of supervisors, one hundred dollars ($100) per month, and six cents ($0.06) per mile while

traveling on official business from his residence to the county seat, or returning therefrom, and also mileage for his services as road commissioner at the rate of six cents ($0.06) per mile, for the distance actually traveled in the discharge of his duties as road commissioner; provided, that such mileage as road commissioner shall not in any one year exceed the sum of three hundred dollars ($300).

Convention expenses

4. Members of the board of supervisors, the auditor, and the district attorney shall be allowed their actual and necessary expenses incurred while traveling to and from the annual convention of their respective associations, but in no event shall such expenses exceed the sum of fifty dollars ($50) for each of said officers in any one year.

CHAPTER 537

An act to amend Sections 2, 13 and 15 of, and to add Sections 12.5 and 16.1 to, the Subdivision Map Act, relating to subdivisions and to the examination of maps by public officers and charging fees therefor.

Stats 1937, p 1863, amended

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2 of the Subdivision Map Act is hereby amended to read as follows:

Stats 1937, p 1864

Sec. 2. For the purpose of this act the following terms are defined as indicated:

Definitions

(a) "County" shall be deemed to include "city and county."

(b) "County surveyor" shall be deemed to include county engineer, if there be no county surveyor.

(c) "Tentative map" shall mean a map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it and need not be based upon an accurate or detailed final survey of the property.

(d) "Final map" shall mean a map prepared in accordance with the provisions of this act and those of any applicable local ordinance, which map is designed to be placed on record in the office of the county recorder of the county in which any part of the subdivision is located.

(e) "Record of survey map" shall mean a map prepared as provided herein and conforming to the provisions of Chapter 15 of Division 3 of the Business and Professions Code, and any amendments thereto.

(f) "Local ordinance" shall mean an ordinance enacted by the governing body of any city or county, under the powers herein granted and within the limitations herein set

forth, regulating the design and improvement of land subdivisions. A certified copy of each such ordinance and amendments thereto shall be recorded in the office of the county recorder.

(g) "Subdivision" shall mean any land or portion thereof shown on the last preceding tax roll as a unit or as contiguous units which is divided for the purpose of sale, whether immediate or future, by any subdivider into five or more parcels within any one-year period, except (1) any parcel or parcels of land which contain less than five acres and which abuts upon dedicated streets or highways, and in which street opening or widening, in the dividing thereof into lots or parcels, is not required by the governing body, and where the lot design meets its approval, and (2) any parcel or parcels of land divided into lots or parcels, each of a net area of two and one-half acres or more, a tentative map of which has been submitted to the governing body and has been approved by it as to street alignment and widths, drainage provisions and lot design; in either case there shall be filed a record of survey map pursuant only to the provisions of Chapter 15 of Division 3 of the Business and Professions Code, and any amendments thereto.

(h) "Subdivider" shall mean a person, firm, corporation, partnership or association who causes land to be divided into a subdivision for himself or for others.

(i) "Advisory agency" shall mean an official or an official body designated by a local ordinance and charged thereby with the duty of making investigations and reports on the design and improvement of proposed subdivisions.

(j) "Design" shall mean street alignment, grades and widths, alignment and widths of easements and right of ways for drainage and sanitary sewers and minimum lot area and width.

(k) "Improvement" shall mean only such street work and utilities to be installed, or agreed to be installed, by the subdivider on the land dedicated or to be dedicated for streets, highways, public ways, and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs, as a condition precedent to the approval and acceptance of the final map thereof.

Stats 1937, p 1868

SEC. 2. Section 13 of said act is hereby amended to read as follows:

Certificates and acknowledgments on final map

Sec. 13. The following certificates and acknowledgments shall appear on the final map and may be combined where appropriate:

(a) A certificate, signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of said map. A lien for State, county, municipal or local taxes and for special assessments or beneficial interest under trust deeds or trust interest under bond indentures, shall not be deemed to be an interest in land for the purpose of this section. Any map

including territory originally patented by the United States or the State of California, under patent reserving interest to either or both of said entities, may be recorded under the provisions of this act without the consent of said United States or the State of California thereto or to dedications made thereon. Signatures required by this section, of parties owning the following types of interests, may be omitted if the names of such persons and the nature of their respective interests are indorsed on the map:

(1) Rights of way, easements or other interests, none of which can ripen into a fee and which signatures are not required by the governing body.

(2) Rights of way, easements or reversions, which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value and which signatures it is impossible or impractical to obtain. In this case a reasonable statement of the circumstances preventing the procurement of such signatures shall also be indorsed on the map.

(b) A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses (subject to such reservations as may be contained in any such offer of dedication) those certain parcels of land which said parties desire so to dedicate. Such certificate may state that any certain parcel or parcels are not offered for dedications; provided, however, that a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown thereon and intended for any public use shall be offered for dedication for public use except those parcels other than streets, intended for the exclusive use of the lot owners in such subdivision, their licensees, visitors, tenants and servants.

(c) A certificate for execution by the clerk of each approving governing body stating that said body approved said map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.

(d) A certificate by the engineer or surveyor responsible for the survey and final map, giving the date of the survey and stating that the survey was made by him or under his direction and that the survey is true and complete as shown. Said certificate shall also state that the monuments are of the character and occupy the positions indicated, or that they will be set in such positions and at such time as is agreed upon under the provisions of Section 12. Said certificate shall also state that said monuments are or will be sufficient to enable the survey to be retraced.

(e) If a subdivision lies within an unincorporated area, a certificate by the county surveyor and if a subdivision lies within a city, a certificate by the city engineer, stating that he has examined said map, that the subdivision as shown hereon is substantially the same as it appeared on the tentative map, and any approved alterations thereof; that all provisions of this

act and of any local ordinance applicable at the time of approval of the tentative map have been complied with, and that he is satisfied that said map is technically correct.

Provided, however, that upon mutual agreement between the county surveyor and any city engineer, with the approval of their respective governing bodies, the county surveyor may perform any or all of the duties herein assigned to the city engineer, including the certification herein required. Whenever such duties are divided between the county surveyor and the city engineer, each officer shall certify to the duties performed by him.

Stats 1937, p 1870

SEC. 3. Section 15 of said act is hereby amended to read as follows:

Certificates on record of survey map

Sec. 15. If a record of survey map is filed as provided in Section 10 the following certificates shall appear thereon:

(a) A certificate for execution by the clerk of each approving governing body stating that said body approved said map for subdivision purposes in accordance with the conditional approval of the tentative map as provided herein.

(b) A certificate by the engineer or surveyor responsible for the survey giving the date of the survey and stating that the survey was made by him or under his direction and setting forth the name of the owner who authorized him to make the survey and that such survey is true and complete as shown. Said certificate shall also state that the monuments are of the character and occupy the positions indicated or that they will be set in such positions and at such time as is agreed upon under the provisions of Section 12. Said certificate shall also state that said monuments are or will be sufficient to enable the survey to be retraced.

(c) A certificate or certificates as required in subsection (e) of Section 13 of this act relating to the examination of the map.

New section

SEC. 4. Section 12.5 is hereby added to said act, to read as follows:

Examination of final maps

Sec. 12.5. The county surveyor or city engineer shall make such detailed examination of final maps and record of survey maps and such field check, if any, as may be necessary to enable him to make the certificate required by subsection (e) of Section 13 and subsection (c) of Section 15 of this act. Local ordinances may provide a proper and reasonable fee to be collected from the subdivider for such examination.

New section

SEC. 5. Section 16.1 is hereby added to said act, to read as follows:

Security for payment of taxes

Sec. 16.1. If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the bond or deposit for payment of taxes need be only for such sum as may be determined by the board of supervisors to be sufficient to pay the taxes on the land being subdivided, together with all accrued penalties and costs if such taxes are allowed to become delinquent. If the land being subdivided is sold for taxes it may be redeemed from such sale without the

redemption of the remainder of the larger parcel of which it is a part pursuant to the provisions of the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

CHAPTER 538

An act to add Section 2671.5 to the Elections Code, relating to fees for filing declaration of candidacy.

Stats 1939, p 49, amended

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2671.5 is hereby added to the Elections Code, to read as follows:

New section

2671.5. The filing fees required to be paid to the Secretary of State shall be paid to the county clerk at the time the declarations of candidacy are deposited with the county clerk for delivery to the Secretary of State. The county clerk shall not accept any papers unless the fees are paid at the time. The county clerk shall transmit the fees to the Secretary of State at the time he delivers the declarations for filing.

Payment of filing fees

CHAPTER 539

An act to amend Sections 1, 2, 6, 7 and 8 of an act entitled "An act to define motor carrier transportation agent; to provide for the regulation, supervision and licensing thereof, and to provide for the enforcement of said act and penalties for the violation thereof; and repealing an act entitled 'An act to define motor carrier transportation agent; to provide for the regulation, supervision and licensing thereof, and to provide for the enforcement of said act and penalties for the violation thereof,' approved June 5, 1931, and all acts or parts of acts inconsistent with the provisions of this act, approved May 15, 1933, relating to motor carrier transportation agents."

Stats 1933, p 1011, amended

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p 1012

Section 1. The Legislature hereby declares that the public welfare requires the regulation and control of those persons, whether acting individually or as officers, commission

Legislative policy

agents or employees of any person, firm or corporation, who hold themselves out to act as intermediaries between the public and those motor carriers of passengers operating, as common carriers or otherwise, over the public highways of the State, for compensation, that are not required by law to obtain, or that have not obtained, a certificate from the Railroad Commission of the State of California declaring that public convenience and necessity require the operations of such motor carriers.

Stats 1935, p 1834

SEC. 2. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Definitions

Sec. 2. A motor carrier transportation agent within the meaning of this act is a person who, acting either individually or as an officer, commission agent, or employee of a corporation, or as a member of a copartnership, or as a commission agent or employee of another person or persons, sells or offers for sale, or negotiates for or holds himself out as one who sells, furnishes or provides, transportation over the public highways of this State when such transportation is furnished, or offered or proposed to be furnished, by a motor carrier as defined in this act.

A motor carrier within the meaning of this act is any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, transporting, or offering or proposing to transport, as a common carrier or otherwise, persons for compensation over the public highways of the State of California, which said persons are transported, or to be transported, either out from one terminus in California and return thereto or between two or more termini, without holding a valid certificate of public convenience and necessity or permit issued by either the Railroad Commission of the State of California or the Interstate Commerce Commission authorizing and permitting such carrier to so transport persons over such highways, or any of them.

Application of act

This act shall not apply to the carriage, or proposed carriage, of any person, or persons, when no compensation for such carriage is paid, or offered or proposed to be paid, or requested or required to be paid, by, or on behalf of, a person, or persons, transported or to be transported; nor to those engaged solely in the carriage of transportation to and from work, of employees engaged in farm work on any farm of the State of California, nor to those engaged solely in the carriage or transportation to and from work of employees of any nonprofit cooperative association organized pursuant to any of the laws of the State of California; nor to movements of persons wholly within the corporate limits of a single municipality; nor to transportation over a route wholly or partly within a National park where such transportation is sold in conjunction with or as part of a rail trip; provided, however, that the transportation of persons whereby there is paid, or requested or required to be paid, by, or on behalf of, the person, or persons, transported, a portion of the expense

incurred in course of such transportation, shall be deemed transportation provided by a motor carrier within the meaning of this act.

In the absence of action on the part of Congress or the Interstate Commerce Commission regulating or requiring licenses of motor carrier transportation agents acting as such for motor carriers carrying passengers in interstate commerce (in this paragraph referred to as "interstate motor carrier transportation agents") this act shall apply to and regulate such interstate motor carrier transportation agents to the same extent and in the same manner that it regulates or requires the licensing of motor carrier transportation agents acting as such for motor carriers carrying passengers in intrastate commerce (in this paragraph referred to as "intrastate motor carrier transportation agents").

SEC. 3. Section 6 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1933, p. 1013

Sec. 6. An application for a license as a motor carrier transportation agent shall be made in writing to the Railroad Commission, which application shall be duly verified and shall be in such form and contain such information as the commission may from time to time require. Application for license

The Railroad Commission shall have power, with or without hearing, to issue said license as prayed for, or to refuse to issue the same, or to issue it for the partial exercise of the privilege sought. No license shall be issued to an applicant when, with or without hearing, the Railroad Commission shall determine that (1) the applicant is not a fit and proper person to receive the same, or (2) the motor carriers for whom applicant proposes to sell transportation have not complied, and are not then and there complying and do not propose to comply, with State laws, or general orders of the Railroad Commission of the State of California, applicable to the operations of said motor carrier.

In the location at which applicant is licensed to sell transportation, there shall be displayed in a prominent place a certificate setting forth the name of the license and such other matter and things as the commission may require. Display of license

SEC. 4. Section 7 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1935, p. 1834

Sec. 7. A fee of five dollars ($5) shall be paid to the Railroad Commission for filing each application for license. All applications for licenses shall be accompanied by the fee as herein provided and all licenses, subject to the provisions for renewal as the Railroad Commission shall prescribe, shall expire on December 31st of each year. Fees

SEC. 5. Section 8 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1933, p. 1014

Sec. 8. No license shall be issued unless the applicant therefor shall provide a good and sufficient bond in the sum of one thousand dollars ($1,000), which bond shall be filed by Bond

such applicant as principal and by some solvent surety company, authorized to do business in the State of California, as surety, payable to the State of California, and/or any person, or persons, for, or to whom, applicant may, or shall, furnish or provide transportation, and shall be conditioned: (1) upon the faithful performance, by the motor carrier or motor carriers for whom applicant acts or proposes to act as a motor carrier transportation agent, of the contract or agreement of transportation negotiated by the licensee, and (2) the honest and faithful performance by applicant of any undertaking as a licensed motor carrier transportation agent under this act; provided, however, that if any corporation, copartnership, or person of which applicant is an officer, member, commission agent or employee, as the case may be, shall join in applicant's application as provided in Section 3 hereof, applicant shall be deemed to have complied with the provisions of this section if applicant shall provide, or there shall, theretofore, have been filed with the Railroad Commission, a good and sufficient bond in a sum to be fixed by the Railroad Commission, not exceeding twenty-five thousand dollars ($25,000), executed by the corporation, copartnership, or person, joining in such application, as principal, and by some solvent surety company, authorized to do business in the State of California, as surety, payable to the State of California, and/or any person, or persons, for, or to whom, any officer, member, commission agent or employee of said principal, licensed under the provisions of this act may, or shall, furnish or provide transportation, conditioned: (1) upon the faithful performance, by the motor carrier or motor carriers for whom any officer, member, commission agent or employee of said principal acts or proposes to act as a motor carrier transportation agent of the contract or agreement of transportation negotiated by the licensee, and (2) the honest and faithful performance, by any such officer, member, commission agent or employee so licensed, of any undertaking as a licensed motor carrier transportation agent under this act.

Conditions of bond

CHAPTER 540

An act to amend Section 690.7 of the Code of Civil Procedure, relating to property exempt from execution and attachment.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 2, 1941.]

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

Stats 1935, p 1968

SECTION 1. Section 690.7 of the Code of Civil Procedure is hereby amended to read as follows:

Horses, vehicles, etc

690 7. Two horses, two oxen or two mules, and their harness, and one cart or wagon, one dray or truck, one coupe, one hack,

or carriage, for one or two horses, or vehicle for hire, by the use of which a cartman, draymen, truckman, huckster, peddler, hackman, teamster, chauffeur or other laborer habitually earns his living; and one horse with vehicle and harness or other equipments, used by a physician, surgeon, constable or minister of the gospel, in the legitimate practice of his profession or business; with food for such oxen, horses or mules for one month.

CHAPTER 541

An act to add Section 3.94 to the School Code, relating to the maintenance of public school classes on Saturday.

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.] In effect September 13, 1941

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

SECTION 1. Section 3.94 is hereby added to the School Code, to read as follows: New section

3.94. The governing board of any high school district or unified school district may provide for the maintenance on Saturday of special day and evening classes. Saturday classes

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CHAPTER 542

An act to add Section 5.27-1 to the School Code, relating to the maintenance of cafeterias on the campuses of the State colleges.

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.] In effect September 13, 1941

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

SECTION 1. Section 5.27-1 is hereby added to the School Code, to read as follows: New section

5.27-1. The Director of Education may authorize an organization maintaining a cooperative store on the campus of a State college under the provisions of this article to establish and maintain a cafeteria in connection with such store. Cafeterias at State colleges

CHAPTER 543

Stats 1937, p. 229, amended

An act to amend Section 20763 of the Business and Professions Code, relating to renewal of licenses to sell petroleum products at retail.

In effect September 13, 1941

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

Stats 1941, p. 1043

SECTION 1. Section 20763 of the Business and Professions Code is hereby amended to read as follows:

Expiration

20763. (a) Unless sooner suspended, revoked, or terminated, the license required by this article expires at midnight of June 30th of each year.

Renewal

(b) Application for renewal of the license may be filed at any time prior to July 1st, upon payment of the annual fee.

(c) The license may be renewed upon application made on or after July 1st, upon payment of a fee equal to twice the renewal fee.

CHAPTER 544

Stats 1937, p. 185, amended

An act to add Chapter 3, comprising Sections 7325 to 7332, inclusive, to Part 3 of Division 5 of the Labor Code, relating to the installation of safety devices upon the windows of all buildings, whether constructed heretofore or hereafter to be constructed, to safeguard and protect window washers and others employed upon said buildings.

In effect September 13, 1941

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

New chapter

SECTION 1. Chapter 3, comprising Sections 7325 to 7332, inclusive, is hereby added to Part 3 of Division 5 of the Labor Code, to read as follows:

CHAPTER 3. SAFETY DEVICES UPON BUILDINGS TO SAFEGUARD WINDOW CLEANERS

Building defined

7325. "Building," as used in this chapter, means any building three stories or more in height, and whether heretofore constructed or hereafter to be constructed, including commercial buildings of all types, office buildings, apartment houses, hotels and buildings used for manufacturing purposes, but excluding dwelling houses occupied by not more than three families, and excluding all buildings constructed with windows that may be, and are, entirely washed and cleaned from inside the building or from a sitting position on the window sill in the manner provided by safety orders

issued, or which may be issued from time to time, by the Industrial Accident Commission.

Safety rings, etc

7326. There shall be securely attached to the outside window sills or frames of the window of any building, rings, bolts, lugs, fittings or other devices to which may be fastened safety belts or other devices to be used, or which may hereafter be used by persons engaged in cleaning windows. The Industrial Accident Commission shall, prior to the installation of any such bolts, lugs, rings, fittings, or other devices, approve such bolts, lugs, rings, fitting, or other devices as to their design, durability and safety. The Industrial Accident Commission shall by appropriate rules and orders designate the manner in which said safety devices are to be attached, installed and used.

Other safety devices

7327. In lieu of the safety devices enumerated in Section 7326, the Industrial Accident Commission may approve the installation or use of any other devices or means which will effectively safeguard persons engaged in cleaning windows.

Penalty

7328. Any person employing, directing or permitting another to do or perform any labor upon any windows which have not the safety devices as provided for in Sections 7326 and 7327 shall be guilty of a misdemeanor.

Persons to install

7329. Every person owning or entitled to possession, under any lease, sublease, or agreement for a longer period than one year, or under any renewal lease, sublease, or agreement for a period of less than one year, of any building heretofore constructed shall, within six months following the effective date of this chapter, install and provide the safety devices as provided for in this chapter, and thereafter maintain such safety devices in good condition. Any person failing to install or provide and maintain said safety devices as provided for in this chapter shall be guilty of a misdemeanor.

Penalty

7330. Every person who fails to provide the safety devices as set forth in this chapter upon any building hereafter to be constructed, and who thereafter fails to maintain such devices in good condition, shall be guilty of a misdemeanor.

Rules and regulations

7331. The commission may, and it is hereby empowered to, make and enforce such safety orders and rules as it considers necessary and proper to carry into effect the purposes and provisions of this chapter.

Notice of violation

The Industrial Accident Commission shall give notice to the owner or person entitled to possession of any building that is existing in violation of this chapter or of any rules issued under this chapter. Failure of the person so notified to comply with this chapter and rules issued under it, within 15

days, shall be authority for the commission to proceed against such person as authorized in this chapter.

Enforcement

7332. The Industrial Accident Commission shall enforce the provisions of this chapter.

CHAPTER 545

Stats 1939, p 49, and Stats 1883, p 93, amended

An act to amend Section 9918 of the Elections Code, and Sections 852 and 858 of "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, as amended, relating to the time of canvassing of votes in municipal elections, and providing for the meeting of municipal legislative bodies for that purpose.

In effect September 13, 1941

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

Stats 1939, p 390

SECTION 1. Section 9918 of the Elections Code is hereby amended to read as follows:

Canvass and installation

9918. The governing body of the city shall meet at their usual place of meeting, on the first Tuesday after the election, to canvass the returns and install the newly elected officers.

Declaration of person elected

The body shall declare elected the persons having the highest number of votes given for each office. Upon the completion of the canvass and before installing the new officers, the body

Resolution

shall pass a resolution reciting the fact of the election and such other matters as are enumerated in the following section.

Stats 1937, p 1811

SEC. 2. Section 852 of the act cited in the title hereof is hereby amended to read as follows:

Election of city officers

Sec. 852. The members of the city council, the city clerk, and the city treasurer shall be elected by the qualified electors of said city at a general municipal election, except as provided otherwise in Section 852b and Section 852d of this act. Such a general municipal election shall be held therein on the second Tuesday in April in each even-numbered year. Members of the city council and the city clerk and the city treasurer shall hold office for the period of four years from and after the Tuesday next succeeding the day of such election, and until their successors are elected and qualified. The respective terms of the members of the first city council elected under the provisions of this section shall be determined as follows: The two members elected by the highest number of votes shall hold office for four years, and the three members elected by the lowest number of votes shall hold office for two years. In the event that two or more persons should be

elected by the same number of votes, the respective terms of each shall be decided by lot.

Appointments

The city council shall appoint the chief of police and the city judge; it may also, in its discretion, appoint a city attorney, a superintendent of streets, a civil engineer, a court clerk, and such other subordinate officers or employees as in its judgment may be deemed necessary. The compensation of all appointive officers and employees may be fixed from time to time by the city council by resolution or ordinance, and said officers and employees shall hold office during the pleasure of said city council.

Stats. 1933, p. 1323

SEC. 3. Section 858 of said act is hereby amended to read as follows:

Council Meetings

The city council shall meet on the Tuesday next succeeding the date of said general municipal election. Each newly elected member of the city council before entering upon his duties shall take the oath of office. At said meeting the city council shall choose one of its number to act as mayor. The city council shall hold regular meetings at least once in each month at such times as it shall fix by ordinance or resolution, and may adjourn any regular meeting to a date certain, which shall be specified in the order of adjournment, and when so adjourned, such adjourned meeting shall be a regular meeting for all purposes. Such adjourned meeting may likewise be adjourned and when so adjourned shall be a regular meeting for all purposes.

Special meetings

Special meetings may be called at any time by the mayor, or by three members of the city council, by written notice delivered personally to each member at least three hours before the time specified for the proposed meeting; provided, however, that any special meeting of the city council shall be a validly called special meeting, without the giving of such written notice, as above provided, if all members of the city council shall give their consent in writing to the holding of such meeting, and such consent is on file in the office of the city clerk at the time of holding such meeting. A telegraphic communication from a councilman consenting to the holding of the meeting shall be deemed to be a consent in writing, within the meaning of the terms as expressed in the foregoing sentence. At any special meeting the power of the city council to transact business shall be limited to matters referred to in such written notice or written consent; all meetings of the city council shall be held within the corporate limits of the city at such place as may be designated by ordinance and shall be public.

Adjournment

In the event that any order of adjournment of a regular meeting fails to state the hour at which any adjourned meeting is to be held, such adjourned meeting may be validly held on the day specified in the order of adjournment if held at the hour set forth in the ordinance or resolution prescribing the time for regular meetings.

CHAPTER 546

Stats 1939, p 49, amended

An act to amend Sections 1771, 9700, 11060, 11103 and 11121 of, and to add Section 9482 to, the Elections Code, relating to municipal elections, including procedure in the referendum and recall.

In effect September 13, 1941

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

Stats 1939, p 97

SECTION 1. Section 1771 of the Elections Code is hereby amended to read as follows:

Petition signed by 10% of voters

1771. If a petition, signed by not less than 10 per cent of the voters of the city, protesting against the adoption of an ordinance is presented to the legislative body of the city within 30 days of its adoption, the effective date of the ordinance shall be suspended, and the legislative body shall reconsider the same. In order to be acceptable for filing the petition must on its face purport to have appended to it signatures of voters in the required number.

Stats 1939, p 301

SEC. 2. Section 11060 of said code is hereby amended to read as follows:

Recall of more than one officer

11060. One election is sufficient for the recall and election of one or more elective officials, but a separate petition is necessary to propose the recall of each official.

Stats 1939, p 302

SEC. 3. Section 11103 of said code is hereby amended to read as follows:

Recall of more than one officer

Recall against clerk

11103. One election is sufficient for the recall of one or more officers, but a separate petition is necessary to propose the recall of each officer. When the clerk of the legislative body is the officer sought to be recalled, he shall immediately notify the legislative body, and the duties imposed upon him by this article shall be performed by some other person designated by the legislative body. The time for the performance of such duties shall not begin to run until after such designation.

Stats 1939, p 306

SEC. 4. Section 11121 of said code is hereby amended to read as follows:

Legislative body recalled

11121. If a majority of the legislative body is recalled at the same election, the members recalled shall retain their offices until their successors are elected and qualified. Immediately after the canvass of votes, the clerk shall call a special election to fill the vacancies arising as a result of the recall election, which special election shall be held within 45 days after

the canvass of votes of the election at which they were recalled. Nomination papers proposing candidates to fill the vacancies shall be circulated and filed within 15 days after the clerk issues his call. The vote of the special election shall be canvassed by the clerk, who shall declare the result. If the clerk has also been recalled, then the board of supervisors shall perform his duties.

SEC. 5. Section 9482 is hereby added to the Elections Code, to read as follows: New section

Sec. 9482. The provisions of this part shall apply to all municipal elections except where otherwise provided for in the Constitution of the State or in a charter duly adopted or amended pursuant to the Constitution of this State. Application of part

SEC. 6. Section 9700 of said code is hereby amended to read as follows: Stats. 1939, p. 275

9700. Whenever the term "municipal election" is used in this chapter, it refers to elections in cities of the fifth and sixth class and where applicable in charter cities. "Municipal election"

CHAPTER 547

An act to amend Sections 6 and 11 of the California Agricultural Products Marketing Act of 1937, relating to terms and conditions of agreements and orders issued under such act, enforcement of such agreements and orders, and declaring this act to be an urgency measure, to take effect immediately. Stats. 1935, p. 1032, amended

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.] In effect immediately

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

SECTION 1. Section 6 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1937, p. 2505

Sec. 6. Marketing agreements executed and marketing orders issued pursuant to this act shall contain one or more of the following terms and conditions and no others, except as provided in Section 6a of this act: Terms and conditions

(1) Limiting, or providing methods for the limitation of the total quantity of any agricultural commodity, or of any grade, size or quality thereof, which may be marketed, or transported to market, in intrastate commerce during any specified period or periods, by all handlers thereof.

(2) Allotting, or providing methods for allotting, the amount of such commodity, or any grade, size, or quality thereof, which each handler may purchase from, or handle on behalf

Terms and conditions

of, any and all producers thereof, in intrastate commerce, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the director determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be so purchased or handled during any specified period or periods shall be apportioned equitably among current producers.

(3) Allotting, or providing methods for allotting, the amount of any such commodity, or any grade, size or quality thereof, which each handler may market or transport to market, in intrastate commerce, during any specified period or periods, under a uniform rule based upon the amounts of such commodity, or any grade, size or quality thereof, which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the director determines to be representative, or both, to the end that the total quantity of such commodity, or any grade, size, or quality thereof, to be marketed or transported to market in intrastate commerce during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(4) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus but so as not to burden or obstruct interstate or foreign commerce in such commodity, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(5) Establishing, or providing for the establishment of, reserve or surplus pools of any such commodity or of any grade, size, or quality thereof, or the representative value of such commodity or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(6) Establishing uniform grading standards of quality, condition, appearance, size or pack for any such commodity and providing for the grading and inspection and regulation of handling of such commodity in accordance with such grading standards so established. Such grading standards for any such commodity shall not be established below any minimum standards prescribed by law for such commodity.

(7) Limiting, or providing methods for the limitation of, the period or periods in which handlers may engage in handling any such agricultural commodity or variety thereof.

(8) Determining or providing methods for determining in any marketing agreement the amount which any signatory violating any of the provisions of such marketing agreement may be required to pay to other signatories thereto as liquidated damages for such violation.

(9) Providing for a program to adjust the commercial production of any agricultural commodity by means of tree or vine removal, including methods for financing such program by the acceptance of Federal or State funds available for this purpose or by levying a uniform assessment upon all production or marketing subject to such marketing agreement or order, or by both methods, and for the disbursement of the funds so obtained to those growers who qualify for payments under such production adjustment program. Tree or vine removal under such program shall be voluntary and a grower shall be deemed qualified to receive payment who, upon application to the administrative committee selected pursuant to this act and approval of such application, removes trees or vines as specified in the program and otherwise conforms with the provisions thereof. Each application shall be considered and approved or disapproved in whole or in part, within the limits of the funds available, so as most effectively to accomplish the purpose of the program. No program of production adjustment devised hereunder shall authorize payments for the removal of such trees or vines of the species or variety specified in the program as have averaged during the three immediately preceding years an annual yield per acre in excess of the comparably computed average yield from bearing trees or vines of the same species or variety for the State as a whole, such yields and averages to be determined by the administrative committee from official Federal and State statistical data or such other sources as are deemed by it to be competent and reliable. All actions of the administrative committee under such program shall be subject to review and approval or disapproval of the director.

SEC. 2. Section 14 of said act is hereby amended to read as follows: Stats 1937, p 2512

Sec. 14. (1) Every person who violates any provision of any marketing agreement or marketing order to which he is subject shall be guilty of a misdemeanor and on conviction thereof, punished by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500), or by imprisonment of not less than 10 days or more than six months, or by both such fine and imprisonment. Each day during which any of the violations above referred to continue shall constitute a separate offense. Violation of agreement or order

(2) Any person exceeding any quota, allotment, or salable percentage fixed for him by or under any marketing agreement executed, or marketing order issued, by the director, or any amendment thereto, or any rule or regulation duly made or promulgated thereunder, or who shall make any shipment without first obtaining a required allotment or quota or qualifying to ship his salable percentage, or any other person knowingly participating or aiding in so doing shall become civilly liable to the State in a sum equal to three times the current market value of any excess or shipment, such sum to be recoverable in a civil suit, brought in Civil penalty

the name of the State or in the name of the administrative agency under the particular marketing agreement or marketing order involved. The funds so collected shall be used in the administration of the particular marketing agreement or marketing order.

Injunction

(3) The Attorney General of this State, or any district attorney of this State, may, upon his own initiative, and shall upon complaint of any person, if after investigation he believes a violation to have occurred, bring an action in the name of the people of this State in the superior court of the State of California for an injunction against any person violating any provisions of any marketing agreement or marketing order, or rule or regulation duly made or promulgated thereunder, to which he is subject.

(4) Any administrative agency under any marketing agreement or marketing order may, with the approval of the director, bring an action similar to that described in paragraph (2) of this section.

(5) In any action brought to enforce any of the provisions of this act, as provided in this section:

(a) Upon compliance with Section 527 of the Code of Civil Procedure of the State of California, the court may issue a temporary restraining order and preliminary injunction as in other actions for injunctive relief and upon the trial of such action, if judgment be in favor of plaintiff, the court shall permanently enjoin defendant from further violations.

(b) The judgment, if in favor of the plaintiff, shall provide that the defendant pay to the plaintiff a reasonable attorney's fee and any and all costs of suit.

(c) Any such action may be commenced either in the county where any defendant resides, or where any act or omission or part thereof complained of occurred.

Penalties and remedies cumulative

(6) The penalties and remedies herein prescribed with regard to any violation mentioned in this section shall be concurrent and neither singly or combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or administrative rights, remedies, forfeitures or penalties provided or allowed by law with respect to any such violation.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of this State, and shall, therefore, go into immediate effect. A statement of the facts constituting such necessity is as follows:

The economic conditions of agricultural producers throughout the State are such as to require immediate relief, if their purchasing power and taxpaying ability are to continue and their morale and standard of living are not to be undermined.

Such relief can be afforded only by the orderly production and marketing of agricultural products and the establishment of marketing agreements and marketing orders which assure stabilized and orderly distribution of agricultural products which can not otherwise be so marketed.

CHAPTER 548

An act to add Division 6 to the Public Resources Code, thereby consolidating and revising the law relating to the natural resources of the State, including the administration, management, leasing, and disposition of public lands and other lands, and the oil and gas and other mineral deposits within or upon such lands, owned by the State, by counties, or by cities, and to add Sections 10012 and 10013 to said code, repealing certain acts and parts of acts specified therein.

Stats 1939, p 1067, amended

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

In effect September 13, 1941

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

SECTION 1. Division 6 is hereby added to the Public Resources Code, to read as follows:

New division

DIVISION 6. PUBLIC LANDS

PART 1. ADMINISTRATION AND CONTROL OF STATE LANDS

CHAPTER 1. GENERAL PROVISIONS

6001. Unless the context otherwise requires, the general provisions and definitions set forth in this chapter shall govern the construction of this division.

Construction

6002. "Commission" means the State Lands Commission

"Commission"

6003. "City" includes "city and county."

"City"

6004. "Oil and gas" includes oil, gas and all other hydrocarbon substances.

"Oil and gas"

6005. Whenever permissive authority or discretion is vested in any public officer or body under this division, such authority or discretion is subject to the condition that it be exercised in the best interests of the State.

Discretion

6006. The repeal of Chapter 303 of the Statutes of 1921 and of Chapter 227 of the Statutes of 1923 effected by the

Existing rights

State Lands Act of 1938 shall not affect any existing rights thereunder or any permit, lease, or agreement entered into under any provision of either chapter, nor shall it affect the rights or duties of any purchaser of State lands prior to June 11, 1938, the effective date of the State Lands Act of 1938.

Stats Ex Sess 1938, p 23

Existing rights

6007. The repeal by this code of any provision of law codified herein shall not affect any existing vested rights thereunder or any contract, permit, lease, or agreement entered into under any such provision of law, nor shall it affect the rights or duties of any purchaser of State lands sold prior to the effective date of such codification.

CHAPTER 2. THE STATE LANDS COMMISSION AND THE DIVISION OF STATE LANDS

State Lands Commission

6101. There is a State Lands Commission in the Department of Finance, consisting of the Controller, the Lieutenant Governor, and the Director of Finance.

Powers and duties

6102. The commission is the successor to, and is vested with all the powers, duties, purposes, responsibilities and jurisdiction of, the Department of Finance as successor to the Surveyor General, Register of the State Land Office, and State Land Office, and of the Division of State Lands in the Department of Finance. Whenever, by any statute or law now in force or that may be hereafter enacted, a duty or jurisdiction is imposed or authority conferred upon the Surveyor General, Register of the State Land Office, or State Land Office, or upon the Department of Finance as successor thereto, or upon the Chief of the Division of State Lands, or the Division of State Lands, such duty, jurisdiction, and authority are hereby transferred to, imposed and conferred upon the commission and the appropriate officers and employees thereof with the same force and effect as though the title of the State Lands Commission had been specifically set forth and named therein in lieu of the Surveyor General, Register of the State Land Office, State Land Office, Department of Finance, Chief of the Division of State Lands, or Division of State Lands, as the case may be.

Division of State Lands

6103. The commission shall administer all laws and statutes committed to it through the Division of State Lands of the Department of Finance, which division is continued in existence. The commission is vested with all the powers conferred upon heads of departments of the State contained in Sections 352, 353 and 356 of the Political Code.

The commission may appoint and, with the approval of the Director of Finance, may fix the salaries of the officers and employees in the division.

Meetings

6104. The commission shall meet, upon due notice to all members thereof, at such times and places within the State as are deemed necessary by it for the proper transaction of the business committed to it.

Conduct of meetings

6105. The commission shall adopt rules governing the conduct of the business of the commission. No action of the commission shall be valid unless authorized by resolution adopted at a meeting after due notice thereof and by at least two of the members of the commission present.

Execution of instruments
See also Stats 1941, p 3119

6106. The commission may, by resolution, authorize any of its employees or officers to execute any instrument in the name of the State.

Compromise of claims

6107. Whenever the commission, pursuant to authority granted to it by law, enters into any agreement for the compromise or settlement of claims, the agreement shall be submitted to the Governor, and if approved by him shall thereupon, but not before, be binding upon the State and the other party thereto.

Rules and regulations

6108. The commission may make and enforce all reasonable and proper rules and regulations consistent with law for the purpose of carrying out the provisions of this division and incidental thereto.

The commission may prepare, execute, and deliver all papers, instruments, and documents, and may do any and all things necessary fully and completely to effectuate the purposes of this division.

Chapter 3. Powers and Duties Generally

Classification of State land

6201. The commission may from time to time classify any or all State land for its different possible uses, and, when it is deemed advisable, may require the Department of Natural Resources, the Director of Agriculture, or any other officer, organization, agency or institution of the State Government to make such classification. It is the duty of any such officer, organization, agency, or institution to make such classification and to submit a report thereon upon the application of the commission.

Surveys and subdivisions

6202. The commission may make surveys and subdivisions of lands belonging to the State to be sold or leased, and the county recorders shall record maps thereof, made by the commission, without cost to the State.

Such maps shall be the official maps of the surveys and subdivisions, and all patents or leases issued for the lands shall refer to the maps so recorded.

Lists of land sold

6203. On or before the first Monday in March in each year, the commission shall make out and transmit to the assessor of each county where lands or lots lie that have been sold by the State, for which certificates of purchase, patents, or deeds have issued, during the year preceding, certified lists of such lands or lots, giving a description of the lands or lots, the names of the purchasers, and the amount of principal unpaid, if any, on the first Monday in March.

Boundary lines

6204. The commission shall, when required, survey and mark the boundary lines of counties and cities.

School land sections

6205. The commission shall, after the survey of any township by the United States, obtain from the United States Land Office a statement, showing whether or not the sixteenth and thirty-sixth sections therein belong to the State.

Record of U. S. patents

6206. The commission shall provide the necessary record books and cause all lists or patents for lands from the United States to be recorded therein.

Records of lands

6207. The commission shall keep separate accounts and records in relation to each class of lands to which the State is entitled, which shall show:

(a) The number of the survey or location, and the date of the approval.

(b) The name of the locator, the description of the lands by legal subdivisions, the price per acre at which they are sold, the amount paid, the date of payment, and the number and date of the certificate of purchase.

(c) The date of the patent, when it has been issued.

Plats of lands

6208. The commission shall also keep plats of such lands, upon which all approved locations and surveys shall be designated by their numbers.

Noting on plats

6209. When certificates of purchase or patents are issued, the fact shall be noted on the plats.

Representation of State

6210. The commission shall represent the State in all contests between it and the United States in relation to public lands.

Investigation of land titles

6211. The commission may, not more often than once in two years, inspect and investigate conditions in the various counties in respect to land titles. It shall annually report thereon to the Governor and shall, prior to each regular session, report to the Legislature, making such recommendations as it deems proper and necessary. The commission may consult with and advise county registrars of land titles and make such suggestions and recommendations to them as it deems desirable.

Uniform forms

6212. The commission may prepare and recommend uniform blank forms for use throughout the State by county registrars of land titles, by applicants for registration of land titles, and by the courts hearing such applications.

Land title frauds

6213. Whenever it appears by final decree of any court of competent jurisdiction that title to any land subject to sale by the State was obtained, or sought to be obtained, by fraudulent means, or in any manner contrary to the laws of this State relating to the acquisition of its public domain, all payments made in the interest of the fraudulent title shall revert to the State without suit. The commission shall thereupon cancel all evidence of title to any such land and shall restore the land to public entry.

Fees
See also Stats 1941, p 3217

6214. The fees to be charged and collected by the commission for services performed by it shall include the following:

(a) For each certificate of purchase or duplicate, three dollars ($3).

(b) For each patent or certified copy of record thereof, five dollars ($5).

(c) For certifying a contested case to superior court, ten dollars ($10).

(d) For copies of papers, twenty cents ($0.20) per folio and fifty cents ($0 50) for certifying thereto.

(e) For making copies of maps, for furnishing status of lands and for furnishing names and addresses of purchasers of State lands, per hour, one dollar ($1), and fifty cents ($0.50) for certifying thereto.

(f) Such other fees as are allowed by law.

All fees received by the commission under this section shall be paid into the State Treasury on the first Monday of each month and placed to the credit of the General Fund.

Chapter 4. Administration and Control of Swamp, Overflowed, Tide, or Submerged Lands, and Structures Thereon

Article 1. Administration and Control Generally

Tidelands, etc

6301. The commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits All jurisdiction and authority remaining in the State as to tidelands and submerged lands as to which grants have been or may be made is vested in the commission.

The commission shall exclusively administer and control all such lands, and may lease or otherwise dispose of such lands, as provided by law, and in accordance with such rules and regulations as the commission shall adopt.

Trespassers

6302. The commission may eject from any tide and submerged lands, beds of navigable channels, streams, rivers, creeks, lakes, bays, and inlets under its jurisdiction, any person, firm or corporation, trespassing upon any such lands, through appropriate action in the courts of this State.

Use of tidelands, etc

6303. The commission may grant the privilege of depositing material upon or removing or extracting material from swamp, overflowed, marsh, tide or submerged lands owned by the State, for purposes connected with the erection or maintenance of structures authorized under Articles 2 or 3 of this chapter, upon such terms and conditions and for such consideration as will be for the best interests of the State.

Cooperation with U S

6304. The commission may cooperate with the Beach Erosion Board of the United States Government, and may expend such moneys as are necessary for cooperative work with that board out of any appropriation made for the purposes of this section.

Rights granted counties and cities

6305. The powers granted by this chapter to the commission as to leasing or granting of rights or privileges with relation to such lands owned by the State are hereby conferred upon the counties and cities to which such lands have been granted.

Monthly remittance of fees

See also Stats 1941, p 3119

6306. All fees collected under this chapter shall be remitted monthly to the State Treasury, and credited by the State Controller to the current appropriation for the support of the commission.

Article 2. Control of Structures

Groins, jetties, etc

6321. The commission may, upon written application of the littoral owner, grant authority to any such owner to construct, alter or maintain, groins, jetties, sea walls, breakwaters, and bulkheads, or any one or more such structures, upon, across or over any of the swamp, overflowed, marsh, tide or submerged lands of this State bordering upon such littoral lands if, at the time of construction or alteration, such structures do not unreasonably interfere with the uses and purposes reserved to the people of the State. The commission shall make reasonable rules with reference to such applications and the location, type, character, design, size, and manner under which such structures may be constructed, altered or maintained, and shall take suitable measures to enforce such rules. It shall fix and collect reasonable fees, not exceeding the actual cost, for the filing and examination of each such application, and for the performance of such other duties as may be required under the provisions of this chapter.

Removal, etc., of groins, jetties, etc.

6322. The commission may also remove or require to be removed, repaired or altered, and may regulate the type, character, design, size, and maintenance of, such structures existing on August 14, 1931, and may make reasonable rules in reference thereto.

Accretions

6323. If accretions are caused or occasioned by any such structure authorized hereunder, no fence, building or other structure of any kind, other than the structure so authorized and appliances for the protection of life, shall be permitted or suffered to be erected or maintained either by the State or by any political subdivision or municipality, or by any one claiming under or through them, upon any such accretions belonging to others than the littoral owner, to the end that all such accretions shall at all times be and remain an unobstructed and open beach, except as provided in Article 3 of this chapter.

Exercise of powers by cities, etc

6324. If by reason of any grant to any municipality, political subdivision, or district, or by reason of any charter of any city or county, any of the powers and duties which are granted to or imposed upon the commission in relation to lands described in this article can not be exercised by the commission within any municipality, political subdivision, or district, or any portion thereof, then such powers and duties are to that extent granted to and imposed upon such municipality, political subdivision or district, to be exercised and performed by, or under the authority of, the legislative or other governing body thereof, but where any such lands have been granted to any municipality or other governmental agency in trust or for limited purposes or upon conditions, nothing in this chapter shall affect or extend such trusts or purposes or modify or affect such conditions.

Federal permit

6325. The authority granted under this chapter does not obviate the necessity for the applicant to obtain permission from the War Department of the United States to construct, alter, or maintain the structures herein authorized.

Rights of State

6326. Nothing in this chapter abridges any right of the State to erect, maintain, or remove the protective structures herein mentioned, upon, across, or over any of the swamp, overflowed, marsh, tide or submerged lands of this State.

Article 3. Procedure on Establishment of Ordinary High-water Mark

Establishment of high-water mark

6357. The commission may establish the ordinary high-water mark of any of the swamp, overflowed, marsh, tide, or submerged lands of this State, either by arbitration or action to quiet title, whenever it is deemed expedient or necessary.

Application for lease
See also Stats. 1941, p 3120

6358. In any case where, after the establishment of such high-water mark, it is found that any structure, other than those mentioned in Article 2, is wholly or partly on lands owned by the State, and that the structure was erected prior to August 14, 1931, the person who erected the structure, or his successor in interest, may within one year of such determination, apply to the commission for a lease of so much of such land as is necessary to the purpose of such structure or structures. During such year, and thereafter during the pendency of the application, no proceedings shall be commenced or carried on for the purpose of removing any such structure or structures or interfering with the use thereof.

Form of application
See also Stats 1941, p 3120

6359. The application shall be in writing and verified by the applicant, or if it is a corporation, by an officer thereof. The application shall set forth the name and address of the applicant and shall contain the description of the land which the applicant desires to lease, accompanied by a plat of survey thereof, and a statement of the term for which a lease is desired by the applicant. The application shall be accompanied by a filing fee of ten dollars ($10).

Survey of land
See also Stats 1941, p 3120

6360. If it appears to the commission that the description or the plat of survey of the land sought to be leased is insufficient, it shall forthwith, at the expense of the applicant, survey or cause to be surveyed the land so sought to be leased.

Appraisal of land
See also Stats 1941, p 3120

6361. Within 30 days after the filing of any such application, or within 30 days after the completion of a survey thus made, the commission shall forthwith appraise the land and determine and establish a reasonable annual rental for the land as unimproved. In the determination of the rental the commission shall be controlled and guided by the values or rentals of lands of like character and similarly situated.

Terms of lease
See also Stats 1941, p 3120

6362. The commission shall then prepare, in duplicate, a lease of such land from the State to the applicant. The lease shall be granted for a period not to exceed five years from and after the date of the application and shall contain such other terms and conditions as in the opinion of the commission are for the best interests of the State.

Execution of lease
See also Stats 1941, p 3120

6363. The lease when so prepared shall be forthwith signed in duplicate in the name and on the behalf of the State by the commission. The commission shall then give notice by registered mail to the applicant at his address as stated in the application, that the lease is ready in the office of the commission for execution by and delivery to the applicant. Within 30 days after the mailing of such notice, the applicant shall sign the lease, in duplicate, as lessee, and pay to the State the installment of rental which by the terms of such lease is to be paid on or before its delivery. The commission shall

deliver one of the executed copies to the applicant and file the other in its office.

Waiver of lease. See also Stats. 1941, p. 3120

6364. If the applicant fails to sign the lease, in duplicate, and make the annual payment of rental within 30 days after the mailing to him of the notice that the lease is ready for signature by and delivery to him, the applicant shall be deemed to have waived the privilege of obtaining a lease under this article, and the commission shall forthwith report all the facts in connection with the applicant's occupation, as well as the occupation by other persons in such cases, of such lands to the Attorney General, who may commence an action in a court of competent jurisdiction in the county wherein the lands or any portion thereof are located to eject the applicant, or applicant's assignee or successor, or such other persons, from the land.

Action of ejectment

CHAPTER 5. RESERVATION OF MINERALS

Reservation of minerals

6401. All oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits in lands belonging to the State, or which may become the property of the State, are reserved to the State, except that nothing in this chapter applies to lands acquired by the State on sale thereof for delinquent taxes, other than lands so acquired, the deed for which is required to be filed in the office of the Department of Finance or of the commission; and except that nothing in this chapter applies to lands acquired by the State under the provisions of the Streets and Highways Code and sold or exchanged pursuant to the provisions of Section 104.5 thereof. Such deposits are reserved from sale except upon a rental and royalty basis. A purchaser of any lands belonging to the State, or which may become the property of the State, shall acquire no right, title, or interest in or to such deposits. The right of such purchaser shall be subject to the reservation of all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits, and to the conditions and limitations prescribed by law providing for the State and persons authorized by it to prospect for, mine, and remove such deposits, and to occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the mining and removal of such deposits therefrom. The provisions of this section shall not apply to any compromise agreement entered into under this division.

Same

6402. All applications to purchase State lands and all sales pursuant thereto shall be subject to and contain a reservation to the State of all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits in all lands so acquired, and shall also contain a reservation to the State, and persons authorized by it, of the right to prospect for, mine, and remove such deposits and to occupy and use so much of

the surface as may be required therefor, and all certificates of purchase and patents issued therefor shall contain such reservations.

Grants to U S

Whenever authorized by law to make grants of land to the United States of America, or to an officer, department, or agency thereof, either in exchange for other lands or otherwise, the commission may make such grants with or without the reservation of deposits of oil and gas and other minerals required by this chapter.

CHAPTER 6. EXCHANGE OF CERTAIN LANDS WITH THE FEDERAL GOVERNMENT

Exchange of timber lands with U S

6441. Public lands of the State, situated within the exterior boundaries of a National forest, which in the judgment of the commission are more valuable for timber than for any other purpose, may be exchanged for timber lands of the United States of equal value, in one or more compact tracts, situated in the State. The commission shall select the lands to be so exchanged and arrange with the proper officials of the United States for their exchange.

Exchange of certain lands with U S

6442. Public lands of the State, situated within the exterior boundaries of a National park, which in the judgment of the commission are more valuable for timber or recreational uses than for any other purpose may be exchanged for timber lands or other public lands of the United States of equal value, in one or more compact tracts, situated in the State. The commission shall select the lands to be so exchanged and arrange with the proper officials of the United States for their exchange.

Execution of conveyances

6443. Whenever in the judgment of the commission it is to the advantage of the State to exchange any of its public lands situated within the exterior boundaries of a National forest or National park, as provided in Sections 6441 and 6442, the commission shall so certify to the Governor, who shall thereupon execute, on behalf of the State, any instruments of conveyance necessary to effect the exchange.

Approval of commission

6444. No lands shall be accepted in exchange under this article without the approval of the commission. All lands so acquired shall be subject to the laws governing State lands of the class from which the exchange was made.

PART 2. LEASING OF PUBLIC LANDS

CHAPTER 1. GENERAL LEASING LAW

"Lease" See also Stats 1941, p 3120

6501. As used in this chapter, "lease" includes a permit or license. This chapter does not authorize the granting of any permit or lease on tide or submerged lands or upon any river bed or lake bed belonging to the State.

Application to lease land

6502. Any person, firm or corporation desiring to lease any of the unsold public land owned by the State, for any purpose not prohibited or otherwise provided for by law, may make application therefor to the commission, describing the lands sought to be leased by legal subdivisions The application shall be accompanied by a filing fee of five dollars ($5).

All applications to lease lands under this chapter shall be approved or rejected by the commission within 90 days after the receipt thereof.

Appraisal
See also Stats 1941, p 3120

6503. Upon receipt of an application to lease land under this chapter, the commission shall appraise the lands and fix the annual rental per acre therefor.

Delivery of lease and payment of rent
See also Stats 1941, p 3120

6504. Whenever any lease is delivered to an applicant by the commission, the lessee shall within 15 days thereafter, execute and return the lease to the commission and pay the first annual rental. The commission shall receive the money and give a receipt therefor. All subsequent annual payments of rental shall be paid in like manner 15 days after they become due. In case payments are not made as herein provided, the lease and all rights thereunder shall cease and terminate.

Termination of lease
See also Stats 1941, p 3120

6505. No lease shall be for a period longer than 10 years. The lease shall terminate upon the sale of the leased land, or any portion thereof, by the State, and the lessee shall be notified by registered mail by the commission upon the sale of the land. The date of the termination of the lease shall be on the date the certificate of purchase or patent is issued to the purchaser of the land from the State, except that when a lease embraces land suitable for cultivation and an application from an actual settler to purchase the land is received and filed by the commission, the lease shall terminate on the date the application is filed. The lessee shall be notified by registered mail of the filing of the application to purchase the land, or any portion thereof, and of the termination of the lease.

Effect of possession under lease
See also Stats 1941, p 3120

6506. Possession under any lease authorized by this chapter shall not be held to be adverse to that of any person who becomes an actual settler upon any portion of land described in such lease with intent to purchase it in the manner provided by law.

Error in description
See also Stats 1941, p 3120

6507. Any error in the description of any lease may with the consent of the holder thereof be corrected or any description amended by the commission when in its judgment it is to the best interests of the State so to do.

Termination of lease
See also Stats 1941, p 3120

6508. Any lease for sixteenth and thirty-sixth sections or any portion thereof which are now or may hereafter be included within the exterior boundaries of a National reservation or of

a reserve, or within the exterior boundaries of lands withdrawn from public entry, shall terminate whenever the State designates the lands as bases for indemnity selections as provided by law. The lessee shall be notified by the commission by registered mail whenever the State so designates the land.

Surrender of lease
See also Stats 1941, p 3120

6509. If a lease is terminated by reason of the filing of an application to purchase land suitable for cultivation, or by the sale of land, or by the designation of land as a base for indemnity selections, the lessee shall surrender the lease to the commission and receive in exchange therefor from the commission a certificate showing the proportionate amount of the annual payment to be refunded to the lessee, for the tract of land that has been disposed of by the State. The State Controller, upon the surrender to him of the certificate, shall issue to the lessee a warrant for the amount payable out of the State School Fund or, if the rentals received under the lease were deposited in the General Fund, then the warrant shall be payable out of any appropriation available for such purpose, and the State Treasurer shall pay the same. If all the tracts of land described in the surrendered lease have not been disposed of by the State, the lessee shall be entitled, without the payment of any additional fee, to a new lease for the remaining tracts of land for the balance of the unexpired term of the surrendered lease, at the same annual rental per acre.

Warrant for refund

Disposition of moneys
See also Stats 1941, p 3120

6510. All moneys received as rental for school lands under this chapter shall be paid into the State School Fund. All other money received under this chapter shall be paid into the General Fund.

See also Stats 1941, p 3121

CHAPTER 2. LEASING OF SALT MARSH, TIDE AND SUBMERGED LANDS

Article 1. Leasing of Submerged Lands to Adjoining Tideland Owners

Application to lease adjoining lands

6601. Any person or corporation owning in fee any lands in this State which were surveyed and sold as tidelands prior to August 2, 1921, may make written application to the commission that adjoining lands owned by the State or inuring to it by virtue of its sovereignty which have not been sold, leased or otherwise disposed of, or contracted to be sold, leased or otherwise disposed of, lying below ordinary low water mark and submerged by salt tidal waters, be leased pursuant to this article. The application shall be verified by the applicant, or if it is a corporation, by an officer thereof, and shall set forth all of the following:

Contents

(a) The name and address of the applicant.

(b) A description of the tidelands owned by the applicant, the nature and extent of the applicant's interest therein, and

a reference to the patent or other source of the applicant's title thereto.

(c) A description by surveyed subdivisions (not less in any case than one-quarter section) of the submerged lands which the applicant desires to lease.

(d) A statement of the term (which shall not exceed 35 years from the date of the lease) for which a lease is desired by the applicant.

(e) Such other facts as will show that the lands are not excluded from lease by the provisions of Section 6602.

Map

6602. The applicant shall file with the application, in addition to the certified plat hereinafter required, a map or plat showing the submerged lands which the applicant desires to lease, the lands adjacent owned by the applicant, the depths of water on the submerged lands at low tide as shown, and so far as shown, by the most recent map thereof issued by authority of the United States, and the location of such harbor lines or pierhead lines as have been established by authority of the United States.

Limitations on leases

6603. No lands shall be leased under this article which are submerged to a depth of more than seven feet at ordinary low tide or which are located as follows:

(a) Within one mile of the State Prison at San Quentin.

(b) Within the City and County of San Francisco or within five miles of the corporate limits thereof.

(c) Within the City of Oakland, or the City of Los Angeles, or within five miles of the corporate limits of either city.

(d) Within any other incorporated city or town, or within two miles of the corporate limits thereof.

(e) Within the jurisdiction of any harbor commission created by or existing under any statute of this State.

(f) Which lie beyond (that is outside of) any harbor line or pierhead line established by authority of the United States.

Only such lands shall be leased under this article as lie adjacent to the lands surveyed and sold as tidelands already owned by the applicant, and which together with such lands constitute a united tract or area. Not more than 5,000 acres of such lands shall be leased to any one person or corporation at any one time.

Application for survey

6604. Any person or corporation desiring to make application that there be leased pursuant to this article, any submerged lands which have not been sectionized by authority of the United States, shall apply to the surveyor or engineer of the county in which the whole or the greater portion of such lands is situated to have the lands surveyed. The county surveyor or engineer shall thereupon, at the expense of the applicant, make a survey thereof, under instructions from the commission, and make and certify a plat of the survey, which shall be filed with the application for the lease of

the lands. If the county surveyor or engineer fails to make the survey and furnish to the applicant a certified plat thereof within 90 days after application therefor, the commission shall upon request of the applicant designate another person to make the survey and to make and certify the plat. A survey made and plat certified by the person so designated shall have the same force and effect as if made by a county surveyor or engineer. All surveys made pursuant to this section shall conform as nearly as practicable to the system adopted by the United States for the survey of public lands and wherever practicable shall connect with a United States survey.

Approval or rejection

6605. Within 30 days after the filing of any application under this article, the commission shall determine whether the whole of, or what part of, the submerged lands specified in the application may be leased under this article and shall indorse on the application its approval thereof with respect to all such lands (describing them) which may be so leased and its rejection thereof as to all other submerged lands described in the application.

Annual rental and term

6606. Whenever any application is so approved with respect to any submerged lands described in it, the commission shall forthwith fix the annual rental per acre therefor and shall prepare in duplicate a lease of the lands from the State to the applicant and his successors or assigns. The lease shall be dated as of the date of the approval of the application and shall be for the term from and after its date specified in the application, but in no case exceeding 35 years.

Terms

6607. Each such lease shall by its terms provide:

(a) That the lessee or his successors or assigns shall pay annually in advance, as rental, to the State Treasurer for the General Fund the amount per acre fixed by the commission for the area of submerged lands leased thereby, the first of such payments to be made on or before the delivery of the lease and the other installments of rental to be payable annually, during the continuance in force of the lease, upon or before the expiration of each successive year from and after its date.

(b) That if any such annual installment of rental is not paid within 30 days after it has become due and payable, the State acting through the commission may at its option, by written notice addressed to the lessee and delivered at his address as set forth in the application (or if the lessee or his successors or assigns has specified another address by a notice filed with the commission, then at such other address) cancel the lease and terminate all future rights thereunder.

(c) That in consideration of the rental payable under the lease, the lessee or his successors or assigns may, during the continuance in force of the lease, by dredging or otherwise, alter the surface conformation of the leased lands and remove

therefrom any earth or other materials of any kind contained therein and for any purpose use or redeposit any such materials on any portion of the leased lands or elsewhere except that no such use shall be made of any of the leased lands as will prevent the ebb and flow of tidal waters thereover or substantially lessen the depth of water thereon.

(d) That there is reserved from the operation of the lease, and that the lease is subject to, the public right and easement to use the waters over the leased lands for navigation and fishing.

Execution

6608. The lease when so prepared shall be forthwith signed in duplicate in the name and on behalf of the State by the Governor, attested by the Secretary of State, sealed with the Great Seal of the State, and countersigned by the commission. Thereupon the commission shall forthwith give notice by registered mail to the applicant at his or its address as stated in the application that the lease is ready at the office of the commission for execution by and delivery to the applicant. Within 30 days after the mailing of the notice the applicant shall sign the lease in duplicate as lessee and pay to the State Treasurer for the General Fund the installment of rental which by the terms of the lease is to be paid on or before its delivery. Upon the issuance by the treasurer to the applicant and the filing with the commission of a certificate of such payment, the commission shall deliver one of the duplicates of the lease to the applicant and shall file the other duplicate thereof in its office. The lease shall thereupon be in force and effect.

Failure to sign lease

6609. If the applicant fails to sign the lease in duplicate or make the initial payment of rental within the time specified in Section 6608, the applicant shall be deemed to have waived all right to obtain the lease upon the application theretofore filed, and a lease of any submerged lands covered by the application shall not thereafter be made except upon another application for lease being filed and approved pursuant hereto.

Declaration of purpose

6610. The leasing of submerged lands under this article is hereby determined and declared to be in aid of commerce and navigation.

Article 2. Leasing of Salt Marsh and Tidelands to Owners of Adjoining Salt Marsh and Tidelands

Application to lease adjoining lands

Stats 1869-70, p 541

6651. Any person owning in fee any lands in this State sold as salt marsh or tidelands under and pursuant to an act of the Legislature of the State of California, approved April 1, 1870, entitled "An act supplementary to and amendatory of an act entitled 'An act to survey and dispose of certain salt marsh and tidelands belonging to the State of California,' approved March 30, 1868," may make written application to the commission to lease any adjoining salt marsh or tidelands

owned by the State, lying between the boundary of the lands owned by the applicant and the line of mean low tide of the stream upon which the lands sought to be leased border. The application shall be verified by the applicant, or, if it is a corporation, by an officer thereof, and shall set forth all of the following:

Contents

(a) The name and address of the applicant.

(b) A description by official subdivision or lot number according to the map thereof prepared pursuant to said act approved April 1, 1870, or by metes and bounds, of the salt marsh or tidelands owned by the applicant, the ownership in fee of the lands by the applicant, and a reference to the source of the applicant's title thereto.

(c) A description by metes and bounds or according to the map prepared pursuant to said act approved April 1, 1870, of the lands adjacent thereto which the applicant desires to lease.

(d) A statement of the term (which shall not exceed 35 years from the date of the lease) for which a lease is desired by the applicant.

The application shall be accompanied by a filing fee of five dollars ($5).

Limitations on land to be leased

6652. No lands shall be leased under this article except such lands as lie adjacent to lands surveyed and sold as salt marsh or tidelands already owned by the applicant and which, together with such lands, constitute a united tract or area; nor shall more than 500 acres of such lands be leased to any person at any time.

Survey if description insufficient

6653. If, upon an examination of the description of the lands sought to be leased, contained in the application, it appears to the commission that the description is insufficient, it shall direct the county surveyor of the county in which the lands are situated to survey the land sought to be leased. The county surveyor shall thereupon make an actual survey of the land, at the expense of the applicant, under the instructions of the commission, within 30 days from receipt of the instructions, and shall file with the commission a copy of his field notes and plat of the survey, within 30 days from date of completion of the survey. If the county surveyor fails to make the survey as herein provided, the commission shall immediately authorize another person to make the survey at the expense of the applicant, which survey shall be made and completed and a copy of the field notes and plat of the survey filed with the commission within 60 days after date of the authorization.

Action on applications

6654. All applications to lease lands under this article shall be approved or rejected by the commission within 90 days after the receipt thereof.

Appraisal

6655. Upon receipt of an application to lease lands under this article the commission shall appraise the lands and fix the annual rental per acre therefor.

Reservations of rights of way

6656. All leases under this article shall contain a reservation to the State of a right to locate rights of way for public purposes across the leased lands, subject only to the requirements that the rights of way shall be located in such manner as to cause the least injury to the lands across which they are located, and that any damage suffered by the lessee of such lands shall be compensated by the lessee of the lands for whose benefit the right of way is required.

Terms

6657. Each such lease shall by its terms provide that:

(a) The lessee or his successors shall pay annually in advance, as rental, to the commission for the General Fund, the amount per acre fixed by the commission for the area of salt marsh or tidelands leased thereby, the first of such payments to be made not more than 15 days after the delivery of the lease, and the other installments of rental to be payable annually during the continuance in force of the lease, upon or before the expiration of each successive year from and after its date.

(b) If any such annual installment of rental is not paid within 15 days after it becomes due and payable, the State, acting through the commission, may, at its option, by written notice addressed to the lessee and delivered at his address as set forth in the application (or, if the lessee or his successors have specified another address by a notice filed with the commission, then at such other address) cancel the lease and terminate all future rights thereunder.

(c) The lease shall be canceled and all future rights of the lessee thereunder shall terminate if and when the State constructs upon the leased lands any canal or basin located and established thereon pursuant to the said act approved April 1, 1870, and exhibited on the official map prepared pursuant to said act.

Execution of lease and payment of rent

6658. Whenever any lease is delivered to an applicant by the commission the lessee shall within 15 days thereafter, execute and return the lease to the commission and make payment of the first annual rental. The commission shall receive the money and give a receipt therefor. All subsequent annual payments of rental shall be paid to the commission in like manner within 15 days after they become due. In case payments are not so made, the lease and all rights thereunder shall cease and terminate at the option of the State.

Article 3. Leasing of Tide and Submerged Lands Generally

Lease of tidelands, etc

6701. All tide or submerged lands whether filled or unfilled bordering or fronting upon the navigable rivers, creeks,

sloughs, harbors and straits of California owned by the State or inuring to it by virtue of its sovereignty, and not sold, granted, leased or otherwise disposed of, may be leased by the commission upon the conditions and restrictions and for the purposes and uses set forth in this article.

Limitation on leases

6702. No lands shall be leased under this article which are located as follows:

(a) Within one mile of the State Prison at San Quentin.

(b) Within the City and County of San Francisco or within five miles of the corporate limits thereof.

(c) Within the City of Oakland, or City of Los Angeles, or within five miles of the corporate limits of either city.

(d) Within any other incorporated city or town.

(e) Within the jurisdiction of any harbor commission created by, or existing under, any statute of this State.

(f) Which lie beyond (outside of) any bulkhead line established by authority of the United States Government.

(g) Which border or front upon the Pacific Ocean.

Application

6703. Any person, firm or corporation desiring to lease tide or submerged lands pursuant to this article, shall make written application to the commission. The application shall be verified by the applicant, or if it is a corporation, by an officer thereof, and shall set forth the name and address of the applicant, the name and address of any person, firm or corporation, if any, then occupying, operating or using such lands, a description of the lands which the applicant desires to lease, accompanied by a plat or survey thereof, and a statement of the term for which a lease is desired The application shall be accompanied by a filing fee of twenty dollars ($20).

Survey

6704. If upon an examination of the description of the land sought to be leased, or the plat or survey thereof accompanying the application, it appears to the commission that the description, plat or survey is insufficient, it shall forthwith, and at the expense of the applicant, survey or cause to be surveyed the lands so sought to be leased.

Action on application

6705. Within 30 days after the filing of an application, or within 30 days after the completion of a survey made pursuant to Section 6704, the commission shall determine whether the whole, or what part of the lands specified in the application may be leased under this article, and shall determine and fix the acreage thereof and indorse on the application its approval thereof with respect to all such lands (describing them) which may be so leased, and its rejection thereof as to all of such other lands.

Appraisal

6706. The commission shall forthwith appraise the lands and determine a reasonable annual rental per acre for the lands as unimproved, or as improved by the State, in the

determination of which rental the commission shall be controlled and guided by the values or rentals of lands of like character and similarly situated. The commission shall then prepare in duplicate a lease of the lands from the State to the applicant and his successors or assigns. The lease shall be dated as of the date of the approval of the application.

Term

6707. No lease shall be granted for a term exceeding 40 years from the date of the approval of the application for the lease, but the commission may provide in the lease for the right of renewal by the lessee for the further term of 25 years, upon the same terms and conditions provided in the lease.

Purposes of lease

6708. No lease made under this article shall embrace more than 500 acres of land to any one applicant. The lands may be leased only for industrial uses and purposes, for the improvement and development of the navigable rivers, creeks, sloughs, harbors, and straits, and the commerce thereof, or the construction and maintenance of warehouses, wharves, docks, piers, and other utilities and structures necessary or convenient for the promotion and accommodation of commerce or navigation, or for other uses or purposes consistent with the trust upon which the lands are held by the State and which will not interfere with navigation or commerce. During the term of any such lease or any renewal thereof there shall not be removed from lands leased under this article, any coal, oil, oil shale, gas, phosphate, sodium, or other mineral deposit in such lands.

Terms

6709. The lease shall by its terms provide:

(a) That the lessee or his successors or assigns shall pay annually in advance as rental to the State, the amount per acre fixed by the commission for the area of tide or submerged lands leased thereby, the first of such payments to be made on or before the delivery of the lease, and the remaining installments of rental to be payable annually during the continuance in force of the lease upon or before the expiration of each successive year from and after its date.

(b) That if any annual installment of rental is not paid within 30 days after it becomes due and payable, the State acting through the commission may, at its option, by written notice addressed to the lessee and delivered at his address as set forth in the application (or if the lessee or his successor or assignee has specified another address by a notice filed with the commission, then at such other address) cancel the lease and terminate all future rights thereunder of the lessee and his or its successors or assigns.

Effect on franchises

6710. A lease under this article shall not in any way impair, affect or cancel any wharf, pier, or other franchise, or any other muniment of title under which the lands are held or occupied.

Notice to occupant of application

6711. In the event that there is filed and pending before the commission an application for the leasing of a parcel or parcels of land, which land is then being occupied, operated, or used by someone other than the applicant, the commission shall cause written notice to be given to the person, firm, or corporation occupying, operating, or using such lands of the filing of the application. If within six months after the receipt of the notice the person, firm, or corporation so occupying, operating, or using the lands, files an application to lease the lands in accordance with the terms of this article, the commission shall then give preference to the application of such applicant. If there is pending an action or proceeding affecting the title to the land, the time within which any such occupant of the lands may file an application to lease the land shall be extended until six months after the final determination of the action or proceeding.

Termination

6712. Any lease entered into under this article, or any renewal thereof, may be terminated at any time by the mutual agreement of the State, acting by the Governor and the commission, and the lessee on such just and reasonable terms for compensation for improvements as may be mutually agreed upon. No improvements shall be removed from leased lands during the term, or upon the termination of any lease except improvements made or placed thereon by the lessee, or his predecessors in interest.

Execution

6713. The lease when so prepared shall be forthwith sent by registered mail to the applicant. Within 30 days after the mailing of the lease the applicant shall sign the lease in duplicate as lessee, and pay to the commission for the State the installment of rental which is to be paid on or before its delivery. The lease shall then be signed in duplicate in the name and on behalf of the State by the Governor, attested by the Secretary of State, and sealed with the Great Seal of the State. The commission shall deliver or send to the applicant by registered mail, one of the executed copies, and file the other in its office, and the lease shall thereupon be in full force and effect.

Failure to sign lease

If the applicant fails to sign the lease in duplicate or make the initial payment of rental within 30 days, the applicant shall be deemed to have waived all right to obtain the lease upon the application theretofore filed, and a lease of any tide or submerged lands covered by the application shall not thereafter be made except upon another application for lease being filed.

Disposition of moneys

6714. All money received by the State under this article from rents and fees accruing from the use of State school land shall be paid into the State School Fund. All other money received under this article shall be deposited in the General Fund.

6715. This article provides an alternate procedure for the leasing of those certain classes of tide and submerged lands authorized herein. Any person, firm or corporation may proceed under this article or under any other appropriate article; but when any proceeding for the leasing of such lands is commenced under this article, then this article and no other shall apply to such proceeding for the leasing of such lands and any provisions contained in any other article shall not be applicable thereto. Alternative procedure

Chapter 3. Oil and Gas and Mineral Leases

Article 1. Provisions Relating to All State Lands

6801. A lease or prospecting permit under this chapter shall be issued only to and held by: Persons entitled to lease

(a) Persons or association of persons who are citizens of the United States or who have declared their intention of becoming such, or who are eligible to citizenship under the laws of the United States and are citizens of any country, dependency, colony, or province, the laws, customs, and regulations of which permit the grant of similar or like privileges to citizens of the United States.

(b) Any corporation 90 per cent or more of the shares of which are owned by persons eligible to hold a lease or permit under subdivision (a) of this section; or any corporation 90 per cent of the shares of which are owned either by a corporation eligible to hold a lease or permit hereunder, or by any combination of such eligible persons or corporations, or both.

(c) Any alien person entitled thereto by virtue of any treaty between the United States and the nation or country of which the alien person is a citizen or subject.

6802. Any interest held in violation of this chapter shall be forfeited to the State by appropriate proceedings for that purpose brought by the State in the superior court for the county in which the property or some part thereof is located, except that any ownership or interest forbidden in this chapter which is acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition. Forfeiture

6803. The commission, in issuing any lease under this chapter, may reserve to the State the right to lease, sell, or otherwise dispose of the surface of the lands embraced within the lease, in so far as the surface is not required by the lessee. If such a reservation is to be made, however, it shall be so determined before the offering of the lease. Reservation of surface

6804. A lease or permit issued under this chapter may be assigned, transferred or sublet, with the consent of the commission, to any person, association of persons, or corporation, Transfer of lease

who at the time of the proposed assignment, transfer, or sublease, possesses the qualifications provided in this chapter. A lease shall contain provisions to enable the lessee to quitclaim all or any part of the State land covered by the lease and thereby to be released proportionately from drilling obligations or other obligations with respect to the land so quitclaimed or relinquished.

Cancellation of lease

6805. The commission shall reserve and may exercise the authority to cancel any prospecting permit or lease upon failure of the permittee or lessee (after 30 days' written notice and demand for performance) to exercise due diligence and care in the prosecution of the prospecting or development work or the production work in accordance with the terms and conditions of the permit or lease. The commission shall insert in every permit or lease issued under this chapter appropriate provisions for its cancellation by the commission in accordance with the provisions of this section.

Joint use of easements

6806. Any permit or lease under this chapter shall reserve to the commission the right to allow, upon such terms as the commission may determine to be just, the joint or several use of such easements or rights of way, including easements in tunnels, upon, through, or in the lands leased or permitted, as may be necessary or appropriate for the working of such lands or of other lands containing the deposits described in this chapter.

Acquisition of real property

6807. The commission, in the name of the State, may purchase or receive by donation or lease any right of way or easement in real property, or any real property in fee simple, necessary or proper for sites for drilling operations, storage of oil, dehydration plants, absorption plants, or other operations necessary or proper under this chapter.

Acquisition of easements

6808. The commission, if it deems such action for the best interests of the State, may condemn, acquire, and possess in the name of the State any right of way or easement, including surface rights, for any operation authorized or contemplated under this chapter, that may be necessary for the development and production of oil and gas from State-owned land and for their removal, transportation, storage, and sale. The commission may, for such purposes, in the name of the people of the State, institute condemnation proceedings pursuant to Section 14 of Article I of the Constitution and the Code of Civil Procedure relating to eminent domain. The acquisition of such interests is hereby declared a public use.

Resolution of necessity

Prior to the institution of such condemnation proceedings, the commission shall adopt a resolution declaring that the public interest and necessity require the acquisition of such interest in lands for the purpose of performance of the duties vested in the commission by this chapter and that the interest

in the lands described in the resolution is necessary therefor. The resolution shall be conclusive evidence:

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

(b) That such property is necessary therefor.

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

Use by lessees

6809. Any interests in lands, or lands in fee simple, acquired by the commission by purchase, donation, lease, condemnation, or otherwise, may be made available to any lessee of the State for the purposes contained in this chapter and upon such terms and conditions as may be determined by the commission.

Acquisition of improvements

6810. The provisions of this chapter authorizing the commission to acquire interests in real property include the acquisition of structures and improvements situated on lands sold by the State subject to the reservations provided herein. Such structures and improvements shall be acquired, however, only upon the written request of a lessee under this chapter to whom the State has granted the right to extract the oil and gas or other minerals from such lands, and only upon the agreement by the lessee to reimburse the State for the cost and expense of such acquisition and the deposit by the lessee with the commission of such security as it may require.

Withdrawal of offer to receive bids

6811. The commission may, prior to the receipt of any bid for a lease under this chapter, withdraw any offer to receive bids therefor, and it may reject all bids therefor filed pursuant to invitation of the commission. At any time before the awarding of a lease thereon, all or any portion of a tract proposed to be leased may be withdrawn by the commission and eliminated from the proposal.

Lease of surface or subsurface rights

6812. Whenever by the terms of this chapter the commission may grant a lease of State lands, the commission may make and execute an easement of surface or subsurface rights, or both, in lieu thereof and upon the same terms and conditions and subject to the same limitations and prohibitions as are provided for a lease of such lands.

Agreements with respect to oil and gas

6813. For the purpose of this chapter, the commission may enter into agreements with any person, association of persons, corporation, city, or county, or any of them, claiming the oil and gas in lands adversely to the State of California, which agreements may:

(a) Establish the respective interests of the parties to the agreement in the oil and gas underlying such land.

(b) Establish the boundary line between lands claimed by the State and other parties to the agreement in those cases in

which oil or gas is known to exist in such lands or in the vicinity thereof.

(c) Fix the amount of damages for past or future production of oil and gas from wells drilled under color of title on or into land claimed by the State.

Quieting title to oil and gas in place

6814. The commission, in the name of the people of the State, may bring action to determine the title to oil and gas in land against persons, associations of persons, and corporations claiming the oil and gas adversely and to recover damages for oil and gas removed therefrom. Any person, association of persons, corporation, or city not a party to such a suit and claiming the oil or gas in the land, or any part thereof, may intervene in such an action and have his rights adjudicated. The State hereby consents to be sued by any person, association of persons, corporation, or city for the purpose of quieting title to the right to oil or gas, or both, in any land, claimed by the State and by such person, association of persons, corporation, or city. Any other person, association of persons, corporation, or city not made a party to such an action but claiming any interest in the oil or gas may intervene in such suit.

All such actions shall be brought and tried in the county where the land or some part thereof is situated.

Agreements to compensate State

6815. Whenever it appears to the commission that wells drilled upon private lands are draining or may drain oil or gas from lands owned by the State, the commission may enter into agreements with the owners or operators of such wells for the payment of compensation to the State for such drainage, in lieu of drilling offset wells upon such State lands.

Appropriation of moneys

See also Stats 1941, p. 3219

6816. All moneys and remittances received by the State pursuant to this chapter shall be deposited in the State Treasury to the credit of the State Lands Act Fund, which fund is continued in existence. The moneys in the fund are hereby appropriated as follows:

School fund

(a) There shall first be transferred to the School Fund all rents, bonuses, royalties, and profits accruing from the use of State school land.

Use by commission

(b) The remainder of the moneys shall be used by the commission, with the approval of the Director of Finance and the consent of the Governor, to carry out the provisions of this chapter, including the acquisition of real property or interests therein, the purchase of materials and supplies, and the conducting of operations by the State as provided herein, the payment by the State of such sums as may be provided pursuant to agreements or contracts authorized herein, the payment of the necessary expenses of the commission, and the payment of refunds.

General Fund

(c) Seventy per cent of the remaining balance shall be transferred to the General Fund on order of the commission,

and 30 per cent thereof shall be transferred to the State Park Maintenance and Acquisition Fund, which fund is continued in existence, to be expended in the manner hereafter provided by law. State Park Maintenance and Acquisition Fund

Article 2. Provisions Relating to Oil and Gas Leases Generally

6826. Permits for prospecting for oil and gas deposits reserved to the State shall not be issued. Permits for prospecting for minerals, other than oil and gas, reserved to the State shall be issued only pursuant to Article 5 of this chapter. Prospecting permits

6827. Leases for the extraction and removal of oil and gas deposits may be made by the commission to the highest qualified bidder, as provided in this chapter. Such a lease shall be for a term of 20 years, with the option in the lessee to continue the term of the lease as to all wells drilling or producing at the expiration of the original term thereof for so long as oil or gas is produced therefrom. Oil and gas leases. See also Stats. 1941, p. 3121

In addition to the royalty provided therein, each bid and each lease shall also provide for an annual rental payment in advance of such sum as the commission shall specify, which rental shall be credited against the royalties, if any, as they accrue for that year.

6828. All leases of lands containing oil or gas made or issued under this chapter shall be subject to the condition that the lessee will use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled to the oil-bearing strata, to the destruction or injury of the oil deposits. All leases shall further provide that the lessee therein shall comply with all valid laws of the United States and of the State of California and with all valid ordinances of cities and counties applicable to the lessee's operations, including, without limitation by reason of the specification thereof, the lessee's compliance with Division 3 of this code. Conditions

6829. Every oil and gas lease executed under this chapter shall include the following: Terms

(a) Such terms, conditions, and provisions as will protect the interests of the State with reference to securing the payment to the State of the proper amount or value of production.

(b) Such terms, conditions and provisions as will protect the interests of the State with reference to the spacing of wells for the purpose of properly offsetting the drainage of oil and gas from State lands by wells drilled and operated on and within privately owned lands; diligence on the part of the lessee in drilling wells to the oil sands and requirements as to depth of such wells for the purpose of reaching the oil sands and producing oil and gas therefrom in commercial quantities.

(c) Provisions specifying methods of operation and standard requirements for carrying on operations in proper and workmanlike manner; the prevention of waste; the protection of the safety and health of workmen; and the liability of the lessee for personal injuries and property damage.

(d) Security for faithful performance by the lessee, including reasonable provisions for the forfeiture of the lease for violation of any of its covenants or of any of the provisions of this chapter by the lessee, and the requirement that the lessee shall, at the time of execution of the lease, furnish and thereafter maintain a good and sufficient bond in such sum as may be specified by the commission, in favor of the State, guaranteeing faithful performance by the lessee of the terms, covenants, and conditions of the lease and of the provisions of this chapter.

(e) Such other covenants, conditions, requirements, and reservations as may be deemed advisable by the commission in effecting the purpose of this chapter and not inconsistent with any of its provisions.

Reservations

6830. The lease shall contain a reservation to the commission of the right to restrict by appropriate rules and regulations the spacing of wells and the rate of drilling and production of such wells so as to prevent the waste of oil and gas and promote the maximum economic recovery of oil and gas from, and the conservation of reservoir energy in, each zone or separate underground source of supply of oil or gas covered in whole or in part by leases issued under this chapter. The commission shall issue rules and regulations which may be amended from time to time to effectuate the purpose of this section, and in connection therewith shall restrict the rate of production from any such zone or separate underground source of supply to that provided by Federal or State laws or rules or regulations thereunder, or by any reasonable conservation or curtailment plan ordered by the commission or agreed to by a majority of the total production from any such zone or separate underground source of supply.

Rights of way

6831. Rights of way through all State lands may be granted to any lessee by the commission under such regulations as to survey, location, application, and use as may be prescribed by the commission.

Cooperative development

6832. For the purpose of more properly conserving the natural resources of any single oil or gas pool or field, lessees hereunder and their representatives may unite with each other jointly or separately, or jointly or separately with others owning or operating lands not belonging to the State, in collectively adopting and operating under a cooperative or unit plan of development or operation of the pool or field, whenever it is determined by the commission to be necessary or advisable in the public interest. The commission may,

with the consent of the holders of leases involved, establish, alter, change, and revoke any drilling and production requirements of such leases, and may make such regulations with reference to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan, as the commission deems necessary or proper to secure the proper protection of the interests of the State.

Approval of development contracts

6833. The commission, upon such conditions as the commission shall prescribe, may approve operating, drilling or development contracts made by one or more lessees holding oil or gas leases on State lands with one or more persons, associations, or corporations, whenever in the discretion of the commission the conservation of natural products or the public convenience and necessity require it, or the interests of the State may be best subserved thereby.

Notice of intention to lease

6834. Whenever the commission determines that lands shall be leased as provided in Articles 3 and 4 of this chapter and when the form of lease therefor has been prepared by the commission, the commission shall give notice of intention to lease such lands. The notice shall be published for a period of five consecutive days in a newspaper of general circulation in the county in which the lands or the greater portion thereof are situated and shall state the time (which shall not be less than 14 days after the last date of publication of the notice) and place for receiving and opening bids, a description of the lands, either as a tract or by parcels, and that the form of lease for the purpose of bidding may be procured at the designated office of the commission.

Bid and deposit
See also Stats. 1941, p. 3121

6835. Each bid (which shall be in the form of a lease prepared in accordance with this chapter) for an oil and gas lease shall be accompanied by a certified or cashier's check of a responsible bank in California payable to the State Treasurer in an amount to be fixed by the commission, which sum shall be deposited as evidence of good faith and except in the case of the successful bidder shall be returned to the bidder. Upon the execution of the lease the amount shall be applied upon the annual rental for the first year and the balance, if any, shall be returned to the lessee. If the successful bidder fails or refuses to execute the lease within 15 days after the award thereof, the amount of the check shall be forfeited to the State.

Award of lease

6836. At the time and place specified in the notice, the commission shall publicly open the sealed bids and shall award the lease for each parcel to the highest qualified bidder, unless in the opinion of the commission, the acceptance of the highest bid for any parcel or parcels is not for the best interests of the State, in which event the commission may reject the bids for

such parcel or parcels. Thereupon new bids may be called for and the parcel or parcels for which the bids were rejected may be leased as herein provided.

Article 3. Oil and Gas Leases on Lands Other Than Tide and Submerged Lands

Oil and gas leases

6851. Lands owned by the State, or lands in which the oil and gas deposits are reserved to the State, other than tide and submerged lands, may be leased for the production of oil and gas in accordance with the provisions of this article and of this chapter in so far as not in conflict with the provisions of this article.

Offer for lease

6852. Whenever it appears to the commission that any such lands probably contain commercially valuable deposits of oil or gas and that it is for the best interests of the State to lease such lands for the production of oil or gas therefrom, the commission shall then offer such lands for lease.

Parcels

6853. The commission may divide the lands within the tract proposed to be leased into parcels of convenient size and shape and shall prepare a form of lease therefor.

Lands dedicated to public use

6854. Lands, other than tide or submerged lands, belonging to the State and dedicated to a public use may be leased by the commission for the production of oil and gas in accordance with the provisions of this article and of this chapter in so far as not in conflict with this article.

Article 4. Oil and Gas Leases on Tide and Submerged Lands and Beds of Navigable Rivers and Lakes

Tideland, etc., oil and gas leases

6871. Tide and submerged lands may be leased by the commission for the extraction of oil and gas in accordance with the provisions of this article and of this chapter in so far as not in conflict with the provisions of this article. No political subdivision of the State or any city or county or any official of either or any of them shall grant or issue any lease, license, easement, privilege, or permit vesting authority in any person to take or extract oil or gas from tide or submerged lands whether filled or unfilled of which the State is the owner or from which the State has the right to extract oil or gas, or both.

Authority to lease
See also Stats. 1941, p. 3121

6872. Whenever it appears to the commission that oil or gas deposits are known or believed to be contained in any such lands and may be or are being drained by means of wells upon adjacent lands not owned by the State, the commission shall thereupon be authorized and empowered to lease any such lands, either as a tract or in parcels of such size and shape as the commission shall determine, for the production of oil and gas therefrom.

Terms

6873. The commission shall prepare a form of lease which shall contain, in addition to other provisions deemed desirable and necessary by the commission, appropriate provisions contained in this chapter and the following:

(a) Each well drilled pursuant to the terms of the lease shall be drilled only upon filled lands or shall be slant drilled from an upland or littoral drill site to and into the subsurface of the tide or submerged lands covered by the lease. The derricks, machinery, and any and all other surface structures, equipment, and appliances shall be located only upon filled lands or upon the littoral lands or uplands, and all surface operations shall be conducted therefrom.

(b) Pollution and contamination of the ocean and tidelands and all impairment of and interference with bathing, fishing or navigation in the waters of the ocean or any bay or inlet thereof is prohibited, and no oil, tar, residuary product of oil or any refuse of any kind from any well or works shall be permitted to be deposited on or pass into the waters of the ocean or any bay or inlet thereof.

Necessary sites and rights of way

6874. In any notice of intention to lease tide or submerged lands, the commission may include a requirement that each prospective bidder, as a condition precedent to the consideration of his bid and in addition to the other qualifications required by this chapter, shall present evidence satisfactory to the commission of his present ability to furnish all necessary sites and rights of way for all operations contemplated under the provisions of the proposed lease. In such event the commission shall reject the bids of all bidders who fail to qualify as provided by this section.

Compensation to cities and counties

6875. If the Legislature has transferred to any city or county the administration of the trust, whether or not limited, under which tide or submerged lands are held by the State, the commission, pursuant to this chapter, may enter into agreements upon behalf of the State to compensate any such city or county for the use of surface drilling and operating sites upon such lands from the royalty or revenue to be derived by the State from oil and gas taken from such lands by lessees of the State.

Any such compensation shall include an amount sufficient reasonably to compensate any such city or county for any damage to or interference with the use or uses to which the surface of such lands are being or may be utilized by or upon behalf of such city or county. The consideration to the State in any such agreement shall include the right to a lessee of the State to carry on all operations on any such tidelands necessary to accomplish the purposes of this chapter and such terms and conditions as shall be determined by the commission to be in the interests of the State.

The consideration to the State in any such agreement shall also include a compromise, settlement and release of

any and all claims and rights which such city or county has or may have against the State arising out of or in connection with the extraction and removal of oil and gas from such lands.

All money paid to any city or county under this section shall be used by it solely in furtherance of the trust under which the administration of tide and submerged lands has been transferred to such city or county and for the purposes expressed in the act so transferring administration of such lands.

Suits to enjoin drilling

6876. Should it appear to the commission that any person, association of persons, or corporation, has drilled, or is making preparation to drill, wells upon or into tide or submerged lands for the extraction of oil or gas therefrom, whether or not such person, association of persons, or corporation may be acting under purported authority, the commission shall cause an action to be instituted in the name of and upon behalf of the State in a court of appropriate jurisdiction, to enjoin the occupancy and operations upon or in such lands and to demand compensation for injury and damage, if any, to such lands; except that, should the drilling operations be conducted upon or in lands which have been filled and if such operations have been commenced prior to March 24, 1938, the commission, if it appears to be in the interests of the State, may, upon behalf of the State, issue a lease to any such person, association of persons, or corporation in accordance with the provisions of this chapter in so far as applicable, and upon a royalty basis, retrospective and prospective, which appears reasonable and just in the circumstances to the lessee and the State.

Riverbed, etc., oil and gas leases

6877. The beds of navigable rivers and lakes belonging to the State may be leased by the commission for the production of oil and gas, subject to the same limitations and conditions as are imposed upon tide and submerged lands by this article, and in accordance with the provisions of this chapter in so far as not in conflict with this article.

Grants to cities, etc

6878. Nothing in this chapter limits the effect of any grant of tide or submerged lands made prior to June 11, 1938, to any city, county or other political subdivision, nor in any manner to prejudice whatever claim the State, on the one hand, or such city, county or political subdivision, on the other, may have in or to the right to extract or authorize the extraction of oil or gas or other minerals underlying such lands.

Article 5. Minerals Other Than Oil and Gas

Mineral prospecting permits

6890. Prospecting permits and leases for the extraction and removal of minerals other than oil and gas from lands

belonging to the State, other than tide or submerged lands, may be issued as provided in this article and in this chapter in so far as not in conflict with this article.

Issuance

6891. The commission shall issue a prospecting permit, under such rules and regulations as it may prescribe, for lands which are not known mineral lands to any qualified applicant, upon the payment to the commission of one dollar ($1) per acre for each acre in area embraced within the boundaries of the lands described in the permit. No permit shall be issued for any lands which have been classified by the commission prior to such application as containing commercially valuable mineral deposits. Upon receipt of an application for a permit, the commission shall determine whether the lands described therein are known mineral lands. If it determines that the lands are known mineral lands, it shall thereupon so classify them and shall reject the application for a prospecting permit.

Rights granted

A prospecting permit shall give to the permittee the exclusive right for a period not exceeding two years to prospect for minerals other than oil and gas upon not to exceed 160 acres of land wherein such mineral deposits belong to the State.

Extension of term

The commission may, in its discretion, extend the term of any permit for a period not exceeding one year, but the term of any such permit, including extensions, shall be limited to a total three years.

Posting notice of application

6892. If the applicant erects upon the land for which a permit is sought a monument not less than four feet high, at some conspicuous place thereon, and posts written notice on or near the monument, stating that an application for a permit will be made within 30 days after the date of posting the notice, giving the name of the applicant, the date of the notice, and such a general description of the land to be covered by the permit by reference to courses and distances from the monument or from such other natural objects or permanent monuments, or both, as will reasonably identify the land, stating the amount thereof in acres, and if the applicant records a copy of the notice, within two days after the posting thereof, in the county recorder's office of the county in which the land is situated, he shall be entitled to a preferential right over others to a permit for the land so identified for a period of 30 days following such marking and posting.

Preferential rights of owner

6893. In case of an application for a permit or lease covering mineral deposits reserved to the State in lands sold by the State subject to such reservation by anyone other than the owner of such lands, the owner shall have six months within which to file an application for a permit or lease, but if the owner fails to comply with the requirements of this chapter

and the rules and regulations made in pursuance hereof, his preferential rights shall thereupon cease and terminate, and the original applicant shall be permitted to proceed with his application.

Notice of grant of permit

6894. The applicant shall, within 90 days after receiving a permit, mark each of the corners of the tract described in the permit upon the ground with substantial monuments, so that the boundaries can be readily traced upon the ground, and shall post in a conspicuous place upon the lands a notice that such permit has been granted and a description of the lands covered thereby.

Lease of mineral lands

6895. Upon establishing to the satisfaction of the commission that commercially valuable deposits of minerals have been discovered within the limits of any permit, the permittee shall be entitled to a lease for not more than 40 acres of the land embraced in the prospecting permit, if there be that number of acres within the permit. The area selected by the permittee shall be in compact form, and if surveyed shall be described by the legal subdivisions of the public land surveys; if unsurveyed, the area shall be surveyed by the commission at the expense of the applicant for the lease, in accordance with rules and regulations to be prescribed by the commission, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys. The lease shall be upon a royalty, as specified by the commission in the permit, and the annual payment in advance of a rental of one dollar ($1) per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year.

Royalty to State

6896. Until the permittee applies for a lease as to that portion of the area described in the permit herein provided, he shall pay to the State 20 per cent of the gross value of the minerals secured by him from the lands embraced within his permit and sold or otherwise disposed of or held by him for sale or other disposition.

Bids for mineral leases

6897. All deposits of minerals, other than oil and gas, in lands belonging to the State which have been classified by the commission as lands containing commercially valuable mineral deposits and all deposits of such minerals within lands embraced within a prospecting permit and not subject to preferential lease to the permittee, may be leased by the commission to the highest responsible bidder by competitive bidding, under general regulations, to qualified applicants, in areas not exceeding 80 acres and in tracts which shall not exceed in length 2½ times the width, in such form as the commission deems to be to the best interest of the State. In addition to the royalty provided therein, each bid and each lease shall also provide for an annual rental payment in

advance of such sum as the commission shall specify, which rental shall be credited against the royalties, if any, as they accrue for that year.

Term

6898. Leases under this article shall be for terms of 20 years with the preferential right in the lessee to renew the lease for successive periods of 10 years upon such reasonable terms and conditions as may be prescribed by the commission.

Additional conditions

6899. The commission shall prescribe such additional terms, covenants and conditions, consistent with the provisions of this chapter, of permits and leases issued under this article as will in its opinion effectually protect the interests of the State in the mineral deposits reserved to it by this chapter.

Article 6. Extraction of Sodium Chloride From Specified Lands

Salt extraction

6926. Notwithstanding any other provision of this chapter, the right to extract sodium chloride, contained in any lands belonging to the State, or which may become the property of the State, situate in any of the townships described in Section 6931, which may be necessary or convenient for use in conditioning a public water supply owned, controlled, or operated by any metropolitan water district of the State, may be sold at a reasonable price or royalty, or both, to be fixed by the commission and conveyed to any such metropolitan water district.

Metropolitan water district

Term

6927. The terms so fixed shall be operative for 20 years from the date of the grant. Upon the expiration of such 20-year period and each succeeding period of 20 years the commission or other duly constituted authority, may prescribe for each ensuing period of 20 years a different royalty rate or rates to be paid as a condition of the continued exercise of the grant.

Rights of purchaser

6928. The purchaser shall acquire no right to sell any such sodium chloride, but may extract it solely for public use in carrying out the public functions herein specified.

Application by metropolitan water district

6929 Any metropolitan water district may apply to the commission to purchase the right to extract sodium chloride from any such State lands. The application shall describe the lands and the proposed use to be made of the sodium chloride to be extracted therefrom, and shall be accompanied by a map or plat showing the location of the lands.

Patent

6930. If the sale is made, the right to extract from the lands, such sodium chloride as is found by the commission to be necessary or convenient for the purposes herein specified,

together with the right to occupy and use so much of the land and to employ such methods as may be necessary or convenient for extracting and processing the sodium chloride, shall be conveyed to the applicant by patent. The patent shall provide for reversion to the State of any rights so patented in the event that any sodium chloride so extracted is sold by the patentee or used for any purpose other than the performance by the patentee of the functions herein specified.

Lands to which applicable

6931. The provisions of this article shall apply only to lands belonging to the State, or which may become the property of the State, situate in one or more of the following townships, all of which are of the San Bernardino Base and Meridian: T. 5 N., in R. 11 E.; T. 1 N., 4 N. and 5 N., in R. 12 E.; T. 3 N. and 4 N., in R. 13 E.; T. 2 N. and 3 N., in R. 15 E.; and T. 2 N., in R. 17 E.

Termination

6932. Any right granted under this article to extract sodium chloride from State lands shall terminate upon the expiration of 99 years from the date of the issuance of the patent unless sooner terminated as herein otherwise provided.

CHAPTER 4. EXTRACTION OF MINERALS FROM CERTAIN WATERS AND LANDS

Extraction of minerals from waters

6961. Minerals contained in the waters of any stream or lake in this State shall not be extracted from such waters except upon charges, terms and conditions prescribed by law. No person, firm, corporation or association shall gain the right to extract or cause to be extracted minerals from such waters by user, custom, prescription, appropriation, littoral rights, riparian rights, or in any manner other than by lease from or express permission of the State as prescribed by law.

Lands withdrawn from sale

6962. All of the lands embraced within the original meander lines of streams and lakes belonging to the State, the waters of which contain minerals in commercial quantities, and all such lands which may hereafter inure to the State by virtue of its sovereignty, excepting such lands as have heretofore been contracted to be sold, are withdrawn from selection and sale.

Prohibitions
See also Stats. 1941, p 3122

6963. No person, firm or corporation shall take water from such streams or lakes containing minerals and extract the minerals from such waters, except under the terms and conditions of this chapter; and no person, firm or corporation may lease any land herein referred to and extract therefrom minerals deposited therein or thereon, except under the terms and conditions of this chapter.

Statement of minerals extracted
See also Stats 1941 p 3122

6964. Every person, firm or corporation taking any minerals from the waters of any such stream or lakes or from any such lands, shall file, on or before the last Monday in January

of each year, with the State Controller a written statement, duly verified, showing in tons of 2,000 pounds, the amount of mineral so taken and sold by such person, firm or corporation during the year ending December 31st last preceding. A copy of the statement shall also be filed with the Department of Finance. Any such person, firm or corporation neglecting or refusing to furnish such statement shall forfeit all rights to take waters of any such stream or lake or minerals from such lands. Any person who, either on behalf of himself or any firm or corporation, verifies any such statement which is untrue in any material part is guilty of a misdemeanor.

Examination of mineral extractors
See also Stats 1911, p 3121

6965. The State Controller, whenever he deems it necessary or expedient, may make an examination of the business or affairs of any such person, firm or corporation, or any lessee under this chapter, with relation to the extraction of minerals and payment of royalty therefor. For that purpose he may administer oaths, and issue subpenas for the attendance of witnesses and the production before him of papers, books, accounts, documents, audits and tax reports. All of the provisions of Chapter 2 of Title 3 of Part 4 of the Code of Civil Procedure of the State of California, shall be applicable to any examination, audit, investigation or hearing conducted under this provision of this chapter. The authority to make or conduct such examination, audit, investigation or hearing, including the authority to administer oaths, and to subpena witnesses and take their testimony, may be delegated by the State Controller to any person appointed by him for that purpose. The appointment shall be made by an instrument in writing, signed by the State Controller under his official seal.

Payment of royalty
See also Stats 1941 p 3122

6966. Every person, firm or corporation and every lessee under this chapter shall, at the time of filing the statement provided for in Section 6964, forward to the State Controller an express or postal money order payable to the State Treasurer in a sum equal to a royalty of twenty-five cents ($0.25) for each ton of 2,000 pounds of mineral taken from such water or land by such person, firm or corporation and sold, during the preceding year; except that the royalty on sodium bicarbonate and on sodium hydrate so taken shall be fifty cents ($0.50) for each ton of 2,000 pounds.

Applications to lease
See also Stats 1941, p 3121

6967. Any person, firm or corporation desiring to lease any lands under this chapter shall make application therefor to the commission. The application shall be verified by the applicant, or if it be a corporation, by an officer thereof, and shall set forth the following:

Contents

(a) The name and address of the applicant.

(b) A description of the lands sought to be leased by legal subdivisions, or if the legal subdivisions are unknown to the applicant, by metes and bounds.

(c) A statement of the approximate area of the lands.

(d) A declaration that the lands are believed by the applicant to be embraced within the original meander lines of a stream or lake belonging to the State, the waters of which contain minerals in commercial quantities.

Fee

The application shall be accompanied by a filing fee of ten dollars ($10). With the application, the applicant shall file

Bond

a bond, with two good and sufficient sureties, running to the county surveyor of the county in which the lands are situated or to any other person whom the commission may direct to make the survey of such lands, as provided in Section 6968, in the penal sum of five hundred dollars ($500), conditioned upon the payment by the applicant of the expense of making the survey; and also a bond, with two good and sufficient sureties, running to the State, in a penal sum equal to twice the amount of the first annual rental of the lands, based upon the area of the lands as set forth in the application, conditioned upon the payment by the applicant to the Department of Finance of the first annual rental of such lands, within 15 days after the receipt by the applicant of the notice provided for in Section 6969, if the application is approved and a lease of the lands is executed by the commission to the applicant.

Survey
See also Stats 1941, p 3122

6968. Upon the receipt of an application, the commission shall direct the county surveyor of the county in which the lands are situated to survey the land sought to be leased. The county surveyor shall make an actual survey of the land, at the expense of the applicant, establishing the four corners of each quarter section, and connecting the same with a United States survey. Within 30 days he shall file with the commission a copy, under oath, of his field notes and plat. If the county surveyor fails to make the survey as herein provided, the commission shall immediately direct another person to make the survey at the expense of the applicant, which survey shall be made and completed within 30 days after the authorization, and the field notes and plats, or copies thereof, shall be sworn to by the surveyor making them and shall be filed with the commission.

Action on application
See also Stats 1941, p 3122

6969. All applications to lease land under this chapter shall be approved or rejected by the commission within 90 days after the receipt thereof. Immediately after the approval of the application, the commission shall execute and hold ready for delivery to the applicant a lease of the lands described in the application and shall notify the applicant by registered letter addressed to the applicant at the address named in the application that such lease is ready for delivery. The notice shall be deemed delivered to the applicant when delivered to any person at such address.

Rental

6970. The lands designated in this chapter shall be leased at the rate of two dollars and fifty cents ($2.50) per acre, per year, payable yearly in advance. All moneys received as rental for such lands and as royalty upon the mineral product of the waters of the lakes or streams or of the lands shall be paid into the General Fund of the State Treasury.

Powers of Legislature

6971. The Legislature may change, from time to time, the royalty per ton of minerals extracted and the annual rental per acre of land, and such change shall apply to all persons, firms or corporations holding leases hereunder.

Due dates of rental

6972. Within 15 days after the delivery to the applicant of the notice provided for in Section 6969, the applicant shall pay to the Department of Finance the first annual rental. The Department of Finance shall receive the rental and forthwith give a receipt therefor in duplicate. The commission shall deliver the lease to the applicant upon receipt from the applicant of one of the duplicate receipts. All subsequent annual payments of rental shall be paid to the Department of Finance within 15 days after such payments become due.

Forfeiture of lease

6973. Upon failure of a lessee to make payments of rental or royalty, as herein provided, the lease and all rights thereunder shall cease and terminate. Upon failure of any person, firm or corporation to make payment of royalty as herein provided, the privilege of any such person, firm or corporation to take minerals from streams, lakes, or lands shall immediately cease, and appropriate action in the name of the State shall be commenced in superior court of the county wherein the waters or lands, or some portion of either, are situated, to collect the unpaid royalty.

Term

6974. No lease shall be granted for a term of more than 25 years. Upon the expiration of any lease, the lease may be extended for a period of 25 years upon such terms and conditions as may then be prescribed by law.

Reservations

6975. All leases made under this chapter shall contain a reservation to the State of a right to locate rights of way across such leased lands, subject only to the requirements that the rights of way shall be located in such manner as to cause the least injury to the lands across which they are located, and that any damage suffered by the lessee of such lands shall be compensated by the lessee of the lands for whose benefit the right of way is required. Every such lease shall be subject to, and shall contain a reservation of, the right of any city of this State at any time to appropriate and take, under the laws of this State relative to the appropriation of waters, water from any stream or lake tributary to or discharging into any stream or lake of the character mentioned in Section

6961 for any use or uses within the authorized powers of such city.

Leases of rights of way

6976. Leases of rights of way, not exceeding 100 feet in width, for access to any waters or lands designated by this chapter, may be applied for and granted in the manner herein provided for leasing lands. Such rights of way shall be leased at an annual rental of two dollars and fifty cents ($2.50) an acre, which shall be paid as herein provided for leased lands. Any lease issued under this section shall become null and void if the lessee thereof is not within two years from the date of the issuance of the lease utilizing the right of way therein granted in conjunction with the operation of a plant, and extracting from the waters or land designated in this chapter, a minimum of 1,500 tons of mineral yearly.

Amount of minerals to be extracted

6977. All leases of mineral lands under this chapter shall cease and terminate on December 31st of any year if the lessee or assigns has not, during the year preceding extracted or removed from such land and water an amount of mineral equal, in the aggregate, to a minimum of five tons per acre of land leased except, that when a lease is not delivered to the lessee until after the fifteenth day of January of any year, the minimum tonnage for that year shall be less than five tons, and shall be proportional to the number of days remaining in the year after the completion of the works.

Surrender of lease
See also Stats 1941, p 3122

6978. Any lessee hereunder may abandon and surrender a lease at the expiration of any calendar year by filing with the county assessor of the county in which is situated the lands described in the lease, and with the commission and the State Controller, notices of abandonment or surrender. The notices shall be filed at least 60 days before the expiration of the calendar year. The abandonment and surrender shall not absolve the lessee from the payment of any royalty which may be due at the end of the fiscal year for minerals extracted from the waters or lands.

CHAPTER 5. OIL AND GAS AND MINERAL LEASES BY COUNTIES

County, oil, gas and mineral leases

7051. The boards of supervisors may, in their respective counties, under such limitations and restrictions as are prescribed by law, lease for the production of oil, gas and other hydrocarbons or for the mining of any other minerals whatsoever, any land owned by the county where such lands contain, in the judgment of the supervisors, oil, gas and other hydrocarbons, or other minerals in commercial quantities. No land used, owned, dedicated, or acquired by purchase, condemnation, gift, or otherwise, as a public park, highway, street, walk, or public playground shall be so leased; and no land owned or under the jurisdiction of the county lying

within 300 feet above the line of high tide, or at any point below the line of high tide, of the Pacific Ocean, or any arm, bay, or inlet of the Pacific Ocean shall be leased for the drilling for and production of petroleum products or other minerals.

Resolution of intention to lease

7052. Lands may be leased in tracts of such size and shape as the board of supervisors may determine. Before executing a lease of any such property, the board of supervisors shall in open meeting, by not less than a two-thirds vote of its members, adopt a resolution declaring its intention to lease the property. The resolution shall describe the property proposed to be leased in such manner as to identify it, specify the minimum rental and term for which it will be leased, and fix a time not less than three weeks thereafter and place for a public meeting of said supervisors, at which meeting sealed proposals to lease will be received and considered. The resolution shall, before the date of such meeting, be published once a week for three successive weeks in one or more newspapers of general circulation in the county where the property is situated.

Opening of bids

7053. At the time and place fixed in the resolution for the meeting, all sealed proposals which have been received shall in public session be opened, examined, and recorded by the board, and the property may be leased to the highest responsible bidder in the judgment of the board. The board may, should it deem such action for the best public interest, at any time reject any and all bids and withdraw the property from lease.

Execution of lease

7054. Any order to lease made by the supervisors shall authorize and direct the execution and delivery by the chairman or other presiding officer of a lease to the lessee.

Disposition of money

7055. Any money accruing from leases under this chapter shall be paid into the general fund of the county treasury for the use of the county.

New section

SEC. 2. Section 10012 is hereby added to said code, to read as follows:

Repeals

10012. The following acts, together with all acts amendatory thereof or supplementary thereto, are hereby repealed:

Year	Ch.	Pg.	Year	Ch.	Pg.
1905	332	388	1923	229	465
1911	454	904	1923	330	677
1911	612	1154	1925	16	19
1917	493	576	1927	544	915
1917	800	1668	1929	69	145
1921	829	1593	1938	5	23

New section SEC. 3. Section 10013 is hereby added to said code, to read as follows:

Repeals 10013. The following sections of the Political Code are hereby repealed:

483	3397
501	3405
690	3409
690.10	3411
690.11	3444
3395	3659
3396	4041m

CHAPTER 549

An act to amend Sections 3.422, 3.460 and 3.480 of, and to repeal Sections 3.482 and 3.807 of the School Code, all relating to evening schools and special day and evening classes.

In effect September 13 1941 [Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

Sch. C., 1929, p. 123 SECTION 1. Section 3.422 of the School Code is hereby amended to read as follows:

Elementary evening and special classes 3.422. The evening elementary schools and the special day and evening classes of the elementary schools of any school district shall be open for the admission of such minors and adults as in the judgment of the governing board of the school district maintaining such schools or classes may profit from the instruction offered therein.

Sch. C., 1929, p. 125 SEC. 2. Section 3.460 of the School Code is hereby amended to read as follows:

High school special classes 3.460. The governing board of any district maintaining high schools, subject to the provisions of this code relating to courses of study for high schools, shall have power to establish and maintain, in connection with any high school under its jurisdiction special day and evening classes, for the purpose of giving instruction to such minors or adults as in the judgment of the governing board of such districts may profit by such instruction.

Sch. C., 1929, p. 126 SEC. 3. Section 3.480 of the School Code is hereby amended to read as follows:

Adult tuition fees 3.480. Adults enrolled in special day or evening classes, except classes maintained in English and citizenship for foreigners and classes in elementary subjects, may be required by

the governing board of the district to pay a tuition not to exceed six dollars ($6) a term.

SEC. 4. Section 3.807 of the School Code is hereby repealed. Sch C, 1929, p 310

SEC. 5. Section 3.482 of the School Code is hereby repealed Sch C, 1929, p 126

CHAPTER 550

An act to amend Section 504 of the Public Resources Code, relating to the Department of Natural Resources and changing the name of the Division of Parks. Stats 1939, p 1067, amended

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.] In effect September 13, 1941

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

SECTION 1. Section 504 of the Public Resources Code is hereby amended to read as follows: Stats 1939, p 1069

504. The work of the department shall be divided into at least four divisions, known as the Division of Forestry, the Division of Beaches and Parks, the Division of Fish and Game, and the Division of Mines. Divisions

SEC. 2. Wherever "Division of Parks" is used in the Public Resources Code or any provision of law the phrase shall mean the Division of Beaches and Parks. "Division of Parks"

CHAPTER 551

An act to add Section 48.2 to the State Lands Act of 1938, and to add Section 6900 to the Public Resources Code, relating to leases of tide and submerged lands for extraction of minerals other than oil and gas. Stats Ex Sess 1938, p 23, and Stats 1939, p 1067, amended

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.] In effect September 13, 1941

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

SECTION 1. Section 48.2 is hereby added to the State Lands Act of 1938, to read as follows: New section

Sec. 48.2. Notwithstanding any other provision of this act, the commission may, when it appears to be in the public interest, grant leases for the extraction of minerals other than oil Mineral leases of tidelands, etc

and gas to the highest responsible bidder by competitive bidding from tide and submerged lands of the State whenever it appears that the execution of such leases and the operations thereunder will not interfere with the trust upon which such lands are held or substantially impair the public rights of navigation and fishing.

New section

SEC. 2. Section 6900 is hereby added to the Public Resources Code, to read as follows:

Mineral leases of tidelands, etc.

6900. Notwithstanding the provisions of Section 6890, the commission may, when it appears to be in the public interest, grant leases for the extraction of minerals other than oil and gas to the highest responsible bidder by competitive bidding from tide and submerged lands of the State whenever it appears that the execution of such leases and the operations thereunder will not interfere with the trust upon which such lands are held or substantially impair the public rights to navigation and fishing.

Effect: Stats. 1941, p 1875

SEC. 3. Section 2 of this act shall take effect only if Division 6 of the Public Resources Code is enacted by the Legislature at its Fifty-fourth Session, and, in such case, at the same time said Division 6 takes effect, at which time Section 48.2 of the State Lands Act of 1938 is hereby repealed.

CHAPTER 552

An act to amend Section 19a of the Penal Code, relating to punishment for crime.

In effect September 13, 1941

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

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

Stats 1933, p 2217

SECTION 1. Section 19a of the Penal Code is hereby amended to read as follows:

Period of confinement

19a. In no case shall any person sentenced to confinement in a county or city jail on conviction of misdemeanor, or as a condition of probation, or for any reason, be committed for a period in excess of one year. If, however, any county, or group of counties together, should establish a penal farm, road or work camp, or if there be established a State institution for long-term misdemeanants, then commitment to such penal farms, road or work camps or such State institution shall be for such period as the court may order within the limits prescribed by statute for the offense.

CHAPTER 553

An act to amend Sections 1299.18, 1299.20 and 1300.4 of, and to add a new section, to be numbered 1300.4a, to the Agricultural Code, relating to processors.

Stats 1933, p 60, amended

[Approved by Governor June 2, 1941 Filed with Secretary of State June 2, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1299.18 of the Agricultural Code is hereby amended to read as follows:

Stats 1941, p 1417

1299.18. Definitions. As used in this chapter:

Definitions

(a) The term "person" includes any individual, firm, association, partnership or corporation.

(b) The term "producer" designates any person engaged in the business of growing or producing any farm product.

(c) The term "farm products" includes all agricultural, horticultural, viticultural and vegetable products of the soil, but shall not include timber and timber products, milk and milk products, hay, field grains, dried beans and seeds.

(d) The term "processor" means any person who buys, or otherwise takes title to or possession of, farm products from the producer thereof for the purpose of processing or manufacturing the same or selling, reselling or redelivering the same in dried, canned, extracted, fermented, distilled, or other preserved form, and shall include (1) any person or exchange conducting such business, and (2) any person or exchange buying farm products from the producer thereof and reselling them to any person or exchange conducting such business, and (3) any person or exchange who buys or otherwise takes title to or possession of farm products from the producer thereof after said farm products have been dried, canned, extracted, fermented, distilled or otherwise preserved by said producer, and before sale or delivery by said producer, and (4) any person engaged in the business of soliciting or negotiating the sale of any farm products which are processed or intended for processing purposes.

Retail merchants having a fixed or established place of business in this State shall not be included within the term "processor"; provided, however, that such exemption shall apply only to retail merchants who do not also sell at wholesale farm products already processed or for processing purposes purchased from the producers thereof.

(e) The term "agent" designates any person who on behalf of any processor contracts for or solicits any farm product from a producer thereof, or who negotiates the purchase of any farm product on behalf of any processor.

(f) The term "lender" includes any individual, firm, association, partnership or corporation who advances new value to a processor.

(g) The term "new value" includes new advances or loans, whether in money or other property, made by a lender to a processor, but shall not be construed to include extensions or renewals of existing obligations of the processor, nor obligations substituted for such existing obligations.

Stats 1939, p 1429

SEC. 2. Section 1299.20 of the Agricultural Code is hereby amended to read as follows:

Examination or audit of books, etc

1299.20. Upon receiving a verified complaint, as in this chapter provided, the director, upon his own motion, may examine and audit all pertinent books, records, weight tags, receipts, ledgers, papers, contracts, and other documents of the licensee against whom said verified complaint is filed which relate to the matters complained of and upon receipt of verified complaints filed by three or more complainants alleging violation of this act and/or fraud against a licensee during any 12-month period the director, upon his own motion, may have free access to and may examine and audit all books, records, weight tags, receipts, ledgers, papers, contracts, and other documents of said licensee which show or tend to show facts regarding the number and status of accounts of growers doing business with said licensee; should such examination disclose evidence of violation of this chapter, the director may then and thereupon and upon his own motion issue a complaint directed against the licensee, either on his own behalf or on behalf of producers affected by such violation or violations, together with such other process for the enforcement of the provisions of this chapter as is in said chapter provided.

Stats. 1939, p 2339

SEC. 3. Section 1300.4 of the Agricultural Code is hereby amended to read as follows:

Revocation or suspension of licenses

1300.4. The director, after hearing upon a verified complaint signed and filed with the director by any interested person, may revoke or suspend the license of any licensee, as the case may require, when he is satisfied that any such licensee has violated any provision of this chapter.

Order to show cause

Either at the time of serving the verified complaint referred to herein, or after hearing and decision as above described, the director may thereupon and in the premises issue to and serve upon said person or respondent, an order directing said person or respondent to show cause why the license of said person or respondent should not be suspended or revoked for the violation charged or specified in the decision.

Service

Where the order to show cause is heard separately from the case or hearing set forth in the verified complaint, a copy of the said order to show cause, together with notice of the time and place of hearing upon said order, shall be served personally or by mail upon said person or respondent. Said order shall refer to an attached copy of a verified complaint, or

to such other notice, affidavit or official document, in such a way as generally to advise and inform the respondent of the charge or violation upon which said order is based and pursuant to which it is issued. Such service shall be made at least 10 days before said hearing, which shall be held in the city or town in which is situated the business location of the respondent, or in which the transaction or violation complained of is said or charged to have occurred, or in the county seat of the county in which the transaction or violation complained of is said or charged to have occurred, or at the nearest office of the State Department of Agriculture, at the discretion of the director.

Hearing

At the time and place appointed for such hearing the director or his agents shall hear the matter set forth in the order, and the showing of the licensee in the premises, and shall enter in the office of the director at Sacramento an order and decision specifying the facts, dismissing the order to show cause, or directing the suspension or revocation of the license held by the licensee, or making such other conditional or probationary orders as may be proper. A copy of said order and decision shall be furnished to the licensee.

Failure to pay in accordance with contract

Failure or refusal of a processor to make payment for farm products within the time specified for such payment in the contract of sale and purchase between the producer and the processor, and in accordance with the terms of said contract, is hereby declared to be a violation, when determined by the director in the manner in this chapter described, shall be good and sufficient ground for the refusal, suspension or revocation of license, whether or not such determination of the director is accompanied with an order directing payment or reparation as provided in Section 1300.3 hereof.

Payment when time not set

Every processor must pay for farm products delivered to him or it at the time and in the manner specified in the contract with the producer, but if no time is set by such contract, or at the time of said delivery, then within 30 days of the delivery or taking possession of such farm products.

Shortening time set for hearing

Whenever the director is satisfied, either by investigation or after hearing, that a processor is insolvent and unable to pay the producer-creditors or producers with whom the processor has executory or executed contracts for the processing and handling of farm products, and is further satisfied that to permit the processor to continue to purchase and receive further shipments or deliveries of farm products would be likely to cause serious and irreparable loss to said producer-creditors, or producers with whom the said processor has said contracts, then the director within his discretion may thereupon and forthwith shorten the time herein provided for hearing upon an order to show cause why the license of said processor should not be forthwith suspended or revoked; provided, however, that the time of notice of said hearing shall in no event be less than 24 hours, and shall within that period call a hearing, at which the processor proceeded against shall

be ordered to show cause why his or its license should not be suspended, or revoked, or continued under such conditions and provisions, if any, as the director may consider just and proper and for the protection of the best interests of the producer-creditors involved. Said hearing, in the case of such emergency, may be called upon written notice, said notice to be served personally or by mail on the processor involved, and may be held at the nearest office of the director or at such place as may be most convenient in the discretion of the director, for the attendance of all parties involved.

Grounds for denial or revocation of license

Fraud or misrepresentation in making any application shall ipso facto work a revocation or refusal of any license granted or applied for hereunder. Previous violation of record of any provisions of this chapter by the applicant or by any person owning any substantial interest in or acting in a proprietary capacity in the business of said applicant, or charged with the management of said business, shall be good and sufficient grounds for denial of license.

New section

SEC. 4. A new section, to be numbered 1300.4a, is hereby added to the Agricultural Code, to read as follows:

Same

1300.4a. The director may refuse to grant a license and may revoke or suspend any license, as the case may require, when after a hearing as herein provided he is satisfied of the existence of any of the following facts, the existence of which is hereby declared to be a violation of this chapter:

(a) That the applicant, or licensee, has failed or refused to pay for farm products at the time and in the manner specified in the contract with the producer, or as otherwise in this chapter provided;

(b) That the applicant, or licensee, has rejected, without reasonable cause, or has refused to accept, without reasonable cause, any farm product bought or contracted to be bought from a producer by such applicant or licensee;

(c) That the licensee has knowingly employed an agent, as defined in this chapter, without causing said agent to comply with the licensing requirements of this chapter applicable to agents;

(d) That the licensee has otherwise violated any provision of this chapter.

CHAPTER 554

An act to amend Sections 20743, 20744, 20746, 20751, 20880, 20888, 20930 and 20956 of, to repeal Sections 20800, 20826, 20840, 20849, 20860, 20866, 20892, 20910, 20911 and 20950 of, and to add Sections 20704, 20705, 20706, 20707, 20708, 20800, 20826, 20840, 20849, 20860, 20866, 20882.5, 20892, 20911 and 20950 to the Business and Professions Code, relating to sales of petroleum products.

Stats 1937, p 1229, amended

[Approved by Governor June 2, 1941. Filed with Secretary of State June 2, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 20704 is hereby added to the Business and Professions Code, to read as follows:

New section

20704. "State Sealer," as used in this chapter, means the Chief of the Division of Weights and Measures in the Department of Agriculture.

"State Sealer"

SEC. 2. Section 20705 is hereby added to the Business and Professions Code, to read as follows:

New section

20705. "Deputy State Sealer," as used in this chapter, means any sealer appointed by the State to serve in a county having no county sealer.

"Deputy State Sealer"

SEC. 3. Section 20706 is hereby added to the Business and Professions Code, to read as follows:

New section

20706. "County sealer," as used in this chapter, means any sealer appointed by a county.

"County Sealer"

SEC. 4. Section 20707 is hereby added to the Business and Professions Code, to read as follows:

New section

20707. "Sealer," when used in this chapter without qualification, includes the State Sealer, Deputy State Sealer, and county sealers and their deputies.

"Sealer"

SEC. 5. Section 20708 is hereby added to the Business and Professions Code, to read as follows:

New section

20708. "Sell" or any of its variants, as used in this chapter, includes attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery or offer for delivery, trade, barter or expose for sale.

"Sell"

"Manufacturer" includes manufacturer, refiner, producer or importer.

"Manufacturer"

"Petroleum products" includes gasoline, liquefied petroleum gas when used as a motor fuel, distillate, kerosene, other motor fuel or lubricating oil or motor oil.

"Petroleum products"

Stats. 1941, p 1040

SEC. 6. Section 20743 of the Business and Professions Code is hereby amended to read as follows:

Statement filed

20743. Every person bringing any crude petroleum oil into this State from any other State or nation for storage, delivery, sale, distribution, use, refining or blending in this State shall file with the department a certificate of lawful production to the effect that such crude petroleum oil was not produced, in whole or in part, in violation of any law of the producing State or nation, or in violation of any order, rule or regulation of any board, commission or officer having jurisdiction to enforce such law in that State or nation.

Stats 1941, p 1040

SEC. 7. Section 20744 of the Business and Professions Code is hereby amended to read as follows:

Same

20744. Every person bringing any gasoline, distillate, kerosene, gas oil or other motor fuel into this State from any other State or nation for storage, delivery, sale, distribution, use or blending in this State, shall file with the department a certificate of lawful production showing that such gasoline, distillate, kerosene, gas oil or other motor fuel was not extracted, manufactured, distilled or compounded in whole or in part, from any crude petroleum oil or gas produced in violation of any law of the producing State or nation, or in violation of any order, rule or regulation of any board, commission or officer having jurisdiction to enforce such law in that State or nation.

Stats 1941, p 1041

SEC. 8. Section 20746 of the Business and Professions Code is hereby amended to read as follows:

Permits

20746. No person shall unload or cause to be unloaded or take delivery of any crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel brought into this State for storage, delivery, sale, distribution, use, refining, distilling or blending therein, without first having obtained a permit to do so from the department or the person authorized by the department in the county in this State into which such crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel is sought to be brought.

Stats 1941, p 1042

SEC. 9. Section 20751 of the Business and Professions Code is hereby amended to read as follows:

Penalty

20751. Every person who brings or who assists another to bring into this State for storage, delivery, sale, distribution, use, refining or blending therein, any crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel without the permit provided for in this article, and every person who stores, sells, distributes, offers for sale or distribution or assists in the sale, storage or distribution in this State of

any crude petroleum oil, gasoline, distillate, kerosene, gas oil or other motor fuel which he knows has been brought into this State without the permit provided for in this article, is guilty of a misdemeanor.

Upon conviction thereof such person shall be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. The product so brought in shall be confiscated by the department and shall be sealed by the department in the importer's tanks or containers until such time as a court of competent jurisdiction shall order and direct the final disposition of the confiscated product.

SEC. 10. Section 20800 of the Business and Professions Code is hereby repealed. Stats 1941, p 1044

SEC. 11. Section 20800 is hereby added to the Business and Professions Code, to read as follows: New section

20800. Crankcase drainings, lube-distillate or any other petroleum product shall not be sold, offered for sale, delivered, offered for delivery or stored as a motor oil or lubricating oil for use in an internal combustion engine unless such product conforms to the following specifications: Lubricating oils

(a) It shall be free from water and suspended matter when tested by means of centrifuge, in accordance with the American Society for Testing Materials, Standards Designation D96-40, as published in "American Society for Testing Materials Standards," 1940.

(b) The neutralization number shall not be higher than 0.5 when tested in accordance with the American Society for Testing Materials, American Tentative Standard Designation D188-27T, as published in "American Society for Testing Materials Standards," 1940.

(c) The flash points for the various S. A. E. (Society of Automotive Engineers) classifications shall not be less than the following when tested in accordance with the American Society for Testing Materials, Pensky-Martens Closed Tester Standards Designation D93-40, as published in "American Society for Testing Materials Standards," 1940. Flash points

S. A. E. Number	Minimum Flash Degrees Fahrenheit
10	290
20	320
30	340
40	350
50	360
60	375
70	400

The minimum flash point for a 10W grade motor oil or lubricating oil shall not be less than 290 degrees Fahrenheit when tested in accordance with the American Society for Testing Materials, Pensky-Martens Closed Tester, Standards Designation D93-40, as published in "American Society for Testing Materials Standards," 1940.

The minimum flash point for a 20W grade motor oil or lubricating oil shall not be less than 320 degrees Fahrenheit when tested in accordance with the American Society for Testing Materials, Pensky-Martens Closed Tester, Standards Designation D93-40, as published in "American Society for Testing Materials Standards," 1940.

Stats 1941, p 1046

SEC. 12. Section 20826 of the Business and Professions Code is hereby repealed.

New section

SEC. 13. Section 20826 is hereby added to the Business and Professions Code, to read as follows:

Price indicator

20826. A price indicator used in connection with a computing meter pump or a pump designed to compute price does not fulfill the requirements of this article.

Stats 1941, p 1046

SEC. 14. Section 20840 of the Business and Professions Code is hereby repealed.

New section

SEC. 15. Section 20840 is hereby added to the Business and Professions Code, to read as follows:

Labels

20840. It is unlawful for any person to sell, offer for sale, assist in the sale of, permit to be sold or offered for sale, or deliver or offer for delivery, any gasoline, distillate, kerosene, or any oil represented as lubricating or motor oil for internal combustion engines, at any place where petroleum products are kept or stored for sale, unless and until there is firmly attached to or painted upon each container, receptacle, pump, and inlet end of the fill-pipe of each underground storage tank, from which or into which such gasoline or oil is drawn or poured out for sale or delivery, a sign or label plainly visible consisting of the word or words in letters not less than one-half of an inch in height, "gasoline," "distillate," "kerosene," "lubricating oil" or "motor oil," as the case may be together with the brand, trade-mark or trade name of such product. When such sign or label is used in connection with "lubricating oil" or "motor oil," the sign or label shall also have in letters and numerals, plainly visible and not less than one-half of an inch in height, the viscosity rating of the "lubricating oil" or "motor oil." The viscosity rating shall be determined and governed by the viscosity classification as established by the Society of Automotive Engineers, and shall be preceded by the letters "S. A. E." Lubricating oils or motor oils which have a viscosity index in excess of 120 when determined in

accordance with the American Society for Testing Materials Standard D567-40T as published in "American Society for Testing Materials Standards," 1940, may be labeled without the designation of the S. A. E. number classification as required in this section. Lubricating oils or motor oils meeting specifications "10W" and "20W," as published by the Society of Automotive Engineers in 1933, may be so designated without the inclusion of the letters "S. A. E.," and such designation shall constitute compliance with the provisions of this section.

On any container with a net content of one United States gallon or less, the letters S. A. E. and the grade classification number may be painted, printed, embossed or otherwise firmly affixed on such container in letters and numerals not less than one-sixteenth inch in width and not less than one-fourth inch in height, and such designation shall constitute compliance with the provisions of this section.

SEC. 16. Section 20849 of the Business and Professions Code is hereby repealed. Stats 1941, p 1047

SEC. 17. Section 20849 is hereby added to the Business and Professions Code, to read as follows: New section

20849. It is unlawful for any person to deposit or deliver into any tank pump, container or receptacle, or into any bottle or bottles kept in a basket, stand or rack, at any place where petroleum products are kept or stored for sale, any gasoline or other motor fuel, or any distillate, kerosene, lubricating oil or motor oil, other than that indicated by the brand, trade-mark, trade name, and in the case of lubricating oil or motor oil, the S. A. E. classification number, displayed on the tank, pump, container, receptacle, bottle, basket, stand or rack, or the inlet end of the underground storage tank, except as provided in this chapter. Conformity to designation

SEC. 18. Section 20860 of the Business and Professions Code is hereby repealed. Stats 1941, p 1048

SEC. 19. Section 20860 is hereby added to the Business and Professions Code, to read as follows: New section

20860. It is unlawful for any person to transport in any tank vehicle, for the purpose of sale, or for delivery to any place where petroleum products are kept or stored for sale, any petroleum products as a fuel for internal combustion engines, distillate, kerosene or any oil represented as lubricating or motor oil for internal combustion engines, unless and until there is compliance with either of the following: Tank vehicles

(a) There shall be firmly attached to or affixed at each outlet faucet or valve of each such tank vehicle, a metal tag, plate or label, on which is displayed in letters not less than

one-half inch in height, the name of the particular product in the tank compartment of the tank vehicle with which such valve or faucet is connected and the brand, trade-mark or trade name of such product, or the words "no brand," and in the case of lubricating oil or motor oil, the S. A. E. classification shall also be displayed in letters and numerals not less than one-half inch in height.

(b) The tank vehicle shall be equipped with a meter conforming to the provisions of this article relating to meters.

Stats 1941, p. 1049

SEC. 20. Section 20866 of the Business and Professions Code is hereby repealed.

New section

SEC. 21. Section 20866 is hereby added to the Business and Professions Code, to read as follows:

Size of meter

20866. It is unlawful for any person to operate a tank vehicle equipped with a meter for the purpose of measuring the quantities of products of different grades, brands or trade names withdrawn from any one or more compartments:

(a) Where the meter is designed for a two-inch or smaller standard pipe size, if the quantity which is contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is more than three and one-half gallons.

(b) Where the meter is designed for any other pipe size, if the quantity which is contained within the meter and its accessory devices on the discharge side of the controlling or selecting mechanism is more than five and one-half gallons.

(c) Where the quantity which is contained on the discharge side of the controlling or selecting mechanism is more than three and one-half gallons, it is unlawful to make a delivery of less than 51 gallons to any person who is engaged in the business of selling at retail any petroleum product mentioned in this chapter, unless, when such delivery of less than 51 gallons is made, such quantity of product other than which is to be delivered, as may remain from a previous delivery shall be cleared from the discharge side of the controlling or selecting mechanism.

Stats 1941, p 1050

SEC. 22. Section 20880 of the Business and Professions Code is hereby amended to read as follows:

Statement of prices

20880. No person shall keep, maintain or display on or near the premises of any place of business in this State any advertising medium, which indicates or shows or advertises the price of gasoline or other motor vehicle fuel sold, offered for sale or advertised for sale from such premises, unless the actual price per gallon of gasoline or other motor vehicle fuel, including taxes, is also shown on such advertising medium, together with the word or words "gasoline" or "motor fuel" and the trade name or brand of the gasoline or other motor

vehicle fuel product advertised for sale by such advertising medium.

(a) Nothing in this article shall be construed to apply to the price signs referred to in Article 6 of this chapter.

SEC. 23. Section 20882.5 is hereby added to the Business and Professions Code, to read as follows: New section

20882.5. All letters used in designating the word "gasoline" or the words "motor fuel" shall be at least four inches in height and the height shall not be more than twice the dimension of the width of each such letter. Size of letters

SEC. 24. Section 20888 of the Business and Professions Code is hereby amended to read as follows: Stats 1911, p. 1051

20888. All words, letters, figures or numerals on the advertising medium referred to in this article which form or designate the brand name or the words "no brand" shall be of like color or tint, and all words, letters, figures or numerals designating or indicating the price of gasoline or other motor vehicle fuel so offered for sale shall be of like color or tint, and all letters used in the word "gasoline" or the words "motor fuel" shall be of like color or tint. Color

SEC. 25. Section 20892 of the Business and Professions Code is hereby repealed. Stats 1911, p 1052

SEC. 26. Section 20892 is hereby added to the Business and Professions Code, to read as follows: New section

20892. (a) All letters, figures or numerals used in designating the brand name or the words "no brand" which are part of any advertising medium indicating, showing or advertising the price of "lubricating oil" or "motor oil," shall be of uniform size, type and design and may be of any convenient height except that the height shall not be more than twice the dimension of the width of each such letter, figure or numeral. Form

(b) All letters used in designating the words "motor oil" or "lubricating oil" which are part of any advertising medium indicating, showing or advertising the price of "lubricating oil" or "motor oil" shall be of uniform size, type and design and shall not be less than one-half the size nor greater than the size, either in height or width, of any letters, figures or numerals designating the brand name of the motor oil or lubricating oil being advertised.

(c) All letters, words, figures or numerals used for the purpose of indicating the price of "motor oil" or "lubricating oil" shall be uniform in size and shall not be more than twice the size of the letters, figures or numerals used for the purpose of designating the brand name or the words "no brand."

Color (d) All letters, figures or numerals used for designating the brand name or the words "no brand" when used as a part of any advertising medium indicating, showing or advertising the price of "motor oil" or "lubricating oil" shall be of like color or tint.

(e) All letters, figures or numerals used for designating the price of "motor oil" or "lubricating oil" shall be of like color or tint.

(f) All letters used in designating the words "motor oil" or "lubricating oil" when used as a part of any advertising medium indicating, showing or advertising the price of "motor oil" or "lubricating oil" shall be of like color or tint.

(g) All such color or tint shall contrast with the background and other parts of such advertising medium.

Stats 1941, p 1052 SEC. 27. Section 20910 of the Business and Professions Code is hereby repealed.

Stats 1941, p 1053 SEC. 28. Section 20911 of the Business and Professions Code is hereby repealed.

New section SEC. 29. Section 20911 is hereby added to the Business and Professions Code, to read as follows:

Frauds 20911. (a) It is unlawful for any person to sell, attempt to sell, offer for sale or participate or assist in the sale of any gasoline, liquefied petroleum gas, distillate, kerosene or other motor fuel or lubricating oil or motor oil of any kind or quality whatever for use in internal combustion engines when the petroleum product is at the time it is sold, offered for sale, caused or attempted to be sold, falsely represented to the purchaser or intended purchaser thereof either verbally or by advertising labels, signs or literature as the product of any manufacturer, refiner, producer or importer other than the true manufacturer, refiner, producer or importer.

(b) It is unlawful for any person to sell, attempt to sell, offer for sale or participate or assist in the sale of any gasoline, liquefied petroleum gas, distillate, kerosene or other motor fuel or motor oil or lubricating oil of any kind or quality whatever for use in internal combustion engines when the petroleum product is, at the time it is sold, offered for sale, caused or attempted to be sold, falsely represented to the purchaser or intended purchaser thereof, to be the product of the brand name or trade name specified by the purchaser or intended purchaser. It is unlawful to sell, offer for sale or attempt to sell to a purchaser or intended purchaser a motor oil or lubricating oil with an S. A. E. (Society of Automotive Engineers) number classification other than the S. A. E. number classification as specified by the purchaser or intended purchaser.

(c) It is unlawful for any person to permit, direct or cause any other person to do any of the acts prohibited by this section.

SEC. 30. Section 20930 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p. 1054

20930. It is unlawful for any person to mix or adulterate any gasoline or other motor fuel, distillate, kerosene, or lubricating or motor oil, or fraudulently to sell or offer for sale or attempt to sell or assist in the sale of, any of the products resulting from such mixture or adulteration as the gasoline or other motor fuel, distillate, kerosene, or lubricating or motor oil, of a brand, trade-mark or trade name, maintained and in general use by the manufacturer, refiner, producer, or marketer of either or both of the products so mixed or adulterated or by any other manufacturer, refiner, producer or marketer. Adulteration

The application of the requirement of this section to deliveries by tank vehicle is subject to the modifications contained elsewhere in this chapter.

SEC. 31. Section 20950 of the Business and Professions Code is hereby repealed. Stats 1941, p 1055

SEC. 32. Section 20950 is hereby added to the Business and Professions Code, to read as follows: New section

20950. It is the duty of the department acting through the Division of Weights and Measures to enforce the provisions of this chapter, and to appoint and employ such inspectors as may be necessary therefor. Enforcement

SEC. 33. Section 20956 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 1056

20956. Upon at least 24 hours written notice from the owner, manager or operator of the container, receptacle, pump or storage tank which has been sealed, to the department or to the sealer of the county in which the premises are situated stating that the contents of such container, receptacle, pump or storage tank will be removed or that such container, receptacle, pump, or storage tank or inlet end of the fill pipe thereof will be properly labeled as in this chapter provided, at a specified time, between the hours of 9 a.m. and 4 p.m. of a day specified in the notice, other than a holiday, such officer, shall at the time specified, break the seal or seals for the purpose of permitting the removal by such manager, owner or operator, of the contents of such container, receptacle, pump or storage tank connected thereto, or the use thereof after proper labeling. Removal

The removal of contents or proper labeling of the container, receptacle, pump, storage tank or inlet end of the fill-pipe thereof, as the case may be, shall be made at the time specified and in the presence of the officer removing the seal.

CHAPTER 555

An act relating to the disposition of moneys wagered on the result of horse racing, declaring the urgency hereof, to take effect immediately.

In effect immediately

[This bill having remained with the Governor 10 days (Sundays excepted), and the Legislature being in session, it has become a law this third day of June, 1941. PAUL PEEK, Secretary of State.]

[Filed with Secretary of State June 3, 1941.]

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

Commission

SECTION 1. On and after the effective date of this act, but not subsequent to December 25, 1941, every person licensed

Stats 1933, p 2046

to conduct a horse racing meeting under Chapter 769 of the Statute of 1933, as amended, or Chapter 4 of Division 8 of the Business and Professions Code, may deduct a commission from the gross amount of money handled in the pari-mutuel pool operated by him which shall not exceed 8 per cent of such gross amount of money handled and the odd cents by which the amount payable on each dollar wagered exceeds the next lowest multiple of ten cents ($0.10). The amount so deducted shall be in addition to the license fee.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall therefore go into effect immediately. A statement of the facts constituting such necessity is as follows:

Confusion regarding the correct method of calculating the breakage has damaged racing in California, and if not immediately terminated, may result in permanent injury to an important source of revenue to State educational institutions. It is necessary that this act take effect immediately in order that injury may be averted while a permanent solution is being worked out.

CHAPTER 556

Stats 1933, p 394, amended

An act to repeal Section 791, and to amend section and renumber Section 791.5 to be 791, of the Fish and Game Code, relating to crabs, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Stats 1937, p 1475

SECTION 1. Section 791 of the Fish and Game Code is hereby repealed.

SEC. 2. Section 791.5 of said code is hereby renumbered 791 and amended to read as follows: Stats 1933, p 464

791. It is unlawful to sell any crab taken in any of the following waters: Crabs

(a) The waters of Eel River and its tributaries between the Pacific Ocean and the west line of Sec. 35, T. 3 N., R. 1 W., H. B. & M.

(b) The waters of the Pacific Ocean within a radius of one mile from the mouth of Eel River.

(c) The waters of Humboldt Bay, including the entrance of said bay, and of the Pacific Ocean within a radius of one mile from the extreme western point of the north jetty at the entrance of said bay and for a radius of one mile from the extreme western point of the south jetty at the entrance of said bay.

(d) The waters of Trinidad Bay, said bay being the body of water within the area inclosed by a line running southeasterly from the westernmost point of Trinidad Head to the mouth of Luftenholtz Creek.

It is unlawful to possess during any day more than 10 crabs taken in said waters. It is unlawful to take any crab from said waters between one-half hour after sunset and one-half hour before sunrise of the following day.

The violation of any provision of this section is a misdemeanor and punishable by a fine of not more than five hundred dollars ($500), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

Under present provisions of law crabs taken in the area affected by this act may not be transported out of that area. By deleting this restriction and at the same time providing for certain closed areas this act makes available to the people of the State as a whole a source of wholesome and continued food supply and thus promotes the public health and makes an additional food resource available in the present National emergency.

CHAPTER 557

An act to amend Sections 4380, 4381, 4382, 4400, 4101, 4113 of, and to add Section 4101.5 to, the Water Code, or to amend Sections 4, 8 and 12 of an act entitled "An act providing for the supervision of dams by the Department of Public Works through the State Engineer for the purpose of safeguarding life and property, defining powers and duties concerning the supervision of dams, providing for the enforcement of said supervision and providing penalties for violation thereof and making an appropriation therefor," approved June 10, 1929, as amended, relating to maintenance and operation of dams.

Stats 1929, p 1505, amended

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

See Sec 11

SECTION 1. Section 4101 of the Water Code is hereby amended to read as follows:

4101. The department, from time to time, shall make inspections of dams at State expense for the purpose of determining their safety but shall require owners to perform at their expense such work as necessary to disclose information sufficient to enable the department to determine conditions of dams in regard to their safety and to perform at their expense other work necessary to secure maintenance and operation which will safeguard life and property.

See Sec. 11

SEC. 2. Section 4101.5 is hereby added to the Water Code, to read as follows:

4101.5. The department may require owners to keep records of, and to report on, maintenance and operation and may issue such rules and regulations and orders as necessary to secure maintenance and operation which will safeguard life and property.

See Sec 11

SEC. 3. Section 4380 of the Water Code is amended to read as follows:

4380. The department shall make inspections at State expense of all dams in the State completed prior to August 14, 1929.

See Sec 11

SEC. 4. Section 4381 of the Water Code is hereby amended to read as follows:

4381. If, upon inspection, or, upon completion to the satisfaction of the department of all work that may be ordered, the department finds that the dam is safe to the full extent for

which use is or will be made, a certificate of approval shall be issued.

SEC. 5. Section 4382 of the Water Code is hereby amended to read as follows: See Sec 11

4382. The department shall require owners to perform at their expense such work or tests as necessary to disclose information sufficient to enable the department to determine whether to issue certificates of approval or to issue orders directing further work at the owner's expense necessary to safeguard life and property.

SEC. 6. Section 4400 of the Water Code is hereby amended to read as follows: See Sec 11

4400. During the construction, enlargement, repair, alteration or removal of any dam the department shall make continuous or periodical inspections at State expense for the purpose of securing conformity with the approved plans and specifications but shall require the owner to perform at his expense such work or tests as necessary to disclose information sufficient to enable the department to determine that conformity with the approved plans and specifications is being secured.

SEC. 7. Section 4 of the act cited in the title hereof is hereby amended to read as follows: Stats 1929, p 1506 See also Stats 1941, p 2144

Sec. 4. Every owner of a dam completed prior to the effective date of this act shall, within six months after the effective date of this act, file an application for the approval of such dam. A separate application shall be made for each dam and shall be filed with the department and upon forms to be supplied by it and shall supply such available and appropriate information concerning said dam as may be required by the department. Upon the expiration of said six months period, the department shall give notice to file to owners who have failed to do so as herein required, and a failure to file within 30 days after such notice shall be punishable as hereinafter provided. The notice herein provided for may be given by registered mail and a return receipt signed by such owner shall constitute prima facie evidence of service. Application for approval of dams constructed prior to August 14, 1929

The department shall make inspections at State expense of all dams in the State completed prior to August 14, 1929. The department shall require owners to perform at their expense such work or tests as necessary to disclose information sufficient to enable the department to determine whether to issue certificates of approval or to issue orders directing further work at the owner's expense necessary to safeguard life and property.

If, upon inspection, or, upon completion to the satisfaction of the department of all work that may be ordered, the department finds that the dam is safe to the full extent for which use is or will be made, a certificate of approval shall be issued.

Stats 1929, p 1509

SEC. 8. Section 8 of the act cited in the title hereof is hereby amended to read as follows:

Supervision during construction

Sec. 8. During the construction, enlargement, repair, alteration or removal of any dam the department shall make continuous or periodical inspections at State expense for the purpose of securing conformity with the approved plans and specifications but shall require the owner to perform at his expense such work or tests as necessary to disclose information sufficient to enable the department to determine that conformity with the approved plans and specifications is being secured.

If, after any such inspections, investigations or examinations, or at any time as the work progresses or at any time prior to issuance of a certificate of approval it shall be found by the department that amendments, modifications or changes are necessary to insure safety, the department shall have authority to order the owner to revise the plans and specifications as may be necessary or, if conditions are revealed which will not permit of the construction of a safe dam the approval may be revoked. In the event that conditions imposed may be waived or made less burdensome without sacrificing a proper margin of safety, the department shall have authority to authorize an owner to revise the plans and specifications accordingly. If at any time during construction, enlargement, repair or alteration of any dam the department shall find that the work is not being done in accordance with the provisions of the approval and the approved plans and specifications or in accordance with the approval or plans and specifications as same may have been revised, it shall give a written notice and order by registered mail or by personal service to the owner. Said notice and order shall state the particulars in which the approval and approved plans and specifications or the approval and approved plans and specifications as revised are not being or have not been complied with and shall order the immediate compliance with the approval and approved plans and specifications or with the approval and approved plans and specifications as revised as may be the case. Also, the department may order that no further work be done until such compliance has been effected and approved by the department. A failure to comply with the approval and approved plans and specifications as originally approved or revised as may be the case, shall render such approval subject to revocation by the department, if compliance is not made in accordance therewith after notice and order from the department as above provided.

SEC. 9. Section 12 of the act cited in the title hereof is hereby amended to read as follows: Stats 1929, p 1512

Sec. 12. Supervision over the maintenance and operation of dams in so far as necessary to safeguard life and property from injury by reason of the failure thereof shall be vested in the department. Protection of life and property

The department, from time to time, shall make inspections of dams at State expense for the purpose of determining their safety but shall require owners to perform at their expense such work as necessary to disclose information sufficient to enable the department to determine conditions of dams in regard to their safety and to perform at their expense other work necessary to secure maintenance and operation which will safeguard life and property. Inspections

The department may require owners to keep records of, and to report on, maintenance and operation and may issue such rules and regulations and orders as necessary to secure maintenance and operation which will safeguard life and property.

If the condition of any dam is so dangerous to the safety of life or property as not to permit of time for the issuance and enforcement of an order relative to maintenance or operation or if passing or imminent floods threaten the safety of any dam, the department shall have authority immediately to employ any remedial means necessary to protect life and property. In applying the remedial means provided for in this section, the department may in emergency lower the water level by releasing water from the reservoir, or may completely empty the reservoir and may take such other steps as may be essential to safeguard life and property and shall continue in full charge and control of such dam and reservoir and its appurtenances until the same have been rendered safe for the emergency occasioning the action shall have ceased. Powers of department in case of emergency

The cost and expense of such remedial means as herein provided, including cost of any work done to render such a dam or its appurtenances safe shall be recoverable by the State from the owner by action brought by the department in the superior court of the county wherein the dam or any part thereof is situate.

SEC. 11. Sections 1, 2, 3, 4, 5 and 6 of this act shall take effect only if the act cited in the title hereof is repealed and its provisions incorporated in the Water Code by the Legislature at its Fifty-fourth Regular Session. Sections 7, 8 and 9 of this act shall take effect only if the act cited in the title hereof is not repealed and its provisions are not incorporated in the Water Code by the Legislature at its Fifty-fourth Regular Session. Effect: Water Code not enacted

CHAPTER 558

An act to amend Sections 5.500 and 5.501 of the School Code, relating to persons employed by school districts in positions requiring certification qualifications.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Stats 1939, p 2208

SECTION 1. School Code Section 5.500 is hereby amended to read as follows:

Permanent employee defined

5.500. Every employee of a school district of any type or class, except a joint union or union high school district with an average daily attendance of 850 or more, maintaining eight or more schools lying not less than six miles apart, who, after having been employed by the district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications shall, except as hereinafter otherwise provided, at the commencement of said succeeding school year be classified as and shall become a permanent employee of the district.

Every employee of a joint union or union high school district, having an average daily attendance of 850 or more, maintaining eight or more schools lying not less than six miles apart, who, after having been employed by the district has served for three complete consecutive school years in a position, or positions, requiring certification qualifications, in a school having an average daily attendance of 850 or more, is reelected for the next succeeding school year to a position requiring certification qualifications shall, except as hereinafter otherwise provided, at the commencement of said succeeding school year, be classified as and shall become a permanent employee of the district.

At the discretion of the governing board of a district with 60,000 average daily attendance or more every employee of the district who, after having been employed by the district for two consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications may, at the commencement of the succeeding school year, be classified as and become a permanent employee of the district.

Nothing in these parts shall be construed to give permanent classification to a person in the evening school who is already classified as a permanent employee in the day school. In case a teacher obtains permanent classification in the evening school and later is eligible for the same classification in the

day school by reason of having served the probationary period therein, he shall be given his choice as to which he shall take. Nothing in this section contained shall be construed to affect the classification of any employee as it exists at the time this act takes effect.

SEC. 2. School Code Section 5.501 is hereby amended to read as follows: Stats 1931, p. 1394

Where average daily attendance less than 850

5.501. Except as otherwise herein provided, every employee of a school district of any type or class having an average daily attendance of less than 850 pupils, who, after having been employed by the district for three complete consecutive school years in a position, or positions, requiring certification qualifications and is reelected for the next succeeding school year to a position requiring certification qualifications, may be classified by the governing board of the district as a permanent employee of the district. If said classification be not made the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until said classification is made.

Every employee of a joint union or union high school district having an average daily attendance of 850 or more, maintaining eight or more high schools lying not less than six miles apart, who, after having been employed by the district has served for three complete consecutive school years in a position, or positions, requiring certification qualifications in a school having an average daily attendance of less than 850, and is reelected to a position requiring certification qualifications, may be classified by the governing board of the district as a permanent employee of the district. If said classification be not made the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until said classification is made but if the classification be not made the employee may be dismissed from the service of the district only by an unanimous vote of all the members of the governing board of the district, on the recommendation of the superintendent of schools, if there be one, of the district.

Nothing in this section shall be construed as affecting the classification of any employee as it exists at the time this act takes effect.

CHAPTER 559

An act to amend Section 4254 of the Political Code, relating to the compensation for public services in counties of the twenty-fifth class.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Stats 1941, p 1618

SECTION 1. Section 4254 of the Political Code is hereby amended to read as follows:

Humboldt County Salaries

4254. In counties of the twenty-fifth class, the following shall receive, as compensation for the services required of them by law, or by virtue of their office, the following sums:

Auditor

1. The auditor shall receive three thousand six hundred dollars ($3,600) per annum.

If the board of supervisors in any year shall order or direct the auditor to prepare and file its annual statistical report, on performing such services and in that event, he shall be allowed the further sum of three hundred dollars ($300), payable upon the completion and acceptance of the report, and if the report is mailed throughout the county by the auditor, he shall be allowed the further sum of one hundred dollars ($100).

District attorney

2. The district attorney shall receive four thousand eight hundred dollars ($4,800) per annum and said district attorney while in receipt of said salary shall be disqualified from engaging in the practice of law in any and all of the courts of this State, in any action or cause wherein the county in which he is elected and serves or the State of California is not a party or parties.

Supervisors

3. Each supervisor two thousand seven hundred dollars ($2,700) per annum, necessary traveling expenses incurred in the performance of his official duties, and mileage at six cents ($0.06) per mile for all distances traveled by him as supervisor or as road commissioner; such mileage not to exceed in any one year the sum of one thousand dollars ($1,000) for each supervisor.

Jurors

4. The fees of grand jurors and trial jurors in the superior courts of said counties in civil and criminal cases shall be three dollars ($3), in lawful money of the United States for each day's attendance, and mileage to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrant drawn by the county auditor upon the written order of the judge of the court in which said jurors were in attendance and the treasurer of said county shall pay said warrants. The board of

supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for.

Same

5. The fees of jurors in justice's courts in civil and criminal cases shall be two dollars ($2) in lawful money of the United States for each day's attendance and mileage to be computed at the rate of fifteen cents ($0.15) per mile for each mile necessarily traveled in attending the court, in going only; in criminal cases such fees and mileage of said trial jurors in the justice's courts shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said jury was in attendance and the treasurer of said county shall pay said warrants.

Same

6. Jurors on coroner's juries, one dollar ($1) for each day's attendance, said fees to be paid out of the general fund of said county upon the presentation and filing with the board of supervisors of said county a duly verified claim therefor on proper allowance of said claim by said board of supervisors and the approval of the coroner of said county.

The board of supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for.

CHAPTER 560

An act to amend Section 113 of the Vehicle Code, relating to the members of the California Highway Patrol.

Stats 1935, p. 93, amended

[Approved by Governor June 3, 1941 Filed with Secretary of State June 3, 1941]

In effect September 13, 1941

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

SECTION 1. Section 113 of the Vehicle Code is hereby amended to read as follows:

Stats 1935, p 102

113. Who Are Members of the California Highway Patrol. The director, the Chief of the California Highway Patrol, and the assistant chief, deputy chiefs, inspectors, captains, sergeants, traffic officers and investigators, appointed by said chief, shall constitute the members of the California Highway Patrol

Members of patrol

CHAPTER 561

Stats 1935, p 1388, amended

"State Council of Defense Act"

An act to add Division 7, consisting of Chapter 1, Sections 1500 to 1561, inclusive, to the Military and Veterans Code, relating to the establishment and organization of a California State Council of Defense, to plan for the mobilization of agricultural, industrial, communication and transportation facilities, for the preservation of the public peace, safety, and welfare, for the protection of individual rights and consumer interests and for the suppression of sabotage and subversive activities, to cooperate with similar agencies authorized to be established in the cities and counties, to formulate a program of State and local government participation in the National Defense Program, to gather and disseminate information in regard to such participation, to integrate State and local programs with the National program, to make adjustments necessary for the prompt assimilation and unification of such programs, and to coordinate properly governmental and private agencies in the defense effort; providing for participation in the work of the California State Council of Defense by members of the Legislature; and providing an appropriation for the purposes of the chapter.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

New division

SECTION 1. Division 7, consisting of Chapter 1, Sections 1500 to 1561, is hereby added to the Military and Veterans Code, to read as follows:

DIVISION 7. NATIONAL DEFENSE

CHAPTER 1. CALIFORNIA STATE COUNCIL OF DEFENSE

Article 1. General Provisions

Purposes of chapter

1500. In order better to provide for the participation of this State and its local units of government in the National Defense Program in accordance with the recommendations of the Council of National Defense and the Advisory Commission of the United States Government and under the direction of the Governor as the executive head of this State, this chapter is enacted to provide State and local defense councils for the integration of all governmental programs for defense, for the adjustments necessary to effect a prompt assimilation of such programs and for the proper coordination between the activities of government and the private agencies cooperating in the defense effort.

Short title

1501. This chapter may be cited as the State Council of Defense Act.

"State Council" 1502. As used in this chapter, "State Council" means the California State Council of Defense.

Article 2. Organization of the State Council

Members of council 1510. There is hereby created a California State Council of Defense to consist of all the following:

(a) The Governor;
(b) The Attorney General;
(c) The Adjutant General;
(d) The State Superintendent of Public Instruction;
(e) The Director of Public Health; and
(f) Twenty members appointed by the Governor and subject to confirmation by the Senate, to serve at the pleasure of the Governor.

Submission to Senate 1511. If the first appointments, or any of the succeeding appointments to fill vacancies, are made while the Senate is not in session, the persons appointed shall immediately undertake the performance of their duties and their names shall be submitted to the Senate for confirmation at the session of the Legislature first occurring thereafter, whether regular, extraordinary or reconvening of a recessed extraordinary session.

Request for resubmission 1512. If the Senate, in lieu of failing to confirm, finds that it can not consider all or any of the appointments adequately because the amount of legislative business and the probable duration of the session do not permit, it may adopt a single house resolution by a majority vote of all members elected to the Senate to that effect and requesting the resubmission of the unconfirmed appointment or appointments at a succeeding session of the Legislature, whether regular, extraordinary or reconvening of a recessed extraordinary session, convening on or after a date fixed in the resolution. This resolution shall be filed immediately after its adoption in the office of the Secretary of State and the appointee or appointees affected shall serve subject to later confirmation or rejection by the Senate.

Chairman, etc 1513. The Governor shall be ex officio chairman of the State Council and shall appoint a vice chairman of the State Council and the chairman and vice chairman of the standing State Council committees.

Executive committee 1514. There shall be an executive committee of the State Council composed of the chairman and vice chairman of the State Council, and the chairman and of the standing committees; The Adjutant General, the Attorney General; and the Superintendent of Public Instruction.

Personnel 1516. In accordance with the State Civil Service Act, the State Council may employ such personnel and make such

expenditures as may be appropriated for those purposes and as are necessary to carry out the purposes of this act.

Compensation

1517. Members of the State Council shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with their duties under this chapter.

Procedure

1518. The State Council may adopt and from time to time amend such rules governing procedure of the State Council as appear necessary.

Executive director

1519. The State Council may elect from its membership or may employ an executive director at a salary of not to exceed five thousand dollars ($5,000) a year who shall act in a confidential capacity to the State Council and as the executive head of the administrative organization. The executive director shall be responsible to the State Council and shall exercise such duties as may be assigned him by the council.

Article 3. Standing Committees of the State Council

Standing committees

1530. There are hereby created six standing committees of the council. Such standing committees shall consist of the following committees, each of which shall have in addition to the specific field of activity mentioned, such other and further fields within the scope of the council's functions as the executive committee may provide or the Governor may assign:

(1) Agricultural Resources and Production, to consider the conservation and use of land and the crops and live stock it supports; and the growing, marketing and processing of plant and animal products for consumption as food or as raw materials entering into industrial production.

(2) Civil Protection, to consider the protection of civil liberties, maintenance of law and order, and measures to guard against sabotage and subversive activities, by the legally constituted authorities through the enforcement of law and the exercise of regular and duly established police powers.

(3) Health, Welfare and Consumer Interest, to consider activities designed to contribute directly to the social, physical and economic well-being of the individual and the family; protection from want, protection against unwarranted rise in prices or depreciation in quality of consumer goods and services.

(4) Transportation, Housing, Works and Facilities, to consider provisions for housing, building and structures; works for water supply and transportations, highways, airports and other transportation facilities.

(5) Human Resources and Skills, to consider all activities relating to the supply of, and demand for, human energy, professional, scientific or technical competence, trade and occupational skill, and the training and rehabilitation necessary to supply present or anticipated needs.

(6) Industrial Resources and Production, to consider the extraction and processing of petroleum, necessary war minerals, ores and war material; and the facilities, power, transportation and distribution incidental thereto.

Other committees

1531. The State Council may establish other standing committees in addition to those expressly provided for and such other temporary and permanent committees as it deems necessary.

Membership of committees

1532. The members of all committees of the council shall be appointed by the executive committee from the membership of the council, except that any chairman of a standing council committee or, in his stead, the vice chairman of the committee, may request persons, not members of the council, to participate in the work of the committee and advise the committee with relation to its activities.

Article 4. Functions of the State Council

Duties of council

1540. The California State Council of Defense shall, at once consider the effect of defense measures upon the people of the State of California and shall inform the people concerning such measures and the adjustments and arrangements necessary for prompt public cooperation in them; consider and recommend means for public defense and security, for the protection of agricultural and industrial production facilities and resources and routes of communication and transport, for the betterment and preservation of public health, for the protection of consumer interest, for the providing of housing, for the preservation of civil liberties, for the suppression of sabotage and subversive activities, for the full development of the human, natural and productive resources of the State; consider measures essential to meet the exigencies of all situations occasioned by National and State defense needs and activities; and cooperate and assist with the formulation and development of the policies adopted by the Council of National Defense and the advisory commission and of the defense activities of any other agency of the United States Government.

Cooperation with council

1541. Every department, commission, agency, board, officer and employee of the State Government and of every political subdivision, county, city, city and county, public district and public corporation of or in this State shall cooperate with and assist the council, its committees and members so as to enable the council, its committees and members, to accomplish the objectives of this act.

Article 5. Legislative Participation

Legislative participation

1550. The President pro tempore of the Senate shall appoint two members of the Senate and the Speaker of the

Assembly shall appoint three members of the Assembly to meet with and participate in the work of the council, its committees and personnel.

Duties of legislative participants

1551. Members of the Legislature appointed under this section shall study and advise the council, its committees and personnel with regard to legislative action necessary to accomplish the objectives of this act, shall keep the Legislature informed of the council's activities, and shall have all the rights of members of the council appointed by the Governor and be eligible to participate in the work of the council, its committees and personnel to the same extent that members of the council appointed by the Governor may participate, except only when such rights and participation, in whole or in part, is constitutionally incompatible with their position as members of the Legislature.

Expenses

1552. Members of the Legislature shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with their duties hereunder.

Article 6. Local Councils

Local councils of defense

1560. Every county, city, and city and county may establish a local council of defense by ordinance duly enacted by its governing body. Local councils of defense, if and when established shall cooperate with and assist the State Council established by this act and its executive committee.

Joint local councils

1561. One or more cities, one or more counties, or one or more counties and one or more cities may in accordance with the provisions of an act entitled "An act providing for the joint exercise of powers by counties, by municipalities or by municipalities and counties," approved May 20, 1921, establish one joint local council of defense to exercise the powers granted to each of the constituent cities or counties or counties and cities.

Stats 1921, p 542

Transfer of funds to council

SEC. 2. All money heretofore appropriated to the State Planning Board for the purpose of studying and formulating plans for the participation of this State in the National Defense Program and remaining unexpended, shall, on the effective date of this act, be transferred to and available for expenditure by the executive committee of the State Council of Defense for the purposes of this act and the State Planning Board shall have no further right thereto.

Expiration of chapter

SEC. 3. This chapter shall expire and be of no further force and effect and all bodies created under it shall have no further legal existence on and after September 1, 1943.

SEC. 4. The sum of twenty-five thousand dollars ($25,000), or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the purposes of Chapter 1 of Division 7 of the Military and Veterans Code enacted by this act, to be expended under the direction of the California State Council of Defense created by this act. Appropriation. State Council of Defense

SEC. 5. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. Constitutionality

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CHAPTER 562

An act to add Chapter 1a, comprising Section 1247k, to Title 9 of Part 2 of the Penal Code, relating to the promulgation by the Judicial Council of rules having the force of law to govern appeals in criminal cases.

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.] In effect September 13, 1941

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

SECTION 1. Chapter 1a, comprising Section 1247k, is hereby added to Title 9 of Part 2 of the Penal Code, to read as follows: New chapter

CHAPTER 1a. JUDICIAL COUNCIL RULES

1247k. The Judicial Council shall have the power to prescribe by rules for the practice and procedure on appeal, and for the time and manner in which the records on such appeals shall be made up and filed, in all criminal cases in all courts of this State. Rules of procedure in criminal appeals

The Judicial Council shall report the rules prescribed by it to the Legislature within 10 days after the Legislature convenes for its Fifty-fifth Regular Session.

The rules reported as aforesaid shall take effect on the ninetieth day after the day on which the Legislature convenes for its Fifty-fifth Regular Session, and thereafter all laws in conflict therewith shall be of no further force or effect.

CHAPTER 563

An act making an appropriation for the eradication of dourine, a communicable disease of horses, mules, and asses; amending Section 182 of, and adding Section 207.7 to, the Agricultural Code, relating to animals affected with dourine; and declaring the urgency thereof.

Stats 1933, p. 60, amended

In effect immediately

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Appropriation Department of Agriculture

SECTION 1. There is hereby appropriated to the State Department of Agriculture, out of any moneys in the State Treasury not otherwise appropriated, the sum of forty-two thousand seven hundred dollars ($42,700), to be expended during the Ninety-second and Ninety-third Fiscal Years for the eradication of dourine, a communicable disease of horses, mules, and asses.

Stats 1933, p. 91

SEC. 2. Section 182 of the Agricultural Code is hereby amended to read as follows:

Dourine, glanders and farcy

182. It is unlawful to:

(a) Knowingly sell, use, expose, or fail to immediately kill, after notification of its condition from a licensed veterinarian or the department, any horse, mule or other animal having the disease known as dourine, as shown by a complement-fixation test, or having the disease known as glanders, or farcy, as shown by a reaction to the mallein test, physical examination, or other test or examination recognized by the department.

Tuberculosis

(b) Knowingly sell, after notification of its condition from the department, any bovine animal having the disease known as tuberculosis as shown by a positive reaction to the tuberculin test, physical examination, or other test, or other examination, recognized by the department, without having first obtained a permit in writing from the department.

Other contagious diseases

(c) Bring, cause to be brought, or aid in bringing into the State any domestic animal knowing that it is infected with any contagious disease.

New section

SEC. 3. Section 207.7 is hereby added to the Agricultural Code, to read as follows:

Dourine a public nuisance

207.7. Every horse, mule or other animal affected with dourine, as shown by a complement-fixation test, is hereby declared to be a public nuisance, and shall be immediately destroyed under the direction and supervision of the department, and no indemnity shall be paid therefor.

SEC. 4. This act is hereby declared to be an urgency measure necessary for the preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall therefore take effect immediately. A statement of the facts constituting such necessity is as follows: Urgency

Dourine, a destructive communicable disease of horses, mules, and asses, has recently been discovered in San Diego County. This disease is detrimental to the welfare of the animal industry of the State, and because of its nature would, if steps are not taken for its immediate eradication, spread throughout the State. The Federal Government has agreed to cooperate in an immediate program of eradication, provided the State will participate on an equal basis.

CHAPTER 564

An act to add Article 3, comprising Section 1980, to Chapter 2 of Part 7 of Division 2 of the Labor Code, relating to the employment of persons who are members of any organization or group which advocates the overthrow of the Government by force and violence. Stats 1937, p. 185, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.] In effect September 13, 1941

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

SECTION 1. Article 3, comprising Section 1980, is hereby added to Chapter 2 of Part 7 of Division 2 of the Labor Code, to read as follows: New article

Article 3. Loyalty of Employees

1980. No person shall be knowingly employed by any State department, office, board, commission or bureau who either directly or indirectly carries on, advocates, teaches, justifies, aids or abets a program of sabotage, force and violence, sedition or treason against the Government of the United States or of this State. Sabotage, sedition, etc

Any person employed by any State department, office, board, commission, or bureau on or after the effective date of this article shall be immediately discharged from his employment when it becomes known to his appointing power that such person has, during the period of his employment, committed any of the acts hereinabove described.

No part of any money appropriated from the State Treasury shall ever be expended to compensate any person whose employment is forbidden by this section.

CHAPTER 565

Stats 1935, p 1123, amended

An act to add Section 61.2 to the Alcoholic Beverage Control Act, relating to the sale of alcoholic beverages and providing for proof, upon demand, that persons to whom such beverages are served or sold are over the age of 21 years.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

New section

SECTION 1. Section 61.2 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Evidence of age of purchaser

Sec. 61.2. (a) For the purpose of preventing the violation of Section 61 of this act, any licensee or his agent or employee may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence that he or she is over the age of 21 years.

(b) In any criminal prosecution, or any proceeding for the suspension or revocation of any license issued under this act and based upon violation of said Section 61, proof that the defendant licensee or his agent or employee demanded and was shown, before furnishing any alcoholic beverage to a minor, a motor vehicle operator's license or a registration certificate issued under the Federal Selective Service Act or other bona fide documentary evidence of majority and identity of such person, shall be a defense to such prosecution or proceeding for the suspension or revocation of any license.

CHAPTER 566

Stats 1935, p 248, amended

An act adding Section 956.8 to, and amending Section 958 of, the Streets and Highways Code, relating to the abandonment of county highways.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

New section

SECTION 1. Section 956.8 is hereby added to the Streets and Highways Code, to read as follows:

Intention to abandon

956.8. The board may, by resolution, declare its intention to abandon any county highway.

Stats 1935, p 306

SEC. 2. Section 958 of the Streets and Highways Code is hereby amended to read as follows:

Notice

958. Upon the making of such resolution of intention or filing of such petition, the board shall by order fix a day for hearing the resolution or petition and shall give notice to all

freeholders in the road district of the time and place fixed for the hearing. Such notice shall be given by publication in a newspaper of general circulation published in the county and designated in the order by the board, for at least two successive weeks prior to the day fixed for the hearing. The board shall also conspicuously post a similar notice along the line of the highway proposed to be abandoned.

CHAPTER 567

An act to amend School Code Section 6.471, relating to the purchase of articles by governing boards of school districts.

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.] In effect September 13, 1941

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

SECTION 1. School Code Section 6.471 is hereby amended to read as follows: Stats. 1939, p. 2342

6.471. Governing boards of school districts shall have power, and it shall be their duty, except as otherwise provided in this code, to purchase school furniture, including musical instruments, and apparatus, and such other articles as may be necessary for the use of schools, and may, in their discretion, purchase uniforms and other regalia for the use of school bands or orchestras, and including uniforms and equipment necessary for the use of athletic teams; provided, however, that any such articles purchased shall always remain the property of the school district purchasing the same. Only such books, apparatus, uniforms and equipment, shall be purchased by the governing board of an elementary school district, if such board is not a city board of education, as have been adopted by the county board of education having jurisdiction over such district. Purchase of apparatus and supplies

CHAPTER 568

An act to repeal School Code Section 2.889 and to amend School Code Section 2.891, relating to the conducting of elections for members of governing boards of school districts.

In effect September 13, 1941 [Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Sch C, 1929, p 80 SECTION 1. Section 2.889 of the School Code is hereby repealed.

Stats 1937, p 1745 SEC. 2. Section 2.891 of the School Code is hereby amended to read as follows:

Returns 2.891. The officers of election shall fill out the blanks given on the envelopes and inclose and seal in the envelopes the roster of voters and tally list and ballots cast at the election. The inspector of the election shall take possession of the returns and deliver them to the clerk of the school district who shall receipt him for the same. On the seventh day thereafter at 1 o'clock p.m. the governing board of the district shall meet and canvass the returns and issue certificates of election to the person or persons elected and file duplicates thereof with the county superintendent of schools having jurisdiction over the district.

Immediately following its canvass of the returns, the governing board of the district shall forward the returns to the county superintendent of schools having jurisdiction over the district, who shall keep the returns on file for one year.

CHAPTER 569

Stats 1939, p 482, amended *An act to amend Sections 13215 and 13388 of the Health and Safety Code, relating to boilers and boiler rooms in clothes cleaning establishments.*

In effect September 13, 1941 [Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Stats 1939, p. 795 SECTION 1. Section 13215 of the Health and Safety Code is hereby amended to read as follows:

"Boiler room" 13215. "Boiler room" means any building or room in which is maintained, kept, or operated any appliance, machinery, or apparatus for the generation of steam or the heating of

water, having a capacity of eight horsepower or more in any one unit according to the American Society of Mechanical Engineers' or other standard rating.

SEC. 2. Section 13388 of said code is hereby amended to read as follows: Stats 1939, p 806

13388. No boiler or steam generator shall be installed or used in connection with a clothes cleaning establishment unless it is installed and housed in conformity with the following: Boiler installation

(a) No boiler or steam generator of any horsepower, nor the boiler room in which it is housed, shall be placed or located within 12 feet from any hazardous building.

(b) A boiler or steam generator located within 30 feet of a hazardous building shall be housed in a boiler room constructed of burned clay brick, burned clay tile, or reinforced concrete, and having a reinforced concrete roof.

No door opening in the room shall be located at a point less than 20 feet from the nearest door, wall vent, or ventilated window opening in a hazardous building, nor, except when operatively impossible, shall it be placed in a wall facing a hazardous building.

Fire doors and window sash in a boiler room shall meet the requirements of this article for fire doors and window sash in a hazardous building.

(c) A boiler or steam generator having a capacity of eight horsepower or more in any one unit according to the American Society of Mechanical Engineers' or other standard rating, and located at a distance of 30 feet or more from a hazardous building, or used in connection with a clothes cleaning establishment employing any moisture-free solvents of the chlorinated hydrocarbon type, shall be mounted on a masonry base and housed in a boiler room constructed of wood frame with metal lath and plaster on both sides, and a metal lath and plaster ceiling, or some other equally fire-resistive construction. Metal clad, self-closing doors shall be installed at every door opening in the room; and metal sash and one-quarter-inch wire glass shall be installed at each window opening.

(d) Every boiler used in connection with a clothes cleaning establishment shall be mounted on a suitable masonry base.

CHAPTER 570

Stats 1939, p. 482, amended

An act to amend Section 13314 of the Health and Safety Code, and to add Section 13314.5 thereto, relating to clothes cleaning establishments, including licenses and license fees and penalties.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Stats 1939, p. 799

SECTION 1. Section 13314 of the Health and Safety Code is hereby amended to read as follows:

Fee

13314. At the time of making application an applicant for an original license to operate a clothes cleaning establishment shall pay the State Fire Marshal a license fee in the following amount:

(a) Forty dollars ($40), if he makes application or operates an establishment on or after the first day of January but not later than the thirtieth day of June of any year.

(b) Twenty dollars ($20), if he makes application or operates an establishment on or after the first day of July but not later than the thirtieth day of December of any year.

At the time of making application for a renewal license, an applicant shall pay the State Fire Marshal a license fee of forty dollars ($40).

New section

SEC. 2. Section 13314.5 is hereby added to the Health and Safety Code, to read as follows:

Penalty

13314.5. If the annual license fee for an original or renewal license required of any person who operates a clothes cleaning establishment is not paid on or before the date it is due and payable, a penalty shall be added to the fee in accordance with the following schedule:

(a) Ten dollars ($10), if it is not paid within a period of 90 days after the date when it is due and payable.

(b) Twenty dollars ($20), if it is not paid within a period of 150 days after the date it is due and payable.

CHAPTER 571

An act to amend Section 13203 of the Health and Safety Code, relating to clothes cleaning establishments, including the definition of solvents used therein.

Stats 1939, p 482, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 13203 of the Health and Safety Code is hereby amended to read as follows:

Stats 1939, p 794

13203. "Volatile, commercially moisture-free solvent" means either of the following:

"Volatile, commercially moisture-free solvent"

(a) Any commercially moisture-free liquid, volatile product or substance having the capacity to evaporate and, during evaporation, to generate and emit a gas or vapor.

(b) Any solvent commonly known to the clothes cleaning industry as a "chlorinated hydrocarbon solvent."

CHAPTER 572

An act to repeal Section 808.5 of the Fish and Game Code, relating to clams.

Stats 1933, p 394, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 808.5 of the Fish and Game Code is hereby repealed.

Stats 1937, p 1389

CHAPTER 573

An act to add Section 454.2 to the Vehicle Code, relating to the operation of vehicles owned by licensed physicians when traveling in response to emergency calls.

Stats 1935, p 93, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 454.2 is hereby added to the Vehicle Code, to read as follows:

New section

454.2. Vehicles Owned by Physicians. A physician traveling in response to an emergency call shall be exempt from

Vehicles used by physicians

the provisions of Section 511 of this code; provided, the vehicle so used by him displays an insignia approved by the Department of Motor Vehicles indicating that such vehicle is owned by a licensed physician. The provisions of this section shall not relieve the driver of any such vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall the provisions of this section protect any such driver from the consequences of an arbitrary exercise of the privileges declared in this section.

CHAPTER 574

Stats 1935, p 496, amended

An act to amend Sections 828 and 845 of the Insurance Code, relating to insurance securities and brokers' and agents' certificates.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Stats 1935, p 521

SECTION 1. Section 828 of the act Insurance Code is hereby amended to read as follows:

Advertising

828. Except in the case of a broker holding a broker's certificate issued by the commissioner under this code or by the Commissioner of Corporations under the Corporate Securities Act and then in effect, a person, desiring or proposing to sell a security to be issued by any insurer, shall not issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning any such security until the insurer secures from the commissioner a permit authorizing it to sell such security.

Stats 1935, p 524

SEC. 2. Section 845 of the Insurance Code is hereby amended to read as follows:

Agent's or broker's certificate

845. No person may act as an agent of an insurer under this article except under authority of a certificate issued by the Insurance Commissioner under this code. No person shall act as a broker or as an agent for a broker except under authority of a certificate issued by the commissioner under this code or by the Commissioner of Corporations under the Corporate Securities Act. Every such certificate issued under this code shall expire on the first day of July next after its issue, unless sooner suspended or revoked. The permission granted by this section to persons holding certain licenses issued by the Commissioner of Corporations does not affect the provisions of this article requiring that an insurer and that an agent appointed by an insurer secure a permit from the Insurance Commissioner to issue or sell securities and such issue or sale and the advertising thereof is subject to the provisions of this article.

CHAPTER 575

An act to renumber and amend Section 800 to be Section 800.5 and to add Section 800 to the Health and Safety Code, relating to the regulation of plumbing.

Stats 1939, p 482, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 800 of the Health and Safety Code is hereby renumbered and amended to be Section 800.5, to read as follows:

Stats 1939, p 498

800.5. It is unlawful for any person to carry on business, or labor as a master or journeyman plumber, in any city unless he has obtained from the board of health of the city a license authorizing him to carry on that business, or to labor as such mechanic.

License from city board of health

SEC. 2. Section 800 is hereby added to the Health and Safety Code, to read as follows:

New section

800. The provisions of this chapter shall not apply to any city which has prescribed, or does hereafter prescribe, by ordinance its own system for the licensing of plumbers and the regulation of plumbing within such city by its health or building departments.

Application of chapter

CHAPTER 576

An act to add Article 11, consisting of Sections 2450 to 2459, inclusive, to Chapter 1 of Division 5 of, to add Chapter 5, consisting of Sections 5300 to 5302, inclusive, to Division 7 of, to add Section 6310 to, and to amend Sections 2831, 2832, 2840, 2841, 2842 and 2843 of, the Elections Code, relating to county central committees and campaign funds.

Stats 1939, p 49, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

SECTION 1. Article 11 is hereby added to Chapter 1 of Division 5 of the Elections Code, to read as follows:

New article

Article 11. Election of County Central Committees in Counties Containing More Than 20 Assembly Districts

2450. The provisions of this article shall only apply to counties containing 20 or more Assembly districts and shall not apply to county central committees in any other county or city and county.

Application of article

Elect on at presid ntial primary

2451. At each presidential primary election commencing with the election to be held in May, 1944, there shall be elected in each county containing 20 or more Assembly districts, a county central committee for each political party.

Term of me nbers elec ed in 1942

2452. In counties containing 20 or more Assembly districts all members of all county central committees elected at the direct primary held in 1942 shall continue to hold office until their successors are elected and qualified.

Nomir ation

2453. The name of a candidate for election to the county central committee in a county containing 20 or more Assembly districts shall be printed on the ballot only upon the filing of a nomination paper signed in his behalf by the voters of the Assembly district in which he is a candidate pursuant to Articles 4 and 5 of Chapter 2 of Division 5, except that time limitations specified therein shall refer to such times before the presidential primary.

Election

2454. The number of candidates for membership in the county central committee to which each party is entitled in each Assembly district to receive the highest number of votes shall be declared elected; but a candidate for county committeeman shall not be declared elected unless he has received votes equal in number to the minimum number of signatures to the nomination paper which would have been required to place his name on the county central committee election ballot.

Separate ballot

2455. All voting for members of county central committees in counties containing 20 or more Assembly districts shall be by a separate ballot to be known as a "county central committee election ballot."

Ballots

2456. A separate county central committee election ballot for each political party shall be printed and provided for use at each voting precinct in the county. The county central committee election ballot shall have a different tint or color for each political party.

Voters

2457. At the same time that he is given a presidential primary ballot every voter who is affiliated with any party shall also be given a county central committee election ballot of that party.

Printing of ballot

2458. Across the top of each county central committee election ballot shall be printed in capitals, not smaller than 48-point the words "Official County Central Committee Election Ballot." Beneath this heading shall be printed in capital type, not smaller than 24-point, the party designation.

Form

2459. Except as otherwise provided the form of the ballot shall be the same as other election ballots.

County central committee election ballots shall be in substantially the following form: Form

3347

(This number to be torn off by Inspector)	Perforated Line	Mark Crosses (+) on Ballot Only With Rubber Stamp;
3347		Never with Pen or Pencil (Fold Ballot to this Perforated Line, leaving Top Margin exposed) Perforated Line

OFFICIAL COUNTY CENTRAL COMMITTEE ELECTION BALLOT

Republican Party, 48th Assembly District

To vote for a person whose name appears on the ballot, stamp a cross (+) in the square at the right of the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose.

COUNTY COMMITTEE

Member of County Central Committee	Vote for Seven
John T. Hunt School Teacher	
Joseph T. Johnson Paving Contractor	
H. L. Maynard Broker	
E. S. Minor Real Estate Agent	
H. D. Robinson Doctor	
Edward F. Stevens Dentist	
N. Mallard Lawyer	
D. G. Elton Baker	

Perforated Line

Stats 1939, p 155

SEC. 2. Section 2831 of the Elections Code is hereby amended to read as follows:

County central committees

2831. A county central committee for each political party in each county, except a city and county, containing 20 or more Assembly districts shall be elected at every presidential primary in accordance with the provisions of Article 11 of Chapter 1 of Division 5 of this code. In all other counties, at every direct primary there shall be elected in each county a county central committee for each political party. The county central committee shall have charge of the party campaign under general direction of the State central committee or of the executive committee selected by the State central committee.

Stats 1939, p 156

SEC. 3. Section 2832 of the Elections Code is hereby amended to read as follows:

Duties

Existence

2832. County central committees shall perform such other duties and services for their respective political parties as seem to be for the benefit of each party. County central committees shall continue to function and exist until the election at the succeeding direct primary or presidential primary, as the case may be, and qualification of the members of the new county central committees.

Stats 1939, p 157

SEC. 6. Section 2840 of the Elections Code is hereby amended to read as follows:

Nomination papers required

2840. In each county other than a county containing 20 or more Assembly districts, and in each city and county, regardless of the number of Assembly districts contained therein, the name of each candidate for member of a county central committee shall appear upon the ballot only upon the filing of a nomination paper pursuant to Articles 4 and 5 of this chapter signed in his behalf by the voters of the Assembly or supervisorial district in which he is a candidate.

Stats 1939, p 157

SEC. 7. Section 2841 of the Elections Code is hereby amended to read as follows:

Election

2841. In each county other than a county containing 20 or more Assembly districts, and in each city and county regardless of the number of Assembly districts contained therein, the number of candidates for membership in a county central committee to which each party is entitled in each Assembly or supervisorial district who receive the highest number of votes shall be declared elected; but a candidate for county committeeman shall not be declared elected unless he has received votes equal in number to the minimum of signatures to the nomination paper which would have been required to place his name on the direct primary ballot as a candidate for member of the county committee.

SEC. 8. Section 2842 of the Elections Code is hereby amended to read as follows: Stats. 1939, p. 157

2842. Each county central committee in a county containing 20 or more Assembly districts shall meet in the courthouse at its county seat on the third Tuesday in May following the presidential primary in May, 1944, and on the third Tuesday in May every two years thereafter, and shall organize by selecting a chairman, a secretary, and such other officers and committees as it deems necessary for carrying on the campaign of the party. Every other county central committee shall meet in the courthouse at its county seat on the second Tuesday in September following the direct primary, and shall organize by selecting a chairman, a secretary and such other officers and committees as it deems necessary for carrying on the campaign of the party. Meeting of county central committee. Selection of officers.

SEC. 9. Section 2843 of the Elections Code is hereby amended to read as follows: Stats. 1939, p. 157

2843. Not later than 10 days after the third Tuesday in May following the presidential primary, the county clerk shall mail or otherwise deliver to the Secretary of State a certificate showing the chairman of each county central committee in each county containing 20 or more Assembly districts. Chairman.

The county clerk shall within 10 days after the second Tuesday in September following the direct primary, ascertain who is the newly elected chairman of each county central committee in all other counties and shall mail a certificate to that effect to the Secretary of State.

SEC. 10. Section 6310 is hereby added to the Elections Code, to read as follows: New section.

6310. At the presidential primary, if the voting machine will accommodate it, the county central committee election ballot shall be placed upon the voting machine together with the presidential primary ballot. Voting machines.

SEC. 11. Sections 1 to 10, inclusive, of this act shall take effect on January 1, 1943. Effective date.

New chapter SEC. 12. Chapter 5, consisting of Sections 5300 to 5302, inclusive, is hereby added to Division 7 of the Elections Code, to read as follows:

CHAPTER 5. CAMPAIGN FUNDS

Article 1. Solicitation

"Person" 5300. As used in this article "person" includes a firm, association, corporation, campaign committee or organization.

Solicitation of funds 5301. It is unlawful for any person which includes in any part of its name the name of any political party which was qualified to participate in the last preceding primary election, to directly or indirectly solicit funds for any purpose whatsoever, upon the representation either express or implied that such funds are being solicited for the use of that political party unless such person shall have previously obtained the written consent of one of the following: National committeeman or committeewoman from California, chairman of the State central committee, executive committee of the State central committee, or executive committee of the county central committee of the party whose name is being used in the county in which such solicitation is to be made. If the county central committee of the party in that county does not have an executive committee, the written consent of the chairman and secretary of that county central committee is sufficient.

Penalty 5302. Any person who violates any provision of Section 5301 is guilty of a misdemeanor.

CHAPTER 577

Stats 1933, p 394, amended *An act to add Section 1352.5 to the Fish and Game Code, relating to frogs.*

In effect September 13, 1941 [Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

New section SECTION 1. Section 1352.5 is hereby added to the Fish and Game Code, to read as follows:

Frogs 1352.5. Frogs may be taken only between March 1st and November 30th. It is unlawful between the hour of sunset and the hour of sunrise to take frogs by the use of firearms of any caliber or type.

CHAPTER 578

An act to amend Section 602 of the Penal Code, relating to trespass.

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

SECTION 1. Section 602 of the Penal Code is hereby amended to read as follows: Stats 1931, p 1432

602. Trespasses Upon Lands Enumerated: Misdemeanor. Every person who wilfully commits any trespass by either: Trespass defined

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another;

(b) Carrying away any kind of wood or timber lying on such lands;

(c) Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof;

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone;

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone;

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard or notice placed upon, or affixed to, any property belonging to the State, or to any city, county, city and county, town or village, by the State or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road or roads, or a highway or highways, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the State, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention thereto;

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or being on any such lands, whether covered by water or not, without the license of the owner or legal occupant thereof; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands;

(h) Wilfully opening, tearing down, or otherwise destroying any fence on the inclosed land of another, or opening any gate, bar, or fence of another and wilfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property; or

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one-third mile along the exterior boundaries and at all roads and trails entering such lands, without first having obtained written permission from the owner of such lands or his agent, or the person in lawful possession thereof; or

(j) Entering any lands, whether uninclosed or inclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of such land, his agent or by the person in lawful possession; or

(k) Entering any lands under cultivation or inclosed by fence, belonging to, or occupied by, another; or entering upon uncultivated or uninclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering such lands, for the purpose of hunting, shooting, killing, or destroying any animal, or bird on such lands, without having first obtained written permission from the owner of such lands, or his agent, or the person in lawful possession thereof;

Penalty Is guilty of a misdemeanor.

CHAPTER 579

Stats 1937, p. 2085, amended

An act to add Section 38.1 to the State Civil Service Act, relating to the orders and decisions of the State Personnel Board and the enforcement of the provisions thereof.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

New section

SECTION 1. A new section to be numbered 38.1 is hereby added to the State Civil Service Act, to read as follows:

Enforcement of orders and decisions

Sec. 38.1. All orders and decisions of the board made pursuant to the provisions of Article XXIV of the State Constitution or of this act shall be obeyed by, and are binding upon appointing powers and employees.

If any appointing power shall refuse or neglect to comply with any such order or decision, the board may issue an order to show cause, directed to such appointing power, why the board should not file a petition for a writ of mandate to compel such appointing power to comply with such order or decision.

If it shall appear to the board that no good cause exists for the refusal or neglect of such appointing power to comply with such order or decision, said board shall and is hereby authorized to file a petition for a writ of mandate in the manner and in the court provided for by law to compel such appointing power to comply with such order or decision.

The procedure herein provided for the enforcement of the orders and decisions of the board shall be in addition to any other means or procedure which shall now or hereafter be provided for by law.

CHAPTER 580

An act to amend Sections 5398 and 6590 of the Streets and Highways Code, relating to certification of delinquencies to tax collector under the Improvement Act of 1911.

Stats 1935, p 248, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5398 of the Streets and Highways Code is hereby amended to read as follows:

Stats 1941, p 862

5398. On or before the fourth Monday of September of each year, during the period of four (4) years immediately following the recording date of the assessment referred to under Section 5372 of this code, the superintendent of streets shall certify to the tax collector who collects the taxes for the city a list of the properties within the city upon which there is a lien for delinquent assessments, as shown by the records of the street superintendent.

Certification of delinquent assessments

SEC. 2. Section 6590 of the Streets and Highways Code is hereby amended to read as follows:

Stats 1941, p 907

6590. One month prior to the date it is provided by ordinance or charter that taxes are due, or if taxes are collected by the county for the city, on or before the fourth Monday in September of each year, but only during the period of four (4) years immediately following the due date of the last installment upon any bond issued by the city treasurer under this act, the treasurer shall certify to the tax collector, or if the city taxes are collected by the county, to the county tax collector, a list of the properties upon which any payment either of principal or of interest has not been paid when due upon any bond issued under this part.

Certification of bond delinquencies

CHAPTER 581

An act to provide for the sale and conveyance of certain lands lying within the abandoned river channel of the American River lying in the County of Sacramento, State of California.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Authority to sell

SECTION 1. The State Lands Commission is hereby authorized and empowered to sell and dispose of, upon such conditions as to price and terms of sale, and in such several parcels or portions as it may deem to be most advantageous to the State, all of the right, title, and interest of the State of California and the people thereof, in and to that portion of any land lying within the County of Sacramento, State of California, and being a portion of the abandoned channel of the American River or its tributaries no longer covered by the waters of said river or tributaries and lying south of the present channel of said river and tributaries between the northerly extension of the center lines of Seventeenth Street and Thirty-first Street of the City of Sacramento.

Owners of abutting lands

SEC. 2. The owners of lands abutting on said lands of a portion of the abandoned channel of the American River or its tributaries shall be preferred purchasers for a period of two years following the date upon which the State Lands Commission shall give notice by publication in one of the newspapers of general circulation published in the County of Sacramento that said commission has determined the price and conditions of sale of said land. Such publication shall be made for not less than three consecutive days. In the event all or portions of said land should remain unsold at the end of such two years period, the State Lands Commission may offer said lands for sale, and sell said lands, in the manner prescribed by Section 1274 of the Code of Civil Procedure; provided, that no bid which is less than the sum determined by the State Lands Commission to be the value of the portion or parcel shall be accepted.

Reservation of mineral rights

The commission may reject any and all bids. In any conveyance of said land there shall be reserved to the State of California 100 per cent of all mineral deposits and oil or gas.

Execution of deeds

SEC. 4. All such deeds or other conveyances as may be necessary to pass title to the purchasers of such tract shall, upon notice from the State Lands Commission that the full payment of the purchase price has been made, be in the name and by the authority of the people of the State of California, and shall be signed by the Governor, countersigned by the Secretary of State, sealed with the Great Seal of the State, and delivered to the persons entitled thereto.

CHAPTER 582

An act to amend Section 6 of an act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, relating to the regulation of credit unions.

Stats 1927, p 51, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

Stats 1935, p 889

See also Stats 1941, p 2625

SECTION 1. Section 6 of the act as cited in the title hereof is hereby amended to read as follows:

Deposits and investments authorized

Sec. 6. The capital funds, undivided profits, and guaranty fund of any credit union may be deposited in one or more savings banks, State banks or trust companies, incorporated under the laws of the State of California, or in National banks located in the State and in postal savings system of the United States, or in the securities which are authorized as an investment for savings banks and set forth by statute, or in accounts with any building and loan association, which accounts are guaranteed or insured by the United States Government or instrumentality thereof created for such purpose, or in shares or certificates for funds received or in any form of evidence of interest issued by any credit union in California, organized either under the provisions of the credit union law of the State of California or the statutes of the United States relating to credit unions.

CHAPTER 583

An act to amend Section 692 of the Political Code, relating to the approval of contracts by the Director of Finance.

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 692 of the Political Code is hereby amended to read as follows:

Stats 1933, p 1502

Director of Finance to approve contracts for sale or lease of land

692. Unless the Legislature specifically provides otherwise, every contract for the acquisition or hiring of real property in fee or in any lesser estate or interest by the State, entered into by any State department, board, commission, officer or any other State agency whatsoever, on behalf of the State, shall be approved by the Director of Finance. Any contract entered into in violation of the provisions of this section is void. This section shall not apply to the acquisition or

Exception

hiring by the Department of Public Works of real property in fee or in any lesser estate or interest for highway purposes but shall apply to the hiring by said department of office space in any office building.

CHAPTER 584

Stats 1937, p 2253, amended

An act to amend Section 8 of an act entitled "An act to regulate the caravaning of vehicles upon the public highways of this State, defining the term 'caravaning' and providing for the licensing of vehicles in caravan for the privilege of using the public highways and for the cost of regulating persons engaged in caravaning and providing such fees shall be a lien and for the enforcement of such liens and the collection and disposition of such fees and imposing penalties for violation thereof, and to repeal an act entitled 'An act to regulate the caravaning of motor vehicles upon the public highways of this State, defining the term "caravaning" and providing for the licensing of motor vehicles in caravan and imposing penalties for violation thereof,' approved July 6, 1935, declaring the urgency thereof, and providing that it shall take effect immediately," approved July 1, 1937, regulating the caravaning of vehicles upon the public highways of the State.

In effect September 13, 1941

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

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

Stats 1937, p 2254

SECTION 1. Section 8 of the act cited in the title hereof is hereby amended to read as follows:

Exemptions

Sec. 8. The provisions of this act shall not apply to the transportation of motor vehicles between points within Zone 1 or between points within Zone 2, which zones are hereby defined as follows:

Zone 1—That part of the State of California lying within the counties of San Diego, Imperial, Orange, Riverside, San Bernardino, Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Kern, Inyo and Mono;

Zone 2—That part of the State of California not included within Zone 1 as herein defined.

CHAPTER 585

An act to amend Section 164 of the Vehicle Code, relating to the registration of vehicles.

Stats 1935, p 93, amended

[Approved by Governor June 3, 1941. Filed with Secretary of State June 3, 1941.]

In effect September 13, 1941

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

Stats 1941, p 171. See also Stats 1941, p 2518

SECTION 1. Section 164 of the Vehicle Code is hereby amended to read as follows:

Renewal of registration

164. Department to Renew Registration. (a) The department upon renewing a registration shall issue a new registration card and license plate or plates to the owner as upon an original registration.

(b) Upon annual renewal, if there is a legal owner of the vehicle, the department shall notify such legal owner by mail of the registration number assigned to such vehicle for the ensuing year.

CHAPTER 586

An act to amend Sections 6 and 9 of, and to add Section 18 to an act entitled "An act to define collection agencies; to provide for the regulation, bonding, supervision and licensing thereof; to provide for the enforcement of said act and penalties for the violation thereof," approved May 14, 1927, relating to the regulation of collection agencies, declaring the urgency hereof, to take effect immediately.

Stats 1927, p 822, amended

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.]

In effect immediately

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

Stats 1939, p 2750

SECTION 1. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

License fee

Sec. 6. The Secretary of State shall charge and collect a fee of fifty dollars ($50) for each original license, and a fee of twenty-five dollars ($25) annually thereafter payable on or before the thirtieth day of June of each year as provided for in Section 9 hereof. Upon payment of a fee of twenty-five dollars ($25) to the Secretary of State, any person possessing the qualifications provided for in Section 3a hereof shall be permitted to take the examination therein required and, subject to such conditions as may be imposed by rules and regulations established hereunder, any such person shall be permitted to take subsequent examinations without payment of an additional fee therefor.

Examination fee

Collection Agency Fund

All moneys so received by the Secretary of State shall be turned into the State Treasury to the credit of the "Collection Agency Fund," which fund is hereby created and from which fund all expenses of carrying out the provisions of this act shall be defrayed. All moneys heretofore so received and turned in to the State Treasury by the Secretary of State to defray the expenses of carrying out the provisions of this act, and now in the State Treasury and designated by the Controller as the "Collection Agencies' License Fund" are hereby transferred to the "Collection Agency Fund" and made a part thereof, and any appropriations heretofore payable from said "Collection Agencies' License Fund" shall be payable from the said "Collection Agency Fund."

Transfer of moneys

Stats 1939, p 2752

SEC. 2. Section 9 of said act is hereby amended to read as follows:

Continuation of license

Sec. 9. Subject to the provisions of Section 18 hereof, a licensee desiring a continuation of his license shall, on or before the thirtieth day of June of each year, file with the Secretary of State a request for such continuation on such forms as shall be designated by the rules and regulations established by the Secretary of State. Such request shall be accompanied by the fee as provided in Section 6 hereof, whereupon the Secretary of State shall issue a receipt to the licensee which shall be dated the first day of July next ensuing and shall bear in conspicuous type the words "continuation of license" and the date to and including which such license is continued.

Revocation

If the statement required by Section 16 hereof is not on file as required, it shall be ground for the immediate revocation of the license of such licensee, and the Secretary of State shall make an order revoking the license of any such licensee and enter the same upon the records of the department and notify such licensee of such action by registered mail; provided, however, that for good cause shown and upon satisfactory proof furnished by applicant showing that the failure to file such statement was due to a condition not within his control, the Secretary of State may permit the filing of the statement required by Section 16 hereof after the time limited, upon payment of a fee of ten dollars ($10).

Exception

New section

SEC. 3. Section 18 of said act is hereby added, to read as follows:

Licensee on duty with armed forces

54 U S Stats at Large, p 1178

Sec. 18. Any person licensed hereunder at the time of entering the military service, as defined in the Soldiers and Sailors Civil Relief Act of 1940 enacted by the Congress of the United States, who is otherwise eligible to apply therefor may, within 30 days after the termination of such service, upon payment of the fee prescribed by Section 6 hereof, file with the Secretary of State a request for a continuation of his license and thereupon the Secretary of State shall issue a receipt to such person which shall bear upon its face in conspicuous type the words "continuation of license" and the date to and including which such license is continued.

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall therefore go into effect immediately. A statement of the facts constituting such necessity is as follows: Urgency

The act provides for an increase in renewal, or continuation of license fees. This additional revenue is necessary for the effective enforcement of the provisions of this act. Unless this act becomes effective prior to July 1, 1941, this revenue will be lost to this fund, thereby seriously curtailing the necessary regulations required by this act.

This act further provides for exemptions to licensees who are engaged in the military service of the Army or Navy. Unless this act becomes effective immediately, or prior to July 1, 1941, the licenses of such licensees engaged in the military forces of the United States will be canceled and terminated.

CHAPTER 587

An act to amend Sections 1, 2 and 4 of an act entitled "An act creating the California Farm Debt Adjustment Commission, defining its powers and duties and making an appropriation therefor," approved July 16, 1935, relating to farm debt adjustment, including extension of the period of existence of the California Farm Debt Adjustment Commission, membership upon and appointment to the commission, and further definition of the powers and duties of the commission, to take effect immediately. Stats 1935, p 1905, amended

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.] In effect immediately

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

SECTION 1. In view of the depressed economic condition of a large portion of our farming population, a condition which will continue to be aggravated by reason of the current European conflict and its consequences, it is vital that the performance of important functions committed to the California Farm Debt Adjustment Commission be continued and not suffer interruption. The existing law if not timely changed will result in cessation of the performance of those functions on September 15, 1941. Not only is the necessity great but the probability of tangible accomplishments in this field is appreciably enhanced by the recent holding of the Supreme Court of the United States sustaining as to its validity certain settlement of debt features of Section 75 of the Federal Bankruptcy Act. This act, if it takes effect immediately, will accomplish these purposes and prevent the cessation of and avoid any interruption in the continuous performance of these essential functions. Urgency

U S Code, Title 11, Sec 203

It is deemed necessary for the immediate preservation of the public peace, health and safety that this law go into immediate effect. A statement of the facts constituting such necessity is set forth in this section. This act, therefore, shall go into immediate effect.

Stats 1937, p 2296

SEC. 2. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Farm Debt Adjustment Commission created

Section 1. A commission is hereby created, to be known as the California Farm Debt Adjustment Commission. The commission shall consist of 15 members to be appointed by the Governor subject to confirmation by the Senate. The action of the Senate shall be expressed by a single house resolution passed by a majority vote of all members elected to the Senate and filed in the office of the Secretary of State.

Members of said commission shall be appointed to office only as provided in this act and the provisions of Sections 999 and 1000 of the Political Code shall not apply to vacancies in such office.

The members of the commission shall serve without compensation but shall be allowed reasonable expenses incurred in attending commission meetings.

Stats 1937, p 2296

SEC. 3. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Powers

Sec. 2. The commission shall meet immediately after its appointment and shall select one of its members as chairman. It shall have power to adopt by-laws for its governance and to provide therein for the appointment of such other officers as it may see fit, all of whom shall serve without pay. It shall be the duty of the commission to assist in the voluntary adjustment of farm obligations and to that end to appoint, by and with the consent of the Governor, local farm debt adjustment committees in each county of the State in which there is a sufficient agricultural population to justify such appointment, and to provide an agency and means through which farmer debtors and their creditors may enter into voluntary agreements satisfactorily to adjust their obligations.

The commission shall, in so far as possible, coordinate the work of and assist county committees aiding in the voluntary adjustment of farm obligations and shall in the performance of its duties, cooperate with all Federal agencies whose function is related to the work of farm debt adjustment

Investigation and recommendation

In furtherance of the performance of its duties, the commission shall investigate the farm debt situation in this State, and may cooperate and collaborate with any person, agency or group interested in seeking a solution to this problem when in the opinion of the commission such cooperation or collaboration will tend to facilitate the work of the commission in carrying out the objects and purposes of this act. The commission shall report to the Governor and the Legislature from time to time its findings as to the farm debt situation in California, together with such recommendations as it may have looking toward a solution thereof.

SEC. 4. Section 4 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2640

Sec. 4. The commission shall cease to exist and shall be abolished and shall have no powers and duties on and after September 15, 1941, unless hereafter and prior to September 15, 1941, 15 members of the California Farm Debt Adjustment Commission shall have been appointed, the appointment of each confirmed by the Senate, qualified and commissioned, in which latter event said commission shall cease to exist and shall have no further powers and duties on and after the ninety-fifth day after the final adjournment of the Fifty-fifth Regular Session of the Legislature. Term of existence

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CHAPTER 588

An act to add Sections 2 and 3 to an act entitled "An act providing for the sale or trade of property used by the California Polytechnic School and providing for the purchase of property for the use of said school," approved June 12, 1931, relating to the purchase of additional land for the California Polytechnic School. Stats 1931, p 1749, amended

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.] In effect September 13, 1941

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

SECTION 1. Sections 2 and 3 are hereby added to the act cited in the title hereof, to read as follows: New sections

Sec. 2. The Director of Education, with the consent of the Director of Finance, is hereby authorized to purchase such additional land as the Director of Education and the Director of Finance may deem necessary and may expend for such purpose any moneys donated or proceeds from the sale of real or personal property acquired as gifts by the California Polytechnic School. Purchase of additional land

Sec. 3. There is hereby made available for the purchase of additional land by the California Polytechnic School not to exceed twenty-five thousand dollars ($25,000) in each of the Ninety-third and Ninety-fourth Fiscal Years from funds appropriated to the school under Chapter 4 of Division 8 of the Business and Professions Code. Appropriation

CHAPTER 589

An act to permit the sale of certain land by the Department of Institutions.

In effect September 13, 1941

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.]

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

Authorization to sell

SECTION 1. The Department of Institutions is hereby authorized to sell, with the approval of the Department of Finance, that certain parcel of real property belonging to the Whittier State School, a corporation, which property is described as follows:

Description

Beginning at the most easterly corner of the parcel of land secondly described in that certain indenture dated January 9, 1888, recorded January 10, 1888, in Book 374, Page 69, of Deeds, records of said county; then South 29°20′40″ East along the southeasterly prolongation of the northeasterly line of the parcel of land secondly described in said indenture, a distance of 33.92 feet to an intersection with the northwesterly line of that certain strip of land, 50 feet wide, described in that certain easement to County of Los Angeles, recorded in Book 7736, Page 299, of Official records of said county; thence South 78°43′20″ West along the northwesterly line of said strip of land, a distance of 109.37 feet to an intersection with the southeasterly line of the parcel of land secondly described in said indenture; thence North 60°39′20″ East thereon, 103.98 feet to the point of beginning, containing an area of 1,764 square feet, more or less.

Release by quitclaim

SEC. 2. The Department of Institutions is hereby authorized to release by quitclaim deed, with the approval of the Department of Finance, that certain parcel of real property belonging to the Whittier State School, a corporation, which property is described as follows:

Description

A strip or tract of land, 50 feet wide, lying equally on each side of the located line of the Southern Pacific Railroad Company's railroad formerly the Long Beach, Whittier and Los Angeles County Railroad Company's railroad, where the same is located through the lands now or formerly of A. H. Dunlap, the Estate of M. F. Tyler, W. F. Fitzgerald and J. F. Isbell, known as "Dunlap's Addition to the City of Whittier" lying on the southwesterly side of, and adjoining the Pickering Land and Water Company's subdivision of the John M. Thomas Ranch, being more particularly described as follows, to wit:

Commencing for the same at a point on the center line of the said railroad, where center line intersects the southerly boundary line of the said land now or formerly of A. H. Dunlap, the Estate of M. F. Tyler, W. F. Fitzgerald and J. F. Isbell, at or near Engineer's Station Number 253÷30 and running thence in a northwesterly and northerly direction

along said center line of said railroad, and following the curvature thereof, embracing a strip of land 25 feet wide on each side of said center line, a distance of 661 feet, more or less, to a line measured at right angles to said center line, at or near Engineer's Station 259+91, containing an area of 0.76 acres, more or less.

Also a tract or parcel of land adjoining the strip of land hereinbefore described and lying on the northeasterly side thereof, being more particularly described as follows, to wit:

Commencing for the same at a point distant 25 feet, measured at right angles northeasterly from the center line of said railroad company's railroad at or near Engineer's Station Number 259+91 and running thence northeasterly at right angles with said center line 150 feet; thence at right angles southeasterly 630 feet, more or less; thence at right angles southwesterly 157 feet, more or less, to a point distant 25 feet measured radially northeasterly from said center line of said railroad; thence northwesterly parallel with said center line and following the curvature thereof 630 feet, more or less, to the place of beginning and containing 2.20 acres of land, more or less, and being all the land described in the indenture between A. H. Dunlap, for himself and as Executor of the Last Will and Testament of M. F. Tyler deceased and as Trustee thereunder, W. F. Fitzgerald and J. F. Isbell to the Long Beach, Whittier and Los Angeles County Railroad Company recorded in Book 374 of Deeds at Page 69, Records of Los Angeles County.

SEC. 3. The Department of Institutions is hereby authorized to accept in consideration of the above grant deeds and quitclaims a deed in fee in and to the following described property, and the Department of Institutions is authorized to grant back an easement for railroad purposes on the following described property to the Southern Pacific Railroad Company. Authorization to accept

A strip of land 50 feet wide, lying equally on each side of the located line of the Southern Pacific Railroad Company's railroad, formerly the Long Beach, Whittier and Los Angeles County Railroad Company's railroad, where the same is located through the lands now or formerly of A. H. Dunlap, the Estate of M. F. Tyler, W. F. Fitzgerald and J. F. Isbell, known as "Dunlap's Addition to the City of Whittier" lying on the southwesterly side of, and adjoining the Pickering Land and Water Company's subdivision of the John M. Thomas Ranch, being more particularly described as follows, to wit: Description

Commencing for the same at a point in the center line of said railroad at or near Engineer's Station 259+91, where the said center line intersects the westerly prolongation of that certain course first described in Parcel 2 in deed to said Long Beach, Whittier, and Los Angeles County Railroad Company, recorded in Book 374, Page 69 of Deeds, records of said Los Angeles County, said certain course being described in said

deed as "Northeasterly at right angles with said center line 150 feet"; running thence in a northwesterly and northerly direction along said center line of said railroad, and following the curvature thereof, embracing a strip of land 25 feet wide on each side of said center line to the northeasterly boundary line of said land now or formerly of A. H. Dunlap, the Estate of M. F. Tyler, W. F. Fitzgerald, and J. F. Isbell, at or near Engineer's Station Number 295+00, a distance of 3509 feet, more or less, and containing an area of 3.93 acres of land, more or less.

Deeds SEC. 4. The Governor shall sign the deeds conveying the property to the purchaser, when such properties are sold, or quitclaimed as provided above.

CHAPTER 590

An act quitclaiming to the City of Oakland the interest of the State of California arising by virtue of tax deeds in and to certain salt marsh, tide and submerged lands.

In effect September 13, 1941 [Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.]

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

Quitclaim to city of Oakland SECTION 1. There is hereby quitclaimed to the City of Oakland, a municipal corporation of the State of California, and to its successors all the right, title and interest of the State of California, if any, arising by virtue of any tax deeds, remaining after redemption therefrom, in and to any and all salt marsh, tide and submerged lands, whether filled or unfilled, described as follows:

Description All those certain lots, pieces or parcels of land, situate lying and being in the County of Alameda, State of California, and bounded and particularly described as follows, to wit:

Parcel One: Real property in the City of Oakland, County of Alameda, State of California, described as follows:

Lots 25, 26, 27 and 28 in Sec. 29, T. 2 S., R. 3 W., Mount Diablo Base and Meridian, as said lots are shown on the map of "Sale Map No. 10, Salt Marsh and Tide Lands, situate in the County of Alameda, State of California"—filed June 9, 1888, in the office of the county recorder of Alameda County.

Parcel Two: Real property partly in the City of Oakland and partly in the Township of Eden, County of Alameda, State of California, described as follows:

Beginning at the northwest corner of the southwest quarter of the southeast quarter of Sec. 29, T. 2 S., R. 3 W., Mount Diablo Base and Meridian; running thence east 20 chains; thence south 20 chains; thence east 20 chains; thence south 20 chains to the apparent line of low tide; thence along said line north 63½ degrees west 44.70 chains; thence north 20 chains to the point of beginning.

Being a portion of Survey 59 of Salt Marsh and Tide Lands in the County of Alameda.

Parcel Three: Real property in the Township of Eden, County of Alameda, State of California, described as follows:

Lots 1, 4 and 5 in Sec. 32, T. 2 S., R. 3 W., Mount Diablo Base and Meridian, as said lots are shown on the map of "Sale Map No. 10, Salt Marsh and Tide Lands, situate in the County of Alameda, State of California"—filed June 9, 1888, in the office of the county recorder of Alameda County.

Excepting therefrom that portion thereof lying within the lines of parcel numbered 2 hereinabove described.

Parcel Four: Lots 3, 4, 5, 6, 7 and 8 in Sec. 33, T. 2 S., R. 3 W., Mount Diablo Base and Meridian, as said lots are shown on the map of "Sale Map No. 10, Salt Marsh and Tide Lands, situate in the County of Alameda, State of California"—filed June 9, 1888, in the office of the county recorder of Alameda County.

CHAPTER 591

An act to add Sections 5.852-1 and 5.1112 to the School Code, relating to members of the California State Teachers' Retirement System and of district retirement systems serving in the armed forces of the United States of America or of the State of California, or in the medical, nursing or ambulance service of the American Red Cross, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.] In effect immediately

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

SECTION 1. Section 5.852-1 is hereby added to the School Code, to read as follows: New section

5.852-1. Any member of the retirement system serving in the armed forces of the United States of America or of the State of California, or in the medical, nursing or ambulance service of the American Red Cross, as provided in Section 5.822 hereof, during or after the termination of such service and at his option, may pay to the employing agency from the service of which he entered said armed forces, such amounts as may be necessary, when added to contributions, if any, for the permanent and annuity deposit funds, deducted by such agency during such absence, shall make his contributions to said funds equal to the contributions he would have made had he not been absent from the service of the employing agency. The contributions so made shall be remitted to the retirement board and administered by said board in the same manner as contributions deducted from salary payments as provided in Contributions by members in armed forces

Section 5 852 hereof. Said employing agency may at its option, make such contributions for and in lieu of said member, and contributions so made by said agency shall be administered as if made by said member. If said member shall not pay said contributions to the permanent fund as provided in this section, during his service in said armed forces or Red Cross service, then such contributions shall be deducted from his salary payments during the 12 months next following his return to duty in a position requisite to membership in the retirement system.

Term of operation This section shall have no force and effect from and after the expiration of two years following its effective date.

SEC. 2. Section 5.1112 is hereby added to the School Code, to read as follows:

Contributions by members in armed forces 5.1112. Any member of the retirement system of any school district or districts maintained under the provisions of Sections 5.1100 to 5 1131, inclusive, of this code, or of any thereof, serving in the armed forces of the United States of America or of the State of California or in the medical, nursing or ambulance service of the American Red Cross, during or after the termination of such service, and at his option, may make payments due to the district retirement fund of such district or districts with the same effect, in all respects, as though he had not been absent from the service thereof. The district or districts by which such employee was employed, at its or their option may make such contributions for and in lieu of such employee, and contributions so made shall be treated and administered as if made by the employee. If such employee shall not pay such contributions as provided in this section during such service in said armed forces or Red Cross service, and if same be not made by the district, then such contributions shall be deducted from his salary payments during such period after his return to service as may be agreed upon by the employee and the governing board of the employing district or districts.

Term of operation This section shall have no force and effect from and after the expiration of two years following its effective date.

Urgency SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public health, peace and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of facts constituting such necessity is as follows:

It is expected that many members of the California State Teachers' Retirement System will be called into the service of the armed forces of the United States or of the State of California within the very near future. In order that they may enter such service without being unduly penalized therefor, it is necessary that this act take effect immediately.

CHAPTER 592

An act to amend Section 12 of an act entitled "An act to authorize the counties of the State of California to establish systems for the retirement and pension of certain county and township officers and employees, namely, county peace officers as defined in the act, and to provide certain benefits for their dependents, and empowering county boards of supervisors to levy a special tax," approved May 5, 1931, relating to a county peace officers' retirement system.

Stats 1931, p 477, amended

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.]

In effect September 13, 1941

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

Stats 1931, p 481
See also Stats 1941, p 2273

SECTION 1. Section 12 of the act cited in the title hereof is hereby amended to read as follows:

Retirement age

Sec. 12. Whenever any person at the time this act becomes effective or thereafter shall have been duly appointed, selected, or elected and qualified, and shall have served for 20 years or more in the aggregate, as a county peace officer, and who shall have reached the age of 55 years, said board shall upon the application of such person, order and direct that such person be retired and such person shall thereafter receive a pension payable in monthly installments during his lifetime, equal to one-half of the amount of salary attached to the rank which he may have held as such peace officer for the period of one year next preceding the date of such retirement; provided, however, that the amount of such pension shall in no case be more than one hundred fifty dollars ($150) per month; any peace officer who shall have reached the age of 55 years and who shall have served for 20 years or more, may be retired by said board; provided, that any person who is within the purview of this section and who otherwise complies with its provisions and who has served for 30 years or more, shall upon his application, be retired from further service at the same pension above provided; and provided, further, that any motorcycle police officer, may, after 20 years of service, be retired by the board under the provisions of this act, if, in the judgment of three physicians appointed by the board, such motorcycle police officer is unable to properly discharge the duties of his office.

CHAPTER 593

Stats 1935, p 93, amended

An act to amend Section 159 of the Vehicle Code, relating to the registration of motor vehicles.

In effect September 13, 1941

[Approved by Governor June 4, 1941 Filed with Secretary of State June 4, 1941.]

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

Stats 1935, p 113

SECTION 1. Section 159 of the Vehicle Code is hereby amended to read as follows:

Expiration of registration

159. Expiration of Registration. (a) Every vehicle registration under this code and every registration card issued hereunder shall expire at midnight on the thirty-first day of December of each year and shall be renewed annually. The department may upon payment of the proper fees renew the registration of vehicles without issuing new license plates or registration cards.

Certificates of ownership shall not be renewed annually but shall remain valid until suspended, revoked or canceled by the department for cause or upon a transfer of any interest shown therein.

CHAPTER 594

Stats 1937, p 185, amended

An act to amend Section 4600 of the Labor Code, relating to workmen's compensation.

In effect September 13, 1941

[Approved by Governor June 4, 1941 Filed with Secretary of State June 4, 1941.]

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

Stats 1937, p 281

SECTION 1. Section 4600 of the Labor Code is hereby amended to read as follows:

Medical and hospital treatment

4600. Medical, surgical, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment.

CHAPTER 595

An act to add Section 1640.5 to the Labor Code, relating to contracts of minors with employment agencies.

Stats 1937, p 185, amended

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1640.5 is hereby added to the Labor Code, to read as follows:

New section

1640.5. A minor can not disaffirm a contract, otherwise valid, entered into with a duly licensed theatrical or motion picture employment agency to secure him an engagement as an actor, performer, or entertainer, the blank form of which has been approved by the Labor Commissioner pursuant to Section 1628 or 1644, where such contract has been approved by the superior court of the county where such minor resides or is employed.

Approval of theatrical contracts

Such approval may be given by the superior court on the petition of either party to the contract after such reasonable notice to the other party thereto as may be fixed by said court, with opportunity to such other party to appear and be heard.

CHAPTER 596

An act to amend Section 3692 of the Political Code, relating to powers and duties of the State Board of Equalization.

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 3692 of the Political Code is hereby amended to read as follows:

Stats 1939, p 1378

3692. The powers and duties of the State Board of Equalization are as follows:

Powers of Board of Equalization

1. To prescribe rules for its own government and for the transaction of its business.

Rules

2. To prescribe rules and regulations, not in conflict with the Constitution and laws of the State, to govern local boards of equalization when equalizing, and assessors when assessing.

Rules and regulations

3. To prescribe and enforce the use of all forms for the assessment of property for taxation, and the collection of taxes thereon, in this State and the local taxing jurisdictions thereof.

Forms

4. To prepare and issue instructions to assessors designed to promote uniformity throughout the State and the local taxing jurisdictions thereof in the assessment of property for

Instructions to assessors

the purposes of taxation; to adapt such instructions to varying local circumstances and to differences in the character and conditions of property subject to taxation as in the judgment of the board shall be deemed necessary to attain such uniformity.

Meetings with assessors

5. To summon assessors to meet with the board or its duly authorized representatives at least once each year, at such place or places within the State as may be designated by the board, for the purpose of the discussion of the problems of administration of assessment and taxation laws and to promote uniformity of procedure in tax matters throughout the State. The expenses of any assessor attending such sessions shall be a charge against the funds of his county or city to be paid in the same manner as other county or city charges are paid and it shall be the duty of the governing body of said county or city to provide for the payment of such expenses.

Instruct, advise and direct assessors

6. To instruct, advise and direct assessors and tax collectors as to their duties under the laws of the State and, in such cases as the board may deem necessary, to obtain the opinion of the Attorney General upon any questions of law relating to such duties.

Meetings

7. To hold regular meetings at the State Capital each month, and such special meetings at such times and places within the State as the chairman may direct. At any such meetings the board may transact any and all business and perform all duties imposed upon it by law and give and enter any and all orders and decrees within its jurisdiction, except that the final action of the board in assessing State assessed property shall be performed only at the State Capital.

Conferences

8. To confer, in this State or elsewhere, either as a board, individually or through its staff, with officers or employees of this State, its political subdivisions, other States, their political subdivisions or the United States, or such other persons as may be of assistance to the board in its work. The members of the board and its staff shall be entitled to their actual traveling expenses incurred in pursuance hereof but when such expenses are incurred with respect to travel outside of the State, they shall be subject to the approval of the Governor and Director of Finance.

Inspection of property

9. Whenever deemed necessary, to visit as a board, or by the individual members thereof, or to send its secretary or duly appointed representative to, the several counties and cities for the purpose of inspecting property and learning the value thereof, and of collecting information to enable the State Board of Equalization to equalize assessments and levy the taxes as provided by law.

Inspection of work of officers

10. To inspect either as a board, individually or by its duly appointed representative or representatives, the work of any local officers whose duties relate to the assessment of property for taxation and the collection of taxes; to require such officers to produce any public records in their custody, and to give testimony with reference to such matters of assessment and

tax collecting as may be deemed useful to the board in its investigations.

11. To issue subpenas for the attendance of witnesses or the production of books, records, accounts and papers before the board, its secretary, or any member thereof, or any representative designated by the board; which subpenas must be signed by a member of the board, or the secretary thereof, and may be served by any person. Any person, duly subpenaed hereunder, who shall refuse or neglect to attend as a witness or to produce any books, records, accounts or papers in his possession, custody or control, in response to such subpena or who shall refuse to answer any question pertinent to the matter under investigation by the board put to him by any member of the board, its secretary or designated representative, shall be deemed guilty of contempt and may be punished by a court of competent jurisdiction by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail not exceeding five (5) days, or by both such fine and imprisonment. Witnesses; Failure of witness to appear; Penalty

12. To appoint its secretary, prescribe and enforce his duties. The secretary shall hold his office during the pleasure of the board and shall receive such compensation as may be prescribed by the board. To employ such expert and clerical assistants as it may deem necessary in the performance of its powers and duties. Secretary

13. To report to the Governor, biennially, a statement showing: Report to Governor

First. The acreage of each county in the State that is assessed.

Second. The amount assessed per acre.

Third. The aggregate value of all real estate within an incorporated city or town.

Fourth. The aggregate value of all real estate in the State.

Fifth. The kinds of personal property in each county, and the value of each kind.

Sixth. The aggregate value of all personal property in the State.

Seventh. Any information relative to the assessment of property and the collection of revenue.

Eighth. Such further suggestions as it shall deem proper.

This report shall be printed at State expense.

14. To keep a record of all its proceedings. Records

15. To require any person having knowledge of the business of any person, firm, association or corporation subject to assessment by the board, or having the custody of the books, accounts, and papers of such person, firm, association or corporation, to attend before the board, or any member thereof, and bring with him for inspection any books, accounts, or papers, of such person, firm, association or corporation in his possession and under his control, and to testify under oath touching any matter relating to the organization or business of such person, firm, association or corporation. Production of books, etc

Examination of books, etc

16. To examine, as a board, individually or through its staff, the books, accounts and papers of all persons, firms, associations or corporations required by law to report to the board, or having knowledge of the affairs of those required so to report. The members of the board and its staff shall be entitled to their actual traveling expenses incurred in pursuance hereof, but when such expenses are incurred with respect to travel outside of the State they shall be subject to the approval of the Governor and Director of Finance.

Hire or lease property

17. To hire or lease, upon the written approval of the Department of Finance, any property, real or personal, for the occupancy or use of the board in the performance of its duties.

CHAPTER 597

Stats 1915, p 1502, amended

An act to amend Section 3 of an act entitled "Los Angeles County Flood Control Act," approved June 12, 1915, relating to the board of supervisors.

In effect September 13, 1941

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.]

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

Stats 1939, p 2027

SECTION 1. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Ex officio district officers

Sec. 3. The board of supervisors of Los Angeles County shall be, and they are hereby designated as, and empowered to act as, ex officio the board of supervisors of said Los Angeles County Flood Control District, and said board of supervisors is hereby authorized to adopt reasonable rules and regulations to facilitate the exercise of its powers and duties herein set forth. Each member of the board of supervisors of the Los

Salary

Angeles County Flood Control District shall receive as compensation for his services the sum of two hundred dollars ($200) per month in addition to his salary as a member of the board of supervisors of Los Angeles County.

The county counsel, county clerk, county assessor, county tax collector, county auditor and county treasurer of the County of Los Angeles, and their successors in office, and all other officers of said Los Angeles County, their assistants, deputies, clerks and employees, shall be ex officio officers, assistants, deputies, clerks and employees respectively of said Los Angeles County Flood Control District, and shall respectively perform, unless otherwise provided by said board of supervisors, the same various duties for said district as for said Los Angeles County without additional compensation in order to carry out the provisions of this act.

Ordinance

All ordinances, resolutions and other legislative acts for said district shall be adopted by said board of supervisors and

certified to, recorded and published, in the same manner except as herein otherwise expressly provided, as are ordinances, resolutions or other legislative acts for the County of Los Angeles.

CHAPTER 598

An act to amend Section 790 of the Fish and Game Code, relating to crabs and crab meat. Stats 1933, p 394, amended

[Approved by Governor June 4, 1941. Filed with Secretary of State June 4, 1941.] In effect immediately

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

SECTION 1. Section 790 of the Fish and Game Code is hereby amended to read as follows: Stats 1935, p 858

790. Crab meat from outside the State may be imported into the State under regulations which the commission is authorized to prescribe. Out-of-state crabs

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CHAPTER 599

An act to amend Section 2953 of the Civil Code, relating to agreements waiving statutory rights.

[This bill having remained with the Governor ten days (Sundays excepted), and the Legislature being in session, it has become a law this fifth day of June, 1941 PAUL PEEK, Secretary of State] In effect September 13, 1941

[Filed with Secretary of State June 5, 1941]

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

SECTION 1. Section 2953 of the Civil Code is hereby amended to read as follows: Stats 1939, p 1991

2953. Any express agreement made or entered into by a borrower at the time of or in connection with the making of or renewing of any loan secured by a deed of trust, mortgage or other instrument creating a lien on real property, whereby the borrower agrees to waive the rights, or privileges conferred upon him by Sections 2924, 2924b, 2924c of the Civil Code or by Sections 580a or 726 of the Code of Civil Procedure, shall be void and of no effect. The provisions of this section shall not apply to any deed of trust, mortgage or other liens given to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations, or is made by a public utility subject to the provisions of the Public Utilities Act. Waiver of legal rights or privileges; Exceptions; Stats 1915, p 115

CHAPTER 600

"Budget Act of 1941"

An act making appropriations for the support of the Government of the State of California and for several public purposes in accordance with the provisions of Section 34 of Article IV of the Constitution of the State of California, approved and adopted by the people at the general election held November 7, 1922, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor June 5, 1941. Filed with Secretary of State June 5, 1941.]

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

Short title

SECTION 1. This act shall be known and may be cited as the "Budget Act of 1941."

Budget appropriations

SEC. 2. The following sums of money, or so much thereof as may be necessary are hereby appropriated for the use and support of the State of California for the Ninety-third and Ninety-fourth Fiscal Years and, unless otherwise herein provided, shall be paid out of the General Fund in the State Treasury.

Special funds

Whenever by constitutional or statutory provision the revenues or receipts of any institution, department, board, bureau, commission, officer, employee, or other agency, or any moneys in any special fund created by law therefor, are to be used for salaries, support or any proper purpose, expenditures shall be made therefrom for all such purposes, and not from the General Fund, to the extent only of the amount herein appropriated unless otherwise stated herein.

Recurrent appropriations

Appropriations for purposes not otherwise provided for herein which have been heretofore made by any existing constitutional or statutory provision shall continue to be governed thereby.

Items included in appropriations Support

Whenever herein an appropriation is made for support it shall include salaries and all other proper expenses, including repairs and equipment, incurred in connection with the institution, department, board, bureau, commission, officer, employee, or other agency, for which such appropriation is made.

Construction and improvements

Whenever herein an appropriation is made for construction and improvements, it shall include equipment necessary in connection with such construction or improvements.

Variance between words and figures

Wherever herein in any item of appropriation the amount of such appropriation as set forth in words differs from the amount thereof as set forth in figures, the lesser amount, whether in words or figures, is the amount appropriated by such item.

Item 1	For mileage of Lieutenant Governor, Senators, and statutory officers of the Senate, two thousand five hundred dollars	$2,500.00
Item 2	For pay of the officers, clerks, and all other employees of the Senate for the Fifty-fifth Session, thirty thousand dollars	$30,000.00
Item 3	For contingent expenses of Senate for the Fifty-fifth Session and legislative committees thereof whose personnel is composed in whole or in part of members of the Senate, twenty thousand dollars	$20,000.00
Item 4	For salaries of Senators, ninety-six thousand dollars	$96,000.00
Item 4.5	For secretaries for members of the Senate in San Francisco, Los Angeles, and Alameda counties, ten thousand eight hundred dollars. No money appropriated by this act is available for expenditure for the secretaries mentioned in this item unless there is enacted by the Legislature at its Fifty-fourth Session an act authorizing the employment of such secretaries.	$10,800.00
Item 5	For pay of officers, clerks, and all other employees of Assembly for Fifty-fifth Session, thirty thousand dollars	$30,000.00
Item 6	For mileage of Assemblymen and statutory officers of the Assembly, four thousand three hundred dollars	$4,300.00
Item 7	For contingent expenses of the Assembly for the Fifty-fifth Session and legislative committees thereof whose personnel is composed in whole or in part of members of the Assembly, twenty thousand dollars	$20,000.00
Item 8	For salaries of Assemblymen, one hundred ninety-two thousand dollars	$192,000.00

Item 9—For legislative printing, binding, etc., for Fifty-fifth Session, three hundred thousand dollars $300,000.00

Item 10—For legislative mailing, three thousand dollars $3,000.00

Legislative Counsel

Item 11—For support of Legislative Counsel Bureau, in accordance with the following schedule, ninety-nine thousand nine hundred five dollars $99,905.00
and in addition thereto any amounts collected for services to other agencies which by law are available for support of said office.

Schedule:

(a) Salaries and Wages	$120,000.00	
(b) Operating Expenses	14,055.00	
(c) Equipment	550.00	
Total of schedule	$134,605.00	
Less: Estimated abatements:		
For services to Code Commission	28,800.00	
For services to other agencies	5,900.00	
Net appropriation	$99,905.00	

Code Commission

Item 12—For support of California Code Commission, twenty-nine thousand four hundred fifty dollars $29,450.00

Commission on Uniform State laws

Item 13—For support of California Commission on Uniform State Laws, two thousand dollars $2,000.00

JUDICIAL

Judicial

Item 14—For support of Supreme Court, four hundred eighteen thousand four hundred eighty dollars $418,480.00

Item 15—For support of Judicial Council and for extra compensation and traveling expenses of judges assigned by the Judicial Council, fifty-three thousand nine hundred fifty dollars $53,950.00

Item 16—For support of The First District Court of Appeal, two hundred ten thousand six hundred dollars $210,600.00

Item 17—For support of The Second District Court of Appeal, two hundred nine thousand three hundred dollars---- $209,300.00

Item 18—For support of The Third District Court of Appeal, one hundred thirteen thousand one hundred ninety dollars ---------- $113,190.00

Item 19—For support of The Fourth District Court of Appeal, one hundred forty-nine thousand one hundred seventy dollars ---------- $149,170.00

Item 20—For State's share of salaries of judges of superior courts, one million two hundred ninety-six thousand dollars ---------- $1,296,000.00

EXECUTIVE

Executive

Item 21—For support of the Governor and of the Governor's office (exempt from provisions of Sections 669 and 677.5 of the Political Code), one hundred eighty thousand dollars ---------- $180,000.00

The appropriation made by this item shall not be augmented by transfer or loan from the Emergency Fund created by Item 216 of this act.

Item 22—For special contingent expenses (secret service), Governor's office (exempt from provisions of Sections 433, 440, 669 and 677.5 of the Political Code), five thousand dollars--- $5,000.00

The appropriation made by this item shall not be augmented by transfer or loan from the Emergency Fund created by Item 216 of this act.

Item 23—For support of the Governor's residence (exempt from provisions of Sections 433, 440, 669 and 677.5 of the Political Code), twelve thousand dollars ---------- $12,000.00

The appropriation made by this item shall not be augmented by transfer or loan from the Emergency Fund created by Item 216 of this act.

Item 24—For salary and support of Lieutenant Governor, in accordance with the following schedule, thirteen thousand one hundred forty dollars $13,140.00

Schedule:

(a) Salaries and Wages	$12,140.00
(b) Operating Expenses	1,000.00
(c) Equipment	Nothing

ADMINISTRATIVE

Attorney General

Item 25—For support of Attorney General, in accordance with the following schedule, five hundred forty-one thousand two hundred thirty-five dollars $541,235.00

and in addition thereto any amounts collected for services to other agencies which by law are available for support of said officer.

Schedule:

(a) Salaries and Wages	$601,430.00
(b) Operating Expenses	136,340.00
(c) Equipment	26,565.00
Total of schedule	$764,335.00
Less: Estimated abatements from special fund agencies for legal services	223,100.00
Net appropriation	$541,235.00

Controller

Item 26—For support of State Controller, in accordance with the following schedule, eight hundred eighty-five thousand five hundred thirty-four dollars $885,534.00

Schedule:

(a) Salaries and Wages	$734,140.00
(b) Operating Expenses	141,200.00
(c) Equipment	10,194.00

Item 27—For legal opinions with reference to sale of registered warrants, State Controller, fifteen thousand dollars $15,000.00

Item 28—For support of Motor Vehicle Fuel Tax Refund Division, State Controller, in accordance with the following schedule, payable from the Motor Vehicle Fuel Fund, one hundred thirty-six thousand five hundred seventy-three dollars $136,573.00

Schedule:

(a) Salaries and Wages	$112,700.00
(b) Operating Expenses	21,408.00
(c) Equipment	2,465.00

Item 29—For support of Redemption Tax Division, State Controller, in accordance with the following schedule, payable from the Tax-deeded Land Rental Fund, two hundred fifty-eight thousand fourteen dollars $258,014.00

Schedule:

(a) Salaries and Wages	$188,200.00
(b) Operating Expenses	66,039.00
(c) Equipment	3,775.00

Employees' Retirement System

Item 30—For support of Board of Administration of the State Employees' Retirement System, in accordance with the following schedule, seventy-five thousand seven hundred ninety-six dollars $75,796.00

Schedule:

(a) Salaries and Wages	$66,954.00
(b) Operating Expenses	6,800.00
(c) Equipment	2,042.00

Board of Equalization

Item 31—For support of State Board of Equalization, in accordance with the following schedule, one million eighty-six thousand seven hundred seventy-eight dollars $1,086,778.00 and in addition thereto any amounts collected for services to activities supported out of other funds, which by law are available for support of said board.

Schedule:

(a) Salaries and Wages	$1,039,845.00
(b) Operating Expenses	308,601.00
(c) Equipment	17,875.00
Total of schedule	$1,366,321.00
Less: Estimated abatements for services to activities supported out of other funds	279,543.00
Net appropriation	$1,086,778.00

Board of Equalization

Item 32—For support of Retail Sales Tax Division of the State Board of Equalization, in accordance with the following schedule, payable from the Retail Sales Tax Fund, five million eight hundred seventy-nine thousand five hundred forty-nine dollars $5,879,549.00

(which amount may be augmented as provided by Section 661 of the Political Code if the amount thus made available under said section does not increase the total amount available for the purpose of this item during any fiscal year to an amount which exceeds 3 per cent of the amounts deposited during such year in said fund) and in addition thereto any amounts collected for services to activities supported out of other funds which by law are available for support of said board.

Schedule:

(a) Salaries and Wages	$5,076,398.00
(b) Operating Expenses	1,007,646.00
(c) Equipment	28,901.00
Total of schedule	$6,112,945.00
Less: Estimated abatements for services to activities supported out of other funds	233,396.00
Net appropriation	$5,879,549.00

Item 33—For support of Alcoholic Beverage Control Division of the State Board of Equalization, in accordance with the following schedule, payable from the Alcohol Beverage Control Fund, two million seven hundred twenty-two thousand four hundred forty-five dollars $2,722,445.00

Schedule:

(a) Salaries and Wages	$2,030,414.00
(b) Operating Expenses	654,598.00
(c) Equipment	37,433.00

Item 34—For support of Motor Vehicle Fuel Tax Division, State Board of Equalization, in accordance with the following schedule, payable from the Motor Vehicle Fuel Fund, three hundred thirteen thousand seven hundred seventy-eight dollars_____ $313,778.00

Schedule:

(a) Salaries and Wages_____	$227,586.00
(b) Operating Expenses_____	81,156.00
(c) Equipment _____	5,036.00

Franchise Tax Commissioner

Item 35—For support of Franchise Tax Commissioner, in accordance with the following schedule, three hundred thirty-six thousand seven hundred four dollars _____ $336,704.00
and in addition thereto any amounts collected for services to agencies supported out of other funds, which by law are available for support of said officer.

Schedule:

(a) Salaries and Wages_____	$512,605.00
(b) Operating Expenses_____	39,940.00
(c) Equipment _____	4,979.00
Total of schedule_____	$557,524.00
Less: Estimated pro rata general administration payable from Personal Income Tax Fund_____	220,820.00
Net appropriation _____	$336,704.00

Item 36—For support of Franchise Tax Commissioner, in accordance with the following schedule, payable from the Personal Income Tax Fund, one million six hundred fourteen thousand seven hundred seventy dollars _____ $1,614,770.00
(which amount may be augmented as provided by Section 661 of the Political Code subject to the provisions of The Personal Income Tax Act of 1935).

Schedule:

(a) Salaries and Wages_____	$1,139,615.00
(b) Operating Expenses____	464,497.00
(c) Equipment _____	10,658.00

Horse Racing Board

Item 37—For support of California Horse Racing Board, in accordance with the following schedule, payable from the Fair and Exposition Fund, fifty-nine thousand nine hundred ninety-four dollars $59,994.00

Schedule:

(a) Salaries and Wages.....	$31,030.00
(b) Operating Expenses.....	28,364.00
(c) Equipment	600.00
Total of schedule.....	$59,994.00

Item 38—For support of State Personnel Board, in accordance with the following schedule, six hundred eight thousand two hundred forty-two dollars $608,242.00
and in addition thereto any amounts collected for services to other agencies which are by law available for support of said office.

Schedule:

(a) Salaries and Wages.....	$534,995.00
(b) Operating Expenses.....	86,090.00
(c) Equipment	2,157.00
Total of schedule.....	$623,242.00
Less: Estimated abatements from other agencies...	15,000.00
Net appropriation	$608,242.00

No money appropriated by this act is available for expenditure for the salary of Hearing Officer and Confidential Secretary, State Personnel Board.

Railroad Commission

Item 39—For support of Railroad Commission of the State of California, in accordance with the following schedule, one million two hundred ninety-three thousand five hundred forty-three dollars $1,293,543.00

Schedule:

(a) Salaries and Wages.....$1,067,715.00	
(b) Operating Expenses	210,566.00
(c) Equipment	15,262.00

Item 40—For support of Transportation Rate Division, Railroad Commission of the State of California, in accordance with the following schedule, payable from the Transportation Rate Fund, seven hundred seventy thousand seven hundred fifty-two dollars $770,752.00

Schedule:

(a)	Salaries and Wages.....	$597,780.00
(b)	Operating Expenses.....	166,260.00
(c)	Equipment	6,712.00

Item 41—For support of Secretary of State, in accordance with the following schedule, one hundred fifty-four thousand ten dollars ..... $154,010.00 and in addition thereto any amounts collected for services to other agencies which by law are available for support of said officer.

Secretary of State

Schedule:

(a)	Salaries and Wages.....	$114,180.00
(b)	Operating Expenses.....	46,200.00
(c)	Equipment	3,630.00
	Total of schedule.....	$164,010.00
Less:	Estimated abatements for services to other agencies	10,000.00
	Net appropriation.....	$154,010.00

Item 42—For printing constitutional amendments, Secretary of State's office, one hundred twenty-five thousand dollars $125,000.00

Item 43—For support of Collection Agency License Division, Secretary of State's office, in accordance with the following schedule, payable from the Collection Agency License Fund, twenty-nine thousand four hundred fifty-nine dollars..... $29,459.00

Schedule:

(a)	Salaries and Wages.....	$19,440.00
(b)	Operating Expenses.....	9,419.00
(c)	Equipment	600.00

State Treasurer

Item 44—For support of the State Treasurer, in accordance with the following schedule, one hundred forty-eight thousand seven hundred ninety dollars $148,790.00

Schedule:

(a) Salaries and Wages	$128,280.00
(b) Operating Expenses	19,800.00
(c) Equipment	710.00

AGRICULTURE

Department of Agriculture

Item 45—For support of Department of Agriculture, in accordance with the following schedule, two million nine hundred six thousand eight hundred ninety dollars ..... $2,906,890.00 and in addition thereto any amounts collected for services to activities supported out of other funds which by law are available for support of said department.

Schedule:

(a) Salaries and Wages	$2,345,962.00
(b) Operating Expenses	632,280.00
(c) Equipment	60,058.00
Total of schedule	$3,038,300.00
Less: Estimated pro rata cost of administration chargeable to special fund and trust fund activities	131,410.00
Net appropriation	$2,906,890.00

Item 46—For construction, improvements, and equipment, Department of Agriculture, twelve thousand seven hundred sixty-four dollars..... $12,764.00

Item 47—For support of Department of Agriculture, in accordance with the following schedule, payable from the Department of Agriculture Fund, four million thirteen thousand one hundred eight dollars..... $4,013,108.00

Schedule:

(a) Salaries and Wages	$2,920,494.00
(b) Operating Expenses	1,038,078.00
(c) Equipment	54,536.00

Item 48—For support of Farm Debt Adjustment Commission, one thousand dollars ---------- $1,000.00 Farm Debt Adjustment Commission

Item 49—For support of Poultry Improvement Commission, payable from the Poultry Testing Project Fund, eight thousand nine hundred eighty-one dollars ---------- $8,981.00 Poultry Improvement Commission
and in addition thereto any amounts collected for services to employees which by law are available for support of said commission. Said appropriation, together with the amount appropriated by Item 50, hereof, shall be expended in accordance with the following schedule:

Schedule:		
(a) Salaries and Wages	$7,400 00	
(b) Operating Expenses	7,281.00	
(c) Equipment	500.00	
Total of schedule	$15,181.00	
Less: Estimated refunds for maintenance furnished employees	1,200 00	
Amount payable from appropriation for additional support (Item 50)	5,000.00	
Net appropriations	$8,981.00	

Item 50—For additional support of Poultry Improvement Commission, five thousand dollars ---------- $5,000.00

Item 51—For construction, improvements, and equipment, Poultry Improvement Commission, two thousand one hundred seventy dollars------ $2,170.00

Item 52—For support of State Soil Conservation Commission ---------- Nothing Soil Conservation Commission

No money appropriated by this act is available for expenditure by the State Soil Conservation Commission.

EDUCATION

Department of Education

Item 53—For support of Department of Education, exclusive of the members of the State Board of Education, in accordance with the following schedule, four hundred fifty-seven thousand nine hundred seventy-eight dollars $457,978.00
and in addition thereto any amounts collected for services to activities supported out of other funds and for sale of bulletins, which by law are available for support of said department.

Schedule:

(a) Salaries and Wages	$384,405.00
(b) Operating Expenses	93,162.00
(c) Equipment	4,311.00
Total of schedule	$481,878.00
Less: Estimated abatements for services to activities supported out of other funds and for sale of bulletins	23,900.00
Net appropriation	$457,978.00

Item 53.5—For support of the members of the State Board of Education, two thousand five hundred dollars $2,500.00

Item 54—For support of California State Library in the Department of Education, in accordance with the following schedule, three hundred thirty-three thousand six hundred thirty-two dollars $333,632.00

Schedule:

(a) Salaries and Wages	$251,265.00
(b) Operating Expenses	31,912.00
(c) Equipment	50,455.00

Textbooks

Item 55—For publishing, purchasing, and shipping free textbooks, Department of Education, one million two hundred fifty thousand dollars $1,250,000.00

Item 57—For vocational education, Department of Education, three hundred thousand dollars $300,000.00
in addition to the amounts appropriated under the provisions of Section 4.84 of the School Code.

Vocational education

Item 58—For support of Chico State College, in accordance with the following schedule, four hundred fifty-seven thousand six hundred twenty-five dollars $457,625.00
and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said college.

Chico State College

Schedule:		
(a) Salaries and Wages.....	$429,935.00	
(b) Operating Expenses.....	50,665.00	
(c) Equipment	19,882 00	
Total of schedule.....	$500,482.00	
Less: Estimated student fees appropriated by Chapter 819, Statutes of 1933	42,857.00	
Net appropriation	$457,625.00	

Item 59—For construction, improvement and equipment, Chico State College, fourteen thousand dollars..... $14,000.00

Item 60—For support of Fresno State College, in accordance with the following schedule, seven hundred eighty-one thousand forty-four dollars..... $781,044.00
and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said college

Fresno State College

Schedule:		
(a) Salaries and Wages.....	$776,427.00	
(b) Operating Expenses.....	102,060.00	
(c) Equipment	23,707.00	
Total of schedule.....	$902,194.00	
Less: Estimated student fees appropriated by Chapter 819, Statutes of 1933	121,150.00	
Net appropriation.....	$781,044.00	

Item 61—For construction, improvements and equipment, Fresno State College, fifteen thousand dollars $15,000.00

Humboldt State College

Item 62—For support of Humboldt State College, in accordance with the following schedule, two hundred eighty thousand three hundred fifty-four dollars $280,354.00
and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said college.

Schedule:

(a) Salaries and Wages.....	$260,776.00
(b) Operating Expenses.....	33,796.00
(c) Equipment	8,867.00
Total of schedule.....	$303,439.00
Less: Estimated student fees appropriated by Chapter 819, Statutes of 1933	23,085.00
Net appropriation	$280,354.00

Item 63—For construction, improvements, and equipment, Humboldt State College, eleven thousand five hundred dollars $11,500.00

San Diego State College

Item 64—For support of San Diego State College, in accordance with the following schedule, eight hundred thirty-four thousand five hundred three dollars $834,503.00
and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said college.

Schedule:

(a) Salaries and Wages.....	$829,210.00
(b) Operating Expenses.....	90,395.00
(c) Equipment	35,298.00
Total of schedule.....	$954,903.00
Less: Estimated student fees appropriated by Chapter 819, Statutes of 1933	120,400.00
Net appropriation.....	$834,503.00

Item 65—For construction, improvements and equipment, San Diego State College, fifteen thousand five hundred dollars ---------- $15,500.00

Item 66—For support of San Francisco State College, in accordance with the following schedule, eight hundred fourteen thousand one hundred ninety-two dollars ---------- $814,192.00 and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said college. San Francisco State College

Schedule:

(a) Salaries and Wages-----	$797,192.00	
(b) Operating Expenses-----	91,995.00	
(c) Equipment ----------	36,800.00	
Total of schedule-------	$925,987.00	
Less: Estimated student fees appropriated by Chapter 819, Statutes of 1933	111,795.00	
Net appropriation ----------	$814,192.00	

Item 67—For construction, improvements, and equipment, San Francisco State College, fifteen thousand dollars------ $15,000.00

Item 68—For support of San Jose State College, in accordance with the following schedule, one million thirty-four thousand four hundred forty-one dollars ---------- $1,034,441.00 and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said college. San Jose State College

Schedule:

(a) Salaries and Wages-----	$971,227.00	
(b) Operating Expenses-----	158,929.00	
(c) Equipment ----------	52,405.00	
Total of schedule------	$1,182,561.00	
Less: Estimated student fees appropriated by Chapter 819, Statutes of 1933	148,120.00	
Net appropriation ---------	$1,034,441.00	

Item 69—For construction, improvements, and equipment, San Jose State College, eighteen thousand five hundred dollars ---------- $18,500.00

Santa Barbara State College

Item 70—For support of Santa Barbara State College, in accordance with the following schedule, seven hundred sixteen thousand fifty-seven dollars-- $716,057.00
and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said college.

Schedule:

(a) Salaries and Wages----	$738,963.00	
(b) Operating Expenses ----	79,099.00	
(c) Equipment ----------	39,097.00	
Total of schedule ------		$857,159.00
Less: Estimated student fees appropriated by Chapter 819, Statutes of 1933		141,102.00
Net appropriation ----------		$716,057.00

Item 71—For construction, improvements and equipment, Santa Barbara State College, seventeen thousand dollars $17,000.00

California School for Blind

Item 72—For support of California School for Blind at Berkeley, in accordance with the following schedule, two hundred forty-seven thousand four hundred ninety-nine dollars ------ $247,499.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for said school.

Schedule:

(a) Salaries and Wages----	$184,229.00	
(b) Operating Expenses ----	69,320.00	
(c) Equipment ----------	5,950.00	
Total of schedule ------		$259,499 00
Less: Estimated abatements for services to employees and for sales of surplus products ----------		12,000.00
Net appropriation ---------		$247,499.00

Item 73—For readers for blind college students, California School for Blind at Berkeley, thirteen thousand dollars ---------- $13,000.00

Item 74—For construction, improvements, and equipment, California School for Blind at Berkeley, forty thousand dollars ---------- $40,000.00

Item 75—For support of California School for Deaf at Berkeley, in accordance with the following schedule, five hundred two thousand seven hundred ninety-nine dollars ------ $502,799.00 California School for Deaf
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for said school.

Schedule:

(a) Salaries and Wages-----	$388,344.00	
(b) Operating Expenses-----	126,510.00	
(c) Equipment ----------	4,945.00	
Total of schedule--------	$519,799.00	
Less: Estimated abatements for services to employees and for sales of surplus products ----------	17,000.00	
Net appropriation ---------	$502,799.00	

Item 76—For expenses of deaf graduates attending Gallaudet College, California School for Deaf at Berkeley, four thousand eight hundred dollars $4,800.00

Item 77—For construction, improvements, and equipment, California School for Deaf at Berkeley, seventeen thousand five hundred dollars-------- $17,500 00

Item 78—For support of California Maritime Academy in accordance with the following schedule, one hundred six thousand nine hundred ninety dollars ---------- $106,990.00 California Maritime Academy
and in addition thereto the amount of such fees as may otherwise be made available by law for the support of said academy.

Schedule:		
(a) Salaries and Wages	$122,905.00	
(b) Operating Expenses	102,680.00	
(c) Equipment	2,205.00	
Total of schedule	$227,790.00	
Less: Maintenance deductions	13,200.00	
Federal contributions	50,000.00	
Estimated student fees appropriated by Chapter 619, Statutes of 1937	57,600.00	
Net appropriation	$106,990.00	

University of California

Item 79—For support of University of California, sixteen million eight hundred forty-one thousand three hundred sixty-eight dollars $16,841,368.00
provided, that not more than one-twentieth of such amount shall be expended during any one month and not more than one-half of such amount shall be expended during the Ninety-third Fiscal Year.

Hastings College of Law

Item 80—For support of Hastings College of Law, forty-one thousand three hundred twenty-two dollars..... $41,322.00

EMPLOYMENT

Department of Employment

Item 81—For support of Department of Employment, three hundred twelve thousand three hundred eighty dollars $312,380.00
or so much thereof as may be necessary, to match contributions to the State of California from the Federal Government under the provisions of the Wagner-Peyser Act.

FINANCE

Department of Finance

Item 82—For support of Department of Finance, exclusive of Bureau of Buildings and Grounds, one million two hundred three thousand three hundred thirty-eight dollars _____ $1,203,338 00
and in addition thereto any amounts collected for services to other agencies which by law are available for support of said department. The amount appropriated by this item, together with any sum appropriated by law out of the Fair and Exposition Fund for the use of the Department of Finance in supervising and auditing district agricultural fairs and associations, shall be expended in accordance with the following schedule:

Schedule:		
(a) Salaries and Wages	$1,086,090.00	
(b) Operating Expenses	157,070.00	
(c) Equipment	9,300.00	
Total of schedule	$1,252,460.00	
Less: Estimated abatements for services to other agencies	29,122.00	
Less: Amount payable from Fair and Exposition Fund	20,000.00	
Net appropriation	$1,203,338.00	

Item 83—For support of Bureau of Buildings and Grounds, Division of Service and Supply, Department of Finance, in accordance with the following schedule, one million one hundred six thousand two hundred four dollars _____ $1,106,204.00
and in addition thereto any amounts collected for services to other agencies which by law are available for support of said bureau and/or department.

Department of Finance

Schedule:

(a) Salaries and Wages	$1,365,034.00	
(b) Operating Expenses	753,400.00	
(c) Equipment	1,350.00	
Total of schedule	$2,119,784 00	
Less: Estimated abatements for pro rata building maintenance, rent, and for other services to other agencies	1,013,580.00	
Net appropriation	$1,106,204.00	

Item 84—For payment of automobile liability claims and salaries and expenses incident to investigation, adjustment and defense thereof, or for premiums for automobile liability insurance, Department of Finance, fifty thousand dollars $50,000.00

Item 85—For official advertising, Department of Finance, two thousand eight hundred dollars $2,800.00

Item 86—For premiums on official bonds required by law for officers and employees whose salaries are paid from the General Fund, Department of Finance, seven thousand five hundred dollars $7,500.00

Item 87—For reclamation assessments on State-owned property, Department of Finance, one thousand six hundred dollars $1,600.00

Item 88—For alterations, repairs and equipment, State Capitol and State office buildings, Department of Finance, seventy-five thousand dollars $75,000.00

Item 89—For support, Division of State Lands, State Lands Commission, Department of Finance, in accordance with the following schedule, payable from the State Lands Act Fund, one hundred forty thousand five hundred eighteen dollars $140,518.00

Schedule:

(a) Salaries and Wages	$106,620.00
(b) Operating Expenses	32,798.00
(c) Equipment	1,100.00

Item 90—For installation of new public land filing system, State Lands Commission, Department of Finance, twenty thousand eight hundred dollars____ payable from the State Lands Act Fund. $20,800.00 Department of Finance

Item 91—For support of State Agricultural Society, Division of Exhibits, Department of Finance, in accordance with the following schedule, payable from the State Agricultural Society Contingent Fund, nine hundred sixty-six thousand seven hundred sixty-five dollars_____ $966,765.00

Schedule:

(a) Salaries and Wages_____	$322,520.00
(b) Operating Expenses ____	636,370.00
(c) Equipment _____	7,875.00

Item 92—For support of Sixth District Agricultural Association, Division of Exhibits, Department of Finance, in accordance with the following schedule, payable from the Sixth District Agricultural Association Fund, ninety-eight thousand four hundred twenty dollars_____ $98,420.00

Schedule:

(a) Salaries and Wages_____	$78,060.00
(b) Operating Expenses ____	17,410.00
(c) Equipment _____	2,950.00

INDUSTRIAL RELATIONS

Item 93—For support, Departmental Administration, Department of Industrial Relations, in accordance with the following schedule, seventy-one thousand nine hundred seventy-five dollars _____ $71,975.00 Department of Industrial Relations

Schedule:

(a) Salaries and Wages_____	$62,130.00
(b) Operating Expenses ____	8,850.00
(c) Equipment _____	995.00

Item 94—For apprentice training, Department of Industrial Relations, in accordance with the following schedule, thirty-three thousand eight hundred ninety-five dollars_____ $33,895.00

Department of Industrial Relations

Schedule:
(a) Salaries and Wages..... $25,320.00
(b) Operating Expenses..... 8,300.00
(c) Equipment 275.00

Item 95—For support of Division of Industrial Accidents and Safety, Department of Industrial Relations, in accordance with the following schedule, one million two hundred seventy-two thousand three hundred thirty dollars..... $1,272,330.00

Schedule:
(a) Salaries and Wages.....$1,104,200.00
(b) Operating Expenses 144,390.00
(c) Equipment 23,740.00

Item 96—For support of Division of Labor Statistics and Law Enforcement, Department of Industrial Relations, in accordance with the following schedule, five hundred twenty-five thousand six hundred forty-five dollars $525,645.00

Schedule:
(a) Salaries and Wages..... $428,910.00
(b) Operating Expenses 90,600.00
(c) Equipment 6,135.00

No money appropriated by this act is available for expenditure for the salary of Confidential Representative, Division of Labor Statistics and Law Enforcement, Department of Industrial Relations.

Item 97—For support of Division of Immigration and Housing, Department of Industrial Relations, in accordance with the following schedule, one hundred thirty-seven thousand nine hundred twenty dollars..... $137,920.00

Schedule:
(a) Salaries and Wages..... $101,210.00
(b) Operating Expenses 36,010.00
(c) Equipment 700.00

No money appropriated by this act is available for expenditure for the salary of Chief, Division of Immigration and Housing, in the event that the functions of such division are transferred to or vested in another State agency.

Item 98—For support of Division of Industrial Welfare, Department of Industrial Relations, in accordance with the following schedule, one hundred thirty-three thousand three hundred five dollars $133,305.00

Schedule:

(a) Salaries and Wages $107,430.00
(b) Operating Expenses 25,190.00
(c) Equipment 685.00

No money appropriated by this act is available for expenditure for the salary of Confidential Secretary, Division of Industrial Welfare, Department of Industrial Relations.

Item 99—For support of Division of Fire Safety, Department of Industrial Relations, in accordance with the following schedule, payable from the Fire Marshal's Fund, one hundred eighty-three thousand six hundred eighteen dollars $183,618.00

Schedule:

(a) Salaries and Wages $114,410.00
(b) Operating Expenses 68,048.00
(c) Equipment 1,160.00

Item 100—For additional support of Division of Industrial Accidents and Safety, Department of Industrial Relations Nothing

No money in the State Treasury is available for expenditure for boat inspection by the Division of Industrial Accidents and Safety, Department of Industrial Relations during the Ninety-third and Ninety-fourth Fiscal Years.

INSTITUTIONS

Department of Institutions

Item 101—For support of Department of Institutions, in accordance with the following schedule, two hundred seventy-nine thousand eight hundred forty-five dollars $279,845.00

and in addition thereto any amounts collected for services to guardianship estates which by law are available for support of said department.

Schedule:

(a) Salaries and Wages	$168,140.00	
(b) Operating Expenses	113,900.00	
(c) Equipment	3,805.00	
Total of schedule	$285,845.00	
Less: Estimated abatements from guardianship estates	6,000.00	
Net appropriation	$279,845.00	

Item 102—For transportation of patients, juvenile delinquents, and other persons committed to State institutions of the Department of Institutions, Department of Institutions, one hundred eighty-eight thousand dollars ---------- $188,000.00

Acute Psychiatric Hospital

Item 103—For support of the Acute Psychiatric Hospital at San Francisco, two hundred thousand dollars---------- $200,000.00

Item 104—For construction, improvements, and equipment at the Acute Psychiatric Hospital at San Francisco, thirty-five thousand dollars---------- $35,000.00

Agnews State Hospital

Item 105—For support of Agnews State Hospital, in accordance with the following schedule, two million two hundred twenty-two thousand two hundred ninety-five dollars---------- $2,222,295.00 and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said institution.

Schedule:

(a) Salaries and Wages	$1,585,590.00	
(b) Operating Expenses	722,460.00	
(c) Equipment	16,245.00	
Total of schedule	$2,324,295.00	
Less: Estimated abatements for services to employees and for sales of surplus products	102,000.00	
Net appropriation	$2,222,295.00	

Item 106—For construction, improvements and equipment, Agnews State Hospital, one hundred twenty-one thousand eight hundred seventy dollars..... $121,870.00

Item 107—For support of Camarillo State Hospital, in accordance with the following schedule, two million two hundred seventy-three thousand one hundred five dollars ..... $2,273,105.00 and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for said institution. Camarillo State Hospital

Schedule:

(a) Salaries and Wages.....	$1,570,850.00	
(b) Operating Expenses ...	796,100.00	
(c) Equipment	16,155.00	
Total of schedule.....	$2,383,105.00	
Less: Estimated abatements for services to employees and for sales of surplus products	110,000.00	
Net appropriation	$2,273,105.00	

Item 108—For construction, improvements and equipment, Camarillo State Hospital, fifty-eight thousand eight hundred seventy-five dollars $58,875.00

Item 109—For support of Mendocino State Hospital in accordance with the following schedule, one million eight hundred thirty-six thousand two hundred eighty-five dollars ..... $1,836,285.00 and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for said institution. Mendocino State Hospital

Schedule:

(a) Salaries and Wages.....	$1,284,715.00	
(b) Operating Expenses....	596,050.00	
(c) Equipment	15,520.00	
Total of schedule.....	$1,896,285.00	
Less: Estimated abatements for services to employees and for sales of surplus products	60,000.00	
Net appropriation	$1,836,285.00	

Item 110—For construction, improvements and equipment, Mendocino State Hospital, five thousand five hundred dollars ---------- $5,500.00

Napa State Hospital

Item 111—For support of Napa State Hospital, in accordance with the following schedule, two million three hundred sixty-six thousand one hundred eighty-one dollars ---------- $2,366,181.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for said institution.

Schedule:

(a) Salaries and Wages	$1,742,810.00	
(b) Operating Expenses	696,460.00	
(c) Equipment	12,911.00	
Total of schedule		$2,452,181.00
Less: Estimated abatements for services to employees and for sales of surplus products	86,000.00	
Net appropriation		$2,366,181.00

Norwalk State Hospital

Item 112—For support of Norwalk State Hospital, in accordance with the following schedule, one million six hundred seventy-nine thousand eight hundred sixteen dollars ---------- $1,679,816.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said institution.

Schedule:

(a) Salaries and Wages	$1,245,549.00	
(b) Operating Expenses	470,230.00	
(c) Equipment	15,037.00	
Total of schedule		$1,730,816.00
Less: Estimated abatements for services to employees and for sales of surplus products	51,000.00	
Net appropriation		$1,679,816.00

Item 113—For construction, improvements and equipment, Norwalk State Hospital, twenty thousand four hundred nineteen dollars ---------- $20,419.00

Patton State Hospital

Item 114—For support of Patton State Hospital, in accordance with the following schedule, two million three hundred eighty-nine thousand nine hundred eighty-one dollars ---------- $2,389,981.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said institution.

Schedule:

(a) Salaries and Wages	$1,779,730.00	
(b) Operating Expenses	670,148.00	
(c) Equipment	14,903.00	
Total of schedule	$2,464,781.00	
Less: Estimated abatements for services to employees and for sales of surplus products	74,800.00	
Net appropriation	$2,389,981.00	

Item 115—For construction, improvements and equipment, Patton State Hospital, seventy-five thousand five hundred dollars ---------- $75,500.00

Stockton State Hospital

Item 116—For support of Stockton State Hospital, in accordance with the following schedule, two million six hundred ninety-nine thousand two hundred three dollars ---------- $2,699,203.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said institution.

Schedule:

(a) Salaries and Wages	$1,954,600 00	
(b) Operating Expenses	817,089.00	
(c) Equipment	28,314.00	
Total of schedule	$2,800,003.00	
Less: Estimated abatements for services to employees and for sales of surplus products	100,800.00	
Net appropriation	$2,699,203.00	

Item 117—For construction, improvements and equipment, Stockton State Hospital, sixty-five thousand dollars------- $65,000.00

Pacific Colony and State Narcotic Hospital

Item 118—For support of Pacific Colony and State Narcotic Hospital, in accordance with the following schedule, one million two hundred fifty-eight thousand six hundred seventy-seven dollars ---------- $1,258,677.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said institution.

Schedule:

(a) Salaries and Wages-----	$814,180.00	
(b) Operating Expenses-----	487,628.00	
(c) Equipment ----------	8,869.00	
Total of schedule-------		$1,310,677.00
Less: Estimated abatements for services to employees and for sales of surplus products ----------	52,000.00	
Net appropriation ----------		$1,258,677.00

Item 119—For construction, improvements and equipment, Pacific Colony and State Narcotic Hospital, seventy-seven thousand four hundred twelve dollars ---------- $77,412.00

Sonoma State Home

Item 120—For support of Sonoma State Home, in accordance with the following schedule, two million two hundred fourteen thousand four hundred eighty-six dollars ---------- $2,214,486.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for said institution.

Schedule:

(a) Salaries and Wages-----	$1,553,013.00	
(b) Operating Expenses----	687,040.00	
(c) Equipment ----------	24,833.00	
Total of schedule-------		$2,264,886.00
Less: Estimated abatements for services to employees and for sales of surplus products ----------	50,400.00	
Net appropriation ----------		$2,214,486.00

Preston School of Industry

Item 121—For support of Preston School of Industry, in accordance with the following schedule, one million one hundred fifteen thousand eight hundred thirty dollars ---------- $1,115,830.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for said school.

Schedule:

(a)	Salaries and Wages-----	$808,525.00
(b)	Operating Expenses ----	334,550.00
(c)	Equipment ----------	16,955.00
	Total of schedule-------	$1,160,030.00
Less:	Estimated abatements for services to employees and for sales of surplus products ----------	44,200.00
	Net appropriation ---------	$1,115,830.00

Item 122—For construction, improvements and equipment, Preston School of Industry, ten thousand dollars---------- $10,000.00

Whittier State School

Item 123—For support of Whittier State School, in accordance with the following schedule, five hundred eighty-nine thousand one hundred forty-four dollars ---------- $589,144.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which are by law available for support of said school.

Schedule:

(a)	Salaries and Wages----	$450,504.00
(b)	Operating Expenses ----	169,250 00
(c)	Equipment ----------	9,390.00
	Total of schedule ------	$629,144.00
Less:	Estimated abatements for services to employees and for sales of surplus products ----------	40,000.00
	Net appropriation ---------	$589,144.00

Item 124—For construction, improvements and equipment, Whittier State School, eleven thousand three hundred thirty dollars ---------- $11,330.00

Ventura School for Girls

Item 125—For support of Ventura School for Girls, in accordance with the following schedule, three hundred thirty-three thousand two hundred twenty-five dollars $333,225.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for said school.

Schedule:

(a)	Salaries and Wages.....	$260,416.00
(b)	Operating Expenses	96,910.00
(c)	Equipment	4,799.00
	Total of schedule.....	$362,125.00
Less:	Estimated abatements for services to employees and for sales of surplus products	28,900.00
	Net appropriation	$333,225.00

Item 126—For construction, improvements and equipment, Ventura School for Girls, twenty-one thousand six hundred dollars $21,600.00

Industrial Home for Adult Blind

Item 127—For support of Industrial Home for Adult Blind, in accordance with the following schedule, two hundred forty-seven thousand eight hundred fifty-four dollars $247,854.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said institution.

Schedule:

(a)	Salaries and Wages.....	$172,500.00
(b)	Operating Expenses	80,980.00
(c)	Equipment	2,574.00
	Total of schedule.....	$256,054.00
Less:	Estimated abatements for services to employees and for sales of surplus products	8,200.00
	Net appropriation	$247,854.00

Item 128—For construction, improvements and equipment, Industrial Home for the Adult Blind, one thousand eight hundred dollars $1,800.00

Item 129—For support of Industrial Workshop for Adult Blind, in accordance with the following schedule, fifty-eight thousand seven hundred ninety-four dollars ---------- $58,794.00

Industrial Workshop for Adult Blind

Schedule:

(a) Salaries and Wages-----	$44,700.00
(b) Operating Expenses ----	12,910.00
(c) Equipment ----------	1,184.00
Total of schedule------	$58,794.00

Item 130—For support of State Blind Shop, in accordance with the following schedule, twenty-seven thousand six hundred ten dollars---------- $27,610.00

Schedule:

(a) Salaries and Wages-----	$17,850.00
(b) Operating Expenses-----	9,060.00
(c) Equipment ----------	700.00
Total of schedule--------	$27,610.00

Item 131—For support of the Southern California Inebriate Colony---------- Nothing

Southern California Inebriate Colony

No money appropriated by this act is available for expenditure for the support of the Southern California Inebriate Colony.

INVESTMENT

Item 132—For support of Division of Banking, Department of Investment, in accordance with the following schedule, payable from the Banking Fund, two hundred sixty-two thousand eight hundred dollars------- $262,800.00

Division of Banking

Schedule:

(a) Salaries and Wages-----	$206,750.00
(b) Operating Expenses-----	55,050.00
(c) Equipment ----------	1,000.00

Item 133—For support of Division of Building and Loan, Department of Investment, in accordance with the following schedule, payable from the Building and Loan Inspection Fund, one hundred forty-nine thousand six hundred seven dollars---- $149,607.00

Division of Building and Loan

Schedule:

(a) Salaries and Wages-----	$118,207.00
(b) Operating Expenses-----	30,000.00
(c) Equipment ----------	1,400.00

Division of Corporations

Item 134—For support of Division of Corporations, Department of Investment, in accordance with the following schedule, payable from the Corporation Commission Fund, seven hundred eighty-three thousand five hundred twenty-one dollars $783,521.00

Schedule:

(a) Salaries and Wages	$626,303.00
(b) Operating Expenses	149,218.00
(c) Equipment	8,000.00

Division of Insurance

Item 135—For support of the Division of Insurance, Department of Investment, in accordance with the following schedule, payable from the Insurance Fund, seven hundred sixty-four thousand three hundred forty-seven dollars $764,347.00

Schedule:

(a) Salaries and Wages	$525.900.00
(b) Operating Expenses	235,306.00
(c) Equipment	3,141.00

Division of Real Estate

Item 136—For support of the Division of Real Estate, Department of Investment, in accordance with the following schedule, payable from the Real Estate Fund, three hundred sixty-six thousand nine hundred sixty-two dollars $366,962.00

Schedule:

(a) Salaries and Wages	$251,670.00
(b) Operating Expenses	112,092.00
(c) Equipment	3,200.00

Districts Securities Commission

Item 137—For support of California Districts Securities Commission, in accordance with the following schedule, twenty-three thousand four hundred forty dollars $23,440.00

Schedule:

(a) Salaries and Wages	$20,880 00
(b) Operating Expenses	2,460.00
(c) Equipment	100.00

Item 138—For support of The Adjutant General and the California National Guard, including rental of armories, and maintenance of High School Cadets, in accordance with the following schedule, three hundred thirty-eight thousand two hundred fifty-eight dollars $338,258.00

Adjutant General and National Guard

Schedule:

(a)	Salaries and Wages.....	$219,373.00
(b)	Operating Expenses.....	97,955.00
(c)	Equipment	20,930.00

Item 138.5—For allowances to organizations of the California National Guard, The Adjutant General, four hundred twenty-one thousand seven hundred sixty-five dollars $421,765.00

The moneys appropriated under this item are available only for the purposes specified in Sections 330 to 332, inclusive, of the Military and Veterans Code. Any amounts remaining unexpended at the end of the biennium shall revert to the General Fund.

Item 139—For construction, improvements, and equipment of armories, arsenals, stables, rifle ranges, and camp sites, The Adjutant General and the California National Guard, thirty-one thousand four hundred dollars..... $31,400.00

Item 140—For support of Veterans' Home of California, eight hundred thirty-six thousand three hundred eighty-four dollars $836,384.00

Veterans' Home of California

and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said home. The appropriation made by this item, together with any funds made available for support of the Veterans' Home of California by the Federal Government,

or any agency thereof, shall be expended in accordance with the following schedule:

Schedule:		
(a) Salaries and Wages	$969,484.00	
(b) Operating Expenses	595,900.00	
(c) Equipment	9,600.00	
Total of schedule	$1,574,984.00	
Less: Estimated amount payable from funds by the Federal Government or any agency thereof	648,000 00	
Less: Estimated abatements for services to employees and for sales of surplus products	90,600.00	
Net appropriation	$836,384.00	

Item 141—For construction, improvements and equipment, Veterans' Home of California, three hundred fifteen thousand five hundred fifty dollars.... $315,550.00

Item 142—For construction, improvements and equipment, Veterans' Home of California, payable from the Athletic Commission Fund, one hundred twenty thousand dollars..... $120,000.00

Woman's Relief Corps Home

Item 143—For support of Woman's Relief Corps Home, in accordance with the following schedule, seventy-seven thousand seven hundred forty dollars $77,740.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said institution.

Schedule:		
(a) Salaries and Wages	$57,882.00	
(b) Operating Expenses	24,265 00	
(c) Equipment	1,093.00	
Total of schedule	$83,240 00	
Less: Estimated abatements for services to employees and for sales of surplus products	5,500.00	
Net appropriation	$77,740.00	

Item 144—For construction, improvements and equipment, Woman's Relief Corps Home, nine thousand dollars------ $9,000.00

Item 145—For support of State Athletic Commission, in accordance with the following schedule, payable from the Athletic Commission Fund, one hundred twenty-four thousand nine hundred seventy-eight dollars----- $124,978.00
which amount shall not be augmented under the provisions of Section 661 of the Political Code.

State Athletic Commission

Schedule:

(a) Salaries and Wages-----	$92,650.00
(b) Operating Expenses ----	31,128.00
(c) Equipment ----------	1,200.00

MOTOR VEHICLES

Item 146—For support of Department of Motor Vehicles, payable from the Motor Vehicle Support Fund, twelve million five hundred eighty-three thousand six hundred thirty-three dollars ---------- $12,583,633.00
The appropriation made by this item, together with any amounts appropriated for support of Motor Vehicle License Fee Administration out of the Motor Vehicle License Fee Fund, shall be expended in accordance with the following schedule:

Department of Motor Vehicles

Schedule:

(a) Salaries and Wages----	$9,898,427.00
(b) Operating Expenses---	3,170,075.00
(c) Equipment ----------	516,853.00
Total of schedule------	$13,585,355.00
Less: Estimated amount payable from Motor Vehicle License Fee Fund	1,001,722.00
Net appropriation---------	$12,583,633 00

Item 147—For support of Motor Vehicle License Fee Administration, Department of Motor Vehicles, payable from the Motor Vehicle License Fee Fund, one million one thousand seven hundred twenty-two dollars ------ $1,001,722.00
(which amount may be augmented as provided by Section 661 of the Political Code if the amount thus made available under said section does not increase the total amount available for the purpose of this item during any fiscal year to an amount which exceeds 3.5 per cent of the amounts deposited during such year in said Motor Vehicle License Fee Fund).

NATURAL RESOURCES

Department of Natural Resources

Item 148—For support of Departmental Administration, Department of Natural Resources, in accordance with the following schedule, ninety thousand six hundred sixty dollars---- $90,660.00
and in addition thereto any amounts collected for services to activities supported out of other funds, which by law are available for support of said division.

Schedule:

(a)	Salaries and Wages-----	$170,690 00
(b)	Operating Expenses ----	26,240.00
(c)	Equipment ----------	1,490.00
	Total of schedule-------	$198,420.00
Less:	Estimated abatements for services to activities supported out of other funds ----------	107,760.00
	Net appropriation ----------	$90,660.00

Division of Forestry

Item 149—For support of Division of Forestry, Department of Natural Resources, one million six hundred fifty-eight thousand six hundred twenty-six dollars ---------- $1,658,626.00

and in addition thereto any amounts collected for services to other agencies and to employees, which by law are available for support of said division. The appropriation made by this item, together with any amounts available for support of the Division of Forestry out of appropriations from the Fire Prevention Fund and for funds made available by the Federal Government, or any agency thereof, shall be expended in accordance with the following schedule:

Schedule:

(a) Salaries and Wages	$1,570,642.00	
(b) Operating Expenses	1,091,929.00	
(c) Equipment	177,721.00	
Total of schedule		$2,840,292.00
Less: Estimated abatements:		
For maintenance furnished to employees	16,000.00	
For services to counties under cooperative agreements	412,300.00	
Less: Amount payable from Fire Prevention Fund	140,000.00	
Less: Estimated amount payable from funds made available by the Federal Government	613,366.00	
Net appropriation		$1,658,626.00

No money appropriated by this act is available for the salary of Executive Secretary, Division of Forestry, Department of Natural Resources.

Item 149.5—For additional support of Division of Forestry, Department of Natural Resources, to be transferred to Item 149, and to any of the purposes in the schedule thereof, upon executive order of the Director of Finance, two hundred fifty thousand dollars ---------- $250,000.00

Division of Mines

Item 150—For support of Division of Mines, Department of Natural Resources, in accordance with the following schedule, one hundred seventy-five thousand eight hundred seventy-six dollars ---------- $175,876.00

and in addition thereto any amounts collected for services to activities supported out of other funds, which by law are available for support of said division.

Schedule:

(a) Salaries and Wages-----	$134,346.00
(b) Operating Expenses ----	49,070.00
(c) Equipment ----------	2,560.00
Total of schedule--------	$185,976.00
Less: Amounts payable for services to activities supported out of other funds ----------	10,100.00
Net appropriation ----------	$175,876.00

No money appropriated by this act is available for expenditure for the salary of Secretary, Developmental Survey, Division of Mines, Department of Natural Resources.

Division of Forestry

Item 151—For additional support, Division of Forestry, Department of Natural Resources, payable from State Board of Forestry Fire Prevention Fund, one hundred forty thousand dollars ---------- $140,000.00

Division of Parks

Item 152—For support of Division of Parks, Department of Natural Resources, in accordance with the following schedule, payable from the State Park Maintenance and Acquisition Fund, two hundred seventy thousand one hundred eighty-five dollars $270,185.00

and in addition thereto any amounts collected for services to employees which are by law available for the support of said division. The appropriation made by this item, together with any amount appropriated from the State Park Maintenance Fund, shall be expended in accordance with the following schedule:

Schedule:		
(a) Salaries and Wages	$294,997.00	
(b) Operating Expenses	151,855.00	
(c) Equipment	19,788.00	
Total of schedule	$466,640.00	
Less: Estimated abatements for maintenance furnished to employees	11,700.00	
Amount payable from State Park Maintenance Fund	184,755.00	
Net appropriation	$270,185.00	

Item 153—For additional support, Division of Parks, Department of Natural Resources, payable out of the State Park Maintenance Fund, one hundred eighty-four thousand seven hundred fifty-five dollars $184,755.00

Item 154—For expenses in connection with regulation of ore buying, Department of Natural Resources, Division of Mines, payable from Ore Buyers' License Fund, four thousand dollars $4,000.00

State Parks

Item 155—For construction, improvements and equipment of State Parks, Division of Parks, Department of Natural Resources, payable from the State Park Maintenance and Acquisition Fund, forty-eight thousand four hundred fifty dollars $48,450.00

Item 155.1—For construction, improvements and repairs to California's First Capitol, First Theater, and Custom House in Monterey County, Division of Parks, Department of Natural Resources, five thousand dollars $5,000.00

Item 155.2—For repairs and restoration of the Arrowhead in San Bernardino County, Division of Parks, Department of Natural Resources; provided, that any sum expended from this appropriation shall be matched by like amounts received from private or other sources, one thousand dollars $1,000.00

Item 155.3—For acquisition and maintenance as an historical monument, property known as El Alisel in Los Angeles County, Division of Parks, Department of Natural Resources; provided, that any sum expended from this appropriation shall be matched by like amounts in money, property or lands received from private or other sources, five thousand dollars $5,000.00

Item 155.4—For acquisition of additional redwood park areas in Humboldt and Del Norte counties, Division of Parks, Department of Natural Resources; provided, that any sum expended from this appropriation shall be matched by like amounts in money, property or lands received from private or other sources, one hundred two thousand two hundred twenty-two dollars ---------- $102,222.00

Division of Fish and Game

Item 156—For support of Division of Fish and Game, Department of Natural Resources, including license commissions, State Fair and other exhibits, and for the maintenance and construction of fish screens and other stream improvements, in accordance with the following schedule, payable from the Fish and Game Preservation Fund, four million one hundred fifty thousand seven hundred thirty-nine dollars---------- $4,150,739.00
and in addition thereto any amounts collected for services to employees which by law are available for support of said division.

Schedule:

(a) Salaries and Wages	$2,250,670.00	
(b) Operating Expenses	1,711,667.00	
(c) Equipment ----------	201,998.00	
Total of schedule		$4,164,335.00
Less: Estimated refunds for maintenance furnished employees ----------	13,596.00	
Net appropriation ----------		$4,150,739.00

Item 157—For cooperation with the Federal Government in the purchase of land for game production, improvement of waterfowl areas and research in game management under the provisions of the Pittman-Robertson Act, Division of Fish and Game, Department of Natural Resources, payable from Fish and Game Preservation Fund, one hundred thousand dollars ---------- $100,000.00

Land for game production, etc

Item 158—For purchase of game refuges and public shooting grounds, and construction, improvements and equipment, Division of Fish and Game, Department of Natural Resources, payable from Fish and Game Preservation Fund, two hundred twenty-three thousand nine hundred sixteen dollars ---------- $223,916.00

Game refuges

Item 159—For support of Division of Oil and Gas, Department of Natural Resources, in accordance with the following schedule, payable from the Petroleum and Gas Fund, four hundred forty thousand four hundred fifty-five dollars ---------- $440,455.00

Division of Oil and Gas

Schedule:

(a) Salaries and Wages-----	$318,594.00
(b) Operating Expenses-----	115,167.00
(c) Equipment ----------	6,694.00

PENOLOGY

Item 160—For support of Department of Penology ---------- Nothing

No money appropriated by this act is available for expenditure for the departmental administration of the Department of Penology.

Division of Penology

Division of Criminal Identification and Investigation

Item 161—For support of Division of Criminal Identification and Investigation, three hundred ninety-five thousand six hundred eighty-eight dollars ---- $395,688.00

and in addition thereto any amounts collected for services to other agencies which by law are available for support of said division. The amount appropriated by this item, together with any amount appropriated from the Motor Vehicle Fund for support of the Division of Criminal Identification and Investigation, shall be expended in accordance with the following schedule:

Schedule:	
(a) Salaries and Wages ----	$260,880.00
(b) Operating Expenses ----	229,208.00
(c) Equipment ----	7,600.00
Total of schedule ----	$497,688 00
Less: Estimated abatements for services to other agencies ----	32,000.00
Amount payable from Motor Vehicle Fund ----	70,000.00
Net total appropriation ----	$395,688.00

Item 162—For additional support of Division of Criminal Identification and Investigation, payable from the Motor Vehicle Fund, seventy thousand dollars ---- $70,000.00

Division of Narcotic Enforcement

Item 163—For support of Division of Narcotic Enforcement, in accordance with the following schedule, one hundred eighty-one thousand nine hundred forty dollars ---- $181,940.00

Schedule:	
(a) Salaries and Wages ----	$126,600.00
(b) Operating Expenses ----	53,840.00
(c) Equipment ----	1,500.00

Item 164—For support of Advisory Pardon Board, in accordance with the following schedule, thirteen thousand nine hundred seventy dollars_____ $13,970.00

Advisory Pardon Board

Schedule:

(a) Salaries and Wages_____	$9,120.00	
(b) Operating Expenses ____	4,650.00	
(c) Equipment _____	200.00	

Item 165—For support of Detective License Bureau, Board of Prison Directors, in accordance with the following schedule, payable from the Detective Agency Contingent Fund, seventeen thousand seven hundred ninety dollars _____ $17,790.00

Detective License Bureau

Schedule:

(a) Salaries and Wages_____	$10,800.00	
(b) Operating Expenses____	6,890.00	
(c) Equipment _____	100.00	
Total of schedule_____	$17,790.00	

Item 166—For support of Folsom State Prison, in accordance with the following schedule, one million five hundred twenty thousand two dollars_____ $1,520,002.00 and in addition thereto any amounts collected for services to employees and for sales of surplus products, which by law are available for support of said prison.

Folsom State Prison

Schedule:

(a) Salaries and Wages_____	$873,440.00	
(b) Operating Expenses ____	691,082.00	
(c) Equipment _____	17,480.00	
Total of schedule_____		$1,582,002.00
Less: Estimated abatements for services to employees and sale of surplus products _____	62,000.00	
Net appropriation _____		$1,520,002.00

Item 167—For construction, improvements and equipment, Folsom State Prison, two thousand one hundred dollars_ $2,100.00

San Quentin Prison

Item 168—For support of San Quentin Prison, in accordance with the following schedule, two million one hundred ninety-one thousand one hundred eighty-four dollars ---------- $2,191,184.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products which by law are available for support of said prison.

Schedule:

(a) Salaries and Wages	$1,161,020.00	
(b) Operating Expenses	1,184,491.00	
(c) Equipment	26,193.00	
Total of schedule	$2,371,704.00	
Less: Estimated abatements for services to employees and sales of surplus products	180,520.00	
Net appropriation	$2,191,184.00	

Item 169—For transportation of prisoners from San Quentin State Prison to the Southern California Prison, State Board of Prison Directors, twenty thousand dollars---------- $20,000.00

Item 170—For construction, improvements and equipment, San Quentin State Prison, twenty-three thousand seven hundred fifty dollars---------- $23,750.00

Southern California Prison

Item 171—For support of Southern California Prison, in accordance with the following schedule, six hundred forty-eight thousand three hundred seventy dollars ---------- $648,370.00
and in addition thereto any amounts collected for services to employees and for sales of surplus products which by law are made available for support of said prison.

Schedule:

(a) Salaries and Wages	$351,860.00	
(b) Operating Expenses	317,110.00	
(c) Equipment	3,400.00	
Total of schedule	$672,370.00	
Less: Estimated abatements for services to employees and for sales of surplus products	24,000.00	
Net appropriation	$648,370.00	

Item 172—For construction, improvements and equipment, Southern California Prison, nine hundred ninety-nine thousand seven hundred dollars ... $999,700.00

California Institution for Women

Item 173—For support of California Institution for Women, in accordance with the following schedule, two hundred seventeen thousand six hundred ninety-three dollars ... $217,693.00 and in addition thereto any amounts collected for services to employees and sales of surplus products which by law are available for support of said institution.

Schedule:

(a) Salaries and Wages	$155,696.00	
(b) Operating Expenses	82,720.00	
(c) Equipment	4,277.00	
Total of schedule	$242,693.00	
Less: Estimated abatements for services to employees and sales of surplus products	25,000.00	
Net appropriation	$217,693.00	

Board of Prison Terms and Paroles

Item 174—For support of Board of Prison Terms and Paroles, in accordance with the following schedule, fifty thousand eight hundred seventy dollars ... $50,870.00

Schedule:

(a) Salaries and Wages	$38,540.00	
(b) Operating Expenses	12,100.00	
(c) Equipment	230 00	

Parole Department State Board of Prison Directors

Item 174.5—For support of Parole Department, State Board of Prison Directors, in accordance with the following schedule, two hundred twenty-seven thousand three hundred ninety dollars $227,390.00

Schedule:

(a) Salaries and Wages.....	$162,480 00
(b) Operating Expenses	59,840.00
(c) Equipment	5,070.00

Transportation of prisoners

Item 175—For transportation of prisoners to State prisons, State Board of Prison Directors, one hundred forty thousand dollars $140,000.00

Deportation of aliens

Item 176—For deportation from California of aliens and citizens of other States convicted of felonies, State Board of Prison Directors, fifteen thousand dollars $15,000.00

Return of fugitives

Item 177—For expenses of returning fugitives from justice from outside the State, State Board of Prison Directors, one hundred twenty thousand dollars $120,000.00

PROFESSIONAL AND VOCATIONAL STANDARDS

State Board of Accountancy

Item 178—For support of State Board of Accountancy, in accordance with the following schedule, payable from the Board of Accountancy Fund, twenty-one thousand nine hundred ninety-one dollars..... $21,991.00

Schedule:

(a) Salaries and Wages.....	$12,438.00
(b) Operating Expenses	9,453.00
(c) Equipment	100.00

State Board of Architecture, Northern District

Item 179—For support of State Board of Architecture, Northern District, in accordance with the following schedule, payable from the Board of Architecture, Northern District, Fund, eight thousand four hundred sixteen dollars $8,416.00

Schedule:

(a) Salaries and Wages.....	$3,910 00
(b) Operating Expenses	4,486.00
(c) Equipment	20.00

State Board of Architecture, Southern District

Item 180—For support of State Board of Architecture, Southern District, in accordance with the following schedule, payable from the Board of Architecture, Southern District, Fund, fifteen thousand nine hundred fifty-seven dollars $15,957.00

Schedule:

(a) Salaries and Wages.....	$9,315.00
(b) Operating Expenses	6,592.00
(c) Equipment	50.00

State Board of Barber Examiners

Item 181—For support of State Board of Barber Examiners, in accordance with the following schedule, payable from the State Board of Barber Examiners' Fund, one hundred eight thousand three hundred four dollars..... $108,304.00

Schedule:

(a) Salaries and Wages.....	$72,360.00
(b) Operating Expenses	34,474.00
(c) Equipment	1,470.00

Seven thousand six hundred eighty dollars ($7,680) of the amount appropriated by this item is available only for the salary of the Secretary of the State Board of Barber Examiners. If such sum of seven thousand six hundred eighty dollars ($7,680) is not used for such salary, it shall not be available for expenditure for any other purpose.

Board of Registration for Civil Engineers

Item 182—For support of Board of Registration for Civil Engineers, in accordance with the following schedule, payable from the Civil Engineers Fund, sixty thousand three hundred thirty-two dollars $60,332.00

Schedule:

(a) Salaries and Wages.....	$37,160.00
(b) Operating Expenses	22,992.00
(c) Equipment	180.00

Contractors' License Bureau

Item 183—For support of Contractors' License Bureau, in accordance with the following schedule, payable from the Contractors' License Fund, four hundred sixty-seven thousand six hundred six dollars $467,606.00

Schedule:

(a) Salaries and Wages.....	$293,410.00
(b) Operating Expenses	168,866.00
(c) Equipment	5,330.00

State Board of Cosmetology

Item 184—For support of State Board of Cosmetology, in accordance with the following schedule, payable from the Board of Cosmetology Contingent Fund, one hundred ninety-three thousand five hundred thirty-four dollars $193,534.00

Schedule:

(a) Salaries and Wages.....	$118,290.00
(b) Operating Expenses	74,354.00
(c) Equipment	890.00

Board of Dental Examiners

Item 185—For support of Board of Dental Examiners, in accordance with the following schedule, payable from the Dentistry Fund, sixty-eight thousand one hundred fifty-one dollars.. $68,151.00

Schedule:

(a) Salaries and Wages.....	$40,740.00
(b) Operating Expenses	27,411.00
(c) Equipment	Nothing

Board of Funeral Directors and Embalmers

Item 186—For support of Funeral Directors and Embalmers, in accordance with the following schedule, payable from the Funeral Directors and Embalmers' Fund, forty-three thousand five hundred sixty-three dollars $43,563.00

Schedule:

(a) Salaries and Wages.....	$25,720.00
(b) Operating Expenses	17,123.00
(c) Equipment	720.00

Item 187—For support of Bureau of Furniture and Bedding Inspection, Department of Professional and Vocational Standards, in accordance with the following schedule, payable from the Bureau of Furniture and Bedding Inspection Fund, one hundred fifty thousand two hundred thirty-nine dollars ---------- $150,239.00

Bureau of Furniture and Bedding Inspection

Schedule:

(a) Salaries and Wages-----	$95,990.00
(b) Operating Expenses ----	52,509.00
(c) Equipment ----------	1,740.00

Item 188—For support of State Board of Medical Examiners, in accordance with the following schedule, payable from Medical Examiners' Contingent Fund, one hundred fifty-five thousand five hundred forty-two dollars $155,542.00

State Board of Medical Examiners

Schedule:

(a) Salaries and Wages-----	$84,790.00
(b) Operating Expenses ----	70,522.00
(c) Equipment ----------	230.00

Item 189—For support of Board of Nurse Examiners, in accordance with the following schedule, payable from the Board of Nurse Examiners' Fund, ninety-three thousand seven hundred fourteen dollars ---------- $93,714.00

Board of Nurse Examiners

Schedule:

(a) Salaries and Wages-----	$55,990.00
(b) Operating Expenses ----	37,414.00
(c) Equipment ----------	310.00

Item 190—For support of State Board of Optometry, in accordance with the following schedule, payable from the Board of Optometry Fund, seventeen thousand four hundred seventeen dollars ---------- $17,417.00

State Board of Optometry

Schedule:

(a) Salaries and Wages-----	$10,150.00
(b) Operating Expenses ----	7,207.00
(c) Equipment ----------	60.00

State Board of Pharmacy

Item 191—For support of State Board of Pharmacy, in accordance with the following schedule, payable from the Pharmacy Board Contingent Fund, one hundred seventeen thousand five hundred thirty-four dollars $117,534.00

Schedule:

(a) Salaries and Wages	$77,974.00
(b) Operating Expenses	38,820.00
(c) Equipment	740.00

Structural Pest Control Board

Item 192—For support of Structural Pest Control Board, in accordance with the following schedule, payable from the Structural Pest Control Board Fund, nineteen thousand six hundred dollars $19,600.00

Schedule:

(a) Salaries and Wages	$10,608.00
(b) Operating Expenses	8,892.00
(c) Equipment	100.00

Board of Examiners in Veterinary Medicine

Item 193—For support of Board of Examiners in Veterinary Medicine, in accordance with the following schedule, payable from the Veterinary Medicine Examiners' Contingent Fund, eleven thousand one hundred forty-one dollars $11,141.00

Schedule:

(a) Salaries and Wages	$5,880.00
(b) Operating Expenses	5,246.00
(c) Equipment	15.00

Yacht and Ship Brokers Commission

Item 194—For support of Yacht and Ship Brokers Commission, in accordance with the following schedule, payable from the Yacht and Ship Brokers Fund, eight thousand eight hundred ninety-two dollars $8,892.00

Schedule:

(a) Salaries and Wages	$4,792.00
(b) Operating Expenses	4,080.00
(c) Equipment	20.00

Board of Chiropractic Examiners

Item 195—For support of Board of Chiropractic Examiners, in accordance with the following schedule, payable from the Chiropractic Examiners' Fund, twenty-six thousand three hundred fifty-five dollars $26,355.00

Schedule:

(a) Salaries and Wages	$15,780.00
(b) Operating Expenses	10,350.00
(c) Equipment	225.00

State Board of Osteopathic Examiners

Item 196—For support of State Board of Osteopathic Examiners, in accordance with the following schedule, payable from the Osteopathic Examiners' Contingent Fund, twenty-five thousand ninety-four dollars.. $25,094.00

Schedule:

(a) Salaries and Wages.....	$17,480.00
(b) Operating Expenses	7,214.00
(c) Equipment	400.00

PUBLIC HEALTH

Department of Public Health

Item 197—For support of Department of Public Health, exclusive of Bureau of Cannery Inspection, in accordance with the following schedule, eight hundred fifteen thousand nine hundred forty-eight dollars..... $815,948.00 and in addition thereto any amounts collected for sales of antigens and for services performed for activities supported from other funds, which by law are available for support of said department

Schedule:

(a) Salaries and Wages.....	$657,462 00	
(b) Operating Expenses	160,291.00	
(c) Equipment	12,695.00	
Total of schedule		$830,448.00
Less: Estimated abatements from sales of antigens.	14,500 00	
Net appropriation		$815,948 00

No money appropriated by this act is available for expenditure for the salary of Secretary to the Board, General Administration, Departmental Administration, Department of Public Health, or for the salary of Public Relation Officer, Bureau of Venereal Diseases, Department of Public Health.

Item 198—For expenses and equipment necessary to complete revision and reorganization of the indexes and files of vital statistics, Department of Public Health, one hundred thousand dollars $100,000.00

Bureau of Tuberculosis

Item 199—For subsidies, Bureau of Tuberculosis, Department of Public Health, one million four hundred seventy-five thousand dollars $1,475,000.00

Bureau of Cannery Inspection

Item 200—For support of Bureau of Cannery Inspection, Department of Public Health, in accordance with the following schedule, payable from the Cannery Inspection Fund, four hundred ninety-three thousand one hundred thirty-seven dollars $493,137.00

Schedule:

(a) Salaries and Wages	$361,510.00
(b) Operating Expenses	129,517.00
(c) Equipment	2,110.00

Department of Public Health

Item 201—For support of Department of Public Health, in accordance with the following schedule, payable from Aviary Inspection Fund, two thousand dollars $2,000.00

Schedule:

(a) Salaries and Wages	$1,200.00
(b) Operating Expenses	800.00

Item 202—For support of Department of Public Health, in accordance with the following schedule, payable from the Clinic and Dispensary Fund, three thousand dollars $3,000.00

Schedule:

(a) Salaries and Wages	$2,000.00
(b) Operating Expenses	1,000.00

Item 203—For support of Department of Public Health, in accordance with the following schedule, payable from the Clinical Laboratory Fund, five thousand four hundred ninety-five dollars $5,495 00

Schedule:

(a) Salaries and Wages	$3,390.00
(b) Operating Expenses	2,010.00
(c) Equipment	95.00

Item 204—For support of Department of Public Health, in accordance with the following schedule, payable from the State Board of Public Health Fund, five thousand six hundred fifty-eight dollars $5,658.00

Schedule:

(a) Salaries and Wages	$3,510.00
(b) Operating Expenses	2,148.00

PUBLIC WORKS

Department of Public Works

Item 205—For pro rata support of Department of Public Works, exclusive of Division of Architecture, Division of Water Resources, Division of Highways, and Division of Contracts and Rights of Way, in accordance with the following schedule, forty-three thousand eight hundred thirty-seven dollars $43,837.00

Schedule:

(a) Salaries and Wages.....	$40,160.00
(b) Operating Expenses.....	3,200.00
(c) Equipment	477.00

Division of Architecture

Item 206—For support of Division of Architecture, Department of Public Works, in accordance with the following schedule, two hundred eight thousand nine hundred seventy-three dollars ..... $208,973 00 and in addition thereto any amounts collected for services to activities supported out of other funds which by law are available for support of said division.

Schedule:

(a) Salaries and Wages.....	$176,609 00
(b) Operating Expenses.....	39,524 00
(c) Equipment	2,840.00
Total of schedule.....	$218,973.00
Less: Estimated abatements for services to activities supported out of other funds	10,000.00
Net appropriation	$208,973 00

Item 207—For support of Division of Architecture, Department of Public Works, in accordance with the following schedule, payable from the Division of Architecture Public Building Fund, one hundred eighty-seven thousand forty-one dollars..... $187,041.00

Schedule:

(a) Salaries and Wages.....	$159,801.00
(b) Operating Expenses	24,040.00
(c) Equipment	3,200.00

Division of Water Resources

Item 208—For support of Division of Water Resources, including cooperative work with other agencies, in accordance with the following schedule, eight hundred twenty-eight thousand two hundred eleven dollars___ $828,211.00
and in addition thereto any amounts collected for services to activities supported out of other funds which by law are available for support of said division.

Schedule:

(a) Salaries and Wages_____	$534,426.00
(b) Operating Expenses ____	347,860.00
(c) Equipment _____	13,305.00
Total of schedule _____	$895,591.00
Less: Estimated abatements for services to activities supported out of other funds _____	$67,380.00
Net appropriation _____	$828,211.00

No money appropriated by this item is available for expenditure in furtherance of the Central Valley Project.

Item 208.1—For additional support of the Division of Water Resources, Department of Public Works, in furtherance of the Central Valley Project, seventy-five thousand dollars _____ $75,000.00

Item 208.3—For additional expenditure by the Department of Public Works, Division of Water Resources, upon the east levee of Sutter By-pass and levees of the Wadsworth Canal of the Sacramento River Flood Control Project, for construction, repair, reconstruction, operation, maintenance, control, lands, rights of way, easements and general administrative operation and overhead, two hundred thousand dollars_____ $200,000.00

Item 208.5—For construction, renewal, and repair of work for restraining, impounding, and control of debris resulting from mining operations, natural erosion, and other causes along the Yuba River, Department of Public Works, Division of Water Resources; provided, however, that the money herein appropriated shall be available subject to the provisions of Sections 2, 3 and 4 of Chapter 686, Statutes of 1935, thirty thousand dollars $30,000.00

Item 209—For support of supervision of outdoor advertising, Department of Public Works, in accordance with the following schedule, payable from Supervision of Outdoor Advertising Fund, seventy thousand three hundred dollars $70,300.00

Outdoor advertising

Schedule:

(a) Salaries and Wages	$44,940.00
(b) Operating Expenses	24,720.00
(c) Equipment	640.00

Item 210—For construction, land, rights of way, easements, and general administrative operations and overhead, Reclamation Board, pursuant to the provisions of Chapter 176 of California Statutes of 1925, approving the modified report of the California Debris Commission, dated January 5, 1925, which said report was adopted by the United States in Section 13 of that certain act of Congress entitled "An act for the control of floods, on the Mississippi River and its tributaries, and for other purposes," approved May 15, 1928, and for any other purpose to further carry out the legislation contained in said Chapter 176 of California Statutes of 1925, one million thirty-six thousand three hundred forty dollars $1,036,340.00

Reclamation Board

No money appropriated by this act is available for expenditure for the salary of Secretary, Administration, State Reclamation Board.

Colorado River board

Item 211—For support of Colorado River Board, in accordance with the following schedule, nineteen thousand four hundred forty-two dollars---- $19,442.00

Schedule:

(a) Salaries and Wages----	$15,420.00
(b) Operating Expenses ----	3,972.00
(c) Equipment ----------	50.00

SOCIAL WELFARE

Department of Social Welfare

Item 212—For support of Department of Social Welfare, in accordance with the following schedule, seven hundred eighty-nine thousand two hundred sixty-four dollars---------- $789,264.00 to be transferred to the Social Welfare Fund under the provisions of Section 124 of the Welfare and Institutions Code. Such appropriation shall be in addition to any grants made available by the Federal Government for support of the Department of Social Welfare during the Ninety-third and Ninety-fourth Fiscal Years.

Schedule:

(a) Salaries and Wages----	$1,791,877.00
(b) Operating Expenses ----	606,900.00
(c) Equipment ----------	30,949.00
Total of schedule-------	$2,429,726.00
Add: Estimated contributions to State Employees' Retirement Fund ----	67,196.00
Less: Estimated amounts payable from Federal grants ----------	1,707,658.00
Net appropriation ---------	$789,264.00

MISCELLANEOUS

Compensation benefits of State officers and employees

Item 215—For such proportion of the compensation benefits to State officers and employees as in each case the contribution out of the General Fund to the salary of such officer or employee, during the portion of the Ninety-third and Ninety-fourth Fiscal Years prior to the date when the benefit becomes payable, bears to the total salary of such officer or employee during the same period, or for officers and employees of the State paid in whole or in part from the State Vocational Education Fund or Vocational Rehabilitation Fund; or for premiums on insurance therefor, three hundred thousand dollars ---------- $300,000.00

Emergency Fund

Item 216—For Emergency Fund, exempt from Section 6 of this act, to be expended only on written authorization of the State Department of Finance for emergencies; provided, that loans may be made from the Emergency Fund to State agencies which derive funds from sources other than the General Fund upon such terms and conditions for repayment as may be prescribed by the State Department of Finance, one million dollars ---------- $1,000,000.00

Emergencies within the meaning of this provision are hereby defined as contingencies for which no appropriation, or insufficient appropriation, has been made by law.

Special Emergency Fund

Item 217—For special Emergency Fund, to be expended only on written authorization of the State Department of Finance for augmentation of the appropriations for support of the State prisons, State hospitals, and other State institutions, when and if commodity prices increase during the Ninety-third and Ninety-fourth Fiscal Years, five hundred thousand dollars---------- $500,000.00

San Francisco Harbor Commissioners

Item 218—For support of Board of State Harbor Commissioners, San Francisco, payable from San Francisco Harbor Improvement Fund, three million seven hundred eight thousand three hundred seventy-two dollars_____ $3,708,372.00

Item 219—For maintenance of fire boats, Board of State Harbor Commissioners, payable from San Francisco Harbor Improvement Fund, one hundred eighty-five thousand dollars_____ $185,000.00

Item 220—For construction and improvements of wharves, piers, sheds, bridges, tracks, and other construction, improvements and equipment as needed, Board of State Harbor Commissioners, San Francisco, payable from San Francisco Harbor Improvement Fund, two hundred forty-five thousand dollars_____ $245,000.00

Publications

SEC. 3. When any State publication is printed and paid for out of any appropriation in this act, the disposition of the same shall be subject to the provisions of Section 2295a of the Political Code of the State of California. The sums that are herein appropriated for expenses of the Senate and Assembly shall be disbursed under the direction of the bodies to which they respectively belong, and shall not be subject to any of the provisions of Sections 669 or 677.5 of the Political Code; provided, that the State Controller shall not be required to draw such warrants until the original claims and vouchers, itemized and properly sworn to, are filed with him. The sums herein appropriated for the expenses of the National Guard shall be audited by The Adjutant General, as required by Sections 190 and 192 of the Military and Veterans Code.

Legislative expenses

National Guard

Payments from appropriations

SEC. 4. The State Controller is hereby expressly prohibited from allowing any demands payable out of any appropriation herein contained, unless the same are presented in accordance with the provisions of Section 669 of the Political Code; provided, that in instances where the duties of any State officers or board make necessary the use of moneys for purposes of a confidential nature, the State Controller may audit claims for such expense without requiring itemization or vouchers; but such claims must be accompanied by a statement of the fact surrounding the expenditure, which statement must be filed in the office of the State Controller; provided further, that the total amount so allowed for such confidential purposes from the moneys herein appropriated shall not exceed in any one fiscal year the sum of two thousand dollars ($2,000), except in the case of the Attorney General's office, whose

expenditures for such confidential purposes shall be governed by Section 476 of the Political Code. All bills and vouchers, which shall be presented for supplies furnished or services rendered, shall be original bills and vouchers of the parties furnishing supplies and rendering services; provided, that no officer shall use or appropriate any money, appropriated by this act, for any purpose whatever, unless authorized thereto by law; and provided, that any officer, board, commission, or department for whom any appropriation is made herein, may, without at the time furnishing vouchers and itemized statements, draw from such appropriations a sum not to exceed 1 per cent of the total amount appropriated for any such officer, board, commission or department; and provided further, that any officer, board, commission or department for whom any appropriation is made herein, may with the permission and the approval of the Department of Finance, and without at the time furnishing vouchers or itemized statements, draw from such appropriation a sum in excess of 1 per cent, but not to exceed 5 per cent of the total amount appropriated for any such officer, board, commission or department. Vouchers and itemized statements

Any sums drawn under the provisions of this section without at the time furnishing vouchers and itemized statements, shall be considered to have been withdrawn from the amount appropriated for the Ninety-fourth Fiscal Year and need not be returned at the close of the Ninety-third Fiscal Year, and shall be used as a revolving fund where payment of compensation earned, traveling expense advances, or other cash payments are necessary, and at the close of each biennium, or at any other time, upon the demand of the Department of Finance, must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

SEC 5. The appropriations under this act shall, unless otherwise provided, be subject to the provisions of Section 677.5 of the Political Code. Application of Pol C Sec 677 5

SEC. 6. Not more than one-half of the amount appropriated under this act for each office, board, commission, department, or institution for support shall be expended during the Ninety-third Fiscal Year, unless the same has been expressly authorized by this act, or by the State Board of Control. Ninety-third fiscal year

SEC. 7. The officers of the various departments, boards, commissions and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditure in excess of such appropriations, except the consent of the State Department of Finance be first obtained, and a certificate, in writing, duly signed by the director of said department, of the unavoidable necessity of such expenditure; and any indebtedness attempted to be created against the State in violation of the provisions of this section shall be absolutely null and void; and shall not be Expenditures in excess of appropriations

allowed by the State Controller nor paid out of any State appropriation; provided, that any member of any such department, board, commission or institution, who shall vote for any expenditure, or create any indebtedness against the State in excess of the respective appropriations made by this act, except by the consent of the State Department of Finance and the certificate in this section provided to be first obtained, shall be liable on his official bond for the amount of such indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm or corporation to whom such indebtedness is owing.

Item 57. Vocational education

SEC. 8. Notwithstanding anything in this act to the contrary, the appropriation provided for by Item 57 of this act is appropriated subject only to the provisions of Article 10 of Chapter 1 of Part 4 of Division 3 and of Chapter 5 of Part 1 of Division 4 of the School Code. Of the sum so appropriated, one hundred fifty thousand dollars ($150,000) is appropriated for each of the Ninety-third and Ninety-fourth Fiscal Years, and of the sum appropriated for each such fiscal year there may be expended for use during such fiscal year nineteen thousand six hundred fifteen dollars and fifty cents ($19,615.50) for agricultural subjects, fifty-four thousand three hundred seven dollars and fifty-four cents ($54,307.54) for trade and industrial subjects, twenty-seven thousand four hundred ninety-six dollars and eighteen cents ($27,496.18) for homemaking subjects, fifteen thousand six hundred fifty-three dollars and ten cents ($15,653.10) for distributive occupation subjects, and thirty-two thousand nine hundred twenty-seven dollars and sixty-eight cents ($32,927.68) for teacher training.

Acceptance of U. S. C., Title 20, Sec. 15h, et seq.

In making the appropriation contained in Item 57 of this act the people of the State of California do hereby accept the provisions of, and each and all of the funds provided by an act passed by the Senate and House of Representatives of the United States of America in Congress assembled, entitled "An act to provide for the further development of vocational education in the several States and Territories" and approved June 8, 1936. In accepting the benefits of said act the people of the State of California agree to comply with all of its provisions and to observe all of its requirements.

Fire insurance

SEC. 9. No money appropriated by this act shall be used to renew, or to pay for the renewal of any fire insurance on any public building or property, nor to effect or pay for any new insurance on any public building or property, except the property of San Francisco Harbor, the University of California, and the property referred to in Section 6 of Chapter 264, Statutes of 1933.

Transfer of unneeded funds

SEC. 10. The State Board of Control may, upon the recommendation of the Director of Institutions and the Director of Finance, authorize the transfer of unneeded funds from an appropriation for support or construction, improvement and equipment for an institution within the Department of Institutions to a similar appropriation of another institution within

the Department of Institutions, and in connection therewith may authorize appropriate adjustments in the respective schedules set forth for each such appropriation in Section 2 hereof.

Same

SEC. 11. The State Board of Control may, upon the recommendation of the Director of Education and the Director of Finance, authorize the transfer of unneeded funds from an appropriation for support or construction, improvement and equipment for a State college or school within the Department of Education to a similar appropriation of another State college or school within the Department of Education, and in connection therewith may authorize appropriate adjustments in the respective schedules set forth for each such appropriation in Section 2 hereof.

Same

SEC. 12. The State Board of Control may, upon the recommendation of the Board of Prison Directors and the Director of Finance, authorize the transfer of unneeded funds from an appropriation for support or construction, improvement and equipment for a State prison to a similar appropriation of another State prison, and in connection therewith may authorize appropriate adjustments in the respective schedules set forth for each such appropriation in Section 2 hereof.

Limitation of expenditures

SEC. 13. In providing that certain appropriations in Section 2 of this act are to be expended in accordance with a schedule set forth after each such appropriation item, it is the intent of the Legislature to limit thereby the amount of money to be expended from each such appropriation item for certain specified purposes, such as, "Salaries and Wages," "Operating Expenses," or "Equipment," using in that connection the same terms as used in the detailed budget of the officer, department, division, bureau or other agency to whom the appropriation is made, as contained in that document entitled "State of California Budget for the Biennium July 1, 1941, to June 30, 1943, Ninety-third and Ninety-fourth Fiscal Years," submitted by the Governor to the Legislature at the Fifty-fourth Session; except, however, that the terms "Materials and Supplies," and "Service and Expense," as used in that document, are combined under the designation "Operating Expenses" for the purposes of this act. Each such schedule in this act is a restriction or limitation upon the expenditure of the respective appropriation made by this act, does not itself appropriate any money and is not itself an item of appropriation.

As used in such schedules:

"Salaries and wages"

"Salaries and Wages" shall include all expenditures for pay of officers and employees of the State but does not include compensation of independent contractors rendering personal services to the State under contract.

"Operating expenses"

"Operating Expenses" shall include all expenditures for purchase of materials, supplies (including expendable equipment), services (other than personal services of State officers and employees), and all other proper expenses (other than

the acquisition and replacement of nonexpendable tangible property).

"Equipment" "Equipment" shall include all expenditures for the acquisition or replacement of nonexpendable tangible property.

For the purpose of further interpreting the meaning of the words, terms and phrases used in such schedules, reference is hereby made to the aforementioned Budget document and the appropriate portions thereof.

Augmentation of amount available SEC. 13.5. The State Board of Control may, upon recommendation of the Director of Finance pursuant to a request by the officer, department, division, bureau, board, commission, or other agency to whom an appropriation is made herein, authorize the augmentation of the amount available for expenditure for a purpose designated in any schedule set forth for such appropriation in Section 2 by transfer from any of the other designated purposes within the same schedule.

No authorization given by the State Board of Control pursuant to this section in respect to any augmentation of the amount available for expenditure for any purpose is valid unless given with the unanimous consent of the State Board of Control expressed in the form of a resolution which shall set forth the reasons and necessity for the authorization and shall be entered upon the minutes of the board.

The State Board of Control shall submit to each member of the Legislature not later than the fifteenth day of each month a report on all authorizations given pursuant to this section during the preceding month. The report shall contain such information regarding each authorization as shall be sufficient to apprise the members of the Legislature as to the reasons and necessity therefor.

Authorization of augmentation SEC. 13.6. The Director of Finance may, upon request of the officer, department, division, bureau, board, commission, or other agency to whom an appropriation is made herein, authorize the augmentation of the amount available for expenditure for a purpose designated in any schedule set forth for such appropriation in Section 2 hereof in the amount of any funds which he estimates will be received by said officer, department, division, bureau, board, commission, or other agency during the Ninety-third and Ninety-fourth Fiscal Years from any other officer, department, division, bureau, or other agency of this State, from any county, city and county or city, or any agency thereof, from the Federal Government, or any agency thereof, from any appropriation made by the Legislature at the Fifty-fourth Session, or from any other source which he determines has not been taken into consideration in said schedule, or is in excess of the amount so taken into consideration.

Effect of item veto, etc. SEC. 14. If any item of appropriation in this act is vetoed, eliminated or reduced by the Governor under Sections 16 and 34 of Article IV of the Constitution while approving other portions of this act, such veto, elimination or reduction shall

not affect the other portions of this act and these other portions of this act, so approved, shall have the same effect in law as if any vetoed or eliminated items of appropriation had not been present in this act and as if any reduced item of appropriation had not been reduced.

Transfer of appropriations

SEC. 15. Whenever any of the duties, powers, purposes, responsibilities, or jurisdiction of any office, officer, board, commission, bureau or other agency of the State are transferred by law to any other office, officer, board, commission, bureau or other agency of the State, that portion of any appropriation herein made from the General Fund for the support of such office, officer, board, commission, bureau or other agency of the State, intended to be used and available for the performance of such duties, powers, purposes, responsibilities or jurisdiction, shall, by the State Controller, be transferred to, and the same shall become a part of, the funds available for the support of the office, officer, board, commission, bureau or other agency of the State, to which the duties, powers, purposes, responsibilities, or jurisdiction of such office, officer, board, commission, or other State agency have been transferred.

Reversion of appropriations

SEC. 16. Whenever the duties, powers, purposes, responsibilities and jurisdiction of any office, board, commission or other State agency are abolished by law the appropriation herein made for the support of such office, board, commission, or other State agency shall upon the effective date of the act abolishing such office, board, commission or other State agency revert to and become a part of the unexpended balance of the fund from which such appropriation was made.

Constitutionality

SEC. 17. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Current expenses

SEC. 18. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provision of Section 1, of Article IV of the Constitution of the State of California, take effect immediately.

CHAPTER 601

Stats 1941, p 122, amended

An act to add Section 1.7 to the Unemployment Relief Appropriation Act of 1940, relating to the relief of hardship and destitution due to and caused by unemployment and the administration thereof, providing terms and conditions upon which such relief may be granted, making an appropriation therefor, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 5, 1941. Filed with Secretary of State June 5, 1941.]

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

New section

SECTION 1. Section 1.7 is hereby added to the Unemployment Relief Appropriation Act of 1940, to read as follows:

Appropriation: Unemployment relief

Sec. 1.7. (a) The sum of one million dollars ($1,000,000) is hereby appropriated to the Relief Administrator and the Relief Commission for the relief of hardship and destitution due to and caused by unemployment and the administration thereof as provided in the act and the California Unemployment Relief Act of 1935, during the fourth quarter of the Ninety-second Fiscal Year. Of the money appropriated by this subdivision, sixty thousand six hundred forty-two and fifty-two hundredths dollars ($60,642.52) shall be drawn from that certain special deposit fund known and designated as "Unemployment Relief Donations, Horse Racing Tracks" and the remainder shall be drawn from the General Fund in the State Treasury.

Fiscal year

(b) Except for the apportionment for the administrative expenses of the Controller, all sums remaining unexpended under Sections 1, 1.5, 1.6 and 3 of this act shall be available for expenditure during the fourth quarter of the Ninety-second Fiscal Year by the Relief Administrator and the Relief Commission. The apportionment for the administrative expenses of the Controller provided in Sections 1 and 1.5 of this act remaining unexpended shall be available for expenditure by the Controller during the fourth quarter of the Ninety-second Fiscal Year.

(c) As used in this section (i) "unexpended" describes sums of money which are unencumbered and against which no commitments have been made by the Relief Administrator and Relief Commission or which having been encumbered or committed, have been unencumbered and the commitment released by the Relief Administrator and the Relief Commission, and (ii) "expended" describes sums of money which are encumbered and against which commitments are made.

(d) "Appropriation" as used in this act (including Section 18) refers to the appropriation made by this section.

(e) The sum appropriated by subdivision (a) shall, upon order of the State Controller, be transferred to the Unemployment Relief Fund and shall be disbursed therefrom for the

purposes herein provided. Until such time as such transfer is made, or when there is no money in said fund, the procedure for transfer of money from other funds prescribed by Section 1a of the California Unemployment Relief Act of 1935 shall be applicable hereto.

(f) All money appropriated by this section shall be subject to all the limitations and conditions imposed by this act upon the money appropriated by Sections 1, 1.5 and 1.6.

SEC. 3. This act is hereby declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows: Urgency

The appropriation for unemployment relief is about to be totally expended and it is necessary that additional funds be made available immediately. Unless this act providing immediate funds and the means for the expenditure thereof and safeguards upon their use takes effect immediately relief operations will have to be suspended at a time when the need is great, which will result in untold hardship and suffering to a great number of persons receiving relief in this State at this time, and will cause serious unrest throughout the State.

CHAPTER 602

An act to add Section 696 to the Political Code and to repeal an act entitled "An act appropriating money to create a revolving fund for the Department of Finance for State purchases and repealing an act entitled 'An act appropriating money to create a revolving fund for the State Purchasing Department,' approved May 15, 1917," approved May 22, 1919, relating to the revolving fund for State purchases and the purposes for which it may be expended, to take effect immediately. Stats 1919, p 850, repealed

[Approved by Governor June 5, 1941. Filed with Secretary of State June 5, 1941.] In effect immediately

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

SECTION 1. Section 696 is hereby added to the Political Code, to read as follows: New section

696. A revolving fund in the sum of four hundred thousand dollars ($400,000) is hereby established under the control of the State Department of Finance for State purchases and, in connection therewith, for the employment and compensation of necessary personnel and expenses. The department may draw from the fund established by this section, without first submitting vouchers and itemized accounts, a sum not in excess of ten thousand dollars ($10,000) to be used for urgent cash advances, which sum must at any time upon Revolving fund for State purchases

demand be accounted for by the department to the State Controller.

Repeal SEC. 2. An act entitled "An act appropriating money to create a revolving fund for the Department of Finance for State purchases and repealing an act entitled 'An act appropriating money to create a revolving fund for the State Purchasing Department,' approved May 15, 1917," approved May 22, 1919, is hereby repealed.

Transfer All money and assets in the revolving fund created by the act repealed by this section are hereby transferred to the revolving fund established under Section 696 of the Political Code, and the Controller shall make the necessary transfers upon his books for this purpose.

Ratification All payments heretofore made for State purchases and, in connection therewith, for the employment and compensation of necessary personnel and expenses from the revolving fund created by the act repealed by this section are hereby ratified.

Current expenses SEC. 3. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution of the State of California, take effect immediately.

CHAPTER 603

Stats 1933, p 1969, amended *An act to amend Section 23 of the Agricultural Prorate Act, relating to the termination of proration programs.*

In effect September 13, 1941 [Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

Stats 1939, p 2501 SECTION 1. Section 23 of the Agricultural Prorate Act is hereby amended to read as follows:

Termination of program Application Sec. 23. After the institution of any proration program, such program shall be terminated when there is filed with the commission an application for its termination signed by not less than 40 per cent of the producers and by the owners of 40 per cent of the producing factors of the industry within the zone in which the program is effective. The signatures of the producers and owners upon the application shall be those of the producers and owners whose names appear on the list or lists provided for in Section 11 or on any corrected list which the commission shall have had prepared during the existence of the program, or their successors in interest. Each petitioner shall upon affixing his signature thereto write in the date of signing, and no signature to such petition shall be valid for any purpose if affixed thereto more than six months prior to the filing of such application with the commission. Such

Undertaking petition shall be accompanied by a good and sufficient undertaking in an amount equal to the probable cost of conducting said hearing. A hearing must be held upon the petition to

Hearing determine the sufficiency of the signatures thereto, which hearing must be held within 30 days after the presentation of the

petition. If upon such hearing, it shall be established that the petition to terminate is signed by said required 40 per cent of such producers and by the owners of 40 per cent of the producing factors, the commission shall thereupon terminate the program; provided, that any program on a seasonal crop shall not be terminated except at the end of its marketing season.

In such case, the cost of conducting such hearing shall be paid from the funds of the program to the extent that they are available and thereafter from the undertaking. In the event the petition be found insufficiently signed, the entire cost of conducting such hearing shall be paid from the undertaking. In the event of the termination of a program, any funds remaining for the use of the program committee not otherwise disposed of by the provisions of this act shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund. Costs of hearing

The director, on behalf of the commission, may at any time initiate an investigation to determine whether or not the facts specified in Section 10 hereof continue to exist. Upon a finding that any one or more of the prerequisite facts no longer exist, the commission shall terminate or suspend said program. In no case shall any program on a seasonal crop be terminated except at the end of its marketing season.

CHAPTER 604

An act to add Sections 408 and 467 to the Revenue and Taxation Code, relating to property taxation, including inspection of information and records in the county assessor's office, and the filing of statements pertaining to specified property subject to taxation, to take effect immediately. Stats. 1939, p. 1274, amended

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.] In effect immediately

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

SECTION 1. Section 408 is hereby added to the Revenue and Taxation Code, to read as follows: New section

408. Any information and records in the assessor's office which are not required by law to be kept or prepared by the assessor are not public documents and shall not be open to public inspection. Assessor's records

SEC. 2. Section 467 is hereby added to the Revenue and Taxation Code, to read as follows: New section

467. Annually, on or before March 20th, every taxing agency shall file with the assessor of the county in which the property is located statements containing legal descriptions of Annual statement of taxing agency

(a) All real estate which it has conveyed by deed to any person during the assessment year ending on the preceding first Monday in March.

(b) All real estate owned by it on the preceding first Monday of March and which it has agreed by contract in writing to sell and convey to any person. The statement covering property sold by contract shall show for each parcel of real estate the name and address of the purchaser, the consideration for the sale and conveyance thereof, and the amount of the consideratioin paid as of the first Monday of March.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV, of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

The complex procedure for the taxation of property unfolds from the first Monday in March, on which date taxes become a lien on property for the ensuing fiscal year. Also, the Revenue and Taxation Code, which consolidates and revises the law relating to taxation and the raising of revenue, became effective on February 1, 1941. It is imperative that this act take effect immediately in order that the orderly process of property taxation may not be obstructed by this act's going into effect long after the lien date. Also, it is essential that the provisions of this act take effect as soon after the effective date of the Revenue and Taxation Code as is possible in order that the transition from operating under the existing provisions of law to acting under the Revenue and Taxation Code may be accomplished with a minimum of confusion and with the greatest possible continuity of action. For this act not to go into effect immediately would result in needless uncertainty and unnecessary litigation possibly terminating in the loss or delayed collection of large amounts of property taxes.

CHAPTER 605

Stats 1939, p 1274, amended

An act to amend Section 110 of the Revenue and Taxation Code, relating to property taxation and the determination of the actual value of intangibles, to take effect immediately.

In effect immediately

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

Stats 1939, p 1277

SECTION 1. Section 110 of the Revenue and Taxation Code is hereby amended to read as follows:

"Value"

110. "Value," "full cash value," or "cash value" means the amount at which property would be taken in payment

of a just debt from a solvent debtor. In determining the "actual value" of intangible personal property, the assessor shall not take into account the existence of any custom or common method, if any, in arriving at the full cash value of any class or classes of property.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV, of the Constitution of the State of California, and shall take effect immediately. Urgency

The following is a statement of facts constituting such necessity:

The complex procedure for the taxation of property unfolds from the first Monday in March, on which date taxes become a lien on property for the ensuing fiscal year. Also, the Revenue and Taxation Code, which consolidates and revises the law relating to taxation and the raising of revenue, became effective on February 1, 1941. It is imperative that this act take effect immediately in order that the orderly process of property taxation may not be obstructed by this act's going into effect long after the lien date. Also, it is essential that the provisions of this act take effect as soon after the effective date of the Revenue and Taxation Code as is possible in order that the transition from operating under the existing provisions of law to acting under the Revenue and Taxation Code may be accomplished with a minimum of confusion and with the greatest possible continuity of action. For this act not to go into effect immediately would result in needless uncertainty and unnecessary litigation possibly terminating in the loss or delayed collection of large amounts of property taxes.

CHAPTER 606

An act to amend Section 1151 of the Insurance Code, relating to insurance. Stats 1935, p 496, amended

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1151 of the Insurance Code is hereby amended to read as follows: Stats 1937, p 2019

1151. If, after a hearing, the commissioner is satisfied that an insurer is carrying upon its books any parcel or parcels of real estate at values exceeding the sound market value thereof, he may order the insurer to: Disposal of real estate

(a) Create an adequate contingency reserve against the book value of such parcel or parcels, or

(b) Reduce the book value of such parcel or parcels by a corresponding amount.

In case of real estate, not of a character described in subdivisions (a) or (b) of Section 1150 or acquired under subdivision (h) of Section 1150 as requisite or desirable in connection with real estate acquired under subdivision (a) or (b), which has been held by the insurer for more than five years, the commissioner may order the insurer to dispose of such real estate within six months if, after a hearing, the commissioner is satisfied that:

(1) The insurer has refused reasonable offers for the sale of such real estate, or

(2) Such real estate may be disposed of without undue hardship to such insurer.

For the purpose of enabling him to determine upon the issuance of an order pursuant to this section, the commissioner, if he is not satisfied with the appraisal furnished at his request by the insurer, may appraise such real estate at the expense of the insurer.

The commissioner may suspend or revoke the certificate of authority of an insurer failing to comply with any order issued under the provisions of this section.

When effective, see Stats 1941, Res Ch. 84

SEC. 2. Section 1 of this act shall take effect on the adoption by the people of Assembly Constitutional Amendment No. 53 of the Fifty-fourth Session of the California Legislature.

CHAPTER 607

An act to provide for the acquisition, development, and disposal of electrical power by Palo Verde Irrigation District and granting to said district right of ways for electric light and power lines.

In effect September 13, 1941

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

Electrical power

SECTION 1. Palo Verde Irrigation District may purchase or lease electrical power from any agency or entity, public or private, and may provide for the construction, acquisition, operation, leasing and control of plants for the generation, transmission, distribution, sale and lease of electrical energy including sale to municipalities, corporations, public utility districts, or individuals, of electrical power so purchased, leased or generated; and said district, subject, however, to the conditions in this section contained, may make special appropriations of water for power purposes, as required by law; provided, however, that any use of water for generating such electrical power or energy at any given time of the year, which use is in excess of the water appropriated and beneficially used for irrigation purposes by the district at said period of the year, shall be subject to all prior existing appropriations by any municipal corporation, which is proceeding in good faith

in the expenditure of money and the construction of works designed to divert the water appropriated. The officers, agents and employees of the district shall have the same powers, duties and liabilities respecting such power and the construction, acquisition, repair, maintenance, management and control thereof as they now have or may hereafter have respecting irrigation. The Palo Verde Irrigation District Act shall be so construed, applied and enforced as to apply to such power as well as such irrigation, except that nothing in said act shall be so construed as to prevent the sale of power by the district for use outside of the boundaries of the district. The board of trustees of the district and its officers, agents and employees shall do all necessary and proper acts for the construction, repair, maintenance and management of such electrical power works for such purposes. In case funds are not otherwise available the district may issue bonds for such purpose and all of the provisions of the Palo Verde Irrigation District Act, relating to the issues of bonds for other purposes, and all other acts relative to bonds issued under the Palo Verde Irrigation District Act, in so far as the same are applicable to said bonds shall apply; provided, however, that said district shall not incur any bonds or other contractual obligation with the United States for or in connection with the borrowing by the district of funds for the construction, acquisition, operation, leasing and control of plants for the generation, transmission, distribution, sale and lease of electrical energy without first securing authorization therefor from the electors of said district by a two-thirds affirmative vote at an election wherein proceedings shall be had, in so far as applicable, in the manner provided in the case of the ordinary issuance of district bonds. All acts or parts of acts in conflict with any of the provisions of this section are hereby repealed.

Stats 1923, p 1067

Management of works

Issuance of bonds

SEC. 2. There is hereby granted to Palo Verde Irrigation District the right to construct, operate and maintain electric light and electric power lines along, over, under, or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume which the route of such work intersects, crosses or runs along in such manner as to afford security for life and property, but the district shall restore the road, street, alley, avenue, highway, railway, canal, ditch or flume thus intersected to its former state of usefulness as near as may be; provided, however, that the district may not use any street, alley, avenue or highway within any city for such purpose, unless the right so to use the same is granted by a vote of the governing body of such city which shall have the right to impose reasonable conditions upon such use; provided, also, that such grant of authority shall not be necessary in any case where the street, alley, avenue or highway, or a portion thereof, proposed to be used for the purpose of constructing, operating or maintaining any such works, or any part thereof is a necessary or convenient part of the route of such works and at the time construction thereof was commenced, or the

Rights of way

Exceptions

plans adopted therefor, was located in territory not then within an organized city; and provided further, that the rights herein granted are subject to compliance by said district in respect to any State highway with the provisions of Article 2 of Chapter 3 of Division 1 of the Streets and Highways Code.

CHAPTER 608

Stats 1927, p 838, amended

An act to amend Section 1 of "An act to provide for the creation of a Commission on Uniform State Laws, the appointment of commissioners thereto, and to appropriate money for traveling expenses," approved May 14, 1927, relating to the Commission on Uniform State Laws.

In effect September 13, 1941

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

Stats 1927, p 838

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Uniform State Laws Commission

Section 1. The Governor shall appoint three commissioners, each of whom shall be a member of the bar of this State in good standing, who shall constitute and be known as the "Commission on Uniform State Laws," and upon the death, resignation or refusal to serve of any of the commissioners so appointed the Governor shall make an appointment to fill the vacancy so caused, such new appointment to be for the unexpired balance of the term of the original appointee. That each commissioner shall hold office for a term of four years and until his successor is duly appointed, but nothing herein contained shall be construed to render a commissioner who has faithfully performed his duties ineligible for reappointment. The Legislative Counsel is an ex officio nonvoting member of the commission. No member of said commission shall receive any compensation for his services as commissioner.

Legislative Counsel

CHAPTER 609

Stats 1935, p 496, amended

An act to add Section 1100.1 to the Insurance Code, relating to investments and advancements of credit by insurers.

In effect September 13, 1941

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

New section

SECTION 1. Section 1100.1 is hereby added to the Insurance Code, to read as follows:

Authority to engage in loan transactions

1100.1. Every admitted incorporated insurer may under a certificate of authority issued pursuant to the provisions of Article 3 of this chapter of this code, engage in this State in

the type of loan transactions otherwise permitted by law without obtaining any other license or certificate.

SEC. 2. This act is not intended to change existing law but is intended to be declaratory thereof. Declaration of intent

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CHAPTER 610

An act to repeal Section 400.5 and to amend Section 404 of the Civil Code, relating to dissolution of corporations.

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.] In effect September 13, 1941

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

SECTION 1. Section 400.5 of the Civil Code is hereby repealed. Stats 1939, p 2219

SEC. 2. Section 404 of the Civil Code is hereby amended to read as follows: Stats 1939, p 2220

404. (A) A complaint for involuntary winding up or dissolution of a corporation other than one subject to the Bank Act, the Public Utility Act or the Building and Loan Act may be filed in the superior court of the county where the principal office is located either (a) by one-half of the directors or (b) by a shareholder or shareholders who have been record holders for a period of not less than six months and who hold not less than 33⅓ per cent of the number of outstanding shares or (c) under subdivision (7) of subparagraph (B) of this section by any shareholder. Involuntary dissolution Complaint

(B) The court, upon filing of a complaint duly verified, may entertain proceedings for the involuntary winding up or dissolution of a corporation, when it is made to appear that any one or more of the following reasons exist: Grounds for proceeding

(1) The corporation has abandoned its business for more than one year; or

(2) The corporation has an even number of directors who are equally divided and can not agree as to the management of its affairs, so that its business can not longer be conducted to advantage or so that there is danger that its property and business will be impaired and lost; or

(3) The holders of the voting shares of the corporation are so divided into factions that they can not agree upon or elect a board of directors consisting of an uneven number; or

(4) There is internal dissension and two or more factions of shareholders in the corporation are so deadlocked that its business can not longer be conducted with advantage to its shareholders; or

(5) The directors or those in control of the corporation have been guilty of persistent fraud or mismanagement or abuse of authority, or persistent unfairness toward minority

shareholders, or its property is being misapplied, wasted or lost by its directors or officers; or

(6) The liquidation is reasonably necessary for the protection of the rights or interests of any substantial number of the shareholders, or of the complaining shareholders; or

(7) The period for which the corporation was formed has terminated without extension of such period.

Provisional director

(C) Notwithstanding any provisions of the articles or by-laws of the corporation and whether or not an action is pending for an involuntary winding up or dissolution of the corporation, in case of a deadlock in the board of directors as set forth in paragraph (2) of subparagraph (B) of this section, the superior court of the county where the principal office of the corporation is located may, in an action for an involuntary winding up or dissolution of the corporation or in an independent action filed by one-half of the directors or by the holders of not less than 33⅓ per cent of the outstanding shares, appoint an impartial person, who is neither a shareholder nor a creditor of the corporation, nor related by consanguinity or affinity within the third degree to any of the other directors of said corporation, or to any judge of the court by which he is appointed, to act as a provisional director with all the rights and powers of a director, entitled to notice of the meetings of the board of directors and to vote at such meetings, until such time as the deadlock in the board of directors is broken or until he be removed by order of the court or by vote or written consent of the holders of a majority of the voting shares Such provisional director shall be entitled to receive such compensation as may be agreed upon between him and the corporation, and in the absence of such agreement he shall be entitled to such compensation as shall be fixed by the court.

Receiver

(D) If at the time of the filing of a complaint for involuntary dissolution or at any time thereafter, the court has reasonable grounds to believe that unless a receiver of the corporation be appointed the interests of the corporation and its shareholders will suffer pending the hearing and determination of the complaint, upon the application of the plaintiff, and after a hearing upon such notice to the corporation as it may direct and upon giving such security as is provided in Sections 566 and 567 of the Code of Civil Procedure, the court may appoint a receiver to take over and manage the business and affairs of the corporation and to preserve its property pending the hearing and determination of the complaint for dissolution.

Powers of court

(E) The court, at the time of the hearing, if cause be shown, may decree a winding up and dissolution of the corporation or, with or without winding up and dissolution, may make such orders and decrees and award such injunctions in the cause as justice and equity may require; provided, however, that in any such suit the holders of 50 per cent or more of the outstanding shares of the corporation shall have the right

to avoid the appointment of a receiver or of the dissolution of such corporation by purchasing the shares of stock owned by the plaintiffs at their fair cash value. If 50 per cent or more of the outstanding shares of the corporation elect to purchase the shares owned by the plaintiffs and are unable to agree with the plaintiffs upon the fair cash value of such shares, and give bond with sufficient security to protect the interests and rights of the plaintiffs and to assure unto the plaintiffs the payment of the value of their shares, the court shall stay the proceeding and shall proceed to ascertain and fix the value of the shares owned by the plaintiff. For such purpose the court shall appoint three disinterested commissioners to appraise the fair value of such shares and shall make an order referring the matter to the commissioners so appointed for the purpose of ascertaining such value and such order shall prescribe the time and manner of producing evidence, if evidence be required. The award of such commissioners or of a majority of them, when confirmed by the court, shall be final and conclusive upon all parties and the court shall enter a decree for the amount of such award against such shareholders so electing to purchase and the surety or sureties on such bond and such decree may be enforced in the same manner as other decrees and judgments of such court. Such decree may be in the alternative and provide for winding up and dissolution of the corporation unless payment is made for the shares within the time specified by the decree. Any shareholder feeling aggrieved by such action of the court shall have the right of appeal. The holders of 50 per cent or more of shares so electing to purchase shall pay to plaintiff shareholders the value of their shares ascertained and decreed as aforesaid or, in case of an appeal, as fixed on such appeal; and, on receiving such payment or the tender thereof, such plaintiff shareholders shall transfer their shares to the defendant shareholders.

Election to purchase

Right of appeal

CHAPTER 611

An act to amend Sections 650.5, 650.6, 657, 658.5, 659 and to add Sections 657.5 and 658.3 of the Fish and Game Code, relating to salmon.

Stats 1933, p 394, amended

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 650.6 of the Fish and Game Code is hereby amended to read as follows:

Stats 1939, p 1043

650.6. It is unlawful to take any salmon except by angling. It is unlawful to fish for salmon with snag or gaff-hooks, set lines or lines having more than two attractor blades, or more than three hooks, or to take any salmon except by angling in

Salmon General restrictions

such a manner as to cause the salmon to voluntarily take the hook in its mouth. The provisions of this section do not affect any provisions of this code permitting the taking of salmon with nets, the taking of salmon with spear as provided in Section 651.6 or the taking of salmon by trolling in the ocean districts open to commercial fishing.

Stats 1933, p 454

SEC. 2. Section 650.5 of said code is hereby amended to read as follows:

Season generally

650.5. The provisions of this article relating to the times during which salmon may be taken with hook and line are subject to the provisions of Article 1, Chapter 2, Part 2, Division 4, and whenever an open season for trout is specified for any district or area, except Districts 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, salmon may be taken with hook and line in such district or area during the period of time so specified.

Stats 1933, p. 455

SEC. 3. Section 657 of said code is hereby amended to read as follows:

Bag limit: Districts 6, 7, 8 and 9

657. In Districts 6, 7, 8, 9, salmon may be taken with hook and line, between April 1st and September 15th. There is no bag limit. The size limit is as provided in Section 661 of this code.

Stats 1933, p 456

SEC. 4. Section 658.5 of said code is hereby amended to read as follows:

District 12

658.5. In District 12, salmon may be taken with hook and line, at any time. The bag limit is two per day.

Stats 1933, p 456

SEC. 5. Section 659 of said code is hereby amended to read as follows:

Districts 12B, 12C and 13

659. In Districts 12B, 12C, 13, salmon may be taken with hook and line, at any time. The bag limit is two per day.

New section

SEC. 6. Section 657.5 is hereby added to said code, to read as follows:

Districts 6, 7, 8 and 9

657.5. In Districts 6, 7, 8 and 9, salmon may be taken with hook and line between September 16th and December 31st. The bag limit is two per day. Not more than one daily bag limit may be possessed by any person during any one day. No such salmon may be sold.

New section

SEC. 7. Section 658.3 is hereby added to said code, to read as follows:

Districts 10 and 11

658.3. In Districts 10 and 11, salmon may be taken with hook and line between August 16th and October 31st. The bag limit is two per day. Not more than one daily bag limit may be possessed by any person during any one day. No such salmon may be sold.

CHAPTER 612

An act to amend Section 50¾ of the Public Utilities Act, authorizing the establishment of joint and through rates by highway common carriers.

Stats 1915, p 115, amended

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 50¾ of the Public Utilities Act is hereby amended to read as follows:

Stats 1937, p 629

Sec. 50¾. (a) No highway common carrier shall hereafter operate or cause to be operated any auto truck, or other self-propelled vehicle not operated on rails, for the transportation of property as a common carrier for compensation on any public highway in this State except in accordance with the provisions of this act.

Operation of highway common carriers

(b) The Railroad Commission of the State of California is hereby vested with power and authority to supervise and regulate every highway common carrier in this State; to fix the rates, fares, charges, classifications, rules and regulations of each such highway common carrier; to regulate the accounts, service and safety of operations of each such highway common carrier; to require the filing of annual and other reports and of other data by such highway common carriers; and to supervise and regulate highway common carriers in all other matters affecting the relationship between such carriers and the shipping public. The Railroad Commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations applicable to any and all highway common carriers. The Railroad Commission, in the exercise of the jurisdiction conferred upon it by the Constitution of this State and by this act, shall have power and authority to make orders and to prescribe rules and regulations affecting highway common carriers, notwithstanding the provisions of any ordinance or permit of any incorporated city or town, city and county, or county, and in case of conflict between any such order, rule or regulations and any such ordinance or permit, the order, rule or regulation of the Railroad Commission shall in each instance prevail.

Authority of Railroad Commission

(c) No highway common carrier shall hereafter begin to operate any auto truck, or other self-propelled vehicle, for the transportation of property for compensation on any public highway in this State without first having obtained from the Railroad Commission a certificate declaring that public convenience and necessity require such operation, but no such certificate shall be required of any highway common carrier as to the fixed termini between which or the route over which it was actually operating as a highway common carrier on July 26, 1917, and in good faith continuously thereafter, or for operations exclusively within the limits of an incorporated

Certificate of public convenience and necessity

city, town or city and county. Any right, privilege, franchise, or permit held, owned or obtained by any highway common carrier may be sold, assigned, leased, transferred or inherited as other property, only upon authorization by the Railroad Commission. The Railroad Commission shall have power, with or without hearing, to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity require. Without the express approval of the commission, no certificate of public convenience and necessity issued to one highway common carrier under the provisions of this section, or heretofore issued by the commission to one highway common carrier for the transportation of property by auto truck or self-propelled vehicle, nor any operative right of one highway common carrier founded upon operations actually conducted in good faith on July 26, 1917, shall be combined, united or consolidated with another such certificate or operative right issued to or possessed by another highway common carrier so as to permit through service between any point or points served, by one highway common carrier, on the one hand, and any point or points served, by another highway common carrier, on the other hand; nor, without the express approval of the commission, shall any through route or joint, through, combination, or proportional rate be established by one highway common carrier between any point or points which it serves, on the one hand, and any point or points served by another highway common carrier, on the other hand. Any one highway common carrier may establish through routes and joint rates, charges, and classifications between any and all points served by such highway common carrier under any and all certificates or operative rights issued to or possessed by such highway common carrier.

The Railroad Commission may at any time for a good cause suspend, and upon notice to the holder of an operating right acquired by virtue of operations conducted on July 26, 1917, as aforesaid, or to the grantee of any certificate, and opportunity to be heard, revoke, alter or amend any such operative right or certificate.

Issuance of cease and desist orders, etc

(d) When a complaint has been filed with the commission alleging that any vehicle is being operated without a certificate of public convenience and necessity as required by this act, or when the commission has reason to believe that this act is being violated, it shall be the duty of the commission to investigate such operations and the commission shall have power after a hearing to make its order requiring the owner or operator of such vehicle to cease and desist from any operation in violation of this act; and it shall be the duty of the commission to enforce compliance with such order under the powers vested in the commission by this act or by law.

CHAPTER 613

An act to amend Sections 1177 and 1203.6 of the Fish and Game Code, relating to entirely protected birds and to pheasants.

Stats 1933, p 394, amended

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1177 of the Fish and Game Code is hereby amended to read as follows:

Stats 1937, p 469

1177. It is unlawful to take or possess the following game birds, or any part thereof: Rails, wood ducks, shore birds (except Wilson snipe), sage hens, grouse, sand hill cranes, whooping cranes, little brown cranes, white cranes, swans, wild hen pheasants, bob white quail, imported quail (any variety), partridges, or wild turkeys.

Entirely protected birds

SEC. 2. Section 1203.6 of said code is hereby amended to read as follows:

Stats 1933, p 497

1203.6. Male pheasants may be taken between November 15th and November 24th. The bag limit is two per day and two in possession and not more than eight during any one open season.

Pheasants

CHAPTER 614

An act to amend the Fish and Game Code of the State of California by adding thereto Sections 103.7, 615.6, 615.7, 615.8, relating to steelhead trout fishing in the Carmel River.

Stats 1933, p 394, amended

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 103.7 is hereby added to the Fish and Game Code, to read as follows:

New section

103.7. District 103.7. The following shall constitute Fish and Game District 103.7: The Carmel River from its mouth to the westerly line of Los Laurelles Ranch excluding all tributaries. Except as otherwise provided all provisions relating to District 3 shall apply to District 103.7.

District 103.7

New section SEC. 2. Section 615.6 is hereby added to the Fish and Game Code, to read as follows:

Steelhead trout 615.6. In District 103.7 steelhead trout may be taken from December 1st to the last day of February and only on the Saturdays, Sundays, Wednesdays, and any legal holiday within such period including the opening and closing days of the season. The bag limit on steelhead trout in said districts is two per day, and not more than one daily bag limit may be possessed by any one person during one day.

New section SEC. 3. Section 615.7 is hereby added to the Fish and Game Code, to read as follows:

Nets and spears 615.7. It is unlawful to use or possess within 100 yards of the Carmel River or its tributaries any nets, other than hand landing nets, or spears.

New section SEC. 4. Section 615.8 is hereby added to the Fish and Game Code, to read as follows:

Treble hooks 615.8. It is unlawful to use or possess in, or within 100 yards of, District 103.7 any treble hooks.

CHAPTER 615

Stats 1917, p 673, amended *An act to amend Section 3 of an act entitled "An act providing for the regulation and supervision of companies, brokers, agents, and sales of securities as the same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a State Corporation Department and the office of 'Commissioner of Corporations,'" approved May 18, 1917, as amended, relating to the Division of Corporations, the regulation and supervision of companies, brokers, agents, investment counsel and sales of securities, and the prevention of fraud in the sale of securities.*

In effect September 13, 1941 [Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

Stats 1931, p 941 SECTION 1. Section 3 of the act cited in the title hereof is hereby amended to read as follows:

Permit to sell securities Sec. 3. No company shall sell any security, except upon a sale for a delinquent assessment against such security made in accordance with the laws of this State, or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it shall have first applied for and secured from the commissioner a permit authorizing it so to do. Such

application shall be in writing, shall be verified as provided in the Code of Civil Procedure for the verification of pleadings, and shall be filed in the office of the commissioner. In such application the applicant shall set forth the following: Application

(a) The names, residences, and post-office addresses of its officers.

(b) The location of its principal office.

(c) An itemized account of its financial condition, the amount and character of its assets and liabilities.

(d) A detailed statement of the plan upon which it proposes to transact business.

(e) A copy of any security it proposes to issue.

(f) A copy of any contract it proposes to make concerning such security.

(g) A copy of any prospectus or advertisement or other description of such security prepared by or for it for distribution or publication.

(h) A copy of its articles of incorporation or partnership or association, as the case may be, and of any amendments thereto, and all other papers pertaining to its organization.

(i) The date upon which it proposes to commence to sell its securities.

(j) The number, kind and amount of securities it proposes to sell.

(k) The par or face value, if any, and the price at which it proposes to sell its securities.

(*l*) The commission or compensation to be paid for the sale of its securities.

(m) If a trustee, a copy of all instruments by which the trust is created and in which it is accepted, acknowledged or declared.

(n) If a corporation, a copy of all minutes of any proceeding of its directors, stockholders or members relating to or affecting the issue of said security.

(o) If a corporation, a copy of its by-laws and of any amendments thereto.

(p) If a corporation or association organized under the laws of any other State, territory or government, a certificate executed by the proper officer of said State, territory or government not more than 30 days before the filing of such application, showing that it is authorized to transact business in said State, territory or government, and also in such form as the commissioner may prescribe, its written instrument irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it arising out of or in connection with the sale of any security of its own issue may be served with the same effect as if such corporation or association were organized or created under the laws of this State and had been lawfully served with process therein. Commissioner appointed attorney for service of process

(q) Such additional information concerning the company, its condition and affairs, as the commissioner may require.

CHAPTER 616

Stats 1935, p 93, amended

An act to add Section 164.7 to the Vehicle Code, relating to stolen or embezzled vehicles.

In effect January 1, 1941

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

New section

SECTION 1. Section 164.7 is hereby added to the Vehicle Code, to read as follows:

Stolen or embezzled vehicles

164.7. Stolen or Embezzled Vehicles. Whenever by reason of the theft or embezzlement of a vehicle the owner or legal owner is not in possession of such vehicle at the time penalties accrue for failure to obtain annual renewal of registration, the owner or legal owner may secure the reregistration of such vehicle within 10 days after its recovery and prior to May 1st of the registration year upon filing an affidavit setting forth the circumstances of the theft or embezzlement, without payment of any of the following:

(a) Penalty for delinquent payment of registration fee;

(b) Penalty for delinquent payment of the license fee imposed by Chapter 362, Statutes of 1935 as amended.

Effective date

SEC. 2. This act shall take effect at midnight on December 31, 1941.

CHAPTER 617

Stats 1935, p 496, amended

An act to add Sections 10830.5, 10830.6, 10831.5, 10832 and 10861.5 to, to amend Sections 10831, 10870, 10875, 10882, 10883, 10901 and 10928 of, and to repeal Sections 384, 10650 and 10811 of, the Insurance Code, and to add Article 4, comprising Sections 10490 to 10494, inclusive, to Chapter 5, Part 2, Division 2 of said code, all relating to insurance.

In effect September 13, 1941

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

New article

See also Stats 1941, p 2726

SECTION 1. Article 4 is hereby added to Chapter 5, Part 2, Division 2, of the Insurance Code, to read as follows:

Article 4. Exemptions

Exemptions

10490. Incorporated benefit and relief associations of nonprofit, charitable or eleemosynary character formed by public schools or officers or employees of public schools or school districts, the privileges of which and applications for membership

therein are confined to pupils of public or private schools, or both, are not subject to Chapters 6 to 13, inclusive, of this part.

Same

10491. Incorporated benefit and relief associations of non-profit, charitable or eleemosynary character formed by churches, lodges, labor unions, or employees of a common employer, the privileges of which and the membership in which are confined to the members of such churches, lodges, or labor unions, or employees or officers of such common employer, or employees or officers of companies or corporations of which a single employer owns at least one-quarter of the issued capital or voting stock, or to those who were such corporate officers or employees at the time of becoming members of such association, are not subject to Chapters 6 to 13, inclusive, of this part.

Fraternal benefit societies
Stats 1911, p 1320

10492. Fraternal benefit societies operating under "An act for the regulation and control of fraternal benefit societies," approved May 1, 1911, as subsequently amended, or Chapter 10 of this part, are subject to this code only as provided in Section 10970.

Exemptions

10493. Incorporated domestic lodges, orders or associations of a purely religious, charitable, and benevolent description which insure only the lives or health of their members and do not provide for a death benefit of more than two hundred fifty dollars ($250), or for disability benefits of more than two hundred fifty dollars ($250) to any one person in any one year and which do not issue to applicants or members policies, benefit certificates, or any other visual evidence of benefits, except complete copies of the articles of association and by-laws, to be received by members or their beneficiaries are exempt from Chapters 6 to 13, inclusive, of this part.

Requiring information

10494. The commissioner may require from any person such information as will enable him to determine whether or not such person is within any of the exemptions established by this article.

Notwithstanding the provisions of Sections 10490, 10491 and 10493, a person who is otherwise subject to the provisions of such sections is not exempted from Chapters 6 to 13, inclusive, of this part if such person gives, allows, or promises to give or allow any compensation for procuring new members.

Stats 1939, p 1666

SEC. 2. Sections 10650 and 10811 of the Insurance Code are hereby repealed.

New section

SEC. 3. Section 10830.5 is hereby added to the Insurance Code, to read as follows:

Limit on life insurance

10830.5. An insurer transacting insurance under this chapter shall not assume liabilities for life insurance on the life of

any one person in excess of three thousand dollars ($3,000) or 10 per cent of the surplus of the insurer arising from its life insurance business, whichever is greater, without at once reinsuring the excess in an admitted insurer.

"Surplus" "Surplus," as used in this section, means the amount, as shown by the last annual statement of the insurer on file with the commissioner, by which the assets of the life insurance department of such insurer exceed the liabilities of such department for losses reported, expenses, taxes, all other indebtedness and the amount of reserves required by this chapter.

New section SEC. 4. Section 10830.6 is hereby added to the Insurance Code, to read as follows:

Limit on disability insurance 10830.6. An insurer transacting insurance under this chapter shall not assume liabilities for disability insurance on the life or health of any one person in excess of three thousand dollars ($3,000) or 10 per cent of the surplus of the insurer arising from its disability insurance business, whichever is greater, without at once reinsuring the excess in an admitted insurer.

"Surplus" "Surplus," as used in this section, means the amount, as shown by the last annual statement of the insurer on file with the commissioner, by which the assets of the disability insurance department of such insurer exceed the liabilities of such department for losses reported, expenses, taxes, all other indebtedness and the amount of reserves required by this chapter or by the commissioner.

Stats. 1935, p. 673 SEC. 5. Section 10831 of the Insurance Code is hereby amended to read as follows:

Powers of commissioner 10831. The commissioner may require of the applicants for such policy or certificate, and at any time of the officers of any such corporation such evidence, under oath or otherwise, relative to its affairs as he may consider necessary. If it appears that the incorporators or persons acting in their behalf have advanced to or for the subscribers the stipulated premiums or assessments herein required to be paid, an authorization shall not be issued and the corporation shall be immediately dissolved. It is the intent of this chapter that no person shall have a proprietary interest in such corporation except equally with all other members.

Management or general agency contract A "management or general agency contract," as used in this section, is a contract whereby an insurer organized or operating under this chapter authorizes or delegates a person to assume virtual control of its operations or of the production of business for it in any State or in any specified portion of any State. An insurer organized or operating under this chapter shall within 10 days after making any management or general agency contract, file a true copy thereof with the commissioner.

SEC. 6. Section 10831.5 is hereby added to Article 5, Chapter 9, Part 2, Division 2, of the Insurance Code, to read as follows: New section

10831.5. An insurer subject to this chapter shall not pay or agree to pay to any person a salary exceeding the sum of three thousand six hundred dollars ($3,600) annually, unless such action is authorized by the affirmative votes of more than half the number of persons elected to and serving on its board of directors. The minutes of the meeting of the board of directors at which such an act is authorized shall state the duties to be performed for such salary and name the person who is to be so employed. Limitation on salaries

A certified copy of the minutes of the meeting at which any such salary is approved shall be filed with the commissioner within 10 days after the meeting.

SEC. 7. Section 10832 is hereby added to Article 5, Chapter 9, Part 2, Division 2, of the Insurance Code, to read as follows: New section

10832. Proxies authorizing any person to vote or execute consents or exercise any other power conferred upon a member of an insurer organized or transacting insurance under this chapter shall run to one or more named individuals and a designation by title without identifying named individuals, shall be invalid. Proxies

Such proxies hereafter distributed, solicited, circulated or procured by or on behalf of any officer, agent or employee of such an insurer, shall not be combined with any other document or form and are not valid unless executed on a form previously approved by the commissioner. Approval of such forms shall be procured in the manner provided for approval of policy forms in Section 10860. The commissioner shall not approve any proxy form which is misleading or not readily understandable by any person whose proxy is to be obtained by its use.

At least 15 days prior to each annual meeting of each such insurer, it shall use reasonable diligence to give notice by mail or delivery to its members of the annual meeting. The notice shall state the time, date and place of such meeting and that the member may attend and vote in person or be represented by any proxy given by him. Notice of annual meeting

This chapter does not authorize the commissioner to solicit, receive or vote proxies except pursuant to order of court.

SEC. 8. Section 10861.5 is hereby added to the Insurance Code, to read as follows: New section

10861.5. This section does not apply to: Lapse of policy

(a) Any contract of industrial life insurance.

(b) Any contract of life insurance requiring premiums to be paid monthly or at shorter intervals.

(c) Any contract of group insurance.

Life insurance policies issued by insurers subject to the provisions of this chapter shall not lapse nor be forfeited for nonpayment of premium or assessment unless there has been mailed to the insured thereunder at least 10 days prior to the time payment of the premium or assessment is due, or at least 10 days prior to the expiration of the grace period for the payment of such premium or assessment, if the grace period is applicable, notice that the insurance will lapse or be forfeited if the premium or assessment is not paid by the time required in the policy. The notice shall specify in letters and figures larger than any other letters and figures appearing in the notice, the last date on which payment may be made without suffering lapse or forfeiture. The notice shall be mailed to the last known address of the insured as it appears on the records of the insurer.

The provisions of this article with respect to the approval of forms of policies are applicable to forms of notice of lapse or forfeiture required by this section. A form of notice which is misleading or not such as to be readily understandable by the average person to whom it is to be sent shall not be approved by the commissioner.

The affidavit of any person who mails any notice required by this section, stating the facts of such mailing, shall be admissible in evidence and is prima facie proof of the mailing of such notice.

Stats 1935, p 676

SEC. 9. Section 10870 of the Insurance Code is hereby amended to read as follows:

Required reserves

10870. Every insurer subject to the provisions of this chapter shall hold and maintain, upon every contract of life insurance issued on and after the date upon which it becomes subject to the provisions of this chapter, and prior to January 1, 1942, assets in excess of other liabilities, to provide for reserves not less than the minimum tabular reserves prescribed in subdivision (a). The statutory deposit required by law may be considered as a part of such reserves or of other required policy reserves.

(a) The basis for minimum reserves shall be the American Experience Table of Mortality, with Farr's Table No. 3 or Craig's Extension for ages under 10, and interest at 4 per centum per annum; provided, however, that contracts issued on a weekly premium basis and providing therein for valuation according to the Standard Industrial Table of Mortality and interest at 4 per centum per annum shall be valued according to such industrial table of mortality and rate of interest. Such contracts may provide for not more than one year preliminary term insurance by incorporating therein a clause plainly showing that the first year's insurance under such contracts is term insurance, purchased by the

whole or a part of the premiums to be received during the first contract year, and such contracts may be valued on the basis of the mortality table and interest rate above prescribed by the preliminary term plan; provided, however, that the reserve according to such standard for the first to the fifth policy years, inclusive, may be reduced by the following percentages: First year, 80 per cent; second year, 80 per cent; third year, 60 per cent; fourth year, 40 per cent; fifth year, 20 per cent; and provided further, that at no time shall the reserve be less than the value of any nonforfeiture provision contained in the policy.

(b) Every insurer subject to this chapter shall hold and maintain upon every contract of life insurance issued after December 31, 1941, assets in excess of other liabilities, to provide for reserves not less than minimum tabular reserves prescribed in this subdivision. The basis for computing the reserves required by this subdivision shall be the American Experience Table of Mortality with Farr's Table No. 3 or Craig's Extension for ages under 10, with interest at a rate of not more than 3½ nor less than 2½ per cent per annum. At the option of the insurer, its reserves may be computed by the modified preliminary term method described in subdivision (c).

(c) Life insurance policies may provide for not more than one year of preliminary term insurance by incorporating in the provision thereof specifying the premium consideration to be received by the insurer, a clause plainly showing that the first year's insurance under such policies is term insurance, purchased by the whole or a part of the premium to be received during the first policy year. Such policies may, in accordance with their terms be valued on the basis of the mortality tables and interest rates prescribed in subdivision (b) by the modified preliminary term plan described in subdivision (d).

(d) If the actuarial net preliminary term renewal premium in the case of

(1) Insurance under a limited-payment life preliminary term policy providing for the payment of all premiums thereon within less than 20 years from the date thereof; or

(2) Endowment insurance under an endowment preliminary term policy,

exceeds the actuarial net preliminary term renewal premium, calculated on the same table of mortality and rate of interest, for a 20-payment life policy, the reserve on such policy specified under (1) or (2) of this subdivision (d), as the case may be, at the end of any year, including the first, shall not be less than the sum of the reserve on a 20-payment life preliminary term policy issued at the same time on a life of the same age and the actuarial net level premium reserve for a pure endowment maturing at the end of the premium payment period, equal to the excess of the full net level premium reserve, at

the end of such premium payment period, on such policy specified under (1) or (2) of this subdivision (d), as the case may be, over the reserve, at the end of such premium payment period, of such 20-payment life preliminary term policy.

The premium payment period herein referred to is 20 years or the period, if less, during which premiums are actually payable under such policy specified in (1) or (2) of this subdivision (d), as the case may be.

(e) As used in subdivision (d), the term "20-payment life preliminary term policy" means a life insurance policy embodying all of the following attributes:

(1) It is whole-life insurance;

(2) The premium charged is payable annually or at lesser intervals until 20 annual premiums or a proportionately greater number of premiums payable at intervals less than one year shall have been paid, or until the prior death of the insured;

(3) The first year's insurance is term insurance purchased by the whole or part of the premium to be received during the first contract year.

In computing reserves as required by this section, no allowance or reduction may be made in consideration of the fact that members may be assessed to make up a deficiency. The statutory deposit required by law may be considered as a part of such reserves or of other required policy reserves.

This section exclusively fixes the life insurance reserve requirements for insurers subject to this chapter.

Time to meet requirements

SEC. 9.5. In the case of an insurer in conservatorship, it shall have 90 days or such further time as may be granted by the court, to meet the increased reserve requirements effected by this act.

Stats 1935, p. 677

SEC. 10. Section 10875 of the Insurance Code is hereby amended to read as follows:

Additional premiums or assessments

10875. All life contracts issued or delivered in this State by corporations subject to this chapter shall provide, in addition to the stipulated premiums, for the payment of additional premiums or assessments, to the extent needed to pay for their share of claims and expenses and to maintain the tabular reserves required by this chapter, or shall require such additional amount to be charged as an indebtedness, at a rate of interest specified in the contract, not exceeding the tabular reserves on the contract and shall provide for terminating the contract whenever the total indebtedness thereon equals such tabular reserves. On contracts issued prior to January 1, 1942, no liability may be charged in any valuation for any deficiency in future contributions so long as such payments are actually collected or such charges are actually made. No such additional premiums or assessments may be enforced against any holder of a life contract except upon due notice

to such holder. Every such holder shall have the option of paying such additional premiums or assessments in cash or permitting the same to be charged as an indebtedness against the tabular reserves as above provided but if no option selection is made within 30 days after the mailing of such notice the second option shall become applicable and said additional premiums or assessments shall become a lien upon said contract, and it is further provided that all said life contracts and notices of said additional premiums or assessments shall contain a statement to that effect.

SEC. 11. Section 10882 of the Insurance Code is hereby amended to read as follows: Stats 1935, p 678

10882. Thereafter the insurer shall not include in its policies the provisions required by the preceding article, but shall be subject as to subsequent business to the test of solvency provided for life, disability, and life and disability insurers by this code and to all other provisions relating to life and disability insurance not on the stipulated premium plan, other than the provisions of Chapter 7, Part 2, Division 2 of this code. But such election shall not affect the rights or obligations of the insurer or its members on any contract theretofore made, except that thereafter an assessment may not be levied by it upon any insured thereof under any disability policy theretofore issued by it on the stipulated premium plan, and except also that thereafter an assessment shall not be levied by it upon any insured thereof under any life policy theretofore issued by it on the stipulated premium plan unless such assessment shall first have been approved in writing by the commissioner. Law applicable

SEC. 12. Section 10883 of the Insurance Code is hereby amended to read as follows: Stats 1939, p 1664

10883. If a domestic insurer subject to the provisions of this chapter is possessed of admitted assets in excess of all liabilities in an amount equal to one hundred fifteen thousand dollars ($115,000), and has no life insurance in force and is engaged only in the business of disability insurance, it may, by amendment of its articles of incorporation provide for the writing only of disability insurance as a mutual disability insurer issuing nonassessable policies. Thereafter the insurer shall not include in its policies any provisions for assessment of any insured and such insurer shall be subject only to the provisions of this code applicable thereto other than the provisions of this chapter and other than the provisions of Chapter 7, Part 2, Division 2, of this code. Such transformation of any such insurer shall not affect the rights or obligations of the insurer or its insureds under any contract theretofore made, except that thereafter an assessment may not be levied by it upon any insured thereof. Change to mutual disability insurer

Stats 1935, p 679

SEC. 13. Section 10901 of the Insurance Code is hereby amended to read as follows:

Investment of deposit and reserves

10901. The entire statutory deposit and reserves required by this chapter, up to the first two hundred fifty thousand dollars ($250,000) of such reserves, if invested, shall be invested in securities in which domestic incorporated insurers are allowed by this code to invest their capital. Of such securities an amount not less in value than twenty-five thousand dollars ($25,000) shall remain deposited in trust with the commissioner for the benefit of contract holders of the company. Any remaining assets may be invested in the purchase of or loans upon the securities set forth in Article 4, of Chapter 2, Part 2, Division 1, of this code.

Stats 1935, p 681

SEC. 14. Section 10928 of the Insurance Code is hereby amended to read as follows:

Laws applicable

10928. Except as specifically provided to the contrary herein or elsewhere, all contracts of insurance hereafter issued or delivered under the provisions of this chapter, and any company issuing such contracts in this State, shall be subject to all laws now in effect or hereafter enacted.

Stats 1935, p 507

SEC. 15. Section 384 of the Insurance Code is hereby repealed.

CHAPTER 618

An act to amend Section 4153 of, and to add Section 4041.12a to, the Political Code, relating to the performance of legal services for the counties and the officers performing them.

In effect September 13, 1941

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

Stats 1937, p 698
See also Stats 1941, p 2081

SECTION 1. Section 4153 of the Political Code is hereby amended to read as follows:

Duties of District attorney

4153. The district attorney is the public prosecutor, and must:

1. Attend the courts, and conduct, on behalf of the people, all prosecutions for public offenses.

2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the superior court, or in civil cases on behalf of the people, must attend upon the magistrates in cases of arrest, when required by them, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought in his county against the State or his county wherever brought, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the State or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county treasurer.

5. On the first Monday of each month file with the auditor an account, verified by his oath, of all moneys received by him in his official capacity during the preceding month, and at the same time pay them over to the county treasurer.

6. Give, when required, and without fee, his opinion in writing, to county, district, and township officers, on matters relating to the duties of their respective offices.

7. Prepare, without fee, upon request of any board of education, board of school trustees or high school board, all the legal papers and forms necessary for the voting of school bond issues within the county and advise such boards as may be necessary in relation to school bond issues.

8. When requested by the auditor or treasurer so to do, defend or prosecute, except as hereinafter provided, any action brought by or against the auditor or treasurer for the purpose of testing the validity or constitutionality of any act of the Legislature providing for the payment of county funds or funds held in trust by the county in those cases only where the interest of the county is not adverse; provided, that in counties having a county counsel, it shall be the duty of the county counsel to defend or prosecute any such action and any and all other civil actions or proceedings in which the county or any other officer thereof is concerned or is a party, to perform all the duties mentioned in Subdivisions 6 and 7 of this section and to defend all suits for damages instituted against officers or employees or former officers or employees for acts performed by them in furtherance of their duties while in the employ of the county or of any district therein, the legal services for which are required by law to be performed by such county counsel.

9. When requested by any judge of the superior or municipal court so to do, appear for and represent such court or judge if such court, or judge in his official capacity, is made a party defendant in any action; provided, that in counties having a county counsel, it shall be the duty of the county counsel, when requested by any judge of the superior or municipal court so to do, to appear for and represent such court or judge if such court, or judge in his official capacity, is made a party defendant in any action.

New section

SEC. 2 Section 4041.12a is hereby added to the Political Code, to read as follows:

County counsel

4041.12a. In counties having a population of more than 100,000, except counties which have charters under Section

7½ of Article XI of the Constitution providing that the district attorney shall be the attorney for one or more of the officers of the county, a county counsel may be appointed by the board of supervisors, and he shall serve for four years from the time of his appointment, and until his successor is appointed.

Whenever a board of supervisors shall appoint a county counsel as herein provided, the county counsel shall discharge all the duties vested by law in the district attorney other than the duties of a public prosecutor. The board of supervisors may by ordinance require that the county counsel shall also act as attorney for the public administrator in the matter of all estates in which such officer is executor, administrator with the will annexed, or administrator, and thereupon the county counsel shall, in every such matter, collect the attorney's fees allowed therein by law and pay the same into the county treasury.

The supervisors shall furnish the county counsel with such assistants as will enable him to perform properly the duties as herein provided.

CHAPTER 619

Stats 1939, p 1067, amended

An act to add Sections 5003.5, 5014 and 6817 to the Public Resources Code, relating to the powers of the State Park Commission, specifying the amount of money to be deposited in the State Park Maintenance and Acquisition Fund and providing the manner in which the moneys in said fund may be expended.

In effect September 13, 1941

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

New section

SECTION 1. Section 5003.5 is hereby added to the Public Resources Code, to read as follows:

Roads, trails, etc.

5003.5. The State Park Commission is authorized to provide means of ingress to and egress from all State parks in order to provide ready access thereto by the public and for that purpose may enter into contracts or agreements with cities, counties and other political subdivisions of the State and with other State agencies for the construction and maintenance of suitable roads, trails and pathways.

New section

SEC. 2. Section 5014 is hereby added to the Public Resources Code, to read as follows:

Limitations on expenditure

5014. The money deposited in the State Park Maintenance and Acquisition Fund shall be subject to the following limitations:

(a) One-third of such money shall be expended only for the acquisition, improvement and maintenance of State beaches.

(b) The remainder shall be expended for the acquisition, improvement and maintenance of State parks and State monuments, including the cost of construction and maintenance of roads, trails and pathways providing access to State parks.

The amount available for expenditure by any appropriation hereafter made from the State Park Maintenance and Acquisition Fund shall be subject to the limitations provided in this section.

SEC. 3. Section 6817 is hereby added to the Public Resources Code, to read as follows: New section

6817. In addition to the money provided to be transferred to the State Park Maintenance and Acquisition Fund by subdivision (c) of Section 6816 an additional 40 per cent of the remaining balance of the money deposited in the State Lands Act Fund after the transfers and appropriations made by subdivisions (a) and (b) of Section 6816 shall hereafter be deposited in the State Park Maintenance and Acquisition Fund to be expended in the manner hereafter provided by law. Deposit in State Park Maintenance and Acquisition Fund

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CHAPTER 620

An act authorizing the Department of Finance to sell certain State-owned lands and to acquire by exchange, purchase or otherwise additional lands, declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.] In effect immediately

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

SECTION 1. The State Department of Finance is hereby authorized to sell, exchange, or dispose of such portion or portions of State-owned lands in the NE. ¼ of Sec. 11, T. 12 N., R. 8 E., M. D. B. & M., lying north of an old road, in the County of Placer, which the Director of Public Works and the Director of Finance may find to be unnecessary to carry out the provisions of Chapter 568, Statutes of 1927, under which said act said land was purchased. Sale, etc., of State lands; Stats. 1927, p. 953

SEC. 2. With approval of the Director of Public Works and the Director of Finance, the State Department of Finance is hereby authorized to exchange, sell, or otherwise dispose of said land under said conditions and terms as it deems to be to the best interests of the State and to acquire in exchange, or in lieu thereof, additional lands required to carry out the purposes of said Chapter 568, Statutes of 1927. Terms of sale, etc

SEC. 3. This act is declared to be an urgency measure, necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article Urgency

IV of the Constitution and as such shall take effect immediately.

The facts constituting the urgency are as follows: The land described in Section 1 hereof can be exchanged at the present time for certain other land which is necessary in constructing a dam to impound water in connection with the State-wide water plan. Unless such exchange can be effected immediately, it may not be possible to obtain the needed land.

CHAPTER 621

An act to amend the title of Chapter 8 of Part 1 of Division 2 of the School Code and to amend Section 2.510 of said code, relating to high school districts.

In effect September 13, 1941

[Approved by Governor June 6, 1941. Filed with Secretary of State June 6, 1941.]

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

Chapter heading

SECTION 1. The title of Chapter 8 of Part 1 of Division 2 of the School Code is hereby amended to read as follows:

CHAPTER 8. HIGH SCHOOL DISTRICTS

Sch. C., 1929, p. 57

SEC. 2. Section 2.510 of the School Code is hereby amended to read as follows:

Petition for high school district

2.510 Whenever a majority of the electors residing in a single elementary school district in which the average daily attendance in the elementary schools of the district shall be 100 or more, as shown by the last reports of the teachers in the district, shall unite in a petition for the formation of a high school district therein under a name to be specified in the petition, they shall present the same to the superintendent of schools of the county, or in case of a joint school district to the superintendent of schools of the county in which the greater number of heads of families of the district reside.

CHAPTER 622

An act making an appropriation for the contingent expenses of the Assembly and declaring that this act shall take effect immediately.

In effect immediately

[Passed over Governor's veto June 5, 1941. Filed with Secretary of State June 6, 1941.]

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

Appropriation: Contingent expenses of Assembly

SECTION 1. The sum of sixty thousand dollars ($60,000) or so much thereof as may be necessary, is hereby appropriated

out of any money in the State Treasury not otherwise appropriated, for contingent expenses of the Assembly to be expended for such purposes and in such manner as the Assembly shall by resolution direct, including expenses of committees, whether to meet and act during the session or after final adjournment.

Availability

SEC. 2. This appropriation shall be available for the purposes for which it is appropriated without regard to fiscal years.

Current expenses

SEC. 3. Inasmuch as this act makes an appropriation for the usual current expenses of the State it shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 623

CHAPTER 623, STATUTES 1941

An act to add Chapter 8, comprising Sections 1131, 1132, 1133, 1134, 1135 and 1136 to Part 3, Division 2 of the Labor Code, relating to hot cargo and secondary boycotts

[This chapter delayed from going into effect by the referendum provisions of Section 1 of Article IV of the State Constitution (petition therefor with sufficient signatures having been filed with the Secretary of State) and will be voted on by the people at the next general election in November, 1942, or at any special election which may be called by the Governor, in his discretion, prior to such regular election.]

Violation of chapter

1132. Any act, combination or agreement which directly or indirectly causes, induces or compels a violation of any of the provisions of this chapter, or inflicts any loss, injury or damage on anyone because of his refusal to violate any of the provisions of this chapter shall be unlawful.

Injunctive relief and damages

1133. Any person injured or threatened with injury by any violation of any of the provisions of this chapter shall be entitled to injunctive relief therefrom in a proper case, and to recover any damages resulting therefrom in any court having jurisdiction in the State of California.

Definitions

1134. Definitions.

(a) As used in this chapter, "hot cargo" means any combination or agreement resulting in a refusal by employees to handle goods or to perform any services for their employer because of a dispute between some other employer and his employees or a labor organization or any combination or agreement resulting in a refusal by employers to handle goods

or perform any services for another employer because of an agreement between such other employer and his employees or a labor organization.

(b) As used in this chapter, "secondary boycott" means any combination or agreement to cease performing, or to cause any employee to cease performing any services for any employer, or to cause any loss or injury to such employer, or to his employees, for the purpose of inducing or compelling such employer to refrain from doing business with, or handling the products of any other employer because of a dispute between the latter and his employees or a labor organization or any combination or agreement to cease performing, or to cause any employer to cease performing any services for another employer, or to cause any loss or injury to such other employer, or to his employees, for the purpose of inducing or compelling such other employer to refrain from doing business with, or handling the products of any other employer, because of an agreement between the latter and his employees or a labor organization.

(c) As used in this chapter, "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(d) As used in this chapter, the term "employer" includes any person acting in the interest of an employer, directly or indirectly and any association of employers, including growers and other hirers of labor.

(e) As used in this chapter, the term "employee" includes any natural person who works for any person for compensation.

Effective dates

1135. This chapter shall be in effect until May 1, 1943, and thereafter:

(a) During the continuance of the existence of the National emergency declared by the President of the United States to exist, by his proclamation issued under date of September 8, 1939.

(b) During any period of war between the United States of America and any foreign power, legally declared to exist.

Constitutionality

1136. If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Purposes of act

SEC. 2. This act is enacted for the purpose of preserving tranquillity among the citizens of this commonwealth and to insure during this present critical period of National emergency and intensive armament the unobstructed production

and distribution of the products of our factories and fields, for the continued protection and preservation of our democratic way of life and for the general welfare of the people of this State.

CHAPTER 624

An act to amend Sections 4153 and 4308 of the Political Code, relating to the duties of the district attorney and the district attorney's special fund.

[Approved by Governor June 9, 1941. Filed with Secretary of State June 9, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 4153 of the Political Code is hereby amended to read as follows:

Stats. 1941 p. 2074

4153. The district attorney is the public prosecutor, and must:

Duties of district attorney

1. Attend the courts, and conduct, on behalf of the people, all prosecutions for public offenses.

2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the superior court, or in civil cases on behalf of the people, must attend upon the magistrates in cases of arrest, when required by them, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought in his county against the State or his county wherever brought, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the State or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county treasurer.

5. On the first Monday of each month file with the auditor an account, verified by his oath, of all moneys received by him in his official capacity during the preceding month, and at the same time pay them over to the county treasurer.

6. Give, when required, and without fee, his opinion in writing, to county, district, and township officers, on matters relating to the duties of their respective offices.

7. Prepare, without fee, upon request of any board of education, board of school trustees or high school board, all the legal papers and forms necessary for the voting of school bond issues within the county and advise such boards as may be necessary in relation to school bond issues.

8. When requested by the auditor or treasurer so to do, defend or prosecute, except as hereinafter provided, any

action brought by or against the auditor or treasurer for the purpose of testing the validity or constitutionality of any act of the Legislature providing for the payment of county funds or funds held in trust by the county in those cases only where the interest of the county is not adverse; provided, that in counties having a county counsel, it shall be the duty of the county counsel to defend or prosecute any such action and any and all other civil actions or proceedings in which the county or any other officer thereof is concerned or is a party, to perform all the duties mentioned in Subdivisions 6 and 7 of this section and to defend all suits for damages instituted against officers or employees or former officers or employees for acts performed by them in furtherance of their duties while in the employ of the county or of any district therein, the legal services for which are required by law to be performed by such county counsel.

9. When requested by any judge of the superior or municipal court so to do, appear for and represent such court or judge if such court, or judge in his official capacity, is made a party defendant in any action; provided, that in counties having a county counsel, it shall be the duty of the county counsel, when requested by any judge of the superior or municipal court so to do, to appear for and represent such court or judge if such court, or judge in his official capacity, is made a party defendant in any action.

Stats 1925, p. 999

SEC. 2. Section 4308 of the Political Code is hereby amended to read as follows:

District attorney's special fund

4308. There is hereby created in each county a fund to be known as the district attorney's special fund. It shall be the duty of the board of supervisors, within 30 days after this act takes effect, and annually thereafter, at the beginning of the fiscal year, to transfer from the general fund to the district attorney's special fund, such sum or sums as may be necessary from time to time so that there shall be in such fund at the beginning of each fiscal year available for use by the district attorney, the following amounts: In counties or cities and counties having a population of 90,000 or more the sum of five thousand dollars ($5,000); in all other counties such sums as the board of supervisors shall set aside, not to exceed two thousand five hundred dollars ($2,500).

Warrants for disbursements

On the presentation of his requisition therefor by the district attorney to the auditor, said auditor shall draw his warrant in favor of the district attorney on such fund for such amounts as the district attorney may require from time to time. On presentation the treasurer shall cash said warrant.

In counties of 90,000 or more

Discretion of Supervisors in Counties of 90,000 or More. In their discretion the board of supervisors in counties having a population of 90,000 or more, in addition to the amounts hereinbefore mentioned, may transfer to such fund such additional sums as they deem necessary to be used by the district attorney as provided in this section.

All such sums may be used by the district attorney for his expenses incurred in criminal cases arising in the county and in civil actions and proceedings in which the county is interested, and for such expenses necessarily incurred by him in the detection of crime, other than those crimes declared to be misdemeanors by the Vehicle Code, and in the prosecution of criminal cases and for expenses in any matters in which the county may be interested. Use of fund

The district attorney shall file vouchers with the auditor at the end of each fiscal year, showing what disposition he has made of any moneys received from such fund and the particular purpose for which it was spent; provided, that if a criminal proceeding be pending or under investigation as to any moneys spent in such proceeding or investigation, such vouchers need not be filed until the trial of the criminal proceeding be ended or the investigation concluded. Vouchers for disbursements

Provided further, that nothing in this section contained shall be construed as a limitation or affecting in any way the provisions of Section 4307 of this code or any provision of law relative to the expenses of the district attorney which may be incurred by him and paid as are other county claims, after allowance by the board of supervisors, but the fund herein shall be in addition to any funds at the disposal of the district attorney as now provided by law. Effect of section

Provided, this section shall not apply to any county or city and county operating under a charter where provision for a similar fund is made by law. The population herein provided for to be fixed by the Federal census taken in the year A. D. 1940. Exceptions

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CHAPTER 625

An act to add Section 3935.5 to the Elections Code, relating to the order of names on primary election ballots. Stats 1939, p 49, amended

[Approved by Governor June 9, 1941. Filed with Secretary of State June 9, 1941.] In effect September 13, 1941

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

SECTION 1. Section 3935.5 is hereby added to the Elections Code, to read as follows: New section

3935.5. If the office is that of a member of a county central committee, the names of all candidates, including incumbents, shall be arranged upon the ballot in order determined as follows: Order of names on ballot

At 10 a.m. on the second Monday following the last day on which declarations of candidacy may be filed, the county clerk shall hold a public drawing to determine the order of names on the ballot. The name of each candidate shall be written on a separate and identical slip of paper which shall then be

folded to conceal the name and deposited in a box. After all slips have been deposited, the box shall be shaken to mix the slips thoroughly. The slips shall then be withdrawn by the clerk, and the names of the candidates listed in their order of withdrawal. This order shall determine the order in which the names of the candidates shall be printed on the ballot.

The drawings for each party's candidates shall be held in the order in which the parties rank in the county according to the size of their membership as shown by the registration of voters.

CHAPTER 626

Stats 1937, p. 1005, amended

An act to amend Section 2007 of, and to add Section 2007.5 to, the Welfare and Institutions Code, relating to aid to the aged.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 9, 1941.]

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

Stats 1939, p. 2239

SECTION 1. Section 2007 of the Welfare and Institutions Code is hereby amended to read as follows:

Securing aid illegally

2007. Any person who, knowing he is not entitled thereto, obtains or attempts to obtain aid to which he is not entitled, or a larger amount than that to which he is legally entitled, or the payment of any forfeited installment grant, is guilty of a misdemeanor, and any person who, knowing that the owner of the property is an applicant, aids or abets in buying or in any way disposing of the property of an applicant shall give 15 days notice of the intention to make the transfer, to the board of supervisors by serving upon the chairman of the board a declaration in writing setting forth the name of the owner of the property, the fact that he is an applicant, a description of the property sufficient to enable it to be identified with reasonable certainty, and the time and place where the contemplated transaction will be completed, and failure to give such notice shall constitute a misdemeanor.

Whenever any person has illegally obtained aid under this chapter, he shall make restitution, and all actions necessary to secure restitution may be brought against him.

New section

SEC. 2. Section 2007.5 is hereby added to said code, to read as follows:

Transfer of property

2007.5. No person shall be denied any aid under this chapter for any transfer of his property which transfer (i) does not deprive him of the present use, enjoyment or income thereof and (ii) does not render him ineligible under Sections 2163 and 2164.

CHAPTER 627

An act to amend Section 4300l of the Political Code, relating to municipal court fees and costs.

[Approved by Governor June 9, 1941. Filed with Secretary of State June 9, 1941.] In effect September 13, 1941

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

SECTION 1. Section 4300*l* of the Political Code is hereby amended to read as follows: Stats 1937, p. 1543

4300*l*. Municipal Court Fees. The clerk of each municipal court, except as otherwise provided by law, shall charge for all services to be performed, the following fees: Municipal court fees

For filing the complaint, or other first paper, four dollars ($4), to include all proceedings before trial and all services to be performed in a judgment by default or for the trial of either a question of law or fact, including all affidavits, swearing witnesses and jury, and entry of judgment.

For filing the first paper on behalf of any party (other than plaintiff) one dollar ($1), for each such party.

For filing the papers transmitted from another court, on the transfer of a civil action or proceeding, and all proceedings before trial and all services, five dollars ($5).

When the venue in a case in a municipal court shall be changed, for making up and transmission of transcript and papers, one dollar ($1), and a further sum equal to the fee for filing in the court to which the case is to be transferred. The clerk shall transmit such filing fee, with the papers in the case, to the clerk or justice of the court to which the case is transferred.

For receiving and filing an abstract of judgment rendered by a justice or judge of another court and for subsequent services based thereon, five dollars ($5).

For certificate and transmitting transcript and papers on appeal, one dollar ($1).

For issuing a transcript of the register of actions, one dollar ($1).

For issuing an abstract of judgment, fifty cents ($0.50).

For taking an acknowledgment of any instrument, for each signature, fifty cents ($0.50).

For administering an oath and certifying thereto, fifty cents ($0.50).

For issuing a writ of execution, a writ of restitution, a writ of possession, or any writ for the enforcement of any order or judgment, one dollar ($1).

For issuing an order of sale, one dollar ($1).

For exemplification of record or other paper on file, besides the charges allowed for copying or comparing, one dollar ($1).

For filing any notice of intention to move for a new trial of any cause, two dollars ($2).

Municipal court fees

For preparing a first copy, other than a carbon copy, of any record, proceeding, or paper on file in his office, per folio, twelve cents ($0.12).

For preparing a carbon copy of any record, proceeding or paper on file in his office, made at the time of preparing a first copy thereof, per folio, five cents ($0.05).

For certifying a copy of any paper, record or proceeding on file in his office, fifty cents ($0.50).

For comparing with the original on file in his office, the copy of any paper, record or proceeding by another and presented for his certificate, two cents ($0.02) per folio.

No fees shall be charged by the clerk for services rendered in any criminal action except for making or certifying to a copy of any filed paper, record or proceeding when not otherwise specified by law; nor shall any charge be made for any service to the United States of America or any officer thereof acting in his official capacity.

Marshals of municipal courts, except as otherwise provided by law, shall charge and collect the fees provided in Section 4300b, Political Code, except that for keeping property taken under legal process they shall collect the actual amount charged by any reputable warehouse or storage house for safely keeping and storing such property; but if such property shall be placed in the care of a keeper, the fee for such keeper shall be five dollars ($5) per day.

Sections 4292 to 4297, inclusive, and Section 4305 of this code shall apply to officers of municipal courts and to the disposition of fees collected by such officers.

Witnesses in municipal courts, except as otherwise provided by law, shall be paid the fees provided to be paid to witnesses in the superior court in the county or city and county in which any such municipal court is situated.

Jurors in municipal courts, except as otherwise provided by law, shall be paid the fees provided to be paid to trial jurors in the superior court in the county or city and county in which any such municipal court is situated.

Witnesses and jurors in criminal cases shall be paid by the county in the manner provided for the payment of such fees in the county or city and county in which any such municipal court is situated.

CHAPTER 628

An act to add Article 21 to Chapter 3 of Title 1 of Part 3 of the Political Code, relating to the making, filing, compilation, codification, and publication of the rules and regulations of State officers, boards, authorities, agencies, and commissions and creating a Codification Board.

[Approved by Governor June 9, 1941. Filed with Secretary of State June 9, 1941.] In effect September 13, 1941

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

SECTION 1. Article 21 is hereby added to Chapter 3 of Title 1 of Part 3 of the Political Code, to read as follows: New article

Article 21. Rules and Regulations

720. As used in this article: Definitions

(a) "State agency" includes any officer, department, bureau, division, board, authority, agency, commission or institution of this State except the judicial and the legislative branches.

(b) "Person" includes firm, association, organization, partnership, business trust, corporation or company.

(c) "Regulation" includes any rule or regulation made by any State agency.

"Regulation" does not include any rule, regulation or order made by any State agency which:

(1) Relates only to the organization or internal management of the State agency.

(2) Establishes or fixes rates or tariffs.

(3) Is directed to a specifically named person or to a group of persons, and does not apply generally throughout the State.

(4) Is duly served by the State agency in the manner authorized by law upon the person or persons designated therein as the party or parties legally affected.

(5) Relates to the use of public works, including streets and highways, under the jurisdiction of any State agency when the effect of such order is indicated to the public by means of signs or signals.

721. Every State agency shall file with the Secretary of State an original and two duplicate copies of every regulation made by it. Each such regulation shall include a citation of the authority pursuant to which it, or any part thereof, was adopted. Filing of regulations

722. The Secretary of State shall indorse on the original and duplicates of each regulation filed the time and date of the filing thereof and shall maintain a file of such regulations for public inspection. Public inspection

Compilation of codification

723. Within six months after the effective date of this article every State agency shall prepare and file with the Secretary of State a complete compilation or codification of all regulations which have been made prior to the effective date of this article and which are still in force and effect and relied upon by the State agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities, together with a citation of the authority pursuant to which each such regulation or any part thereof was adopted.

Codification Board

724. There is hereby created a Codification Board composed of the Secretary of State, the Director of Finance, and the Legislative Counsel, or their nominees. The Codification Board shall select one of its members as chairman and one as secretary.

Regulations under article

725. The Codification Board shall prescribe regulations for carrying out the provisions of this article. Among other things, such regulations shall provide for (a) the periodic publication of all regulations filed with the Secretary of State under this article, in a publication to be known as the "California Administrative Register," (b) for the compilation, publication, recompilation, and republication of the several compilations or codifications referred to in Section 723 in a publication to be known as the "California Administrative Code," (c) for the manner and form in which regulations, compilations, and codifications shall be prepared, printed, reprinted, compiled, recompiled, and indexed, to the end that all regulations, compilations, and codifications shall be prepared and published in a uniform manner and at the earliest practicable date.

Legislative Counsel Bureau

725.1. The Legislative Counsel Bureau shall, in the manner provided in Section 356a of this code, assist the board in the performance of its duties.

Presumptions

725.2. The filing or publication of a regulation shall raise a rebuttable presumption (a) that it was duly adopted, issued or promulgated, (b) that it was duly filed with the Secretary of State and made available for public inspection at the day and hour indorsed on it, (c) that the copy printed is a true copy of the original, and (d) that all requirements of this article and the regulations prescribed hereunder relative to such regulation have been complied with.

Judicial notice

725.3. The courts shall take judicial notice of any regulation duly filed or published under the provisions of this article or the regulations prescribed hereunder.

Rates, tariffs, etc

725.4. Nothing in this article shall prevent any State agency, in its discretion and subject to the approval of the Codification Board, from filing, and the Codification Board from publishing in such manner as it believes proper, rates, tariffs, and other documents not required by this article to be filed and published.

CHAPTER 629

An act to amend Section 601 of, and add Sections 593a and 330.25 to the Civil Code, relating to the formation and purposes of nonprofit corporations.

[Approved by Governor June 9, 1941. Filed with Secretary of State June 9, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 593a is hereby added to the Civil Code, to read as follows: New section

593a. A nonprofit corporation may be formed under this article for the purposes of defraying or assuming the cost of professional services of licentiates under any chapter of Division 2 of the Business and Professions Code or of rendering any such services but it may not engage directly or indirectly in the performance of the corporate purposes or objects unless: Professional nonprofit corporations

(1) At least one-fourth of all licentiates of the particular profession become members;

(2) Membership in the corporation and an opportunity to render professional services upon a uniform basis is available to all licensed members of the particular profession;

(3) Voting by proxy and cumulative voting are prohibited; and

(4) A certificate has been issued to the corporation by the particular professional board, whose licentiates have become members, finding compliance with the foregoing requirements.

Any such nonprofit corporation shall be subject to supervision by the particular professional board under which its members are licensed and shall also be subject to the provisions of Section 605c of this code. This section, except as expressly permitted herein, does not authorize the formation of any corporation for the purpose of rendering the professional services regulated by Division 2 of the Business and Professions Code.

SEC. 2. Section 330.25 is hereby added to the Civil Code, to read as follows: New section

330.25 Any corporation, including a nonprofit corporation organized for or engaged in the business of developing, distributing, supplying, or delivering water for irrigation or domestic use or both, may provide in its articles, or may amend its articles to provide, that its only purpose shall be to develop, distribute, supply, or deliver water for irrigation or domestic use or both to its members or shareholders, at actual cost plus necessary expenses. Irrigation water distribution

The amendment of the articles may be accomplished by:

(a) The passage by a three-fourths vote of the members of the board of directors of the corporation of a resolution adopting as the purpose of the corporation the purpose set forth in this section.

(b) The signing, verification, and filing in the manner prescribed in Section 362b of a certificate setting forth the resolution and the manner of its adoption.

Such corporation shall not distribute any gains, profits, or dividends to its members or shareholders except upon the dissolution of the corporation.

Stats 1931, p 1852

SEC. 3. Section 604 of the Civil Code is hereby amended to read as follows:

Membership certificates

604. A nonprofit corporation, excepting a corporation meeting the requirements prescribed in Section 330.25, shall not issue shares of stock, but membership in such corporation may be evidenced by certificates. Upon the face of such certificates there must be printed in clear type a statement that the corporation is not one for profit. Nonprofit corporations meeting the requirements prescribed by Section 330.25 may issue either shares of stock, or membership in such corporations, which shares of stock or membership may be evidenced by certificates.

CHAPTER 630

Stats 1897, p. 254, amended

An act to add Section 15.1 to the California Irrigation District Act, relating to the government of irrigation districts, authorizing them to acquire and improve land for airports or aviation schools and operate and lease the same, declaring the urgency hereof, and to take effect immediately.

In effect immediately

[Approved by Governor June 9, 1941. Filed with Secretary of State June 9, 1941.]

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

New section

SECTION 1. Section 15.1 is hereby added to the act cited in the title hereof, to follow immediately after Section 15 and to read as follows:

Airports and aviation schools

Sec. 15.1. The board of directors may also purchase, lease, exchange other property for, take by gift, condemn, or otherwise acquire land, or use land already acquired, for an airport or aviation school or both and may improve such land for any of said purposes, including the erection of buildings or other structures thereon, or may sponsor any project undertaken by the United States or any agency thereof for the improvement of any such land for any of said purposes if all of the following are true:

(a) None of the land that may be outside of the district is more than seven miles from the nearest part of the boundaries of the district.

(b) The United States or any agency thereof shall agree to improve or contribute money for the improvement of the land for airport or aviation school purposes.

(c) The board finds that there is no other public agency able and willing to cooperate with the United States or its

agency in the improvement of the land proposed for either or both of said purposes.

But no irrigation district shall ever issue any bonds to acquire or improve any land for any of such purposes, nor shall it incur any indebtedness therefor which can not be paid out of revenue to be derived from such airport or aviation school or the leasing thereof.

The board may accept the appropriation of any funds by the United States or any agency thereof for the improvement of the land for an airport or aviation school on any conditions imposed by the United States or its agency if the use of such airport for commercial purposes is not thereby precluded.

Said board may operate any such airport or aviation school or may lease either or both of them on such terms as it deems proper.

Any irrigation district having acquired an airport or aviation school or both pursuant to the provisions of this section may accept contributions of money or property or both to be used in connection with the airport or aviation school or both.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall take effect immediately. Urgency

The following is a statement of facts constituting such necessity:

The defense of the United States and of this State is seriously threatened by a lack of airports and air training schools on the Pacific Coast. It is essential that the State of California and its agencies cooperate with the United States in carrying out plans for the establishment of airports and air training schools. In many localities irrigation districts are the only State agencies in a position immediately to undertake this vital work for our common defense. If this work is not immediately undertaken it will prolong the vulnerability of this State and of our Nation to attack from without.

CHAPTER 631

An act to amend Section 21 of the Agricultural Code, relating to the salary of the Director of Agriculture. Stats 1933, p 60, amended

[Approved by Governor June 9, 1941 Filed with Secretary of State June 10, 1941.] In effect September 13, 1941

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

SECTION 1. Section 21 of the Agricultural Code is hereby amended to read as follows: Stats 1933, p 62

21. The department shall be conducted by an executive officer known as the Director of Agriculture. The director Director

shall be appointed by and hold office at the pleasure of the Governor and shall receive a salary of seven thousand two hundred dollars ($7,200) per annum. Before entering upon the duties of his office, the director shall execute an official bond in the sum of twenty-five thousand dollars ($25,000).

CHAPTER 632

Stats. Ex. Sess. 1938, p. 23, and Stats 1939, p. 106, amended

An act to add Section 50.2 to the State Lands Act of 1938, and to add Section 6206.5 to the Public Resources Code, to empower the commission to apply to the United States of America for patents to public lands.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.]

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

New section

SECTION 1. Section 50.2 is hereby added to the State Lands Act of 1938, to read as follows:

Application for patents

Sec. 50.2. The commission is hereby empowered to apply to the United States Department of the Interior for patents to the numbered school sections in place, which have not been patented by the State, and to accept patents, in accordance with an act of Congress approved June 21, 1934 (Public No. 440-73d Congress), entitled "An Act Authorizing the Secretary of the Interior to issue patents to the numbered school sections in place, granted to the States by the act approved February 22, 1889, by the act approved January 25, 1927 (44 Stat. 1026), and by any other act of Congress."

U. S. C., Tit 43, Sec 871a

New section

SEC. 2. Section 6206.5 is hereby added to the Public Resources Code, to read as follows:

Application for patents U. S. C., Tit 43, Sec 871a

6206.5. The commission is hereby empowered to apply to the United States Department of the Interior for patents to the numbered school sections in place, which have not been patented by the State, and to accept patents, in accordance with an act of Congress approved June 21, 1934 (Public No. 440-73d Congress), entitled "An Act Authorizing the Secretary of the Interior to issue patents to the numbered school sections in place, granted to the States by the act approved February 22, 1889, by the act approved January 25, 1927 (44 Stat. 1026), and by any other act of Congress."

Effect: See Stats 1941, p. 1875

SEC. 3. Section 2 of this act shall take effect only if Division 6 of the Public Resources Code is enacted by the Legislature at its Fifty-fourth Session, and, in such case, at the same time said Division 6 takes effect, at which time Section 50.2 of the State Lands Act of 1938 is hereby repealed.

CHAPTER 633

An act to amend Section 496 of the Agricultural Code, relating to dairies and dairy products.

Stats 1933, p 60, amended

[Approved by Governor June 9, 1941 Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 496 of the Agricultural Code is hereby amended to read as follows:

Stats 1941, p 485

496. For the purpose of this division "approved milk inspection service" means a milk inspection unit and laboratory maintained in connection with a county or city or combination of either or both for the purpose of grading and inspecting market milk produced for shipment to and sale or distribution within the jurisdiction of such approved milk inspection service, conformable to the provisions of this division and the rules and regulations established by the director, which inspection service shall be approved in writing by the director.

"Approved milk inspection service"

No provision of this division, except subdivision (b) of Section 498, or any rule and regulation of the director is a limitation on the power of a municipality or county to provide for reasonable additional regulations not in conflict therewith requiring standards higher than the minimum requirements for the grades of market milk established in this division; but any municipal or county ordinance or regulation requiring higher standards for milk fat and solids not fat than those established in this division shall apply only to market milk after standardization by a milk distributor.

Local regulations

CHAPTER 634

An act to add Section 6.37 to the School Code, relating to the powers and duties of governing boards of school districts, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by Governor June 9, 1941 Filed with Secretary of State June 10, 1941.]

In effect immediately

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

SECTION 1. Section 6.37 is hereby added to the School Code, to read as follows:

New section

6.37. Any and all supplies, materials or equipment to be used in classes authorized under any program sponsored, approved or directed by the State Department of Education or the State Board of Education, in connection with any

Purchase of supplies, etc.

National emergency training instruction given by any school district of any type or class, may be purchased by such district in accordance with rules and regulations for such purchase adopted by the governing board of said district notwithstanding any provisions of this code in conflict with such rules and regulations.

The provisions of this section shall have no force and effect from and after the expiration of two years following its effective date.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, of Article IV, of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows:

The Federal Government in making preparations to defend this Nation against possible aggression and in the preparing for National defense has instituted a program of instructional training in which the State of California and the school districts thereof have been asked to cooperate. Many of the school districts of the State are conducting defense training classes pursuant to said program; but the delay in obtaining materials, supplies and equipment for such defense training instruction and the materials, supplies and equipment necessary for the work being done by such defense training classes can not always be readily anticipated and many districts do not know the kind and quantity of materials that will be needed a sufficient length of time before such need actually exists to comply with the provisions of law requiring the advertising for bids.

CHAPTER 635

An act to add Section 603 to the Penal Code, relating to unlawful entry.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.]

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

New section

SECTION 1. Section 603 is hereby added to the Penal Code, to read as follows:

Unlawful entry

603. Every person other than a peace officer engaged in the performance of his duties as such who forcibly and without the consent of the owner, representative of the owner, lessee or representative of the lessee thereof, enters a dwelling house, cabin, or other building occupied or constructed for occupation by humans, and who damages, injures or destroys any property of value in, around or appertaining to such dwelling house, cabin or other building, is guilty of a misdemeanor.

CHAPTER 636

An act to amend Section 186 of, and to add Section 180.5 to, the Vehicle Code, relating to transfers of title or interest in motor vehicles, including the validity of a transfer of a security interest in a vehicle pursuant to a trust receipt transaction.

Stats 1935, p 93, amended

[Approved by Governor June 9, 1941 Filed with Secretary of State June 10, 1941]

In effect September 13, 1941

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

SECTION 1. Section 180.5 is hereby added to the Vehicle Code, to read as follows:

New section

180.5. When Transferee Need Not Apply for Transfer. The transferee of a security interest in a registered vehicle pursuant to a trust receipt transaction, as defined in the Civil Code, who has possession of the certificate of ownership issued for such vehicle, if such certificate of ownership has been issued need not make application for a transfer of registration by reason of any provision of Sections 179 or 180 hereof; and the provisions of the Uniform Trust Receipts Law, contained in Sections 3012 to 3016.16 of the Civil Code, shall exclusively control the validity of the transferee's security interest.

When application for transfer not needed

SEC. 2. Section 186 of the Vehicle Code is hereby amended to read as follows:

Stats 1935, p 118

186. When Transfer Deemed Complete. No transfer of the title or any interest in or to a vehicle registered hereunder shall pass nor shall delivery of any said vehicle be deemed to have been made and any attempted transfer shall not be effective for any purpose until transfer of registration is made and the department has issued a new certificate of ownership and registration card with respect thereto as provided herein, except as a transferor may be estopped by law to deny a transfer and except as provided in Sections 178, 180 and 180.5 hereof and in Chapter 3 of this division.

When transfer complete

CHAPTER 637

Stats 1939, p 1067, amended

An act to add Section 4383 to the Public Resources Code, relating to State Forests that may be established in Santa Cruz County, and Santa Clara County including areas suitable for timber production, outdoor recreation, water protection, and fish and game production.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.]

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

New section

SECTION 1. Section 4383 is hereby added to the Public Resources Code, to read as follows:

State forest in Santa Cruz and Santa Clara counties

4383. The Director of Natural Resources may apply for and administer, as a State Forest or State Forests, including areas suitable for timber production, outdoor recreation, water protection and fish and game protection, in Santa Cruz County and Santa Clara County, lands which have been deeded to the State for taxes in accordance with any procedure established by law which provides for the administration by State or other agencies of such property when it is suitable for a public use. Such property is deemed to be acquired under the provisions of this article.

CHAPTER 638

An act to amend Section 2.461 of, to repeal Sections 2.462, 2.463, 2.464 and 2.465 of, and to add a new section to be numbered 2.462 to, the School Code, all relating to annexation of elementary school districts on petition from a high school board.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.]

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

Sch C, 1929, p 49

SECTION 1. Section 2.461 of the School Code is hereby amended to read as follows:

Calling annexation election

2.461. Upon presentation of the petition accompanied by the sworn statement of the high school principal concerning the attendance and residence of the pupils, and a verification thereof by the county superintendent of schools, the board of supervisors shall call an election in the elementary school district proposed to be annexed for the purpose of determining whether the elementary school district shall be annexed to the high school district.

SEC. 2. Sections 2.462, 2.463, 2.464 and 2.465 of the School Code are hereby repealed. Repeals

SEC. 3. A new section to be numbered 2.462 is hereby added to the School Code, to read as follows: New section

2.462. The election shall be held in the same manner as are the elections of governing boards of elementary school districts, except that the returns shall be made to the board of supervisors. Conduct of election

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CHAPTER 639

An act to add Section 1554.1 to the Probate Code, relating to waiver of notice by the Attorney General. Stats 1931, p 587, amended

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1554.1 is hereby added to the Probate Code, to read as follows: New section

1554.1. If the insane person is no longer confined in a State hospital, the Attorney General, upon ascertaining the facts, may file a certificate to the effect that the ward is not indebted to the State, and waive the giving of further notices or accounts. Waiver of notices, etc

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CHAPTER 640

An act to add Section 586 5 to the Probate Code, relating to distribution of assets held by depositaries. Stats 1931, p 587, amended

[Approved by Governor June 9, 1941 Filed with Secretary of State June 10, 1941.] In effect September 13, 1941

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

SECTION 1. Section 586.5 is hereby added to the Probate Code, to read as follows: New section

586.5. When a decree is rendered distributing money or personal assets of an estate deposited with a bank or trust company pursuant to the provisions of the Bank Act, the depositary may deliver such property directly to the distributees and file receipts therefor with the clerk. Delivery to distributees

CHAPTER 641

Stats 1931, p 587, amended

An act to add Section 469 to the Probate Code, relating to compensation to attorneys for extraordinary services rendered to special administrators.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.]

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

New section

SECTION 1. Section 469 is hereby added to the Probate Code, to read as follows:

Compensation for extraordinary services

469. At any time after six months from the issuance of special letters of administration, or upon the earlier settlement of the final account of the special administrator, and upon such notice to the special administrator and to the persons interested in the estate as the court or a judge thereof shall require, any attorney who has rendered extraordinary services to the special administrator may apply to the court for compensation for such extraordinary services; and on the hearing the court shall make an order requiring the special administrator to pay such attorney out of the estate such compensation as the court shall deem proper, and such payment shall be made forthwith.

CHAPTER 642

Stats 1933, p 394, amended

An act to amend Section 1157 of the Fish and Game Code, relating to closing of areas to hunting.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1933, p 495

SECTION 1. Section 1157 of the Fish and Game Code is hereby amended to read as follows:

Unlawful to hunt when

1157. During the period when any open season is suspended or closed by the director, it is unlawful to take specified species of game birds or mammals mentioned in the closing order in the closed area.

CHAPTER 643

An act to amend Section 798.6 of the Fish and Game Code, relating to abalone bag limits in District 2.

Stats 1933, p 394, amended

[Approved by Governor June 9, 1941 Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 798.6 of the Fish and Game Code is hereby amended to read as follows:

Stats 1935, p 877

798.6. In District 2 not more than five abalones may be possessed during one day, except that any person conducting a market, or restaurant, where abalones are sold to the public may possess any number of lawfully taken abalones.

Abalones: District 2

CHAPTER 644

An act to amend Section 2313 of the Public Resources Code, relating to mining claims, tunnel locations and mill sites, and the recording of notice of location, markings of boundaries, and performance of discovery work.

Stats 1939, p 1067, amended

[Approved by Governor June 9, 1941 Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2313 of the Public Resources Code is hereby amended to read as follows:

Stats 1939, p 1083

2313. Within 90 days after the posting of his notice of location upon a lode mining claim, placer claim, tunnel right or location, or mill site claim or location, the locator shall record a true copy of the notice together with a statement of the markings of the boundaries as required in this chapter, and of the performance of the required discovery work, in the office of the county recorder of the county in which such claim is situated. The county recorder shall receive a fee of one dollar ($1) for this service.

Recording copy of notice of location

CHAPTER 645

An act to add Section 1203.2a to the Penal Code, relating to prisoners in the State prisons.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.]

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

New section

SECTION 1. Section 1203.2a is hereby added to the Penal Code, to read as follows:

Probationer again committed

1203.2a. If any person who has been released on probation is committed to a State prison for another offense, it is hereby made mandatory upon the probation officer of the county from which he was released on probation to report the commitment to the court within 30 days after being advised in writing of the commitment. Within 30 days thereafter the court shall revoke probation and impose sentence. The sentence of the court may be imposed in the absence of the defendant in such cases. In the event the probation officer fails to report such commitment to the court or the court fails to impose sentence as herein provided, such person may not thereafter be sentenced under any authority retained in the granting of the probation.

CHAPTER 646

Stats 1937, p. 1229, amended

An act to amend Sections 16001 and 16102 of the Business and Professions Code, relating to licensing by cities and counties.

In effect September 13, 1941

[Approved by Governor June 9, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1941, p. 718

SECTION 1. Section 16001 of the Business and Professions Code is hereby amended to read as follows:

Exemptions

16001. Every honorably discharged or honorably relieved soldier, sailor, or marine of the United States or Confederate States who served in the Civil War, any Indian war, the Spanish-American War, any Philippine insurrection, the Chinese Relief Expedition, or the World War of 1914 and years following, who is physically unable to obtain a livelihood by manual labor, and who is a voter of this State, may distribute circulars, and hawk, peddle, and vend any goods, wares or merchandise owned by him, except spirituous, malt, vinous, or other intoxicating liquor, without payment of any license tax or fee whatsoever, whether municipal, county or State, and the legislative body shall issue to such soldier, sailor or marine, without cost, a license therefor.

SEC. 2. Section 16102 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 719

16102. Every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may hawk, peddle and vend any goods, wares or merchandise owned by him, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license, tax or fee whatsoever, whether municipal, county or State, and the board of supervisors shall issue to such soldier, sailor or marine, without cost, a license therefor. Exemption

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CHAPTER 647

An act to amend Section 10551 of the Health and Safety Code, relating to evidentiary effect of copies of birth, marriage or death records. Stats 1939, p. 482, amended

[Approved by Governor June 10, 1941 Filed with Secretary of State June 10, 1941.] In effect September 13, 1941

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

SECTION 1. Section 10551 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 751

10551. Any copy of the record of a birth, death, or marriage when properly certified by the State or local registrar or the county recorder to have been registered within a period of one year from the date of the event is prima facie evidence in all courts and places of the facts stated in it. Prima facie evidence

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CHAPTER 648

An act to add a new section to the Political Code, to be numbered 4076a, relating to procedure for audit, allowance and payment or rejection of claims in counties.

[Approved by Governor June 9, 1941 Filed with Secretary of State June 10, 1941.] In effect September 13, 1941

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

SECTION 1. A new section is hereby added to the Political Code, to be numbered 4076a and to read as follows: New section

4076a. In any county the board of supervisors may, by resolution, adopt the procedure prescribed in this section. Audit and allowance of claims

When the purchase or furnishing of articles and services or articles or services and the cost thereof have been authorized by purchase orders issued by the purchasing agent or other officer authorized by the board of supervisors to issue purchase orders, or when such purchase or furnishing of articles

and services or articles or services have been authorized by contract, lease, ordinance, resolution or order of the board of supervisors, claims therefor shall be audited and allowed by the county auditor and the allowance of such claims by the board of supervisors or the members thereof shall be dispensed with, except as hereinafter provided, and the allowance of such claims by the auditor shall be in lieu of and shall have the same force and effect as the allowance thereof by the board of supervisors or the members thereof. The auditor shall issue his warrant on the county treasury for such an amount for each of such claims as he shall find to be a correct and legal county charge; he shall not so issue his warrant for any claim that has not been on file in his office for at least three days.

When the auditor finds that any claim presented is a proper county charge, but is greater in amount than is justly due, he may allow the claim in part and issue his warrant for the portion allowed. If the claimant is unwilling to receive such amount in full payment, he shall return the warrant to the county auditor within 30 days after the tender thereof, together with his written refusal to accept such amount in full payment of the claim. The auditor shall immediately transmit the claim to the board of supervisors, together with a statement of his action thereon, his reasons therefor, and claimant's said refusal. The board shall consider such claim within 10 days thereafter and may allow such an amount in payment thereof as is a proper county charge, not in excess of the amount originally claimed, and the auditor shall issue his warrant therefor.

When the auditor finds that any claim presented is not payable by the county, or is not a proper county charge, he must reject such claim and must indorse his rejection thereon. He shall transmit to the board of supervisors, at least once each week, reports of all claims rejected by him and not previously so reported, showing, as to each such claim: Date, fund, name of claimant, amount, and reason for rejection.

The auditor shall prepare duplicate lists of all claims allowed in accordance with this section, showing, as to each claim, Date allowed, fund, warrant number, name of claimant and amount allowed; he shall certify that such lists are correct, shall file one copy thereof in the office of the board of supervisors and shall preserve the other in his own office; such lists shall, as to such claims, constitute, respectively, the allowance book and the warrant book, within the meaning of Section 4039 of this code.

The board of supervisors shall prescribe, by resolution, the procedure for the filing, audit and disposition of claims to which this section relates and shall provide that the auditor shall require the certificates of the authorized requisitioning, inspecting or receiving officers that the articles and services or articles or services have been received or furnished.

CHAPTER 649

An act to repeal Chapter 1, Part 1, Division 2, and Section 1008 of the Welfare and Institutions Code, relating to the California Bureau of Juvenile Research.

Stats 1937, p 1005, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Chapter 1 of Part 1 of Division 2, comprising Sections 500 to 509, inclusive, is hereby repealed.

Stats 1937, p 1019

SEC. 2. Section 1008 of the Welfare and Institutions Code is hereby repealed.

Stats 1937, p 1057

CHAPTER 650

An act to amend Section 1129 of the Welfare and Institutions Code, relating to the establishment of feeble-mindedness.

Stats 1937, p 1005, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1129 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1059

1129. No boy shall be returned to the court as feeble-minded, under the provisions of Sections 747, 834 or 835 of this code, unless such feeble-mindedness has been established through investigation by the Department of Institutions or some qualified person approved by the department.

Establishment of feeble-mindedness

CHAPTER 651

An act to repeal Sections 6622 and 6623 of the Welfare and Institutions Code, relating to dental services at State institutions.

Stats 1937, p 1005, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Sections 6622 and 6623 of the Welfare and Institutions Code are hereby repealed.

Stats 1937, p 1154

CHAPTER 652

Stats 1937, p 1005, amended

An act to amend Section 7001 of the Welfare and Institutions Code, relating to purposes of State homes for the feebleminded.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1937, p 1168

SECTION 1. Section 7001 of the Welfare and Institutions Code is hereby amended to read as follows:

Object of homes

7001. The object of each home is such care, training, and education of the persons committed thereto as will render them more comfortable and happy and better fitted to care for and support themselves. To this end the Department of Institutions shall furnish them with such agricultural and mechanical education as they are capable of receiving and that the facilities offered by the State allow, including farm work, shops, and the employment of trade teachers.

CHAPTER 653

Stats 1937, p 1005, amended

An act to amend Section 740 of the Welfare and Institutions Code, pertaining to the order of commitment of juvenile delinquents.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1937, p 1038

SECTION 1. Section 740 of the Welfare and Institutions Code is hereby amended to read as follows:

Order of commitment

740. When any person alleged to come within the provisions of Section 700 is adjudged by the court or judge to come within the said provisions, and adjudged to be a ward of the juvenile court, the court may make an order committing such person for such time as the court deems fit, but not beyond the time during which the court retains jurisdiction as prescribed by the provisions of Section 750 of this code, to the care of any of the following persons, associations, corporations, or institutions, as herein prescribed:

(a) To the home and care of some reputable person of good moral character.

(b) To the care of some association, society, or corporation embracing within its objects the purpose of caring for or obtaining homes for such persons, and willing and able to receive and care for such ward.

(c) To the care of the probation officer, to be boarded out or placed in some suitable family home, in case provision is made by voluntary contribution, or otherwise, for the payment of the board of the ward until suitable provision may be made for him in a home without such payment, the ward to be subject to the supervision of the probation officer and the further order of the court; but no ward of the juvenile court under the age of 16 years shall be boarded out in any boarding place other than a boarding place licensed by the Department of Social Welfare.

(d) To the care of the probation officer, on probation, the ward to remain in the home of the ward, or in any other fit home in which the court may order the probation officer to place him, subject to the visitation of the probation officer, to report to the probation officer as often as may be required, and to be subject to be returned to the court for further proceedings whenever such action may appear necessary or desirable. In all cases of probation the court may require as a condition of probation that the ward go to work and earn money for the support of his dependents or to effect reparation and in either case that he keep an account of his earnings and report the same to the probation officer and apply such earnings as directed by the court. The court may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and that amends may be made to society for the breach of the law, for any injury done to any person resulting from such breach, and specifically for the reformation and rehabilitation of the ward.

(e) To the Department of Institutions, for placement of one of the correctional schools to be designated by the juvenile court for the period during which the court retains jurisdiction. If the ward is a girl, the court shall designate the Ventura School for Girls; if the ward is a boy the court shall designate the Whittier State School or the Preston School of Industry; and if the ward has passed his fifteenth birthday and not reached his sixteenth birthday, the court shall designate either the Whittier State School or the Preston School of Industry in its discretion, but if the ward is under the age of 15 years, the court shall designate the Whittier State School, and if the ward is over the age of 16 years, the court shall designate the Preston School of Industry. Such commitment to either the Preston School of Industry or the Whittier State School shall permit the transfer of any such boy from one institution to the other upon agreement thereto by the superintendents of such institutions. Any boy committed to the Whittier State School who has passed his fifteenth birthday, and who after due trial and a reasonable opportunity has failed to make a satisfactory response to the training and instruction therein given and who has persistently resisted the discipline of the school and also any boy who has passed his fifteenth birthday and while still under

Order of commitment

commitment to the Whittier State School, violates the conditions under which he may have been permitted to leave the school, shall, on the recommendation of the superintendent of the Whittier School, approved by the State Department of Institutions, be transferred to and be received by the Preston School of Industry.

(f) To any other State or county institution now or hereafter established for the purpose of caring for and training persons that come within the provisions of this chapter.

Before any such person is conveyed to any such institution it shall be ascertained from the superintendent thereof that such person can be received.

CHAPTER 654

Stats 1937, p 1005, amended

An act to amend Section 742 of the Welfare and Institutions Code, relating to prohibited commitments of wards of the juvenile court.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1937, p 1039

SECTION 1. Section 742 of the Welfare and Institutions Code is hereby amended to read as follows:

Prohibited commitments

742. No person under the age of 14 years, at the time of commission of any offense with which he may be charged shall ever be sent to a State prison unless he has first been committed to the Department of Institutions for placement in a correctional school, and has there proved to be incorrigible or not amenable to the discipline of such school.

CHAPTER 655

Stats 1937, p 1005, amended

An act to amend Section 901 of the Welfare and Institutions Code, relating to establishment of juvenile camps.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1937, p 1054

SECTION 1. Section 901 of the Welfare and Institutions Code is hereby amended to read as follows:

Board of supervisors may establish

901. The board of supervisors of any county may by ordinance, establish a juvenile forestry camp or camps, to which boys who would otherwise be committed to the Department of Institutions for placement in a correctional school,

may be committed by the court in lieu of commitment to the Department of Institutions. As far as possible, the provisions of this chapter relating to commitments to such State institutions shall apply to commitments to such forestry camps, except that any boy who proves not to be a fit person to remain in any such camp, in the opinion of the superintendent thereof, shall be returned to the court for commitment to the proper State institution.

CHAPTER 656

An act to amend Section 5075 of the Welfare and Institutions Code, pertaining to the commitment of mentally disordered persons.

Stats 1937, p 1005, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5075 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p 1559

5075. The provisions of this article shall be liberally construed, so that persons who are mentally disordered and bordering on mental illness but not dangerously mentally ill may, without being committed to the Department of Institutions, receive humane care and custody, and be restored to normal mental condition as rapidly as possible.

Liberal construction

CHAPTER 657

An act to amend Section 5100 of the Welfare and Institutions Code, pertaining to the order of commitment of mentally ill persons.

Stats 1937, p 1005, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5100 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p 1560

5100. If, after examination and certificate have been made as provided in Article 3 of this chapter, the judge believes that the person is so mentally ill as to need supervision and treatment by physicians and hospital care and restraint and that unless such supervision, treatment, care and restraint are provided he may endanger health, person, or property the judge shall adjudge the person to be mentally ill, and shall make and sign an order that he be confined in a licensed

Commitment of mentally ill persons

hospital or sanitarium for the care of the mentally ill, entitled by law to receive and care for such persons or otherwise cared for as designated in the order; or that the person is so dangerously mentally ill that he should be committed to the Department of Institutions for placement in a designated State hospital. The order shall be in substantially the following form, and shall be filed with the clerk.

Form of order

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF _____

The People For the Best Interest and Protection of _____ As a Mentally Ill Person, And Concerning _____ and _____, Respondents.	Judgment of Mental Illness and Order for Care, Hospitalization or Commitment

On this _____ day of _____, A.D. 19____, _____, a person alleged to be mentally ill, was brought before me in open court for a hearing and examination on an allegation of mental illness, on the petition of _____, alleging that _____ is mentally ill, and on an order of detention issued thereon by _____, a judge of the superior court of this county, and upon the order of this court, fixing time and place for the hearing and examination made in open court. It appeared to the court that the alleged mentally ill person, when the order was made, was then and there personally present at the hearing before the judge of the court, and was then and there informed by an officer or judge of the court that __he was alleged to be mentally ill and in need of supervision, treatment, care or restraint and of h__ rights to make a defense to such allegation, and of h__ right to be represented by counsel, and to produce witnesses on h__ behalf, and to have subpenas issued to compel the attendance of witnesses, and that he was further informed that, if at such hearing and examination, __he should be ordered, restrained and cared for in a licensed hospital or sanitarium or committed to the Department of Institutions for placement in a designated State hospital, that __he might, within five days after the making of such order demand that the question of h__ mental illness be tried by a jury before the superior court.

It further appeared to the court, that the original order fixing time and place for hearing and examination was entered in the minutes of the court by the clerk thereof, and that a duly certified copy of the order was duly served on the alleged mentally ill person, and upon _____, respondents, and upon other relatives of the alleged mentally ill person,

residing in _____ County of _____ who were deemed by the court necessary or proper persons to be served with notice of the apprehension of the alleged mentally ill person, and of the hearing on the allegation of mental illness.

At the hearing and examination, the alleged mentally ill person was represented by _____, an attorney of this court (appointed by the court for that purpose).

The court thereupon, in open court, proceeded with the hearing and examination of the alleged mentally ill person, and _____ were sworn and examined as witnesses in regard to the mental condition of the alleged mentally ill person, h__ financial condition, and that of the persons liable for h__ care, support and maintenance.

At the hearing and examination, there were in attendance, _____ and _____, two regularly appointed and qualified medical examiners of said _____ County, who then and there heard the testimony of all the witnesses, and each of whom made a personal examination of the alleged mentally ill person, and testified before the court as to the results of such examination, and other pertinent facts within his knowledge.

Said medical examiners, after making the examination and hearing the testimony of the witnesses, and testifying as aforesaid, made a certificate required by Section 5055 of the Welfare and Institutions Code, which certificate is hereto attached and made a part hereof.

_____	_____
_____	_____
_____	_____
_____	_____

Now, therefore, after examination and certificate made as aforesaid, the court is satisfied of the truth of the matters set forth in the certificate, and from the testimony of said witnesses that_____is so mentally ill as to require supervision and treatment by physicians and hospital care, and that unless such supervision, care and restraint are provided he may endanger health, person and property, and that it is dangerous for life, health, person and property, for h___ to be without such supervision, treatment, care and restraint, and that h___ condition is such as to require such care and treatment in a licensed hospital or sanitarium; or that he is so dangerously mentally ill as to require commitment to the Department of Institutions for placement in a designated State hospital for the care and treatment of the insane.

It is therefore ordered, adjudged and decreed that_____ is a mentally ill person and that he be cared for and detained in the_____, a legally licensed sanitarium or hospital at _____until legally released therefrom upon further hearing and order of the court.

It is therefore ordered, adjudged and decreed that_____ is dangerously mentally ill, is an insane person and that

__he be committed to the Department of Institutions for placement in a designated State hospital at_____, California, or such other place as designated in the order of the court.

It is further ordered and directed that_____, sheriff of the_____County of_____, take, convey and deliver _____to the proper authorities of said hospital, to be held and confined therein as a dangerously mentally ill or insane person as provided by law.

The sum of_____dollars having been found on the person of the mentally ill person at the time of h___ detention, the sheriff is ordered to take possession of the same and deliver it to the medical superintendent of said institution with the mentally ill person.

Done in open court this_____day of_____, 19___.

_____

Judge of the Superior Court, County of_____, State of California.

CHAPTER 658

Stats 1937, p 1005, amended

An act to amend Section 5101 of the Welfare and Institutions Code, relating to the County Clerk's Index.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1939, p 1562

SECTION 1. Section 5101 of the Welfare and Institutions Code is hereby amended to read as follows:

County clerk's index

5101. The county clerk shall keep an index, alphabetically arranged, which shall show the name and age of each person examined as to mental illness or insanity, the date of the order of commitment or hospitalization and the name of the licensed hospital or sanitarium to which the person was ordered confined and cared for or the name of the designated State hospital to which the person was committed.

CHAPTER 659

Stats 1937, p 1005, amended,

An act to amend Section 5102 of the Welfare and Institutions Code, relating to the prohibition of commitment to State hospitals of certain persons.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1939, p 1562

SECTION 1. Section 5102 of the Welfare and Institutions Code is hereby amended to read as follows:

Prohibited commitments

5102. No case of idiocy, imbecility, epilepsy, harmless chronic mental unsoundness or feeble-mindedness, as such,

shall be committed to or confined in any State hospital for the care and treatment of the insane. When any such person becomes dangerously mentally ill, however, he may be committed to the Department of Institutions for placement in a designated State hospital for the insane or to a licensed hospital or sanitarium, as provided in this chapter.

CHAPTER 660

An act to amend Section 5103 of the Welfare and Institutions Code, relating to delivery to State hospitals of persons committed.

Stats 1937, p. 1005, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5103 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p. 1563

5103. The mentally ill or insane person, together with certified copies of the petition, order for detention, and of the order for hearing and examination, the order of commitment of the judge and the certificate of the physicians, shall be delivered to the sheriff of the county and by him shall be delivered to the officer in charge of the designated State hospital or licensed hospital or sanitarium, to which the mentally ill or insane person is committed. No female mentally ill or insane person shall be taken to any State or other hospital without the attendance of some other female or of some relative of such mentally ill or insane person.

Delivery of persons committed

CHAPTER 661

An act to amend Section 5251 of the Welfare and Institutions Code, relating to commitment to homes for the feeble-minded.

Stats. 1937, p. 1005, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 5251 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p. 1137

5251. Any feeble-minded person or epileptic who is not insane may be committed to the Department of Institutions for placement in a designated State home for the feeble-minded if he has

Who may be committed

been a resident of the State for the period of one year next preceding the presentation of the petition, or, in the case of a person under the age of one year who was born in the State, if the parent in whose custody he is has been a resident of the State for the period of one year next preceding the presentation of the petition.

CHAPTER 662

Stats 1937, p 1005, amended

An act to amend Section 5252 of the Welfare and Institutions Code, relating to the commitment of persons to State institutions.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1937, p 1137

SECTION 1. Section 5252 of the Welfare and Institutions Code is hereby amended to read as follows:

Petition

5252. A petition for the commitment of a feeble-minded person or an epileptic who is not insane to the Department of Institutions for placement in a designated State home for the feeble-minded may be filed in the superior court of the county in which such person resides, by any of the following persons:

(a) The parent, guardian, or other person charged with the support of the epileptic or feeble-minded person.

(b) Any district attorney.

The petition shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by the affidavit of the petitioner.

CHAPTER 663

Stats 1939, p. 1274, amended

An act to amend Section 5138 of the Revenue and Taxation Code, and to add Sections 5111, 5112 and 5113 to the Revenue and Taxation Code, relating to the refund of taxes paid under protest

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1941, p 411

SECTION 1. Section 5138 of the Revenue and Taxation Code is hereby amended to read as follows:

Recovery of taxes paid

5138. Within six months after the payment, an action may be brought against a county or a city in the superior court to recover the taxes paid under protest.

If all or any portion of the taxes paid under protest and sought to be recovered were collected by officers of the county for a city, an action must be brought against the city for the recovery of such taxes and judgment must be sought against the city. Where actions are brought against both a county and a city such actions may be joined in one complaint.

Any city for which county officers collect taxes may provide for the defense by counsel for the county of actions brought against the city under this article, in which event it shall be the duty of such counsel to defend such actions, or the city may provide that such actions shall be defended by its own counsel.

SEC. 2 Section 5141 is hereby added to the Revenue and Taxation Code, to read as follows: New section

5141. If the court finds that the assessment complained of is void in whole or in part, it shall render judgment for the plaintiff for the amount of the taxes paid on so much of the assessment as is found to be void. In such event but only where taxes are paid after the effective date of this act, the plaintiff is entitled to interest on the taxes for which recovery is allowed at the rate of 5 per centum per annum from the date of payment under protest to the date of entry of judgment, and such accrued interest shall be included in the judgment. The taxes paid on so much of the assessment as is not found to be void shall constitute valid taxes which, if paid after delinquency, shall carry penalties, interest and costs. Amount of judgment

SEC. 3. Section 5142 is hereby added to the Revenue and Taxation Code, to read as follows: New section

5142. Where the taxes sought to be recovered have been paid after delinquency, the amount of penalties, interest or costs recoverable in actions brought under this article shall be computed only on the taxes recovered. Recovery of penalties, etc.

SEC. 4. Section 5143 is hereby added to the Revenue and Taxation Code, to read as follows: New section

5143. As used in this article, "tax" or "taxes" includes penalties, interest and costs. "Tax"

CHAPTER 664

Stats 1939, p 1274, amended

An act to amend Sections 5096, 5098 and 5099 of the Revenue and Taxation Code, to repeal Section 5101 of the Revenue and Taxation Code, and to add Sections 5101, 5103, 5104, 5105, 5106 and 5107 to the Revenue and Taxation Code, relating to the refund of taxes.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1939, p 1370

SECTION 1. Section 5096 of the Revenue and Taxation Code is hereby amended to read as follows:

Refunds permissible

5096. On order of the board of supervisors, any taxes paid before or after delinquency shall be refunded if they were:

(a) Paid more than once.

(b) Erroneously or illegally collected.

(c) Paid on an assessment in excess of the cash value of the property by reason of the assessor's clerical error.

(d) Paid on an assessment of improvements when the improvements did not exist on the lien date.

Stats 1939, p 1371

SEC. 2. Section 5098 of the Revenue and Taxation Code is hereby amended to read as follows:

Court actions

5098. If an action is brought under this article by any person other than the person who paid the tax, his guardian, executor, or administrator, judgment shall not be rendered for the plaintiff.

Stats 1939, p 1372

SEC. 3. Section 5099 of the Revenue and Taxation Code is hereby amended to read as follows:

Other revenue districts, etc

5099. The refund ordered by the board of supervisors may include:

(a) A portion of amounts paid to the State Treasurer by the county treasurer as money belonging to the State.

(b) County taxes and taxes collected by county officers for a city or revenue district.

Stats 1939, p 1372

SEC. 6. Section 5101 of the Revenue and Taxation Code is hereby repealed.

New section

SEC. 7. Section 5101 is hereby added to the Revenue and Taxation Code, to read as follows:

Payment of refunds

5101. Refunds ordered by the board of supervisors under this article in respect of county taxes shall be paid by warrant drawn upon the appropriate fund by the county auditor.

Refunds ordered in respect of revenue districts, except chartered cities, may be paid by a warrant drawn by the county auditor, upon such available funds, if any, as the revenue district may have on deposit in the county treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to such revenue district and on deposit in the county treasury. Refunds ordered in respect of chartered cities shall be paid in the manner provided for their payment in the charter or ordinances of the city. Neither any county nor its officers shall refund amounts on behalf of a revenue district from county funds.

SEC. 8. Section 5103 is hereby added to the Revenue and Taxation Code, to read as follows: New section

5103. If the board of supervisors rejects a claim for refund in whole or in part, the person who paid the taxes, his guardian, executor, or administrator may within six months after such rejection commence an action in the superior court against the county or a city to recover the taxes which the board of supervisors or the city council have refused to refund. Action to recover taxes

If all or any portion of the taxes sought to be recovered were collected by officers of the county for a city, an action must be brought against the city for the recovery of such taxes and judgment must be sought against the city. Where actions are brought against both a county and a city such actions may be joined in one complaint.

Any city for which county officers collect taxes may provide for the defense by counsel for the county of actions brought against the city under this article, in which event it shall be the duty of such counsel to defend such actions, or the city may provide that such actions shall be defended by its own counsel.

SEC. 9. Section 5104 is hereby added to the Revenue and Taxation Code, to read as follows: New section

5104. No action shall be commenced or maintained under this article unless a claim for refund shall have been filed in compliance with the provisions of this article, and no recovery of taxes shall be allowed in any such action upon a ground not asserted in the claim for refund. Necessity of claim for refund

SEC. 10. Section 5105 is hereby added to the Revenue and Taxation Code, to read as follows: New section

5105. In any action in which recovery of taxes is allowed by the court, the plaintiff is entitled to interest on the taxes for which recovery is allowed at the rate of 5 per centum per annum from the date of the filing of the claim for refund to the date of entry of judgment, and such accrued interest shall Interest

be included in the judgment. This section shall not apply to taxes paid before the effective date of this act.

New section

SEC. 11. Section 5106 is hereby added to the Revenue and Taxation Code, to read as follows:

Computation of penalties, etc

5106. Where the taxes sought to be refunded or recovered have been paid after delinquency, the amount of penalties, interest or costs refundable or recoverable under this article shall be computed only on the taxes refunded or recovered.

New section

SEC. 12. Section 5107 is hereby added to the Revenue and Taxation Code, to read as follows:

"Tax"

5107. As used in this article, "tax" or "taxes" includes penalties, interest, and costs.

Effect on pending suits

SEC. 13. Changes in the existing law, if any, which are made by this act shall not affect any suit or action pending at the time this act takes effect which involves the validity of any tax or assessment.

CHAPTER 665

An act to amend Section 4238 of the Political Code, relating to compensation for public services in counties of the ninth class.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats. 1941, p. 1608

SECTION 1. Section 4238 of the Political Code is hereby amended to read as follows:

Kern County Salaries

4238. In counties of the ninth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices the following sums:

Auditor

1. The auditor, three thousand six hundred dollars ($3,600) per annum, together with his necessary expenses incurred while traveling in the performance of his official duties. The auditor shall pay into the county treasury all fees and commissions or compensations received by him in his official capacity, other than the official salary herein provided.

District attorney

2. The district attorney, six thousand dollars ($6,000) per annum and the necessary expenses incurred in the discharge of his official duties. All fees and commissions or compensations received by the district attorney in his official capacity, from any source, shall be paid into the county treasury, other than the official salary herein provided

The district attorney shall devote his entire time during office hours to the work of the county and the State and is prohibited from engaging in private work within such office hours.

3. Supervisors, three thousand six hundred dollars ($3,600) per annum each, and actual and necessary expenses incurred in the performance of the duties of their office. The provisions herein contained shall apply to present incumbents. Supervisors

4. For attending as a grand juror, for each day's actual attendance, per day, five dollars ($5), and ten cents ($0.10) per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same. Jurors

For attending as a trial juror, in the superior court, for each day's actual attendance, per day, three dollars ($3), and ten cents ($0.10) per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage, and the treasurer shall pay the same.

For attending as a trial juror in criminal cases in justice courts, two dollars ($2) per day, for each day of actual service as a juror, and the justice of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and the treasurer shall pay the same.

CHAPTER 666

An act to add a new section to be numbered 154.35 to Chapter 1 of Division 2 of the Agricultural Code, relating to permits to operate seed cleaning equipment. Stats 1933, p 60, amended

[Approved by Governor June 10, 1941 Filed with Secretary of State June 10, 1941.] In effect September 13, 1941

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

SECTION 1. Section 154.35 is hereby added to the Agricultural Code, to read as follows: New section

154.35. Every person before engaging for hire in the business of cleaning crop seed shall obtain a permit to operate from the commissioner for each separate portable seed cleaner being used for the first time in the county. Upon application by the owner and whenever the commissioner deems it necessary, the commissioner may cause an inspection to be made of the cleaner of each permittee. Such permit may be suspended or revoked by the commissioner at any time the permittee fails or neglects to comply with any of the provisions of this chapter, or any rules or regulations thereunder promulgated by the director relative to preventing the dissemination of the seed of any noxious weed pest. Crop seed cleaning permit

CHAPTER 667

Stats 1933, p 391, amended

An act to amend Section 665 of the Fish and Game Code, relating to sale of salmon in certain districts.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1935, p 866

SECTION 1. Section 665 of the Fish and Game Code is hereby amended to read as follows:

Salmon Possession limits

665. Salmon taken in Districts 1, 1½, 2, 2½, 3, 5, 12a, and the Klamath River District may not be sold. Not more than one daily bag limit may be possessed by any person during one day.

CHAPTER 668

An act to amend Section 4244 of the Political Code, relating to the compensation for public services in counties of fifteenth class.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1941, p 1612

SECTION 1. Section 4244 of the Political Code is hereby amended to read as follows:

Contra Costa County: Salaries

4244. In counties of the fifteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, five thousand dollars ($5,000) per annum.

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum.

Supervisors

3. Each supervisor, three thousand three hundred dollars ($3,300) per annum for personal services performed by him as supervisor, member of the board of equalization and road commissioner. There is hereby allowed to each supervisor a sum not to exceed 25 per cent of his monthly salary for expenses necessarily incurred in the conduct of his office. Each supervisor shall file an itemized statement, supported by receipts or vouchers, on the first day of each and every month, designating the actual expenditure on his part of expenses necessarily incurred in the conduct of his office for the preceding month, and no allowance shall be made to any supervisor for expenses necessarily incurred in the conduct of his said office unless the same shall be itemized and designated in said claim filed by him as herein provided.

Jurors

4. Grand jurors and trial jurors, three dollars ($3) per day and mileage for each attendance at the rate of seven cents ($0.07) for each mile actually traveled.

Other compensation and fees

No official of the county, whose compensation is fixed by this section, shall receive any other compensation in any form

in any other capacity from the county. The salaries and expenses provided in this section shall be in full compensation for the services required of them by law, or by virtue of their offices, and all other fees, mileage, or other remuneration or compensation of any kind or character received by such officers for or by reason of any duty imposed by law on such officers, or by virtue of their offices shall be by such officers paid into the county treasury at such times and in such manner as required by law, except that until such time as the county provides for such officers and makes available to their use such numbers of automobiles as are reasonably necessary to carry out the duties of their respective offices, such officers shall be allowed to retain for their own use and benefit such mileage as may be allowed by law. In lieu of the mileage allowed members of the board of supervisors each member shall be supplied by the county with an automobile for use in performance of official duties. All expenses for fuel, oil, supplies, upkeep and maintenance of automobiles for members of the board of supervisors shall be paid from county funds.

CHAPTER 669

An act to amend Sections 2762 and 2763 of the Penal Code, relating to the employment of prisoners upon State highways.

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2762 of the Penal Code is amended to read as follows: Stats. 1941, p. 1099

2762 Said department shall fix the rate to be expended for such labor at not to exceed two dollars and fifty cents ($2.50) per day for each day which each convict actually performs labor upon the construction, improvement or maintenance of a State highway, and shall monthly set aside funds to pay for such labor. Said department shall set up an account for each convict which shall be credited monthly with an amount computed by multiplying the daily rate by the number of days such convict actually performed labor during the month. Such account shall be debited monthly with such convict's expenses for transportation; his drawings from the commissary, such as clothing and toilet articles; and his proportionate share of all expenses for the proper maintenance of the road camp, including the expenses for food, medicine, medical attendance, clerical help, and the pro rata cost of reward for capturing escapes from the road camp, which award is hereby fixed at the sum of two hundred dollars ($200) for the capture of each escaped prisoner, payable to any individual or peace officer. The net credits to each convict's account shall not be permitted to exceed an average of seventy-five cents ($0.75) Payment for convict labor

per day for each day of actual work performed in the road camp.

The Department of Public Works, in computing the debits to be made to the convict's accounts, may add not to exceed 10 per cent on all items except transportation and awards for escapes. When any prisoner escapes the Department of Public Works, after debiting the accounts of the convicts in the camp from which the escape was made, shall set aside the sum of two hundred dollars ($200), and at any time within four years after said escape shall pay the award to the person entitled thereto. No such award can be claimed or paid more than four years after the escape to which it relates.

Stats 1941, p 1100

SEC. 2. Section 2763 of the Penal Code is hereby amended to read as follows:

Payment to dependents

2763. The Department of Public Works shall monthly pay from the net credit to each convict's account to his dependents who are receiving State aid such amounts as the department estimates will equal but will not exceed two-thirds of his total credits during the period of his employment. Immediately prior to or upon the termination of the employment hereunder of any convict for any reason, any additional payment necessary to such dependents to cause the total amount paid to them to equal two-thirds of the convict's net credits shall be made. If the convict's dependents are not receiving State aid, such convict by written order signed by him, may direct the department to likewise make such payments in the same manner to such dependents as he designates. In no event, however, shall payments be made to dependents until there is a net credit to the convict's account of at least twenty-five dollars ($25), and no payment shall be made to dependents which will reduce said net credit below the sum of twenty-five dollars ($25). If a convict is discharged from prison while he is in a road camp, all sums to his credit shall be paid to him on his release. All sums to the credit of any convict who is for any reason returned to the prison or is paroled from the road camp shall be paid to the warden of the prison, and by him shall be paid to the convict at such times and in such amounts as the board prescribes

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CHAPTER 670

An act to add Section 4097.5 to the Political Code, relating to the counting of money in the county treasury.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

New section

SECTION 1. Section 4097.5 is hereby added to the Political Code, to read as follows:

Count by auditor only

4097.5. In any county or city and county having a population of 1,000,000 inhabitants or over and also having twenty

million dollars ($20,000,000) or over of money in the county treasury, the board of supervisors thereof may by four-fifths vote direct that the duties to be performed under Section 4097 of this code shall be performed by the auditor alone, who shall prepare and verify in duplicate the statements required by this section.

CHAPTER 671

An act to add Section 643.5 to the Agricultural Code, relating to dairies, and the exemption of dairies with six cows or less producing milk for manufacturing purposes only from certain requirements concerning equipment and facilities.

Stats. 1933, p. 60, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 643.5 is hereby added to the Agricultural Code, to read as follows:

New section

643.5 Any dairy which produces milk for manufacturing purposes only and in which there are six cows or less and from which regular daily deliveries are made of all of the milk produced for sale on the dairy shall not be required to have a mechanical sterilizer, a mechanical cooler, or a milk house or room

Exceptions

CHAPTER 672

An act to amend Section 7 of The Personal Income Tax Act, relating to taxes on individuals, estates and trusts.

Stats. 1935, p. 1090, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 7 of The Personal Income Tax Act is hereby amended to read as follows:

Stats. 1939, p. 2529

Sec. 7. (a) Gross income includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, and includes any salary, wages or compensation of any officer or employee of this State, or any political subdivision, district or municipality thereof, and any compensation of

Gross income

officers and employees of the United States or agencies or instrumentalities thereof to the extent the collection of State taxes thereon is not prohibited by the terms of the "Public Salary Tax Act of 1939," (it being hereby declared to be the policy of this State to comply with the provisions of said act) and all other gains, profits and income which the State may now or hereafter constitutionally tax.

Exemptions

(b) The following items shall not be included in gross income and shall be exempt from taxation under this act:

(1) Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income);

(2) Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per centum of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this act in respect of such annuity increased by the amount which would have been excluded from gross income in respect of such annuity had this act been in effect continuously from and after the date at which payments under such annuity were first received equals the aggregate premiums or consideration paid for such annuity. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph;

(3) The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);

(4) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

(5) The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(6) Wages, fees, or salary of an employee of a foreign country (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such country:

(A) If such employee is not a citizen of the United States; and

(B) If the services are of a character similar to those performed by employees of the United States in foreign countries; and

(C) If the foreign country and political subdivisions thereof do not tax the wages, fees or salaries of employees of the United States performing similar services in such foreign country.

(7) Income which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

Inventories

(c) Whenever in the opinion of the commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the commissioner may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

(2) (A) A taxpayer may use the following method (whether or not such method has been prescribed under Subdivision (1) in inventorying goods specified in the application required under paragraph (B): (1) Inventory them at cost; (2) Treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year; and (3) Treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

(B) The method described in paragraph (A) may be used (1) only in inventorying goods (required under Subdivision (1) to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and (2) only if the taxpayer establishes to the satisfaction of the commissioner that the taxpayer has used no procedure other than that specified in (2) and (3) of paragraph (A) in inventorying (to ascertain income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) such goods for any period beginning with or during the first taxable year for which the method described in paragraph (A) is to be used.

(C) The change to, and the use of, such method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

(D) In determining income for the taxable year preceding the taxable year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

(E) If a taxpayer, having complied with paragraph (B), uses the method described in paragraph (A) for any taxable year, then such method shall be used in all subsequent taxable years unless with the approval of the commissioner a change to a different method is authorized; or the commissioner determines that the taxpayer has used for any period beginning with or during any subsequent taxable year some procedure other than that specified in (2) of paragraph (A) in inventorying (for ascertaining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) the goods specified in the application, and requires a change to a method different from that prescribed in paragraph (A) beginning with such subsequent taxable year or any taxable year thereafter. In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Gain or loss on sale

(d) In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in Sections 9.1, 9.2, and 9.3 of this act.

Sales of capital assets

(e) In the case of sales or exchanges of capital assets, the gain shall be taken into account in computing net income to the extent provided in Section 9.4 of this act.

Gross income of nonresidents

(f) In the case of taxpayers other than residents the gross income includes only the gross income from sources within this State. Gross income from sources within this State shall include rentals or royalties from property located in this State or from any interest in such property, including rentals or royalties for the use of, or for the privilege of using in this State, patents, copyright, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property. Gross income from sources within and without this State shall be allocated and apportioned under rules and regulations to be prescribed by the commissioner.

Income of nonresidents from stocks, bonds, notes, or other intangible personal property shall not be considered income from sources within this State unless the property has acquired a business situs in this State, except that if a nonresident buys or sells such property in this State or places orders with brokers in this State to buy or sell such property so regularly, systematically, and continuously as to constitute doing business in this State, the profit or gain derived from such activity is income from sources within this State irrespective of the situs of the property.

Income of nonresident beneficiaries from estates or trusts is income from sources within this State only if distributed or

distributable out of income of the estate or trust derived from sources within this State. Dividends

(g) (1) The term "dividend" when used in this act means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913, or out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(2) For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax free distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 9.3 (b).

(3) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under Section 9.1, and shall be recognized only to the extent provided in Section 9.2. Notwithstanding the provisions of Section 9.4, 100 per centum of the gain so recognized shall be taken into account in computing net income, except in the case of amounts distributed in complete liquidation of a corporation. For the purpose of the preceding sentence, "complete liquidation" includes any one of a series of distributions made by a corporation in complete cancellation or redemption of all of its stock in accordance with a bona fide plan of liquidation and under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding from the close of the taxable year during which is made the first of the series of distributions under the plan, (1) three years, if the first of such series of distributions is made in a taxable year beginning after December 31, 1940, or (2) two years, if the first of such series of distributions was made in a taxable year beginning before January 1, 1941. In the case of amounts distributed (whether before or after the effective date of this amendment) in partial liquidation (other than a distribution within the provisions of Subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. In the case of amounts distributed (whether before January 1, 1934, or on

Dividends

or after such date) in partial liquidation (other than a distribution within the provisions of Subdivision (7) of this subsection or stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of Subdivision (2) of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation.

(4) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 9.3 (b) of this act, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(5) (A) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the United States.

(B) Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (i) in its stock or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under paragraph (A), or (ii) in money or any other property (including its stock or rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (A)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(6) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(7) The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(A) If no gain to such distributee from the receipts of such stock or securities was recognized under the provisions of the Federal Revenue Act of 1936 or prior Federal Revenue acts in effect at the time of the distribution, or

(B) If the distribution was not subject to tax in the hands of such distributee under the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution of the United States or because exempted to him under Section 115(f) of the Federal Revenue Act of 1934, or a corresponding provision of a prior Federal revenue act. Dividends

As used in this subsection, the term "stock or securities" includes rights to acquire stock or securities.

(8) As used in this subsection the term "amount distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(9) If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(10) The gain or loss realized from the sale or other disposition (after February 28, 1913) of property by a corporation for the purpose of the computation of earnings and profits of the corporation for any period beginning after February 28, 1913, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where in determining the adjusted basis used in computing such realized gain or loss the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, then the latter adjustment shall be used in determining the increase or decrease above provided.

Where a corporation receives (after February 28, 1913) a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of such distribution shall not increase the earnings and profits of the first corporation in the following cases:

(A) No such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(B) No such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such stock and the property received. For the purposes of this

subdivision, the words "law applicable to the year" shall be deemed to refer to this act or the United States Revenue Act in force for the year in which the sale or other disposition was made.

(11) (A) If any increase or decrease in the earnings or profits for any period beginning after February 28, 1913, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its March 1, 1913, value, then, except as provided in paragraph (B), an increase (properly reflecting such difference) shall be made in that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

(B) If the application of Subdivision (10) to a sale or other disposition after February 28, 1913, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after February 28, 1913, then, notwithstanding Subdivision (10) and in lieu of the rule provided in paragraph (A) of this subdivision, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss, exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Cancellation of debt

(h) If the indebtedness of a taxpayer is canceled or forgiven in whole or in part without payment, the amount so canceled or forgiven shall constitute income to the extent the value of the property of the taxpayer exceeds his liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so canceled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness, such reduction to be made in accordance with regulations prescribed by the commissioner.

If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered canceled or forgiven within the meaning of this subsection unless it can be established that the period of limitation has been extended by a new promise in writing.

Excess value on purchase or exchange

(i) Where property is acquired in a transaction purporting to be a purchase or an exchange (including transactions described in Section 9.2, relating to the nonrecognition of gain, but excluding foreclosures or repossessions of properties held for security), and the value thereof is substantially in excess of the value of the money or property surrendered or agreed to be surrendered as a condition of such acquisition, the excess value shall be considered ordinary income taxable under the provisions of this act, unless it can be established (a) that the

sole consideration for the acquisition of the property was the money or property surrendered or agreed to be surrendered, or (b) that the excess value was a gift or (c) that for some other reason the excess value does not constitute income or the gain represented thereby is not recognized.

CHAPTER 673

An act to amend Sections 1640 and 1671 of, and to add Section 1671.2 to, the Insurance Code, relating to insurance and insurance agents, brokers, and solicitors

Stats 1935, p 496, amended

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1640 of the Insurance Code is hereby amended to read as follows:

Stats 1937, p 1800

1640. This article shall not affect:

Exemptions

(a) Employees of title insurers or persons engaged in the business of examining, certifying, or abstracting titles when no commission is paid such employees or persons transacting insurance.

(b) Mortgage insurers or their solicitors or agents.

(c) Fraternal benefit societies or their solicitors or agents.

(d) Reciprocal or interinsurance exchanges, or their attorneys, solicitors, agents or employees, except as provided by Chapter 3 of this part.

(e) Any insurer admitted to transact life insurance, or life and disability insurance, or the agents, solicitors or employees of any such insurer, or agents licensed under the provisions of Article 2 of this chapter.

(f) Surplus line brokers

(g) Persons whose employment does not include the solicitation, negotiation, or affecting of contracts of insurance and who do not sign policies or other evidences of insurance.

(h) Officers of insurers and salaried traveling employees of the type commonly known as special agents, while performing duties and exercising functions such as are commonly performed by special agents, if such persons:

(1) Do not effect insurance.

(2) Solicit or negotiate insurance only as a part of and in connection with the business of an insurance agent or broker licensed under this chapter.

(i) Persons directly employed by an insurer at its home or branch office, who do not solicit or negotiate insurance and who receive no commissions, and who may as part of their regular employment sign policies or other evidences of insurance.

(j) Bail agents and bail solicitors.

Stats 1941, p 142

SEC. 2. Section 1671 of the Insurance Code is hereby amended to read as follows:

Running inland marine insurance

1671. The completion or delivery of a declaration or certificate of coverage under a running inland marine insurance contract evidencing coverage thereunder does not require licensing under this code, if

(a) The person completing or delivering such certificate or declaration does not receive any commission on such insurance, directly or indirectly, and

(b) The person completing or delivering such certificate or declaration or his employer has an insurable interest in the risk evidenced by the certificate or declaration.

New section

SEC. 3. Section 1671.2 is hereby added to the Insurance Code, to read as follows:

Persons not insurance agents, etc

1671.2. The following employees of a licensed insurance agent or broker shall not be considered as acting as insurance agents, brokers or solicitors:

(a) Those who are regularly salaried administrative or clerical employees and who devote substantially all of their services to activities other than the solicitation of insurance from the insuring public and who receive no commission on insurance, directly or indirectly.

(b) Those who are salesmen who devote substantially all of their activities to selling merchandise and whose solicitation of insurance is limited only to the quoting of a premium for insurance, to be included in the purchase price, covering the interest retained in such merchandise by the seller, and who receive no commission on insurance, directly or indirectly.

CHAPTER 674

An act to amend School Code Section 3.516, relating to employees of the State Board of Education.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Sch C, 1929, p 128

SECTION 1. School Code Section 3.516 is hereby amended to read as follows:

Appointment of teachers

3.516. The State Board of Education is hereby authorized to appoint all necessary professional assistants and teachers; to appoint such other assistants as may be necessary; to fix and pay the compensation of such employees; and to perform any other duties necessary in order to carry out the provisions of the Federal act and of this article.

CHAPTER 675

An act to amend the heading of Article 4 of Chapter 1 of Part 2 of Division 4 and Sections 581 and 588 and to add Section 589.1 of the Fish and Game Code, relating to kelp and other aquatic plants.

Stats 1933, p 394, amended

[Approved by Governor June 10, 1941 Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. The heading of Article 4 of Chapter 1 of Part 2 of Division 4 of the Fish and Game Code is hereby amended to read as follows:

Article heading

Article 4. Kelp and Other Aquatic Plants

SEC. 2. Section 581 of the Fish and Game Code is hereby amended to read as follows:

Stats 1933, p 448

581. Licenses granting the privilege to harvest kelp or other aquatic plants shall be issued and delivered upon application and the payment of a fee of ten dollars ($10) to the commission Said licenses shall be valid for a term of one year from the date of issuance.

Fee

SEC. 3. Section 588 of said code is hereby amended to read as follows:

Stats 1933, p 449

588. In addition to the license fee provided for in this article, every person harvesting kelp or other aquatic plants shall pay a privilege tax of five cents ($0.05) per ton of wet kelp or wet aquatic plants harvested

Privilege tax

SEC 4. Section 589.1 is hereby added to said code, to read as follows·

New section

589.1. The commission may make such rules and regulations as may be necessary to insure the proper harvesting of kelp and other aquatic plants.

Rules and regulations

CHAPTER 676

An act to amend Section 3714 of the Political Code, relating to annual financial estimates of counties.

[Approved by Governor June 10, 1941 Filed with Secretary of State June 10, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 3714 of the Political Code is hereby amended to read as follows:

Stats 1937, p 633

3714. On or before the tenth day of July in each year, at such time as the county board of supervisors may direct,

Annual financial estimates

each county official elective or appointive, or person in charge of any office, department, service, institution or district of the county, excepting irrigation and reclamation and any other district where a tax levy for such district is not carried on the regular county, or city and county assessment roll including township officers and the judges of any court of record, and the executive head of each special district whose affairs and funds are under the supervision and control of the county board of supervisors or for which the county board of supervisors is ex officio the governing body, shall file with the county auditor of such county, an itemized estimate showing both the probable revenues from sources other than taxation that will accrue to his department, office, service, institution, or district, during the fiscal year, to which the budget is intended to apply, and all expenditures required by such department, office, service, institution or district, for the same period, together with a brief explanatory statement of the requested increases in expenditures over the current fiscal year, or if such estimate is not presented before the first day of July, such statement should show the increases in expenditures over the last completed fiscal year. The county board of supervisors shall submit to the county auditor a statement showing all new road and bridge construction and grade separation, classified by funds from which the same are to be financed, for the fiscal year to which the budget is intended to apply, together with the estimated cost thereof. The county board of supervisors shall also submit a similar statement showing their road and bridge maintenance or betterment program, as nearly as can be estimated, as well as an estimate of all expenditures for construction or improvement purposes proposed to be made from the proceeds of bonds or other income not yet authorized; provided, that not to exceed 20 per cent of the moneys belonging to any road district may be carried in an "unappropriated reserve," and shall be available for the use of said district to cover expenditures that may have been insufficiently provided for or for unforeseen requirements as they may arise.

School district estimates

School district estimates shall be submitted on the twentieth day of July through the county superintendent of schools in the manner heretofore prescribed by law, on forms prescribed by the State Department of Education, all other estimates required in this section shall be submitted on forms prescribed by the State Department of Finance, and may only be varied or departed from with the approval of said department; provided, however, that any county may without disturbing the uniformity of the forms and data prescribed, add to the information required or show the same in more detail. The county auditor is hereby directed to provide such forms, and it is made his duty to prepare the estimates for interest and debt redemption requirements and any other estimates, the preparation of which properly falls within the duties of his office; provided, that in the absence, failure, or disability

of any official, or person, required to furnish estimates hereunder, such estimates shall be furnished by the official or employee in charge of such office, department, service, institution, or district, during such absence or disability, or such estimates may be prepared and furnished by the county board of supervisors.

Auditor's tabulation of proposed expenditures

2. From such estimates, the county auditor shall prepare a tabulation showing the complete expenditure program of the county, school districts and special districts for the fiscal year to which the budget is intended to apply, and the sources of revenue by which it is to be financed. Such tabulation shall set forth the estimated revenue from sources other than taxation for each office, department, service, institution, or district, for the fiscal year to which the budget is intended to apply, compared with the corresponding figures of the last completed fiscal year, the estimated unencumbered surplus, after allowing for outstanding orders, contracts or other commitments, at the close of the current fiscal year, if such estimate is presented before July 1st, or the actual unencumbered surplus at the close of the last completed fiscal year, if such estimate is presented after July 1st, and the amount proposed to be raised by taxation; the estimated expenditures for each office, department, service, institution, or district, for the fiscal year to which the budget is intended to apply, the actual expenditures for the last completed fiscal year, together with the actual expenditures that have accrued for the current fiscal year and an estimate of the expenditures that will accrue for the remainder of such current fiscal year, if such estimate is presented before July 1st, and the sums necessary to be provided as "general reserves," or a general reserve as hereinafter provided.

Classification of items

Such estimates of expenditures shall be classified to set forth the data by funds, organization units, character and objects of expenditure; the organization units may be subclassified by functions and activities at the discretion of the county board of supervisors, but the expenditures for each organization unit shall be classified under the general classes of (1) salaries and wages; (2) maintenance and operation; (3) capital outlay; (4) interest and debt redemption; and, (5) expenditures proposed to be made from bonds or other income not yet authorized.

Within the general class of "salaries and wages" each salary shall be set forth separately, together with the title or designation of the recipient; provided and excepted, that in counties empowered by charter to increase or decrease the number of deputies and assistants in any office an unitemized estimate may be made to cover the salaries and wages of such deputies and assistants. Wages for day labor may be given in totals by designating the general purpose or object for which the expenditure is to be made. Expenditures coming under the general classification of "maintenance and operation" shall show the major subdivisions and objects for which such

expenditure is to be made. Expenditures coming under the general classification of "capital outlay" shall show the major subdivisions and objects for which such expenditure is to be made, except that expenditures for structural or nonstructural improvements shall be listed separately as to each project. Under the general class of "interest and debt redemption" shall be set forth separately each series or issue of bonds, together with its individual requirements for interest and redemption. The total amount of emergency appropriations made during the last completed fiscal year shall be set forth separately together with a statement showing the amount issued for each emergency, a list of appropriations canceled showing the amount of each and a list showing each appropriation made from the unappropriated reserves and the amount thereof.

Consideration by supervisors

3. The said tabulation shall be submitted by the county auditor to the clerk of the county board of supervisors on or before the thirtieth day of July of each year, at such time as the county board of supervisors may direct. Said county board of supervisors shall, upon receipt thereof, consider the same in detail, and shall on or before the tenth day of August of each year at such time as the county board of supervisors may direct, make, except as otherwise provided in this section, any revisions, reductions or additions therein, that it may deem advisable, setting forth thereon such changes as have been made to make said budget conform to the judgment and conclusion of the county board of supervisors as to a proper financial program for the county for the fiscal year to which the budget is intended to apply; provided, however, that the estimate submitted by any official, or person, as designated herein shall not be increased or reduced until such official or person shall have first had a hearing thereon before said county board of supervisors; it is further provided, that no school district budget shall be revised, reduced or added to except by the board of school district trustees, except to bring it within the maximum tax limits provided by law. In counties empowered by charter to increase or decrease the compensation and number of deputies and assistants in any office, the county board of supervisors shall, on or before the thirtieth day of May of each year adopt a salary ordinance.

Unappropriated reserves

The county board of supervisors may, if it deem advisable, set aside a portion of each fund, other than school funds, to be known as "unappropriated reserves" which shall not exceed 10 per cent of the total amount of said fund exclusive of surplus; provided, that in any fund from which expenditures are to be made wholly from surplus 10 per cent of the estimated expenditures may be so reserved, or in lieu thereof a general unappropriated reserve which shall not exceed 10 per cent of the total budget exclusive of all items for bond interest and redemption. The money in such unappropriated reserves shall be available for appropriation by a four-fifths vote of the members of the county board of supervisors present

at any meeting of which all members shall have had reasonable notice, to cover expenditures that have not been provided for or that may have been insufficiently provided for or for unforeseen requirements as they may arise.

General reserves

Said budget shall contain an amount or amounts to be known as a general reserve or "general reserves," if carried in separate funds, in such sum or sums as the county boards of supervisors shall deem sufficient, for the fiscal year for which the budget is intended to apply, to meet the cash requirements of any fund to which the county's credit may be legally extended for that portion of such fiscal year prior to the receipt of taxes therein. Sums withdrawn from such "reserves" shall be returned thereto out of the respective appropriations in favor of which they were so withdrawn, and the amount thereof if found excessive, may, at the end of the fiscal year, be reduced by the county board of supervisors by applying such excess to the reduction of the tax levy. It shall be the duty of the county auditor or a deputy designated by him to attend the board's hearings on the matter contained in his tabulation and the preliminary budget, and to furnish said county board of supervisors with any additional data or information it may require.

Preliminary budget

Said tabulation with such revisions, additions, or changes as have been made therein as herein provided, shall constitute the preliminary county budget for the fiscal year to which the budget is intended to apply. Said budget in which shall be set forth the auditor's tabulation and each individual estimate required as per Subdivisions 1 and 2 hereof, shall, on or before the tenth day of August of each year at such time as the county board of supervisors may direct, be printed or mimeographed in full in pamphlet form in quantities sufficient to supply one copy to each taxpayer requesting same, and said county board of supervisors shall on or before such date cause to be published once in a newspaper of general circulation throughout the county, notice that said budget has been prepared and is available for distribution to the taxpayers desiring a copy thereof. Such printed or mimeographed budget shall show such tabulation and fiscal information as the Department of Finance may prescribe in order to provide for uniform reports as between various counties; provided, however, that any county may without disturbing the uniformity of data prescribed add to the information required or show the same in more detail. Such notice shall also set forth that on a date named therein, which date shall be not less than 10 days subsequent to date that said budget is available to taxpayers desiring a copy thereof, the county board of supervisors will meet for the purpose of fixing the final budget designating the time and place of such meeting, and setting forth that any taxpayer may appear thereat and be heard for or against any part of said budget.

Hearing on preliminary budget

4. On or before the twentieth day of August of each year at such time as the county board of supervisors may

direct, said board, shall meet at the time and place designated in the notice, provided in Subdivision 3 hereof, at which time and place any taxpayer may appear and be heard for or against any part of such budget. Such hearing shall be continued from day to day until concluded, but not to exceed a total of 10 days; provided, however, that such hearing shall be concluded before the expiration of 10 days if there are no requests or applications on file with the board for further hearing. The county board of supervisors shall have power to call in the official or person in charge of any office, department, service, institution, or district, other than school districts at the time the estimates for their respective offices are under consideration, for examination concerning such estimates, and such official or person shall be called by said county board of supervisors upon the request of any taxpayer for questioning upon such estimates.

The board of supervisors shall set aside at least one day of the period within which a hearing on the budget may be had, at which any authorized officer of any city within the county may appear and be heard on matters pertaining to the financing of streets, roads and highways both within and without the incorporated areas of the county.

Adoption of budget

Upon the conclusion of such hearing but not later than the thirtieth day of August of each year at such time as the county board of supervisors may direct, said board shall by resolution, adopt the budget as so finally determined, which resolution may specify appropriations by general classes for "salaries and wages," "maintenance and operation," and "interest and debt redemption," and shall specify by items all appropriations for "capital outlays" and shall file in their offices a copy of the completed budget. The several amounts specified in the resolution as finally enacted, shall be and become appropriated for the several offices, departments, services, institutions or districts, for the fiscal year to which the budget is intended to apply; provided, however, that if the budget as adopted, for any fund, special or school district, requires a tax levy greater than the legal limit as determined by the equalized valuations as shown on the assessment roll, such budget shall be decreased so as to come within the legal requirements, and this revised amount shall be the amount deemed to be appropriated for such purposes for such fiscal year. Nothing in this section shall be construed as removing or in any way affecting any tax limit heretofore fixed by law.

Levy of taxes

5. The county board of supervisors shall, not later than the first day of September, fix the rates of county and district taxes designating the number of cents levied for each fund upon each one hundred dollars ($100) of assessed value of the county for the current fiscal year to raise the amount of the estimated expenditures as finally determined, less the total of the estimated revenues from sources other than taxation, including available surplus, and such expenditures as are to be made from bond sources, and must levy the State, county and

district taxes. All taxes shall be levied, upon the taxable property in the county, as provided by law, in specific sums, and the tax for county and local purposes shall not exceed the amount specified in the budget, after allowing for delinquency as provided by law; provided, that it shall not be lawful for any board of supervisors of any county in the State to levy, nor shall any tax greater than seventy-five cents ($0.75) on each hundred dollars ($100) of property be levied and collected in any one year, to pay the bonded indebtedness or judgments arising therefrom, of this State, or of any county or municipality in this State.

Copies of budget and tax levy to State officers

The clerk of the county board of supervisors shall immediately forward a copy of the completed budget and tax levies to both the State Department of Finance and the State Controller.

Estimates adopted constitute appropriation

The estimates of expenditures, classified as required in Subdivision 2 hereof, and as finally fixed and adopted by said county board of supervisors, shall constitute the appropriations for the county for the fiscal year to which the budget is intended to apply and the county board of supervisors and every other county official, or person, including township officers and judges of any court of record, shall be limited in the making of expenditures or the incurring of liabilities to the amount of such appropriations and classifications respectively; provided, that upon a resolution, formally adopted by the county board of supervisors at a regular or special meeting, and entered upon its minutes, transfers or revisions within the general classes of "salaries and wages," "maintenance and operation," and "capital outlay" may be made. Transfers between the general classes provided in Subdivision 2 hereof, shall not be permitted; provided, that in the case of road and bridge maintenance appropriations, any lawful transfer, deemed necessary, may be made; and it is further provided, that the county board of supervisors may by a four-fifths vote of the members present at any meeting of which all members have had reasonable notice cancel any appropriation in whole or in part that is not needed, and return such amount to the "unappropriated reserve" of the fund from which such appropriation was originally made.

Where any budget shall contain an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or obligations therefor incurred, except such preliminary expenditures as may be now provided by law, until such bonds have been duly authorized and sold. Expenditures made, liabilities incurred, or warrants issued in excess of any of the budget appropriations as originally determined, or as thereafter increased from the "unappropriated reserves" or as thereafter revised by transfer, as herein provided, shall not be a liability of the county, but the official making or incurring such expenditure in an amount known by him to be in excess of the available balance of the appropriation against which it is drawn, shall be liable therefor

personally and upon his official bond. The county board of supervisors shall approve no claim, and the county auditor shall issue no warrant for any expenditure in excess of said budget appropriations, as finally adopted or as thereafter increased from the "unappropriated reserves" or by a transfer as herein provided by said county board of supervisors, or as revised under the provisions herein except upon an order of a court of competent jurisdiction, or for an emergency, as hereinafter provided.

Construction

Nothing herein contained shall be construed as affecting any authority now granted the county board of supervisors to enter into any contract for governmental services for a period exceeding one year; provided, that such contract shall only be considered an encumbrance of the fund from which it is to be liquidated in the amount of indebtedness accruing to June 30th of each fiscal year covered by such contract.

School districts included

It is expressly provided that school districts are included herein for the sole purpose of making possible the printing or mimeographing of a proposed expenditure program of moneys collected through county and district tax levies, in order to make possible a ready analysis of such tax levies by the taxpayers and county officials of the county, and it is further expressly provided that nothing in this section shall be construed as requiring any greater detail in school district budgets, nor as allowing any control, alteration or revision thereof or expenditure thereunder not heretofore provided by law, nor as placing any penalty upon any action of any school district board or officer not so heretofore provided.

Emergency expenditures

6. Upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, or insurrection, or for the immediate preservation of order or of public health, or for the restoration to a condition of usefulness of any public property, the usefulness of which has been destroyed by accident, or for the relief of a stricken community, overtaken by calamity, or the settlement of approved claims for personal injuries, or for property damages, exclusive of claims arising from the operation of any public utilities, owned by the county, or to meet mandatory expenditures required by law, the county board of supervisors may upon the adoption, by a four-fifths vote of the members present at any meeting, of the time and place of which all the members of such board shall have had reasonable notice, of a resolution stating the facts constituting the emergency and entering the same upon the minutes, make the expenditure necessary to meet such emergency.

All emergency expenditures shall be paid by warrant from any moneys on hand in the county treasury, in any fund properly chargeable with such expenditure, and the county treasurer is hereby authorized and directed to pay such warrants out of any moneys in the treasury in such fund. If, at any time, there shall be insufficient moneys on hand in the treasury to pay any of such warrants, then such warrant shall

be registered, bear interest, and be called in the manner provided by law for other county warrants.

Unencumbered balances

The unencumbered balance remaining in any fund at the end of the fiscal year shall be carried over to the credit of such fund for the next fiscal year, and shall be deducted from the amount finally determined as necessary to be expended by that fund, for such fiscal year; provided, however, that nothing in this act shall be construed as affecting the right of a county to levy, budget, and expend for highway purposes, the maximum tax provided in Sections 2653 and 4041 of the Political Code in addition to such unencumbered balance; provided, that all balances remaining to the credit of any fund which is not to be continued in the succeeding fiscal year, shall revert to the general fund, except as to such funds as belong to special districts and are not a part of general county finances.

All contractual services rendered or deliveries made prior to the first day of July of each fiscal year, shall be taken into account as expenditures of the year in progress.

If at the beginning of any fiscal year the appropriations necessary for the support of the various county officers, departments, services, institutions or districts for such fiscal year shall not have been made, the several amounts appropriated in the budget of the preceding year for the objects and purposes therein specified, so far as the same shall relate to the operation and maintenance expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year budget until the county board of supervisors shall complete the budget for the current fiscal year and the county auditor shall approve the payments necessary for the support of the various county offices, departments, services, institutions, or districts on the basis of the appropriations of the preceding fiscal year.

Monthly statement by county auditor

7. On or before the tenth day of each month, or such other date in any month as the county board of supervisors may direct, the county auditor shall submit to the county board of supervisors a statement showing such information with respect to the condition of each separate budget appropriation as the county board of supervisors may require.

Duty of State Department of Finance

8. It is hereby made the duty of the State Department of Finance to prescribe forms, to initiate or approve changes therein whenever in its judgment same are advisable, and to promulgate such rules, regulations and classifications as may be necessary to carry out the provisions of this act.

Constitutionality

9. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases, be declared unconstitutional.

Repeal

10. All acts and parts of acts in conflict with this act are hereby repealed.

Urgency

11. Inasmuch as this act provides the method by which the appropriations for the usual current expenses of the various counties and districts of the State are to be prepared and submitted and inasmuch as this information and data must be compiled before the beginning of the next fiscal year, it is hereby declared an urgency measure and shall under the provisions of Section 1 of Article IV of the Constitution of the State of California take effect immediately.

CHAPTER 677

Stats 1931, p 587, amended

An act to add Section 1406.5 to the Probate Code, relating to nomination of guardians.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

New section

SECTION 1. Section 1406 5 is hereby added to the Probate Code, to read as follows:

Nomination of guardian

1406.5. The right of a minor to nominate a guardian is subject to the provisions of Section 1402 of this code.

CHAPTER 678

Stats 1931, p 587, amended

An act to amend Sections 771, 1531 and 1534 of the Probate Code, relating to sales of securities.

In effect September 13, 1941

[Approved by Governor June 10, 1941 Filed with Secretary of State June 10, 1941.]

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

Stats 1937, p 589

SECTION 1. Section 771 of the Probate Code is hereby amended to read as follows:

Stocks, bonds, etc

771. Stocks, bonds, investment certificates and shares of building and loan associations, voting trust certificates, stock warrants or subscription rights, land trust certificates, certificates of beneficial interest in trusts, investment trust certificates, mortgage participation certificates, or any other securities, or certificates of deposit for any of the foregoing, may be sold and title thereto passed without the necessity for confirmation, upon obtaining an order of the court A petition for such an order shall be filed with the clerk, who shall set the same for hearing by the court and shall give notice thereof for the period and in the manner required by Section

1200 of this code, but the court or judge may order the notice to be given for a shorter period or dispensed with. The order shall fix the terms and conditions of sale, and when the minimum selling price is fixed or when the securities are to be sold upon an established stock or bond exchange, no notice of sale need be given.

SEC. 2. Section 1531 of the Probate Code is hereby amended to read as follows: Stats 1937, p 590

1531. When it will benefit a ward to sell any of his real or personal property and to put out the proceeds at interest or invest the same in some productive stocks or bonds, or in the improvement or security of any other real property of the ward, his guardian may sell the same for that purpose, subject to confirmation by the court or authorization in the case of stocks, bonds, investment certificates and shares of building and loan associations, voting trust certificates, stock warrants or subscription rights, land trust certificates, certificates of beneficial interest in trusts, investment trust certificates, mortgage participation certificates, or any other securities, or certificates of deposit for any of the foregoing, as hereinafter provided The order confirming the sale, or authorizing the sale, must specify the particular disposition to be made of the proceeds, or it may direct the deposit of the whole or any portion thereof in a savings account with one or more banks, in which case the money so deposited may be invested from time to time under further directions of the court. Conversion of ward's property for purpose of investment

SEC. 3. Section 1534 of the Probate Code is hereby amended to read as follows: Stats 1937, p 591

1534. Sales by guardians may be at public auction or private sale, as the guardian deems best. All proceedings concerning sales by guardians, giving notice of sale, reselling the same property, return of sale and application for confirmation thereof, notice and hearing of such application, making orders authorizing sales, rejecting or confirming sales and reports of sales, ordering and making conveyances of property sold, and allowance of commissions, must conform, as nearly as may be, to the provisions of this code concerning sales by administrators, unless otherwise specially provided in this chapter. Sales by guardians Provisions governing

CHAPTER 679

Stats 1931, p 2263, amended

An act to amend Sections 4, 5 and 6 of the California Districts Securities Commission Act, relating to the procedure for certifying district bonds as legal investments, for use as security for the performance of any act, and the effect thereof.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1931, p 2264

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Certification of bonds

Sec. 4. Such commission, upon receipt of a certified copy of such resolution, shall, without delay, make or cause to be made an investigation of the affairs of the district and report thereon in writing. If no bonds of the district shall have theretofore been certified as provided in this act or under the provisions of "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized." Approved June 13, 1913, or acts amendatory thereof or supplementary thereto, such report shall be made upon each detail that may in the opinion of the commission have any bearing upon the feasibility and economic soundness of such project. If bonds of the district shall have theretofore been so certified then such report shall be upon the following points:

Stats 1913, p 778

Report

(a) The supply of water available for the project and the extent of the right of the district thereto.

(b) The nature of the soil as to fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage.

(c) The feasibility of the specific project for which the bonds under consideration are desired or have been used.

In either case the commission shall estimate the reasonable value of the water, water rights, canals, reservoirs, reservoir sites and irrigation and power works and other property, owned by the district or to be acquired or constructed with the proceeds of the bonds proposed to be issued by said district and the reasonable value of lands included within the boundaries of the district, and if bonds authorized, whether issued or unissued, are entitled to certification, the report shall set forth the numbers, date or dates of issue, and denominations of the bonds.

No bond issue of any district shall be approved for certification as provided in this act which together with any other outstanding bonds of such district including bonds authorized but not sold exceeds 60 per centum of the aggregate value of the water, water rights, canals, reservoirs, reservoir sites, irrigation and power works and other property owned by the district or to be acquired or constructed with the proceeds of the bonds proposed to be issued by said district, and the reasonable value of the lands within the boundary of the district. Limitation on certification

SEC. 2. Section 5 of the act cited in the title hereof is hereby amended to read as follows: Stats 1931, p 2265

Sec. 5. The written report of the investigation herein provided for shall be filed in the office of the State Controller, and a copy of said report shall be forwarded by the commission to the secretary of the district for which the investigation shall have been made, and if said commission shall have found, as set out in said report, that the project is economically sound and feasible, the bonds of such district, as described and enumerated in said report filed with the State Controller, shall be entitled to be certified by the State Controller, as hereinafter provided for. If the commission shall be notified by the board of any district whose project has been found in such report to be feasible, that the district has issued bonds approved but not enumerated in the report, and the commission shall find that said bonds are for any project or projects approved in such report, the commission shall prepare and file with the State Controller a supplementary report giving the numbers, date or dates of issue and denominations of said bonds, which shall then be entitled to certification by the State Controller as hereinafter provided for. Subsequent issues of bonds may be made available for the purposes specified in this act upon like proceedings by said district, but, after any of the bonds of a district have been enumerated and described as entitled to certification by the State Controller as herein provided for, it shall be unlawful for that district to issue bonds that will not be entitled to such certification. It is hereby made the duty of the State Controller to provide for filing and preserving the reports mentioned in this section and, also, to make, keep and preserve a record of the bonds certified by him in accordance with the provisions of Section 8 of this act, including the date of certification, the legal title of the district, the number of each bond, its par value, the date of its issue and that of its maturity. Filing and certification of report; Supplementary report; Records

SEC. 3. Section 6 of the act cited in the title hereof is hereby amended to read as follows: Stats 1931, p 2265

Sec. 6. Whenever the bonds of any district have been certified as provided in this act, no expenditures shall be made from the proceeds of such bonds, nor shall any liability to be met from such proceeds be incurred, until there shall have been filed with and approved by said commission such a schedule of proposed expenditures of such proceeds as may be Schedule of proposed expenditures

necessary to set forth to the satisfaction of said commission the plan proposed for carrying out the purposes for which said bonds were authorized, or such of said purposes as the district may, at the time of filing such schedule, desire to proceed with; and no expenditures from the proceeds of said bonds shall be made for any purpose not specified in such approved schedule or for any approved purpose in excess of the amount allowed therefor in such schedule without the consent of said commission. During the progress of any work to be paid for from the proceeds of any bond issue certified as in this act provided, the State Engineer on behalf of the commission herein authorized, shall make from time to time such inspection of the work as may be necessary to enable the said engineer to know that the plans approved by the commission are being carried out without material modification unless such modification has been approved by said State Engineer.

Inspection of work

CHAPTER 680

Stats 1929, p 1505, amended

An act to amend Sections 4, 5 and 9 of an act entitled "An act providing for the supervision of dams by the Department of Public Works through the State Engineer for the purpose of safeguarding life and property, defining powers and duties concerning the supervision of dams, providing for the enforcement of said supervision and providing penalties for violation thereof and making an appropriation therefor," approved June 10, 1929, as amended, relating to maintenance and operation of dams.

In effect September 13, 1941

[Approved by Governor June 10, 1941. Filed with Secretary of State June 10, 1941.]

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

Stats 1941, p. 1933

SECTION 1. Section 4 of the act cited in the title hereof is amended to read as follows:

Application for approval of dams constructed prior to August 14, 1929

Sec. 4. Every owner of a dam completed prior to the effective date of this act shall, within six months after the effective date of this act, file an application for the approval of such dam.

A separate application shall be made for each dam and shall be filed with the department upon forms to be supplied by it and shall supply such appropriate information concerning said dam as the department requires. Upon the expiration of said six months period, the department shall give notice to file to owners who have failed to do so as herein required, and a failure to file within 30 days after such notice shall be punishable as hereinafter provided. The notice herein provided for may be given by registered mail and a return receipt signed by such owner shall constitute prima facie evidence of service.

Inspection of dams

The department shall make inspections at State expense of all dams in the State completed prior to August 14, 1929. The

department shall require owners to perform at their expense such work or tests as necessary to disclose information sufficient to enable the department to determine whether to issue certificates of approval or to issue orders directing further work at the owner's expense necessary to safeguard life and property.

If, upon inspection, or, upon completion to the satisfaction of the department of all work that may be ordered, the department finds that the dam is safe to the full extent for which use is or will be made, a certificate of approval shall be issued.

SEC. 2. Section 5 of the act cited in the title hereof is amended to read as follows: Stats 1933, p. 2149

Sec. 5. After the effective date of this act construction of any new dam or the enlargement of any dam shall not be commenced until the owner has applied for and obtained from the department written approval of plans and specifications. Approval of plans for new dam

Enlargement within the meaning of this section constitutes any change in or addition to an existing dam, which shall or may raise the water storage elevation of the water impounded by the dam. Water storage elevation means that elevation of water surface which could be obtained by the existing dam, as previously operated, were there no outflow and were the reservoir full of water.

A separate application for each dam shall be filed with the department upon forms to be provided by it and shall give the name and address of the owner, the location, type, size and height of the proposed dam and appurtenant works, the storage capacity of the reservoir and such other pertinent information as the department shall require. It shall also give as accurately as may be readily obtained, the area of the drainage basin, rainfall and stream flow records and flood flow records and estimates. The department may also require data concerning subsoil and foundation conditions and may require that the site be drilled or otherwise prospected and may require such other appropriate information as may be necessary in a given instance but in instances wherein the physical conditions involved and the size of the dam are such as to render the above requirements as to drainage areas, rainfall, stream flow and flood flow and drilling or prospecting of site unnecessary, said requirements may be waived. Contents of application

The application shall set forth the purpose for which the impounded or diverted water is to be used and shall be accompanied by maps and plans and specifications of such character and size, and setting forth such pertinent details and dimensions as the department may require. Such maps and plans and specifications shall be a part of the application.

Also the application shall set forth the estimated cost, as hereinafter defined, of the dam or enlargement and shall be accompanied by a filing fee based upon said estimated cost and according to the following schedule, to wit: For the first one hundred thousand dollars ($100,000) a fee of 1½ per cent of the estimated cost; for the next four hundred thousand dollars Filing fee

($400,000) a fee of three-fourths of 1 per cent; for the next five hundred thousand dollars ($500,000) a fee of one-half of 1 per cent; and for all costs in excess of one million dollars ($1,000,000) a fee of one-fifth of 1 per cent.

In no case, however, shall the minimum fee be less than twenty dollars ($20).

One fee only shall be collected for an enlargement to be effected by flashboards, sandbags, earthen levees, gates or other works, devices, or obstructions which are, from time to time, to be removed and replaced or opened and shut and thereby operated so as to vary the surface elevation of the impounded water.

Estimated cost

For the purposes of this act, the estimated cost of the dam, or enlargement involved shall include the cost of all labor and materials entering into the construction of the dam and appurtenant works, the cost of preliminary investigations and surveys, and the cost of the construction plant properly chargeable to the cost of the dam; and any and all other items entering directly into the cost of the dam; provided, that the costs of right of way, detached powerhouses, electrical generating machinery and roads and railroads affording access to the dam shall not be included among the items used in the determination of cost. An application shall not be considered by the department until the filing fee is received. In the event that the actual cost exceeds the estimated cost by more than 10 per cent, a further fee shall be required by the department before final approval and shall be 110 per cent of the amount by which the original fee is less than it would have been had the cost it was based upon been the same as the actual cost.

Fee when actual cost exceeds estimated cost

Dams less than 90 per cent complete August 14, 1929

Any dam which the department finds was not 90 per cent constructed at the date this act goes into effect, shall be subject to the same provisions as a dam commenced after the effective date of this act; provided, however, that construction work on such a dam may proceed if an application for approval thereof is filed within 60 days after the effective date of this act, until an order from the department is received approving said dam or specifying how its construction must be made or altered to render it safe. After receipt of an order directing the construction of such a dam work thereafter must be in accordance with said order. Either an application for the approval of a dam under construction must be filed within 60 days after the effective date of this act or a statement must be filed showing that such dam was 90 per cent or more constructed at the effective date of this act. Dams found to be 90 per cent or more constructed at the effective date of this act shall be subject to the same supervision as dams which were completed prior to the effective date of this act. Applications for dams found by the department to have been less than 90 per cent constructed at the effective date of this act shall be accompanied by fees as much less than provided for dams commenced after the effective date of this act as the percentage of construction found by the department to have

Dams 90 per cent or more complete August 14, 1929

been completed at the effective date of this act. All filing fees collected under the provisions of this act shall be paid once each month into the State Treasury. The fees herein provided for shall be required of all enumerated in the definition of owners as made in Section 2 of this act. Disposition of fees

SEC. 3. Section 9 of the act cited in the title hereof is amended to read as follows: Stats 1929, p 1510

Sec. 9. Immediately upon completion of a new dam or enlargement of a dam the owner shall give a notice of completion to the department and as soon thereafter as possible there shall be filed with the department supplementary drawings or descriptive matter showing or describing the dam as actually constructed, including a record of all grout holes and grouting; a record of permanent location points and bench marks; a record of tests of concrete or other material used in the construction of the dam; and any other items which may be of permanent value and have a bearing on the safety and permanency of the dam; provided, that in connection with the enlargement of a dam, the supplementary drawings and descriptive matter need apply only to the new work. New and enlarged dams

As soon as possible after giving notice of completion, the owner shall file an affidavit with the department stating the actual cost of the dam in such detail as the department requires to determine whether a further fee is due.

No certificate of approval shall be issued by the department until the above data and such other pertinent data as may be required by it are filed.

As soon as practicable the completed dam shall be inspected by the department and upon a finding that the work has been done in accordance with the approved plans and specifications or in accordance with the approved plans and specifications as same may have been revised and that the dam is safe for use to the full extent contemplated in the approved plans and specifications or in the approved plans and specifications as same may have been revised, a certificate of approval shall be issued forthwith. Pending issuance of a certificate of approval by the department the dam shall not be used except upon written consent from the department and subject to such conditions as may be imposed by it for the protection of life and property. Inspection and approval

CHAPTER 681

Stats 1933, p 2599, and Stats 1939, p 1274, amended

An act to add a new section, to be numbered 5 3, to the Retail Sales Tax Act of 1933 and a new section, to be numbered 6384, to the Revenue and Taxation Code, both relating to the taxable status of certain sales to contractors; to defer final assessment and determination of sales and use taxes in certain instances, to define certain terms relating to said taxes, to declare the legislative intent with respect thereto, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor June 11, 1941 Filed with Secretary of State June 11, 1941]

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

New section

SECTION 1. A new section, to be numbered 5.3, is hereby added to the Retail Sales Tax Act of 1933, to read as follows:

Sales to Federal contractors

Sec. 5.3. Notwithstanding any other provision of law the tax imposed under this act shall apply to the gross receipts from the sale of any tangible personal property to contractors purchasing such property either as the agents of the United States or for their own account and subsequent resale to the United States for use in the performance of contracts with the United States for the construction of improvements on or to real property.

New section

SEC. 2. A new section, to be numbered 6384, is hereby added to the Revenue and Taxation Code.

Sales to Federal contractors

6384. Notwithstanding any other provision of law the tax imposed under this part shall apply to the gross receipts from the sale of any tangible personal property to contractors purchasing such property either as the agents of the United States or for their own account and subsequent resale to the United States for use in the performance of contracts with the United States for the construction of improvements on or to real property.

Stay of final determination

SEC. 3. Except as otherwise provided in this act, if a retailer, or other person authorized so to do, petitions in conformity with the requirements of Section 20 of the Retail Sales Tax Act of 1933, Section 12 of the Use Tax Act of 1935, or Section 6561 of the Revenue and Taxation Code for reassessment or redetermination of a tax computed on gross receipts from sales of, or the sales price of, tangible personal property purchased by contractors for use in the performance of contracts with the United States for construction of National defense facilities on a cost-plus-a-fixed-fee basis, pending a final decision in a court of last resort that the tax imposed under the Retail Sales Tax Act of 1933, the Use Tax Act of 1935, or the Revenue and Taxation Code, as the case may be, is applicable

with respect to transactions of such kind, the State Board of Equalization shall not initiate action to cause the assessment or determination to become final.

Prohibition of final determination

SEC. 4. Except as otherwise provided in this act, the State Board of Equalization shall not make a final assessment or determination with respect to a tax which is the subject of a petition for reassessment or redetermination under the conditions described in Section 3 hereof, and which is computed on gross receipts from, or the sales price of, a sale made prior to a decision such as is mentioned in said section or, if made subsequent to such a decision, at a price fixed by a contract which became binding prior to July 1, 1941, if it is established that the person liable for the tax has refrained from seeking reimbursement therefor only because of the insistence of those representing the United States with respect to such transactions and, after a reasonable effort to collect, can not be reimbursed therefor as a part of the sales or purchase price. As used in this section the term "reasonable effort to collect" shall not include nor require the institution of litigation until after such decision, and then only if it shall first have been established in a comparable matter, following a final assessment or determination made by the board pursuant to Section 6 of this act, that the person liable for the tax is entitled to be reimbursed for the amount thereof by his vendee.

Records of transactions

SEC. 5. Unless a person otherwise liable for a tax such as is described in Section 3 of this act shall maintain accurate records with respect to all transactions of the type therein described and shall report the transactions to the State Board of Equalization as required by the Retail Sales Tax Act of 1933, the Use Tax Act of 1935, or the Revenue and Taxation Code, as the case may be, said section shall not apply to such person or to any tax assessed against him.

Establishing validity of determinations

SEC. 6. Nothing contained in this act shall prevent the State Board of Equalization from making such final assessments or determinations of tax with respect to transactions of the type described in Section 3 of this act as it may deem necessary to establish the validity of assessments or determinations arising out of transactions of such kind, as well as to establish the right of the retailer or other person liable for the tax to be reimbursed for the amount thereof by his vendee, nor shall this act affect jeopardy assessments under Section 19 of the Retail Sales Tax Act of 1933, or jeopardy determinations under Section 11 of the Use Tax Act of 1935, or Section 6536 of the Revenue and Taxation Code.

Interest

SEC. 7. A taxpayer shall not be liable for interest with respect to any tax assessed or determined under the Retail Sales Tax Act of 1933 and Use Tax Act of 1935 or Revenue and Taxation Code, arising out of transactions described in Section 3 of this act, if such tax is paid within six months

after the effective date of the final decision in a court of last resort that the tax imposed under said acts is applicable, as the case may be, with respect to transactions of such kind, or on or before the date on which the assessment or determination becomes final whichever is the later.

Construction

SEC. 8. Nothing contained in this act shall be construed as a legislative intent, interpretation, or concession to the effect that the tax imposed under the Retail Sales Tax Act of 1933, the Use Tax Act of 1935, or Revenue and Taxation Code, as the case may be, is inapplicable with respect to any transaction or situation mentioned herein, and the Legislature hereby declares and reaffirms that the sales tax is not imposed upon any purchaser of tangible personal property in this State, but is for the privilege of engaging in the business of selling such property at retail. The Legislature hereby further declares that in enacting Section 5.1 of the Retail Sales Tax Act of 1933 and Section 6381 of the Revenue and Taxation Code, it did not intend to exempt from the sales tax the gross receipts from sales of tangible personal property used in the performance of contracts with the United States for the construction of improvements on or to real property.

Sales to contractors are retail sales

SEC. 9. Notwithstanding any of the provisions of this act, the Retail Sales Tax Act of 1933, the Use Tax Act of 1935 or the Revenue and Taxation Code, a sale of tangible personal property to a contractor or subcontractor for use in the performance of contracts with the United States for the construction of improvements on or to real property is hereby declared to be a retail sale within the meaning of that term as defined in said acts or said code, and, accordingly, the gross receipts from such a sale or the purchase price of property so sold shall be included in the measure of the tax imposed under said acts or said code, or any of them.

Constitutionality

SEC. 10. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portion of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy

SEC. 11. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately; provided, however, that the provisions hereof adding Section 6384 to the Revenue and Taxation Code shall become operative at the same time as Part 1, Division 2, of the Revenue and Taxation Code, passed by the Legislature at its Fifty-fourth Session.

CHAPTER 682

An act to add Section 651 to the Penal Code, relating to traffic in Federal order stamps, declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.] In effect immediately

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

SECTION 1. Section 651 is hereby added to the Penal Code, to read as follows: New section

651. It is a misdemeanor for any person to buy, receive, sell, give away, dispose of, exchange or barter any Federal order stamps except for the foods or cotton goods for which they are issued. Federal order stamps

This section does not apply to any person buying, receiving, selling, giving away, disposing of, exchanging or bartering any Federal order stamps subsequent to the redemption of such stamps in the manner provided by State or Federal law for the foods or cotton goods for which they are issued.

As used in this section, Federal order stamps refers to stamps issued by the United States Department of Agriculture or its duly authorized agent for food and surplus food or cotton and surplus cotton.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety and shall, therefore, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. A statement of the facts constituting such urgency follows: Urgency

The Federal Government and the State Relief Administration have established a revolving fund and are issuing Federal order stamps to persons in need. A traffic in these stamps has developed and it is necessary that this traffic be prohibited, otherwise the stamps will not be used for the purposes for which the law intends, people in need will not be assisted, unrest will develop and the public peace, health and safety endangered.

CHAPTER 683

Stats 1937, p 1005, amended

An act to add Sections 2607, 2608, 2609 and 2610 to the Welfare and Institutions Code, relating to the property of indigents.

In effect September 13, 1941

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.]

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

New section

SECTION 1. Section 2607 is hereby added to the Welfare and Institutions Code, to read as follows:

Release of lien, etc

2607. Any estate, interest or lien in property transferred or granted to the board of supervisors under the provisions of Section 2601, or under the provisions of Section 9 of an act entitled "An act to provide for the aid and relief of indigents," approved June 5, 1933, may be reconveyed or released by them upon payment to the county of the amount of aid repayment of which is thereby secured or upon payment to the county of such amount as in the opinion of the board of supervisors equals the net amount which would be realized in the event that said lien was foreclosed or such estate or interest was sold at forced sale.

Stats 1933, p 2007

New section

SEC. 2. Section 2608 is hereby added to the Welfare and Institutions Code, to read as follows:

Subordination of lien

2608. Any estate, interest or lien held by the board of supervisors under the provisions of Section 2601, or under the provisions of Section 9 of an act entitled "An act to provide for the aid and relief of indigents," approved June 5, 1933, may be subordinated by them to the lien of any mortgage or deed of trust given to renew or refinance any mortgage, deed of trust or other encumbrance, the lien or charge of which had priority over such estate, interest or lien.

New section

SEC. 3. Section 2609 is hereby added to the Welfare and Institutions Code, to read as follows:

Release of lien, etc

2609. In any case in which the board of supervisors determines, after investigation, that the purposes of this chapter will be served by releasing or subordinating any lien in whole or in part or reconveying or subordinating in whole or in part any interest or estate transferred or granted to the board of supervisors under the provisions of Section 2601 or under the provisions of Section 9 of an act entitled "An act to provide for the aid and relief of indigents," approved June 5, 1933, and determines that the property affected by such lien, transfer or grant, except such interest or estate as may have been conveyed to the county, is at the time owned by the recipient of aid, the board of supervisors may release such lien

in whole or in part or may reconvey such interest or estate in whole or in part or may subordinate the lien, interest or estate so transferred or granted to it to one or more designated encumbrances executed by the recipient of aid, without consideration or for such consideration as the board may determine.

SEC. 4. Section 2610 is hereby added to the Welfare and Institutions Code, to read as follows: New section

2610. The releases, reconveyances and subordinations herein provided for shall be authorized by a resolution of the board of supervisors, and the instruments of release, reconveyance, or subordination shall be executed by an officer of the county, designated by the board of supervisors, in the name of the county and the State of California, and any release, reconveyance or subordination authorized by the board of supervisors and executed by the designated county officer shall conclusively bind the county and the State in favor of any bona fide purchaser or encumbrancer for value. Execution of instruments

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CHAPTER 684

An act to amend and renumber the title of Chapter 5, Part 4, of Division 6, of the Welfare and Institutions Code, relating to State Narcotic Hospital. Stats 1937, p. 1005, amended

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.] In effect September 13, 1941

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

SECTION 1. The title of Chapter 5, Part 4, Division 6, of the Welfare and Institutions Code is hereby amended and renumbered to read as follows: Chapter title

CHAPTER 6. STATE NARCOTIC HOSPITAL

CHAPTER 685

Stats 1939, p 1067, amended

An act to add Section 6215 to the Public Resources Code, relating to the administration of public lands, and providing alternative methods for protecting the interests of the State in the case of lands heretofore sold with a reservation to the State of a one-sixteenth interest in the oil and gas and other minerals therein.

In effect September 13, 1941

[Approved by Governor June 11, 1941 Filed with Secretary of State June 11, 1941.]

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

New section

SECTION 1. Section 6215 is hereby added to the Public Resources Code, to read as follows:

Development of reserved oil, etc Stats 1921, p 404

6215. As to lands heretofore sold by this State with a reservation to the State of a one-sixteenth interest in the oil and gas or other minerals therein, pursuant to Chapter 303 of the Statutes of 1921, and where it appears that there are or may be deposits of oil and gas in such lands the commission may enter into agreements with respect thereto in the manner provided by Section 6815 of this code with respect to lands owned by the State, or the commission may consent to the inclusion of such lands with the lands of other persons under a cooperative or unit plan of development or operation of a pool or field if it appears that the purpose of such plan is the conserving of the natural resources of any single oil or gas pool or field and if it is determined by the commission to be necessary or advisable in the public interest.

CHAPTER 686

Stats 1889, p 434, repealed

An act to repeal Chapter 281, Statutes of 1889, entitled "An act to provide for the applications for purchase of sixteenth and thirty-sixth sections, and to regulate the application for purchase of such sections, and requiring a deposit to accompany all applications for the purchase of the same," approved March 20, 1889.

In effect September 13, 1941

[Approved by Governor June 11, 1941 Filed with Secretary of State June 11, 1941.]

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

Repeal

SECTION 1. The act cited in the title hereof is hereby repealed.

CHAPTER 687

An act to amend Section 737o of the Political Code, relating to salaries of the judges of the Superior Court of Kern County.

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.] In effect September 13, 1941

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

SECTION 1. Section 737o of the Political Code is hereby amended to read as follows: Stats. 1933, p. 2055

737o. The annual salary of each of the judges of the Superior Court in and for the County of Kern is seven thousand dollars ($7,000). Superior judges Kern

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CHAPTER 688

An act to amend School Code Section 2.680, relating to elections for the formation of junior college districts.

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.] In effect September 13, 1941

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

SECTION 1. School Code Section 2.680 is hereby amended to read as follows: Stats. 1933, p. 2189

2.680. Within 30 days after receiving such notice the superintendent of schools of the county within which the greatest area of the proposed junior college district will lie, shall call an election to be held in every elementary district in the proposed junior college district and shall appoint three qualified electors in each such elementary district to conduct therein the election provided for in this article. Time of election

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CHAPTER 689

An act to add Section 2.88 to the School Code, relating to the inclusion of territory within a school district.

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2.88 is hereby added to the School Code, to read as follows: New section

2.88. No territory which is not contiguous to a school district may be annexed, merged, united or otherwise attached to, or made a part of, such district except in such cases as are specifically provided for in this code. Noncontiguous territory

CHAPTER 690

An act to amend Section 737d of the Political Code, relating to the salary of the judge of the Superior Court in and for the County of Butte.

In effect September 13, 1941

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.]

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

Stats. 1933, p. 1173

SECTION 1. Section 737d of the Political Code is hereby amended to read as follows:

Superior judge Butte

737d. The annual salary of the judge of the Superior Court in and for the County of Butte is six thousand five hundred dollars ($6,500).

CHAPTER 691

An act to add Section 1.182, Section 1.183 and Section 1.184 to the School Code, relating to the employment of minor children.

In effect September 13, 1941

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.]

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

New section

SECTION 1. Section 1.182 is hereby added to the School Code, and shall read as follows:

Minors working for parents, etc

1.182. In order that children may be disciplined and trained in habits of work and industry by their parents, guardians or other persons standing in the place of parents, nothing in this chapter or in Chapter 2 hereof shall require a permit to work to be issued to any minor or require a permit to employ to be issued to the parent or guardian when the work or intended work to be performed by such minor is for or under the control of his parent or guardian and is performed upon or in connection with the premises owned, operated or controlled by such parent or guardian; provided, however, that nothing in this section shall be held to affect existing provisions of law which may require permits to work to be issued to minors employed in manufacturing, mercantile or similar nonagricultural commercial enterprises by their parents or guardians. All other provisions of law relating to compulsory education shall be effective as to such minor.

New section

SEC. 2. Section 1.183 is hereby added to the School Code, and shall read as follows:

Children of agricultural laborers

1.183. Every owner, tenant or operator of a farm employing thereon as agricultural labor any parent or guardian having minor children in their immediate care and custody

shall post at a conspicuous place on such property or place of employment where it may be easily read by those employed, a notice stating that minor children are not allowed to work upon said premises unless legally permitted to do so by law and unless permits to work have been secured by such minor children from duly constituted authorities. No such owner, tenant or operator so posting the notice required by this section shall be held to have violated the provisions of this code because work has been performed upon said premises by minor children without permits to work unless minors are directly employed by or for him or under his direction or unless such owner, tenant or operator has knowledge of the employment of minors on premises owned, leased or operated by him and fails to ascertain if permits to work have been secured by such minors.

SEC. 3. Section 1.184 is hereby added to the School Code, and shall read as follows: New section

1.184. For the purpose of issuing vacation permits to minors under 16 years of age during regular Summer vacation periods in such school districts, the governing board of each school district is hereby empowered to grant to a minor child a vacation permit or to designate the superintendent of schools so to do upon the submission of records showing the age of said minor as required in Section 1.174 of this article; provided, said permits shall be issued upon forms provided by and under instructions issued by the State Superintendent of Public Instruction. Vacation permits

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CHAPTER 692

An act to add Section 1.107 to the School Code, relating to the pupils of the public schools.

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1.107 is hereby added to the School Code, to read as follows: New section

1.107. The governing board of any school district may, in its discretion, provide medical and/or hospital service through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or accident insurance, for pupils of the district injured while participating in athletic activities under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any school thereof. The cost of such insurance or membership may be paid from the funds of the district. Insurance of pupils participating in athletic activities

Such insurance may be purchased from, or such membership may be taken in, only such companies or corporations as are authorized to do business in California.

CHAPTER 693

An act to amend Section 4276 of the Political Code, relating to compensation for public service in counties of the forty-seventh class.

In effect September 13, 1941

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.]

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

Stats 1941, p 1631

SECTION 1. Section 4276 of the Political Code is hereby amended to read as follows:

Colusa County Salaries

4276. In counties of the forty-seventh class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, two thousand four hundred dollars ($2,400) per annum.

District attorney

2. The district attorney, three thousand dollars ($3,000) per annum.

Supervisors

3 Supervisors shall receive one hundred fifty dollars ($150) per month, and mileage at the rate of ten cents ($0.10) per mile for each mile actually traveled by them in the discharge of their duties, either as road commissioner or supervisor, not exceeding in the aggregate two hundred fifty dollars ($250) per annum. Supervisors shall also receive their necessary expenses when the performance of duty as supervisor or road commissioner takes them out of the county.

Jurors

4. Grand and trial jurors of the superior court shall each receive for each day's attendance the sum of three dollars ($3) per day, and for each mile actually traveled in attending court, twenty cents ($0.20) per mile one way only.

CHAPTER 694

An act to amend Sections 3.90 and 3.101 of the School Code, relating to school holidays, declaring February 12th and February 22d legal holidays, and providing for the observance thereof.

In effect September 13, 1941

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.]

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

Stats 1933, p 302

SECTION 1. Section 3.90 of the School Code is hereby amended to read as follows:

Holidays

3.90. The public schools of this State shall, unless otherwise provided, close on Saturday, Sunday, the first day of January, the twelfth day of February, the twenty-second day of February, the thirtieth day of May, the fourth day of July,

the ninth day of September, the eleventh day of November, the twenty-fifth day of December, and on every day appointed by the President of the United States or the Governor of this State for a public fast, thanksgiving or holiday; provided, that the Governor in appointing any day for a holiday may provide whether or not the public schools shall close on such holiday.

SEC. 2. Section 3.101 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 111

3.101. February 12th, the birthday of Abraham Lincoln, and February 22d, the birthday of George Washington, are hereby declared legal holidays. All public schools throughout the State shall hold sessions in the afternoon of the school day next preceding each of said holidays in order to allow the customary exercises in memory of Lincoln and Washington, respectively. When February 12th or February 22d falls on a Sunday the Monday following shall be a legal holiday and shall be so observed. Same

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CHAPTER 695

An act providing for posting property used for certain purposes, prohibiting trespassing upon, and loitering in the immediate vicinity of, such posted property, and providing penalties for violation thereof.

[Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.] In effect September 13, 1941

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

SECTION 1. The following terms shall have the respective meanings herein set forth, namely: Definitions

(a) The term "sign" means a sign not less than one (1) square foot in area and upon which in letters not less than two inches in height appear the words "Trespassing—Loitering Forbidden by Law."

(b) The term "posted property" means any property specified in Section 2 of this act which is posted in a manner provided in Section 3 of this act.

(c) The term "posted boundary" means a line running from sign to sign and such line need not conform to the legal boundary or legal description of any lot, parcel or acreage of land, but only the area within the "posted boundary" shall constitute "posted property," except as otherwise provided in Section 3, subsection (e), hereof.

SEC. 2. Any property, except that portion of such property to which the general public is accorded access, may be Posted property

posted against trespassing and loitering in the manner provided in Section 3 hereof, and thereby become "posted property" subject to the provisions of this act applicable to posted property, if such property consist of, or be used, or be designed to be used, for any one or more of the following:

(a) An oil well, oil field, tank farm, refinery, compressor plant, absorption plant, bulk plant, marine terminal, pipe line, pipe line pumping station, or reservoir, or any other plant, structure, or works, used for the production, extraction, treatment, handling, storage, or transportation, of oil, gas, gasoline, petroleum, or any product or products thereof;

(b) A gas plant, gas storage station, gas meter, gas valve, or regulator station, gas odorant station, gas pipe line, or appurtenances, or any other property used in the transmission or distribution of gas;

(c) A reservoir, dam, generating plant, receiving station, distributing station, transformer, transmission line, or any appurtenances, used for the storage of water for the generation of hydroelectric power, or for the generation of electricity by water or steam or by any other apparatus or method suitable for the generation of electricity, or for the handling, transmission, reception, or distribution of electric energy;

(d) Plant, structures or facilities used for or in connection with the rendering of telephone or telegraph service or for radio broadcasting;

(e) A water well, dam, reservoir, pumping plant, aqueduct, canal, tunnel, siphon, conduit, or any other structure, facility, or conductor for producing, storing, diverting, conserving, treating, or conveying, water;

(f) The production, storage, or manufacture of munitions, dynamite, black blasting powder, gun powder, or other explosives;

(g) A railroad right of way, railroad bridge, railroad tunnel, railroad shop, railroad yard, or other railroad facility;

Manner of posting

SEC. 3. Any property described in Section 2 of this act may be posted against trespassing and loitering, in the following manner:

(a) Any such property, if it be not inclosed within a fence and if it be of an area not exceeding one (1) acre if it have no lineal dimension exceeding one (1) mile, by posting signs at each corner of the area so posted, and at each entrance thereto;

(b) Any such property, if it be not inclosed within a fence and if it be of an area exceeding one (1) acre, or if it contain any lineal dimension exceeding one (1) mile, by posting signs along or near the exterior boundaries of the area so posted at intervals of not more than 600 feet, and also at each corner thereof, and, if such property have definite entrance or entrances thereto, at each such entrance;

(c) Any such property, if it be inclosed within a fence and if it be of an area not exceeding one (1) acre, and if it have

no lineal dimension exceeding one (1) mile, by posting signs at each corner of such fence and at each entrance thereto;

(d) Any such property, if it be inclosed within a fence and if it be of an area exceeding one (1) acre, or if it have any lineal dimension exceeding one (1) mile, by posting signs on, or along the line of, such fence at intervals of not more than 600 feet, and also at each corner thereof and at each entrance thereto;

(e) Any such property, if it consist of poles or towers or appurtenant structures for the suspension of wires or other conductors for conveying electricity or telegraphic or telephonic messages or of towers or derricks for the production of oil or gas, by affixing a sign upon one or more sides of such poles, towers or derricks, but such posting shall render only the pole, tower, derrick, or appurtenant structure "posted property."

Entering or remaining on posted property

SEC. 4. Every person is guilty of a misdemeanor who enters or remains upon any "posted property" without the written permission of the owner, tenant, or occupant in legal possession or control thereof. Every person who so enters or remains upon such "posted property" without such written permission is guilty of a separate offense for each day during any portion of which he enters or remains upon such "posted property."

Defacing signs

SEC. 5. Every person is guilty of a misdemeanor who, without authority, tears down, defaces or destroys any sign posted under the provisions of this act.

Loitering

SEC. 6. Every person is guilty of a misdemeanor who loiters in the immediate vicinity of any "posted property." This section does not prohibit, in the immediate vicinity of any "posted property," or elsewhere, picketing or any lawful activity by which the public is informed of the existence of an alleged labor dispute.

Police officers

SEC. 7. This act does not apply to any entry, in the course of duty, of any peace or police officer or other duly authorized public officer, nor does it apply to the lawful use of an established and existing right of way for public road purposes.

Union activities

SEC. 8. This act does not prohibit any lawful activity for the purpose of engaging in any organizational effort on behalf of any labor union, agent, or member thereof, or of any employee group, or any member thereof, employed or formerly employed in any place of business or manufacturing establishment described herein, or for the purpose of carrying on the lawful activities of labor unions, or members thereof.

Safety investigations

SEC. 9. This act does not prohibit any lawful activity for the purpose of investigation of the safety of working conditions on posted property by a representative of a labor union or other employee group who has upon his person written evidence of due authorization by his labor union or employee group to make such investigation.

Penalties SEC. 10. Violation of any of the provisions of this act is a misdemeanor punishable by a fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

Application throughout State SEC. 11. The provisions of this act are applicable throughout the State in all counties and municipalities and no local authority shall enact or enforce any ordinance in conflict with such provisions.

Constitutionality SEC. 12. If any provision of this act, or the application thereof to any person or circumstance, is held to be invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity or constitutionality of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional or invalid.

CHAPTER 696

An act to add Section 80 to Article 1 of Chapter 2 of Title 1 of Part 2, Section 90 to Article 2 of Chapter 2 of Title 1 of Part 2, and Section 110 to Chapter 3 of Title 1 of Part 2 of, and to repeal Sections 78 and 117 of, the Political Code, providing for the division of this State into districts for the election of legislative representatives, including districts for the election of State Senators, Assemblymen and Representatives in Congress.

In effect September 13, 1941 [Approved by Governor June 11, 1941. Filed with Secretary of State June 11, 1941.]

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

New section SECTION 1. Section 80 is hereby added to Article 1 of Chapter 2 of Title 1 of Part 2 of the Political Code, to read as follows:

Senatorial districts 80. The State is divided into 40 Senatorial districts, which shall be designated and constituted as follows:

1. The counties of Modoc, Lassen and Plumas shall constitute the First Senatorial District.

2. The counties of Del Norte and Siskiyou shall constitute the Second Senatorial District.

3. The County of Humboldt shall constitute the Third Senatorial District.

4. The counties of Mendocino and Lake shall constitute the Fourth Senatorial District.

5. The counties of Trinity and Shasta shall constitute the Fifth Senatorial District. Senatorial districts

6. The County of Butte shall constitute the Sixth Senatorial District.

7. The counties of Sierra, Nevada and Placer shall constitute the Seventh Senatorial District.

8. The counties of Tehama, Glenn and Colusa shall constitute the Eighth Senatorial District.

9. The counties of El Dorado, Amador and Alpine shall constitute the Ninth Senatorial District.

10. The counties of Yuba and Sutter shall constitute the Tenth Senatorial District.

11. The counties of Napa and Yolo shall constitute the Eleventh Senatorial District.

12. The County of Sonoma shall constitute the Twelfth Senatorial District.

13. The County of Marin shall constitute the Thirteenth Senatorial District.

14. The City and County of San Francisco shall constitute the Fourteenth Senatorial District.

15. The County of Solano shall constitute the Fifteenth Senatorial District.

16. The County of Alameda shall constitute the Sixteenth Senatorial District.

17. The County of Contra Costa shall constitute the Seventeenth Senatorial District.

18. The County of Santa Clara shall constitute the Eighteenth Senatorial District.

19. The County of Sacramento shall constitute the Nineteenth Senatorial District.

20. The County of San Joaquin shall constitute the Twentieth Senatorial District.

21. The County of San Mateo shall constitute the Twenty-first Senatorial District.

22. The County of Stanislaus shall constitute the Twenty-second Senatorial District.

23. The County of Santa Cruz shall constitute the Twenty-third Senatorial District.

24. The counties of Merced and Madera shall constitute the Twenty-fourth Senatorial District.

25. The counties of Monterey and San Benito shall constitute the Twenty-fifth Senatorial District.

26. The counties of Tuolumne, Mariposa and Calaveras shall constitute the Twenty-sixth Senatorial District.

27. The County of Kings shall constitute the Twenty-seventh Senatorial District.

28. The counties of Mono and Inyo shall constitute the Twenty-eighth Senatorial District.

29. The County of San Luis Obispo shall constitute the Twenty-ninth Senatorial District.

30. The County of Fresno shall constitute the Thirtieth Senatorial District.

Senatorial districts

31. The County of Santa Barbara shall constitute the Thirty-first Senatorial District.

32. The County of Tulare shall constitute the Thirty-second Senatorial District.

33. The County of Ventura shall constitute the Thirty-third Senatorial District.

34. The County of Kern shall constitute the Thirty-fourth Senatorial District.

35. The County of Orange shall constitute the Thirty-fifth Senatorial District.

36. The County of San Bernardino shall constitute the Thirty-sixth Senatorial District.

37. The County of Riverside shall constitute the Thirty-seventh Senatorial District.

38. The County of Los Angeles shall constitute the Thirty-eighth Senatorial District.

39. The County of Imperial shall constitute the Thirty-ninth Senatorial District.

40. The County of San Diego shall constitute the Fortieth Senatorial District

New section

SEC. 1.5. Section 90 is hereby added to Article 2 of Chapter 2 of Title 1 of Part 2 of the Political Code, to read as follows:

Assembly districts

90. The State is divided into 80 Assembly districts, which shall be designated and constituted as follows:

1. The counties of Del Norte, Humboldt and Mendocino shall constitute the First Assembly District.

2 The counties of Trinity, Shasta, Siskiyou, Modoc, Lassen, Plumas and Sierra shall constitute the Second Assembly District.

3. The counties of Tehama, Glenn, Colusa and Yolo shall constitute the Third Assembly District.

4 The counties of Butte, Yuba and Sutter shall constitute the Fourth Assembly District.

5. The counties of Lake, Napa and Solano shall constitute the Fifth Assembly District.

6 The counties of Nevada, Placer, El Dorado, Amador, Calaveras, Alpine, Tuolumne, Mariposa, Inyo and Mono shall constitute the Sixth Assembly District.

7. The counties of Sonoma and Marin shall constitute the Seventh Assembly District.

8. All that portion of the County of Sacramento included within the City of Sacramento as of January 1, 1927, lying north of the center of K Street, and east of the center of Thirty-first Street, and south of the center of Y Street and east of the center of Franklin Boulevard, and all that portion of said Sacramento County included within the boundaries of "American Township," "Brighton Township," "Center Township," and "Granite Township," as said townships existed on the first day of January, 1927, shall constitute the Eighth Assembly District.

9. All that portion of the County of Sacramento not included in the Eighth Assembly District, as fixed and defined by this section, shall constitute the Ninth Assembly District. Assembly districts

10. The County of Contra Costa shall constitute the Tenth Assembly District.

11. All that portion of the County of San Joaquin comprising the City of Stockton as of January 1, 1927, shall constitute the Eleventh Assembly District.

12. All that portion of the County of San Joaquin not included in the Eleventh Assembly District, as fixed and defined by this section, shall constitute the Twelfth Assembly District.

13. All that portion of the County of Alameda described as follows:

All that portion of the County of Alameda lying southerly and easterly of a line described as follows:

Commencing at the point of intersection of the westerly boundary line of the County of Alameda with the line separating Eden Township from Alameda Township; thence easterly and northerly along the southerly and easterly boundary lines of Alameda Township to the line separating Eden Township from Brooklyn Township; thence in a general easterly direction along the southerly boundary line of Brooklyn Township to the southwesterly boundary line of the City of San Leandro; thence southeasterly, northeasterly, northwesterly and southwesterly along the southwesterly, southeasterly, northeasterly and northwesterly boundary lines of the City of San Leandro to the center line of East Fourteenth Street; thence northwesterly along the center line of East Fourteenth Street to the center line of Ninety-eighth Avenue; thence southwesterly along the center line of Ninety-eighth Avenue to the center line of the right of way of the Central Pacific Railway; thence northwesterly along the center line of the right of way of the Central Pacific Railway to the center line of High Street; thence northeasterly along the center line of High Street to the center line of East Fourteenth Street; thence southeasterly along the center line of East Fourteenth Street to the center line of Sixty-ninth Avenue; thence northeasterly along the center line of Sixty-ninth Avenue to the center line of Flora Street; thence northwesterly along the center line of Flora Street to the center line of Church Street; thence northeasterly and northerly along the center line of Church Street to the center line of Foothill Boulevard; thence easterly and southeasterly along the center line of Foothill Boulevard to the center line of Ninety-eighth Avenue; thence northeasterly along the center line of Ninety-eighth Avenue to the center line of Golf Links Road; thence in a general easterly direction, following along the center line of Golf Links Road to the center line of Grass Valley Road; thence northeasterly along the center line of Grass Valley Road to an intersection with the line separating Brooklyn Township from Eden Township; thence northerly along the westerly boundary line

Assembly districts

of Eden Township to an intersection with the northerly boundary line of the County of Alameda, shall constitute the Thirteenth Assembly District.

14. All that portion of the County of Alameda, described as follows:

Commencing at the point of intersection of the westerly boundary line of the County of Alameda with the line separating Eden Township from Alameda Township; thence easterly and northerly along the southerly and easterly boundary lines of Alameda Township to the line separating Eden Township from Brooklyn Township; thence in a general easterly direction along the southerly boundary line of Brooklyn Township to the southwesterly boundary line of the City of San Leandro; thence southeasterly, northeasterly, northwesterly and southwesterly along the southwesterly, southeasterly, northeasterly and northwesterly boundary lines of the City of San Leandro to the center line of East Fourteenth Street; thence northwesterly along the center line of East Fourteenth Street to the center line of Ninety-eighth Avenue; thence southwesterly along the center line of Ninety-eighth Avenue to the center line of the right of way of the Central Pacific Railway; thence northwesterly along the center line of the right of way of the Central Pacific Railway to the center line of High Street; thence southwesterly along the center line of High Street to the southwesterly boundary line of the City of Oakland; thence northwesterly along the southwesterly boundary line of the City of Oakland to an intersection with the direct extension southwesterly of the center line of Thirteenth Avenue; thence northeasterly along said direct extension and along the center line of Thirteenth Avenue to the center line of Hopkins Street; thence northwesterly along the center line of Hopkins Street to the center line of Excelsior Avenue; thence continuing northwesterly along the center line of Excelsior Avenue to the center line of Lake Shore Avenue; thence southwesterly along the center line of Lake Shore Avenue to an intersection with the line separating Oakland Township from Brooklyn Township; thence northwesterly and southwesterly along the line separating Oakland Township from Brooklyn Township to the northerly boundary line of the City of Alameda; thence westerly along the northerly boundary line of the City of Alameda to an intersection with the westerly boundary line of the County of Alameda; and thence southeasterly along the westerly boundary line of the County of Alameda to the point of commencement, shall constitute the Fourteenth Assembly District.

15. All that portion of the County of Alameda described as follows:

Commencing at the point of intersection of the northeasterly boundary line of the County of Alameda with the direct extension easterly of the center line of Park Boulevard; thence westerly along said direct extension easterly of the center line of Park Boulevard, and continuing in a general southwesterly

direction along the center line of Park Boulevard, following along the curvature thereof to the center line of Sausal Creek; thence westerly and southwesterly along the center line of Sausal Creek to the center line of Park Boulevard; thence southwesterly along the center line of Park Boulevard to an intersection with the direct extension southeasterly of the northeasterly boundary line of the City of Piedmont; thence northwesterly along said direct extension to the most easterly corner of the City of Piedmont; thence southwesterly along the southeasterly boundary line of the City of Piedmont to the most southerly corner thereof; thence southeasterly along the direct extension southeasterly of the southwesterly boundary line of the City of Piedmont to the center line of Park Boulevard; thence southwesterly along the center line of Park Boulevard to the center line of Thirteenth Avenue; thence continuing southwesterly along the center line of Thirteenth Avenue and along its direct extension southwesterly to the southwesterly boundary line of the City of Oakland; thence southeasterly along the southwesterly boundary line of the City of Oakland to the center line of High Street; thence northeasterly along the center line of High Street to the center line of East Fourteenth Street; thence southeasterly along the center line of East Fourteenth Street to the center line of Sixty-ninth Avenue; thence northeasterly along the center line of Sixty-ninth Avenue to the center line of Flora Street; thence northwesterly along the center line of Flora Street to the center line of Church Street; thence northeasterly and northerly along the center line of Church Street to the center line of Foothill Boulevard; thence easterly and southeasterly along the center line of Foothill Boulevard to the center line of Ninety-eighth Avenue; thence northeasterly along the center line of Ninety-eighth Avenue to the center line of Golf Links Road; thence in a general easterly direction, following along the center line of Golf Links Road to the center line of Grass Valley Road; thence northeasterly along the center line of Grass Valley Road to an intersection with the line separating Brooklyn Township from Eden Township; thence northerly along the westerly boundary line of Eden Township to an intersection with the northerly boundary line of the County of Alameda; and thence northwesterly along the northerly boundary line of the County of Alameda to the point of commencement, shall constitute the Fifteenth Assembly District. Assembly districts

16. All that portion of Alameda County described as follows:

Commencing at the point of intersection of the easterly boundary line of the City of Berkeley with the northerly boundary line of the County of Alameda; thence southeasterly along the northeasterly boundary line of the County of Alameda to the point of intersection with the direct extension easterly of the center line of Park Boulevard; thence westerly along said direct extension easterly of the center line of Park Boulevard, and continuing in a general southwesterly direction along the center line of Park Boulevard, following along the

Assembly districts

meanders thereof to the center line of Sausal Creek; thence westerly and southwesterly along the center line of Sausal Creek to the center line of Park Boulevard; thence southwesterly along the center line of Park Boulevard to an intersection with the direct extension southeasterly of the northeasterly boundary line of the City of Piedmont, thence northwesterly along said direct extension to the most easterly corner of the City of Piedmont; thence southwesterly along the southeasterly boundary line of the City of Piedmont to the most southerly corner thereof; thence southeasterly along the direct extension southeasterly of the southwesterly boundary line of the City of Piedmont to the center line of Park Boulevard; thence southwesterly along the center line of Park Boulevard to the center line of Thirteenth Avenue; thence continuing southwesterly along the center line of Thirteenth Avenue to the center line of Hopkins Street; thence northwesterly along the center line of Hopkins Street to the center line of Excelsior Avenue; thence continuing northwesterly along the center line of Excelsior Avenue to the center line of Lake Shore Avenue; thence southwesterly along the center line of Lake Shore Avenue to an intersection with the line separating Oakland Township from Brooklyn Township; thence northwesterly and southwesterly along the line separating Oakland Township from Brooklyn Township to the center line of Twelfth Street; thence northwesterly along the center line of Twelfth Street to the center line of Fallon Street; thence northeasterly along the center line of Fallon Street to the center line of Fourteenth Street; thence northerly and northwesterly along the center line of Fourteenth Street to the center line of Harrison Street; thence northeasterly along the center line of Harrison Street to the center line of Nineteenth Street; thence northwesterly along the center line of Nineteenth Street to the center line of Telegraph Avenue; thence northerly along the center line of Telegraph Avenue to the center line of Shattuck Avenue; thence continuing northerly along the center line of Shattuck Avenue to an intersection with the southerly boundary line of the City of Berkeley; and thence in a general easterly and northerly direction along the southerly and easterly boundary lines of the City of Berkeley to the point of commencement, shall constitute the Sixteenth Assembly District.

17. All that portion of Alameda County described as follows:

Commencing at the point of intersection of the westerly boundary line of the County of Alameda with the direct extension westerly of the center line of Carlton Street; thence easterly along said direct extension, and along the center line of Carlton Street to the center line of San Pablo Avenue, thence southerly along the center line of San Pablo Avenue to the center line of Derby Street; thence easterly along the center line of Derby Street to an intersection with the direct extension northerly of the center line of Shattuck Avenue, as said Shattuck Avenue exists south of Ward Street; thence southerly along said direct extension and along the center line of

Shattuck Avenue to the center line of Telegraph Avenue; thence continuing southerly along the center line of Telegraph Avenue to the center line of Nineteenth Street; thence southeasterly along the center line of Nineteenth Street to the center line of Harrison Street; thence southwesterly along the center line of Harrison Street to the center line of Fourteenth Street; thence southeasterly and southerly along the center line of Fourteenth Street to the center line of Fallon Street; thence southwesterly along the center line of Fallon Street to the center line of Twelfth Street; thence southeasterly along the center line of Twelfth Street to an intersection with the line separating Oakland Township from Brooklyn Township; thence southwesterly along the line separating Oakland Township from Brooklyn Township to the southwesterly boundary line of the City of Oakland; thence westerly along the southwesterly boundary line of the City of Oakland to the southwest corner thereof being on the westerly boundary line of the County of Alameda; and thence northwesterly along the westerly boundary line of the County of Alameda to the point of commencement, shall constitute the Seventeenth Assembly District. Assembly districts

18. All that portion of Alameda County described as follows:

Commencing at the point of intersection of the direct extension westerly of the center line of Carlton Street with the westerly boundary line of the County of Alameda; thence northwesterly along the westerly boundary line of the County of Alameda to the northwest corner thereof; thence easterly and southeasterly along the northerly boundary line of the County of Alameda to the easterly boundary line of the City of Berkeley; thence in a general southerly and westerly direction along the easterly and southerly boundary lines of the City of Berkeley to the center line of Shattuck Avenue; thence northerly along the center line of Shattuck Avenue and along its direct extension northerly to the center line of Derby Street; thence westerly along the center line of Derby Street to the center line of San Pablo Avenue; thence northerly along the center line of San Pablo Avenue to the center line of Carlton Street; and thence westerly along the center line of Carlton Street and along its direct extension westerly to the point of commencement, shall constitute the Eighteenth Assembly District.

19. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of Arguello Boulevard and the southerly boundary line of the Presidio Military Reservation; thence along the center lines of the following streets: Arguello Boulevard to California, California to Presidio Avenue, Presidio Avenue to Geary, Geary to Broderick, Broderick to Fell, Fell to Stanyan, Stanyan to Fulton, Fulton to the shoreline of the Pacific Ocean, northerly and easterly along said shoreline to the center line of Lobos Creek, Lobos Creek to

Assembly districts

the southerly boundary line of the Presidio Military Reservation, easterly along said boundary line to Arguello Boulevard and the point of commencement, shall constitute the Nineteenth Assembly District.

20. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the point of intersection of the center line of Leavenworth Street and the shoreline of the Bay of San Francisco; thence along the center lines of the following streets: Leavenworth to Columbus Avenue, Columbus Avenue to Powell, Powell to Market, Market to Eleventh, Eleventh to Bryant, Bryant to Army, Army to Bay Shore Boulevard, Bay Shore Boulevard to the boundary line separating the City and County of San Francisco from the County of San Mateo; thence easterly along said boundary line to the shoreline of the Bay of San Francisco; thence northerly and westerly along said shoreline to the center line of Leavenworth Street and the point of commencement, and including all the piers and islands in the Bay of San Francisco, and the islands in the Pacific Ocean which are within the territorial boundaries of the City and County of San Francisco, shall constitute the Twentieth Assembly District.

21 All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of Leavenworth Street and the shoreline of the Bay of San Francisco; thence along the center lines of the following streets: Leavenworth to Columbus Avenue, Columbus Avenue to Taylor, Taylor to Filbert, Filbert to Van Ness Avenue, Van Ness Avenue to Bush, Bush to Presidio Avenue, Presidio Avenue to California, California to Arguello Boulevard, Arguello Boulevard to the southerly boundary line of the Presidio Military Reservation, westerly along said boundary line to Lobos Creek, the center line of Lobos Creek to the shoreline of the Pacific Ocean; thence northerly along said shoreline of the shoreline of the Bay of San Francisco, easterly along said shoreline of the Bay of San Francisco to Leavenworth Street and the point of commencement, shall constitute the Twenty-first Assembly District.

22. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of Taylor Street with the center line of Columbus Avenue; thence along the center lines of the following streets: Columbus Avenue to Powell, Powell to Market, Market to Van Ness Avenue, Van Ness Avenue to O'Farrell, O'Farrell to Gough, Gough to Geary, Geary to Presidio Avenue, Presidio Avenue to Bush, Bush to Van Ness Avenue, Van Ness Avenue to Filbert, Filbert to Taylor, Taylor to Columbus Avenue and the point of commencement, shall constitute the Twenty-second Assembly District.

Assembly districts

23. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of O'Farrell Street with the center line of Van Ness Avenue; thence along the center lines of the following streets: Van Ness Avenue to Market, Market to Eleventh, Eleventh to Bryant, Bryant to Twenty-fourth, Twenty-fourth to Mission, Mission to Twenty-first, Twenty-first to Dolores, Dolores to Market, Market to Duboce Avenue, Duboce Avenue to Fillmore, Fillmore to Fell, Fell to Broderick, Broderick to Geary, Geary to Gough, Gough to O'Farrell, O'Farrell to Van Ness Avenue and the point of commencement, shall constitute the Twenty-third Assembly District.

24. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of Twenty-second Street with the center line of Castro Street, thence along the center lines of the following streets: Castro to Twenty-fourth, Twenty-fourth to Dolores, Dolores to Twenty-ninth, Twenty-ninth to Mission, Mission to Brazil, Brazil to La Grande Avenue, La Grande Avenue to the northerly and easterly boundary line of the Amazon Tract Playground and Reservoir site along said easterly boundary line to Geneva Avenue, Geneva Avenue to the boundary line separating the City and County of San Francisco from the County of San Mateo, westerly along said boundary line to the shoreline of the Pacific Ocean, northerly along said shoreline to Sloat Boulevard, Sloat Boulevard to Nineteenth Avenue, Nineteenth Avenue to Holloway Avenue, Holloway Avenue to Ashton Avenue, Ashton Avenue to Ocean Avenue, Ocean Avenue to Faxon Avenue, Faxon Avenue to Yerba Buena Avenue, Yerba Buena Avenue to Miraloma Drive, Miraloma Drive to Portola Drive, Portola Drive to Burnett Avenue, Burnett Avenue to Dixie Alley, Dixie Alley to Grand View Avenue, Grand View Avenue to Twenty-second, Twenty-second to Castro and the point of commencement, shall constitute the Twenty-fourth Assembly District.

25. All that portion of the City and County of San Francisco bounded and described as follows:

Commencing at the intersection of the center line of Fulton Street with the center line of Stanyan Street, thence along the center lines of the following streets: Stanyan to Fell, Fell to Masonic Avenue, Masonic Avenue to Piedmont, Piedmont to Ashbury, Ashbury to Clayton, Clayton to Twin Peaks Boulevard, Twin Peaks Boulevard to Burnett Avenue, Burnett Avenue to Portola Drive, Portola Drive to Miraloma Drive, Miraloma Drive to Yerba Buena Avenue, Yerba Buena Avenue to Faxon Avenue, Faxon Avenue to Ocean Avenue, Ocean Avenue to Ashton Avenue, Ashton Avenue to Holloway Avenue, Holloway Avenue to Nineteenth Avenue, Nineteenth Avenue to Sloat Boulevard, Sloat Boulevard to the shoreline of the Pacific Ocean, northerly along said shoreline to Fulton Street,

Assembly districts

Fulton Street to Stanyan and the point of commencement, shall constitute the Twenty-fifth Assembly District.

26. All that portion of the City and County of San Francisco, bounded and described as follows:

Commencing at the point of intersection of the center line of Fell Street with the center line of Fillmore Street, thence along the center lines of the following streets: Fillmore to Duboce Avenue, Duboce Avenue to Market, Market to Dolores, Dolores to Twenty-first, Twenty-first to Mission, Mission to Twenty-fourth, Twenty-fourth to Bryant, Bryant to Army, Army to Bay Shore Boulevard, Bay Shore Boulevard to the boundary line separating the City and County of San Francisco from the County of San Mateo, westerly along said boundary line to the center line of Geneva Avenue, Geneva Avenue to the easterly boundary line of the Amazon Tract Playground and Reservoir site, northerly along said boundary line to La Grande Avenue, La Grande Avenue to Brazil, Brazil to Mission, Mission to Twenty-ninth, Twenty-ninth to Dolores, Dolores to Twenty-fourth, Twenty-fourth to Castro, Castro to Twenty-second, Twenty-second to Grand View Avenue, Grand View Avenue to Dixie Alley, Dixie Alley to Burnett Avenue, Burnett Avenue to Twin Peaks Boulevard, Twin Peaks Boulevard to Clayton, Clayton to Ashbury, Ashbury to Piedmont, Piedmont to Masonic Avenue, Masonic Avenue to Fell, Fell to Fillmore and the point of commencement, shall constitute the Twenty-sixth Assembly District

27. The County of San Mateo shall constitute the Twenty-seventh Assembly District.

28. All that portion of the County of Santa Clara embraced within the following precincts, as constituted at the general election of 1930, to wit: Agnew, Alviso, Barron, Bay View, Berryessa, Burbank, Calderon, Cupertino, Encina, Farwell, Fremont Nos. 1 and 2, Fruitvale, Jefferson Nos. 1 and 2, Linda Vista Nos. 1 and 2, Los Altos Nos. 1 to 3, inclusive, Midway, Milpitas Nos. 1 and 2, Miramonte, Mount Hamilton Nos. 1 and 2, Mountain View Nos. 1 to 5, inclusive, Orchard, Pala, Palo Alto Nos. 1 to 23, inclusive, Purissima, Red Mountain, San Jose Nos. 1 to 33, inclusive, and Nos. 91 to 107, inclusive, Santa Clara Nos. 1 to 9, inclusive, San Tomas, Saratoga Nos. 1 and 2, Seale, Stanford Nos. 1 and 2 and Sunnyvale Nos. 1 to 4, inclusive, shall constitute the Twenty-eighth Assembly District

29. All that portion of the County of Santa Clara not included in the Twenty-eighth Assembly District, as fixed and defined by this section, shall constitute the Twenty-ninth Assembly District.

30. The County of Stanislaus shall constitute the Thirtieth Assembly District.

31. The counties of Merced and Madera shall constitute the Thirty-first Assembly District.

32. The counties of San Benito and Santa Cruz shall constitute the Thirty-second Assembly District.

33. The counties of Monterey and San Luis Obispo shall constitute the Thirty-third Assembly District. Assembly districts

34. All that portion of the County of Fresno bounded as follows: Commencing at the point of intersection of the center line of Ashlan Avenue and the center of the main line track of the Southern Pacific Railroad running between the cities of San Francisco, Merced and Fresno; thence along the center line of the following named streets, to wit: Easterly on Ashlan Avenue to Winery Avenue; southerly on Winery Avenue to McKinley Avenue; westerly on McKinley Avenue to Chestnut Avenue; southerly on Chestnut Avenue to Church Avenue; westerly on Church Avenue to Hughes Avenue; northerly on Hughes Avenue to the center of the main line track of the Southern Pacific Railroad named above; northwesterly along the center line of said track to the point of beginning, shall constitute the Thirty-fourth Assembly District.

35. All that portion of the County of Fresno not included in the Thirty-fourth Assembly District shall constitute the Thirty-fifth Assembly District.

36. The counties of Kings and Tulare shall constitute the Thirty-sixth Assembly District.

37. The County of Santa Barbara shall constitute the Thirty-seventh Assembly District.

38. The County of Ventura shall constitute the Thirty-eighth Assembly District.

39. The County of Kern shall constitute the Thirty-ninth Assembly District.

40. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of the official bed of the Los Angeles River and the center line of the Southern Pacific Railroad Company's Right of Way (Main Line to Yuma) in Alhambra Avenue; thence easterly along the center line of said right of way to the center line of Daly Street; thence southerly along the center line of Daly Street and its southerly prolongation and center line to the center line of Mission Road; thence northeasterly along the center line of Mission Road to the center line of Marengo Street; thence southeasterly along the center line of Marengo Street to the center line of Soto Street; thence northeasterly along the center line of Soto Street to the center line of Valley Boulevard; thence easterly along the center line of Valley Boulevard to the northerly prolongation of the center line of Indiana Street; thence southerly along said northerly prolongation and center line of Indiana Street to an angle point in the easterly boundary of the City of Los Angeles as the same existed on March 1, 1941 (at or near the intersection of Medford Street and Indiana Street); thence southerly along said boundary and following the same in all its various courses to the center line of the aforesaid Los Angeles River;

Assembly districts

thence northerly along the center line of said river and following the same in all its various courses to point of beginning, shall constitute the Fortieth Assembly District.

41. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of the County of Los Angeles, said corner lying on the northerly line of Sec. 4, T. 8 N., R. 19 W., S. B. B. & M.; thence easterly along the boundary of said county and following the same in all its various courses to the southerly line of Sec. 31, T. 3 N., R. 7 W., S. B. B. & M.; thence westerly along section lines to the northwest corner of Sec. 6, T. 2 N., R. 11 W., S. B B & M ; thence northerly along the range line between R. 11 and 12 W., to the northeast corner of Sec. 1, T. 2 N., R. 12 W., S. B. B. & M.; thence westerly along section lines to the northwest corner of Sec. 6, T. 2 N., R. 13 W., S. B. B. & M.; thence southerly along section lines to the southeast corner of Sec. 36, T. 3 N., R. 14 W., S. B. B. & M.; thence westerly along section lines to the first angle point in the boundary of the City of Los Angeles as the same existed on March 1, 1941, located on the southerly line of Sec. 36, T. 3 N., R. 15 W., S. B. B. & M.; thence westerly along the boundary of the City of Los Angeles and following the same in all its various courses to the center line of Vaughn Street; thence southwesterly along the center line of Vaughn Street to the center line of Foothill Boulevard; thence northwesterly along the center line of Foothill Boulevard to the center line of Larue Street; thence southwesterly along the center line of Larue Street to the northeasterly boundary of the City of San Fernando, as the same existed on above date; thence southeasterly, southwesterly and northwesterly along the boundary of the City of San Fernando to its intersection with Brand Boulevard; thence westerly along the center line of Brand Boulevard to the intersection of Sepulveda Boulevard; thence southerly along the center line of Sepulveda Boulevard to the center line of Roscoe Boulevard; thence westerly along the center line of Roscoe Boulevard and along the prolongation of the most westerly portion thereof to the westerly boundary of the City of Los Angeles, as the same existed on above date; thence northerly along the boundary of the City of Los Angeles to the northerly line of fractional Sec. 34, T. 2 N., R. 17 W., S. B. B. & M.; thence westerly along section lines to the westerly boundary of the County of Los Angeles; thence northerly along said last mentioned boundary and following the same in all its various courses to the point of beginning, shall constitute the Forty-first Assembly District.

42. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the northerly line of Sec. 8, T. 1 S., R. 19 W., S. B. B. & M., and the northwesterly boundary of the County of Los Angeles; thence northeasterly along the boundary of said county and following the same in

all its various courses to the northerly line of fractional Sec. 33, T. 2 N., R. 17 W., S B. B. & M ; thence easterly along section lines to the westerly boundary of the City of Los Angeles as the same existed on March 1, 1941; thence southerly along the boundary of the City of Los Angeles to the westerly prolongation of the center line of the most westerly portion of Roscoe Boulevard; thence easterly along said prolongation and center line and following the center line of Roscoe Boulevard to the center line of Sepulveda Boulevard; thence northerly along the center line of Sepulveda Boulevard to the center line of Brand Boulevard; thence northeasterly along the center line of Brand Boulevard to the boundary line of the City of San Fernando, thence southeasterly and northwesterly along the boundary of the City of San Fernando to the center line of Larue Street; thence northeasterly along the center line of Larue Street to the center line of Foothill Boulevard; thence southeasterly along the center line of Foothill Boulevard to the center line of Vaughn Street; thence northeasterly along the center line of Vaughn Street to the boundary of the City of Los Angeles, as the same existed on above date; thence northerly along the boundary of the City of Los Angeles to the southerly line of Sec. 36, T. 3 N., R. 15 W., S. B. B. & M.; thence easterly along section lines to the southeast corner of Sec. 36, T. 3 N., R. 14 W., S. B. B. & M.; thence northerly along section lines to the southwest corner of Sec. 31, T. 3 N., R 13 W., S. B. B. & M.; thence easterly along section lines to the northwest corner of Sec. 2, T. 2 N., R. 13 W., S. B. B. & M.; thence southerly along section lines and the southerly prolongation thereof to the first intersection with the northerly boundary of the City of Glendale as the same existed on above date (in Verdugo Boulevard); thence southerly along the boundary of the City of Glendale and following the same in all its various courses to its first intersection with the northerly boundary of the City of Los Angeles, as the same existed on above date; thence southeasterly along said last mentioned boundary and following the same in all its various courses to the center line of Goodwin Avenue; thence westerly along the center line of Goodwin Avenue to the westerly terminus thereof; thence westerly in a direct line to the most southeasterly corner of the Rancho Providencia as shown on map recorded in Book 1, pages 244 and 245 of Patents in the office of the Recorder of the County of Los Angeles; thence westerly along the southerly boundary of the Rancho Providencia to the center line of Barham Boulevard; thence southwesterly along the center line of Barham Boulevard to the center line of the Pacific Electric Railway Company's right of way; thence southeasterly along the center line of said last mentioned right of way to the southeasterly prolongation of that portion of the northeasterly line of Woodrow Wilson Drive lying between Treasure Trail and Cahuenga Boulevard; thence northwesterly along said last mentioned prolongation and northeasterly line of Woodrow

Assembly districts

Assembly districts

Wilson Drive to a point in the southerly boundary of that certain territory annexed to the City of Los Angeles May 22, 1915, known as the San Fernando Addition; thence westerly along the boundary of said last mentioned annexation and following the same in all its various courses to an angle point in the boundary of the City of Los Angeles as the same existed on above mentioned date, said angle point being also the most easterly corner of fractional Sec. 33, T. 1 N., R. 16 W., S. B. B. & M.; thence southwesterly along the boundary of said last mentioned city to the southerly line of fractional Sec. 18, T. 1 S., R. 16 W., S. B. B. & M.; thence westerly along section lines to the southeast corner of Sec. 13, T. 1 S., R. 19 W., S. B. B. & M.; thence northerly and westerly along the easterly and northerly lines of said Sec. 13 to the southeast corner of Sec. 11, said last mentioned township and range; thence northerly along the easterly line of said last mentioned section to the northeast corner thereof; thence westerly along section lines to the point of beginning, shall constitute the Forty-second Assembly District.

43. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most westerly corner of the boundary of the City of Glendale as the same existed on March 1, 1941; thence northeasterly along the boundary of said city and following the same in all its various courses to its first intersection with the boundary of the City of Los Angeles as the same existed on the above mentioned date; thence westerly along the boundary of the said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Forty-third Assembly District.

44. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the northeasterly prolongation of the center line of Dallas Street, as shown on map of Tract No. 5963, recorded in Book 80, pages 87 and 88, of Maps, in the office of the Recorder of the County of Los Angeles, and the center line of the Official Bed of the Los Angeles River; thence southeasterly along the center line of said river and following the same in all its various courses to the center line of North Spring Street; thence northeasterly along the center line of North Spring Street to the center line of North Broadway; thence northeasterly and easterly along the center line of North Broadway to the center line of Daly Street; thence southerly along the center line of Daly Street to the center line of the Southern Pacific Railroad Company's Right of Way in Alhambra Avenue; thence westerly along the center line of said last mentioned right of way to the center line of the aforesaid Official Bed of the Los Angeles River; thence southerly along the center line of said river and following the same in all its various courses to the southerly boundary of the City of Los Angeles, as the same existed on March 1, 1941; thence westerly along the boundary

Assembly districts

of said city to the center line of Alameda Street; thence northerly along the center line of Alameda Street to the center line of Olympic Boulevard from the northwest; thence northwesterly along the center line of Olympic Boulevard and northwesterly along the center line of Ninth Street to the center line of Figueroa Street; thence northeasterly along the center line of Figueroa Street to the center line of Eighth Street; thence northwesterly along the center line of Eighth Street to the center line of Francisco Street; thence northeasterly along the center line of Francisco Street to the center line of Seventh Street; thence northwesterly along the center line of Seventh Street to the center line of Kip Street; thence northeasterly along the center line of Kip Street to the center line of Ingraham Street; thence northwesterly and northeasterly along the center line of Ingraham Street to the center line of Kip Street (from the northeast); thence northeasterly along the center line of Kip Street to the center line of Wilshire Boulevard; thence southeasterly along the center line of Wilshire Boulevard to the center line of Wilshire Drive; thence northeasterly along the center line of Wilshire Drive to the center line of Sixth Street (from the northeast); thence northeasterly along the center line of Sixth Street to the center line of Sixth Street (from the northwest); thence northwesterly along the center line of Sixth Street to the center line of Boylston Street; thence northeasterly along the center line of Boylston Street and northeasterly along the center line of Huntley Drive to the center line of Huntley Drive (from the west); thence easterly along the easterly prolongation of the center line of Huntley Drive to the southwesterly prolongation of the center line of Boylston Street; thence northeasterly along said prolongation and center line of Boylston Street to the center line of Bellevue Avenue; thence northerly along the center line of Bellevue Avenue to the center line of Boylston Street (from the northeast); thence northeasterly along the center line of Boylston Street to the center line of Sunset Boulevard; thence northwesterly along the center line of Sunset Boulevard to the center line of Quintero Street; thence northeasterly along the center line of Quintero Street to the center line of Macbeth Street; thence northwesterly along the center line of Macbeth Street to the center line of Sutherland Street; thence northeasterly along the center line of Sutherland Street to the center line of that certain alley lying adjacent to and parallel with the northerly line of Block 6 of Golden West Heights, as shown on map recorded in Book 34, page 91, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northwesterly along the center line of said alley and the northwesterly prolongation thereof to the center line of Portia Street; thence northeasterly along the center line of Portia Street to the center line of Scott Avenue; thence northeasterly along the center line of Scott Avenue to the southwesterly prolongation of the center line of Elysian

Assembly districts

Park Drive; thence northeasterly along said prolongation and center line of Elysian Park Drive and following the same in all its various courses to the center line of Chavez Ravine Drive (Elysian Park Drive and Chavez Ravine Drive are park roads lying within Elysian Park as per Ordinance No. 37351 of the City of Los Angeles); thence northeasterly along the center line of Chavez Ravine Drive and following the same in all its various courses to the southwesterly prolongation of the center line of the aforesaid Dallas Street; thence northeasterly along said last mentioned prolongation, the center line and northeasterly prolongation of the center line of said Dallas Street to the point of beginning, shall constitute the Forty-fourth Assembly District.

45. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the southwesterly prolongation of the center line of Division Street with the southwesterly line of the Southern Pacific Railroad Company's Right of Way (Valley Line), said point being near the southwesterly corner of Tract No. 3867, as shown on map recorded in Book 44, pages 20 and 21, of Maps, in the office of the Recorder of the County of Los Angeles; thence northeasterly along said prolongation and center line of Division Street to the center line of Avenue 30; thence southeasterly along the center line of Avenue 30 to the center line of Bank Street; thence northeasterly along the center line of Bank Street to the center line of Isabel Street; thence southeasterly along the center line of Isabel Street and following the same in all its various courses to the center line of Amabel Street; thence southeasterly along the center line of Amabel Street to the center line of Figueroa Street; thence northeasterly along the center line of Figueroa Street to the center line of Avenue 37; thence southeasterly along the center line of Avenue 37 to the center line of Arroyo Seco Avenue; thence northeasterly along the center line of Arroyo Seco Avenue to the center line of Marmion Way; thence northerly along the center line of Marmion Way and following the same in all its various courses to the northwesterly prolongation of the center line of that portion of Avenue 44 lying between Figueroa Street and Marmion Way; thence southeasterly along said prolongation and center line of Avenue 44 to the center line of Figueroa Street; thence northeasterly along the center line of Figueroa Street and following the same in all its various courses to the center line of Avenue 60 (from the southeast); thence southeasterly along the center line of Avenue 60 to the center line of Arroyo Seco Parkway; thence northeasterly along the center line of Arroyo Seco Parkway and following the same in all its various courses to the center line of Marmion Way; thence southeasterly along the center line of Marmion Way to the center line of Arroyo Drive; thence easterly along the center line of Arroyo Drive to the northerly prolongation of the most westerly boundary of the

City of South Pasadena as the same existed on March 1, 1941; thence southerly along said last mentioned prolongation to the northerly terminus of said most westerly boundary, being also an angle point in the boundary of the City of Los Angeles as the same existed on said date; thence southerly along the boundary of said City of Los Angeles and following the same in all its various courses to an angle point in said boundary, said angle point lying on center line of Indiana Street (formerly Westminster Avenue), as shown on map of Boston Heights, recorded in Book 19, page 38, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northerly along the center line of Indiana Street and the northerly prolongation thereof to the center line of Valley Boulevard; thence westerly along the center line of Valley Boulevard to the center line of Soto Street; thence southwesterly along the center line of Soto Street to the center line of Marengo Street; thence northwesterly along the center line of Marengo Street to the center line of Mission Road; thence southwesterly along the center line of Mission Road to the center line of Daly Street; thence northerly along the center line of Daly Street, its northerly prolongation and center line to the center line of North Broadway; thence westerly and southwesterly along the center line of North Broadway to the center line of North Spring Street; thence southwesterly along the center line of North Spring Street to the center line of the Official Bed of the Los Angeles River; thence northwesterly along the center line of said river to the southwesterly prolongation of the center line of that portion of Granada Street lying between Cypress Avenue and San Fernando Road; thence northeasterly along said last mentioned prolongation to the southwesterly line of the aforesaid Southern Pacific Railroad Company's Right of Way (Valley Line); thence northwesterly along the southwesterly line of said right of way to the point of beginning, shall constitute the Forty-fifth Assembly District. Assembly districts

46. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the southwesterly prolongation of the center line of that portion of Culver Boulevard lying between Trolley Way and Ocean Front Walk with the southwesterly boundary of the County of Los Angeles; thence northeasterly along said southwesterly prolongation and center line of Culver Boulevard and following the same in all its various courses to the center line of Pershing Drive (from the northwest); thence northwesterly along the center line of Pershing Drive to the northwesterly boundary of the City of Los Angeles, as same existed on March 1, 1941; thence northeasterly along the boundary of said city and following the same in all its various courses to the center line of Victoria Avenue (formerly Fourteenth Avenue), as shown on map of Tract No. 911, recorded in Book 16, page 188, of Maps, in the office of the Recorder of the County of Los Angeles; thence

Assembly districts

southerly along the center line of Victoria Avenue to the center line of Fifty-second Street; thence easterly along the center line of Fifty-second Street to the center line of the Los Angeles Railway Corporation's Right of Way in Crenshaw Boulevard; thence southerly along the center line of said right of way to the center line of Slauson Avenue; thence easterly along the center line of Slauson Avenue to the center line of Van Ness Avenue (from the south); thence southerly along the center line of Van Ness Avenue to an angle point in the boundary of the City of Inglewood, as the same existed on above mentioned date, said angle point being at or near the intersection of the center line of Van Ness Avenue and the southerly line of Seventy-sixth Street; thence southerly along the boundary of said last mentioned city to an angle point in said last mentioned boundary at or near the center of Sec. 2, T. 3 S., R. 14 W., S. B. B. & M.; being also on the center line of Arlington Avenue; thence southerly along the center line of Arlington Avenue to the center line of El Segundo Boulevard; thence westerly along the center line of El Segundo Boulevard to the easterly boundary of the City of Hawthorne, as the same existed on the above mentioned date; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Prairie Avenue; thence southerly along the center line of Prairie Avenue to the northwesterly boundary of the City of Torrance, as the same existed on the above mentioned date; thence southwesterly along the boundary of said last mentioned city and following the same in all its various courses to an angle point in the boundary of the City of Redondo Beach, as the same existed on the above mentioned date, said angle point being at or near the northeasterly corner of Block 21 of Tract 10019, as shown on map recorded in Book 182, pages 1 to 13, inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along the boundary of said last mentioned city to an angle point in the northwesterly boundary of the City of Torrance, as the same existed on above mentioned date, said point being also the southeasterly corner of Block 70 of the above mentioned Tract No. 10019; thence westerly along the boundary of said City of Torrance and following the same in all its various courses to the westerly boundary of the County of Los Angeles; thence north along the boundary of said county and following the same in all its various courses to the point of beginning, shall constitute the Forty-sixth Assembly District.

47. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Allen Avenue as shown on map of Tract No. 1209, recorded in Book 20, page 9, of Maps, in the office of the Recorder of the County of Los Angeles, and the northerly boundary of the City of Pasadena, as same existed March 1, 1941; thence southerly along the center line of Allen Avenue to an angle point in the

boundary of said city lying between Monte Vista Street and Villa Street; thence southerly along the boundary of said city and following the same in all its various courses to the center line of Allen Avenue as shown on map of Avondale Tract, recorded in Book 8, page 117, of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along the center line of Allen Avenue to that portion of the southerly boundary of said city lying between Keystone Street and Blanche Street; thence westerly along the boundary of said city and following the same in all its various courses to the northwesterly corner of Lot 35, as shown on Altadena Map No. 3, recorded in Book 52, page 50, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; said last mentioned corner being also a point in the westerly line of the Arroyo Addition to the City of Pasadena; thence northeasterly along the boundary of said last mentioned Arroyo Addition and following the same in all its various courses to the southeasterly corner thereof, being also an angle point in the boundary of said city as the same existed on above mentioned date; thence easterly along the boundary of said city and following the same in all its various courses to the point of beginning, shall constitute the Forty-seventh Assembly District. Assembly districts

48. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of Sec. 2, T. 2 N., R. 13 W., S. B. B. & M.; thence easterly along the township line between T. 2 and 3 N. to the northeasterly corner of Sec. 1, T. 2 N., R. 12 W., S. B. B. & M.; thence southerly along the easterly line of said Sec. 1, to the northwesterly corner of Sec. 6, T. 2 N., R. 11 W., S. B. B. & M.; thence easterly along the northerly line of said Sec. 6 to the northeasterly corner thereof; thence southerly along section lines to the southwesterly corner of Sec. 32, T. 2 N., R. 11 W., S. B. B. & M.; thence easterly along the township line between T. 1 and 2 N., to the north and south quarter section line in Sec. 3, T. 1 N., R. 11 W., S. B. B. & M ; thence southerly along quarter section lines to the center of Sec. 10, said last mentioned township and range, said last mentioned point being also the northwesterly corner of the City of Monrovia, as the same existed on March 1, 1941; thence southerly along the westerly boundary of said city to the northeasterly corner of the City of Arcadia, as the same existed on January 19, 1931; thence westerly along the boundary of said City of Arcadia and following the same in all its various courses to the center line of the Pacific Electric Railway Company's Right of Way in Huntington Drive; thence southwesterly along the center line of said right of way to the northeasterly boundary of the City of San Marino, as same existed on March 1, 1941; thence northwesterly along the boundary of said last mentioned city and following the same in all its various courses to an angle point in the boundary of the City of Pasadena,

Assembly districts

as the same existed on said last mentioned date, said last mentioned angle point lying in Lot 7 of the San Marino Tract, as shown on map recorded in Book 42, page 91, of Miscellaneous Records in the office of the Recorder of the County of Los Angeles; thence northerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of that portion of Allen Avenue lying between Keystone Street and Blanche Street; thence northerly along the center line of Allen Avenue to that portion of the northerly boundary of said last mentioned city lying between Locust Street and Corson Street; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to that portion of the center line of Allen Avenue lying between Villa Street and Monte Vista Street; thence northerly along the center line of Allen Avenue to the northerly boundary of said last mentioned city; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the Arroyo Addition to said last mentioned city; thence northerly along the boundary of said Arroyo Addition and following the same in all its various courses to the northwesterly corner of Lot 35, as shown on Altadena Map No 3 recorded in Book 52, page 50, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles, said corner being in the westerly boundary of the City of Pasadena, as the same existed on said last mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the boundary of the City of Glendale, as the same existed on said last mentioned date; thence southwesterly along the boundary of said last mentioned city and following the same in all its various courses to the southerly prolongation of the westerly line of Sec. 26, T. 2 N., R. 13 W., S. B. B. & M.; thence northerly along said southerly prolongation and northerly along section lines to the point of beginning, shall constitute the Forty-eighth Assembly District.

49. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northeast corner of Sec. 6, T. 2 N., R. 11 W., S. B. B. & M., thence easterly along the township line between T. 2 and 3, north to the easterly boundary of the County of Los Angeles; thence southwesterly along the boundary of said county and following the same in all its various courses to the center line of Brea Canyon Road; thence northeasterly along the center line of Brea Canyon Road and following the same in all its various courses to the center line of Brea Canyon Cut-off Road; thence northwesterly along the center line of Brea Canyon Cut-off Road and following the same in all its various courses to the center line of Walnut Drive; thence easterly along the center line of Walnut Drive to the center line of Water Street; thence northerly along the center line of Water Street to the center line of

Assembly districts

the Los Angeles and Salt Lake Railroad Company's Right of Way (Riverside Branch); thence westerly along the center line of said right of way to the southerly prolongation of the center line of Center Street; thence northerly along said prolongation and center line of Center Street to the center line of La Puente Road; thence northeasterly along the center line of La Puente Road to the range line between R. 9 and 10 W.; thence northerly along said range line to the northwest corner of Sec. 30, T. 1 S., R. 9 W., as same is established by projecting Government section lines; thence easterly in a direct line to the southeast corner of Sec. 20, said last mentioned township and range, as same is established by projecting Government section lines; thence northerly in a direct line to the east and west quarter section line in fractional Sec. 8, T. 1 S., R. 9 W., in the Rancho San Jose as shown on map recorded in Book 2, pages 292 and 293, of Patents, in the office of the Recorder of the County of Los Angeles; thence westerly along quarter section lines to the center line of Azusa Canyon Road; thence southerly along the center line of Azusa Canyon Road to the northerly boundary of the City of West Covina, as same existed on March 1, 1941; thence westerly along the boundary of said city and following the same in all its various courses to the center line of Willow Avenue; thence southwesterly along the center line of Willow Avenue to the center line of Francisquito Avenue; thence northwesterly along the center line of Francisquito Avenue to the center line of West Ramona Boulevard; thence southwesterly along the center line of West Ramona Boulevard to the center line of the San Gabriel River; thence northeasterly along the center line of said San Gabriel River to the northeasterly line of the Rancho San Francisquito, as shown on map recorded in Book 1, pages 31 and 32, of Patents, in the office of the Recorder of the County of Los Angeles; thence northwesterly along the northeasterly line of the said rancho to the southeasterly boundary of the City of Arcadia, as the same existed on January 19, 1931; thence southwesterly along the boundary of said last mentioned city and following the same in all its various courses to the northeast corner thereof, being a point in the westerly boundary of the City of Monrovia, as the same existed on March 1, 1941; thence northerly along the westerly boundary of said last mentioned city to the northwesterly corner thereof, being also the center of Sec. 10, T. 1 N., R. 11 W., S. B. B. & M.; thence northerly along quarter section lines to the township line between T. 1 and 2 N.; thence westerly along said last mentioned township line to the southwest corner of Sec. 32, T. 2 N., R. 11 W., S. B. B. & M.; thence northerly along section lines to point of beginning, shall constitute the Forty-ninth Assembly District.

50. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Oak Avenue with the southerly boundary of the City of Arcadia,

Assembly districts

as the same existed on March 1, 1941; thence easterly along the boundary of said city and following the same in all its various courses to the northeasterly line of the Rancho San Francisquito, as shown on map recorded in Book 1, pages 31 and 32 of Patents, in the office of the Recorder of the County of Los Angeles; thence southeasterly along the boundary of said rancho to the center line of the San Gabriel River; thence southwesterly along the center line of said river and following the same in all its various courses to the center line of West Ramona Boulevard; thence northeasterly along the center line of West Ramona Boulevard to the center line of Francisquito Avenue; thence southeasterly along the center line of Francisquito Avenue to the center line of Willow Avenue; thence northeasterly along the center line of Willow Avenue to the southwesterly boundary of the City of West Covina, as the same existed on above mentioned date; thence northwesterly along the boundary of said city and following the same in all its various courses to the center line of Azusa Canyon Road, said point being near the northeast corner of Lot 16 of the Eugene Riggins Subdivision of the Hathaway Tract, as shown on map recorded in Book 53, page 37, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northerly along the center line of Azusa Canyon Road to the east and west quarter section line of Sec. 9, T. 1 S., R. 10 W., S. B. B. & M.; thence easterly along quarter section lines to the easterly line of fractional Sec. 8, T. 1 S., R. 9 W., in the Rancho of San Jose, as shown on map recorded in Book 2, pages 292 and 293, of Patents, in the office of the Recorder of the County of Los Angeles; said point being near the intersection of the center line of Covina Boulevard and Valley Center Avenue; thence southerly in a direct line to the southeast corner of Sec. 20, said last mentioned township and range, as same is established by projecting Government section lines; thence westerly in a direct line to the northwest corner of Sec. 30, T. 1 S., R. 9 W., as same is established by projecting Government section lines. said northwest corner being a point in the range line between R. 9 and 10 W.; thence southerly along said range line to the center line of La Puente Road; thence southwesterly along the center line of La Puente Road to the center line of Center Street; thence southerly along the center line of Center Street and the southerly prolongation thereof to the center line of the Los Angeles and Salt Lake Railroad Company's Right of Way (Riverside Branch); thence easterly along the center line of said right of way to the center line of Water Street; thence southerly along the center line of Water Street to the center line of Walnut Drive; thence southwesterly and westerly along the center line of Walnut Drive to the center line of Brea Canyon Cut-off Road; thence southerly along the center line of Brea Canyon Cut-off Road and following the same in all its various courses to the center line of Brea Canyon Road; thence southwesterly along the

Assembly districts

center line of Brea Canyon Road to the southerly boundary of the County of Los Angeles; thence westerly along the boundary of said county and following the same in all its various courses to the southeast corner of the southwest quarter of Sec. 13, T. 3 S., R. 11 W., in the Rancho Los Coyotes, as shown on map recorded in Book 1, pages 493 and 494, of Patents, in the office of the Recorder of the County of Los Angeles, said point being in the center line of Rosecrans Avenue; thence westerly along the center line of Rosecrans Avenue to the center line of Luitwieler Avenue; thence northerly along the center line of Luitwieler Avenue to the center line of Imperial Highway; thence westerly along the center line of Imperial Highway to the center line of Carmenita Road; thence northerly along the center line of Carmenita Road to the center line of Lakeland Road; thence westerly along the center line of Lakeland Road to the center line of The Atchison, Topeka & Santa Fe Railway Company's Right of Way (Main Line Los Angeles to San Diego); thence northerly along the center line of said right of way to the center line of Anaheim Telegraph Road; thence westerly along the center line of Anaheim Telegraph Road and following the same in all its various courses to a point due south of the most southerly corner of the City of Montebello, as the same existed on above mentioned date; thence due north to said last mentioned most southerly corner; thence northeasterly along the boundary of said city and following the same in all its various courses to the southerly prolongation of the center line of Walnut Grove Avenue; thence northerly along said prolongation and center line and following the center line of Walnut Grove Avenue and the prolongations thereof to the center line of the Southern Pacific Railroad Company's Right of Way (Main Line to Yuma); thence southeasterly along the center line of said right of way to the southerly prolongation of the center line of Encinita Avenue; thence northerly along said prolongation and center line of Encinita Avenue to the center line of Garibaldi Avenue; thence easterly along the center line of Garibaldi Avenue to the center line of Oak Avenue; thence northerly along the center line of Oak Avenue to the point of beginning, shall constitute the Fiftieth Assembly District.

51. All that part of the County of Los Angeles within the following described boundaries:

Beginning at an angle point in the boundary of the City of Los Angeles, as the same existed March 1, 1941, said angle point being in the intersection of Indiana Street and Medford Street; thence easterly along the boundary of said city and following the same in all its various courses to the southwesterly corner of the City of Alhambra, as the same existed on above mentioned date; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the boundary of

Assembly districts

the City of Monterey Park, as the same existed on above mentioned date; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the first intersection with the northerly boundary of the City of Montebello, as the same existed on above mentioned date; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the southeasterly line of Church Road; thence northeasterly along said southeasterly line of Church Road and the northeasterly prolongation thereof to the center line of The Atchison, Topeka and Santa Fe Railway Company's Right of Way (Main Line Los Angeles to San Diego); thence northwesterly along the center line of said right of way to its first intersection with the southeasterly boundary of the City of Vernon, as the same existed on above mentioned date; thence northeasterly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the southerly boundary of the City of Los Angeles, as the same existed on above mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Fifty-first Assembly District.

52 All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of the City of Vernon, as the same existed March 1, 1941, at or near the northwesterly corner of Twenty-fifth and Alameda Streets, said point of beginning being also an angle point in the boundary of the City of Los Angeles, as same existed on the above mentioned date; thence easterly along the boundary of said City of Los Angeles and following the same in all its various courses to an angle point in aforesaid City of Vernon at or near the northeasterly corner of Lot 16, of Tract No. 8626, as shown on map recorded in Book 121, pages 96 to 100, of Maps, in the office of the Recorder of the County of Los Angeles; thence southwesterly along the boundary of said City of Vernon and following the same in all its various courses to the center line of The Atchison, Topeka and Santa Fe Railway Company's Right of Way (Main Line Los Angeles to San Diego); thence southeasterly along the center line of said right of way to the northeasterly prolongation of the southeasterly line of Church Road; thence southwesterly along said northeasterly prolongation and southeasterly line of Church Road to its first intersection with the boundary of the City of Montebello, as same existed on above mentioned date; thence southwesterly along the boundary of said last mentioned city and following the same along all its various courses to the most southerly corner thereof; thence due south to the center line of Anaheim Telegraph Road; thence southeasterly along the center line of Anaheim Telegraph Road to the center line of the official channel of the Rio Hondo; thence southwesterly along the center line of said official channel and following the same in all its

Assembly districts

various courses to its first intersection with the northerly boundary of the City of South Gate, as the same existed on above mentioned date; thence northwesterly along the boundary of said last mentioned city and following the same in all its various courses to an angle point in the boundary of said last mentioned city near the northwesterly corner of Tract No. 3233 as shown on map recorded in Book 36, page 70, of Maps, in the office of the Recorder of the County of Los Angeles; thence northerly along the northerly prolongation of that portion of the boundary of said last mentioned city lying on the westerly line of said last mentioned tract to the center line of Southern Pacific Railroad Company's Right of Way (Santa Ana Branch); thence northwesterly along the center line of said right of way to the southerly prolongation of the center line of that portion of Santa Fe Avenue lying between Florence Avenue and Sale Place; thence northerly along said southerly prolongation and center line of Santa Fe Avenue to the southerly boundary of the City of Huntington Park, as the same existed on above mentioned date; thence westerly along the boundary of said city to the first angle point therein, said angle point being near the southwesterly corner of Lot A, Tract No. 4286, as shown on map recorded in Book 45, pages 27 and 28, of Maps, in the office of the Recorder of the County of Los Angeles; said angle point being also in the center line of Florence Avenue, thence westerly along the center line of Florence Avenue to the center line of Compton Avenue; thence northerly along the center line of Compton Avenue to the southerly boundary of the above mentioned City of Los Angeles; thence easterly along the boundary of said city and following the same in all its various courses to the point of beginning, shall constitute the Fifty-second Assembly District.

53. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of the City of South Pasadena, as the same existed on March 1, 1941, said corner being at the northeasterly corner of Lot 2, Tract No. 3119, as shown on map recorded in Book 33, page 91 of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the boundary of said city and following the same in all its various courses to the most westerly corner of the City of San Marino, as the same existed on above mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of the Pacific Electric Railway Company's Right of Way in Huntington Drive; thence northeasterly along the center line of said right of way to the westerly boundary line of the City of Arcadia, as the same existed on the aforementioned date; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Oak Avenue; thence southerly along the center line of Oak Avenue to the center line of Garibaldi Avenue; thence westerly along

Assembly districts

the center line of Garibaldi Avenue to the center line of Encinita Avenue; thence southerly along the center line of Encinita Avenue and the southerly prolongation thereof to the center line of the Southern Pacific Railroad Company's Right of Way (Main Line to Yuma); thence northwesterly along the center line of said right of way to the northerly prolongation of the center line of Walnut Grove Avenue; thence southerly along said northerly prolongation and center line and following the center line of Walnut Grove Avenue and the prolongations thereof to the northerly boundary of the City of Montebello, as the same existed on above mentioned date; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the southerly boundary of the City of Monterey Park, as the same existed on above mentioned date; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the boundary of the City of Alhambra, as the same existed on above mentioned date; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the southerly boundary of the aforesaid City of South Pasadena; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Fifty-third Assembly District.

54. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most southerly corner of the City of Glendale, as the same existed on March 1, 1941, said southerly corner lying on the southwesterly line of the Southern Pacific Railroad Company's Right of Way (Valley Line), being also an angle point in the boundary of the City of Los Angeles, as the same existed on above mentioned date; thence northeasterly along the boundary of said last mentioned city and following the same in all its various courses to an angle point therein, said angle point being the northerly terminus of the most westerly boundary of the City of South Pasadena, as the same existed on above mentioned date; thence northerly along the prolongation of said most westerly boundary to the center line of Arroyo Drive; thence westerly along the center line of Arroyo Drive to the center line of Marmion Way; thence northwesterly along the center line of Marmion Way to the center line of Arroyo Seco Park Way; thence southwesterly along the center line of Arroyo Seco Park Way and following the same in all its various courses to the center line of Avenue 60; thence northwesterly along the center line of Avenue 60 to the center line of Figueroa Street; thence southwesterly along the center line of Figueroa Street and following the same in all its various courses to the center line of Avenue 44, from the northwest; thence northwesterly along the center line of Avenue 44 and the northwesterly

Assembly districts

prolongation thereof to the center line of Marmion Way; thence southwesterly along the center line of Marmion Way and following the same in all its various courses to the center line of Arroyo Seco Avenue; thence southwesterly along the center line of Arroyo Seco Avenue to the center line of Avenue 37; thence northwesterly along the center line of Avenue 37 to the center line of Figueroa Street; thence southwesterly along the center line of Figueroa Street to the center line of Amabel Street; thence northwesterly along the center line of Amabel Street to the center line of Isabel Street; thence westerly along the center line of Isabel Street and following the same in all its various courses to the center line of Bank Street; thence southwesterly along the center line of Bank Street to the center line of Avenue 30; thence northwesterly along the center line of Avenue 30 to the center line of Division Street; thence southwesterly along the center line of Division Street and its southwesterly prolongation to the southwesterly line of the Southern Pacific Railroad Company's Right of Way (Valley Line); thence southeasterly along the southwesterly line of said right of way to the southwesterly prolongation of the center line of that portion of Granada Street lying between Cypress Avenue and San Fernando Road; thence southwesterly along said last mentioned prolongation to the center line of the Official Bed of the Los Angeles River; thence northwesterly along the center line of said river to the northeasterly prolongation of the center line of Dallas Street; thence southwesterly along said prolongation and center line of Dallas Street to the center line of Riverside Drive; thence northwesterly along the center line of Riverside Drive to the southwesterly prolongation of the center line of Tyburn Street; thence northeasterly along said prolongation and center line of Tyburn Street to the point of beginning, shall constitute the Fifty-fourth Assembly District.

55. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center lines of Seventh Street and Westmoreland Avenue, as shown on map of Tract No. 452, recorded in Book 14, page 157, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the center line of Seventh Street to the center line of Hoover Street; thence southerly along the center line of Hoover Street to the center line of Eighth Street; thence southeasterly along the center line of Eighth Street and following the same in all its various courses to the center line of Figueroa Street; thence southwesterly along the center line of Figueroa Street to the center line of Ninth Street (from the southeast); thence southeasterly along the center line of Ninth Street to the center line of Maple Avenue; thence southwesterly along the center line of Maple Avenue to the center line of Jefferson Boulevard; thence northwesterly along the center line of Jefferson Boulevard to the center line of Hoover

Assembly districts

Street, said Hoover Street lying southeasterly of and adjacent to the southeasterly line of Block Q, of West Los Angeles, as shown on map recorded in Book 32, pages 71 and 72, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northeasterly and northerly along the center line of Hoover Street to the center line of Washington Boulevard; thence westerly along the center line of Washington Boulevard to the center line of Western Avenue; thence northerly along the center line of Western Avenue to the center line of Ninth Street; thence easterly along the center line of Ninth Street to the center line of Vermont Avenue; thence southerly along the center line of Vermont Avenue to the center line of Ninth Street (from the east); thence easterly along the center line of Ninth Street to the center line of Westmoreland Avenue; thence northerly along the center line of Westmoreland Avenue to the point of beginning, shall constitute the Fifty-fifth Assembly District.

56. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center lines of Western Avenue and Los Feliz Boulevard, as shown on map of Tract No. 3823, recorded in Book 41, page 78, of Maps in the office of the Recorder of the County of Los Angeles; thence northeasterly along the center line of Los Feliz Boulevard to the southwesterly prolongation of the center line of a private street known as Western Avenue Canyon Road; thence northeasterly along said prolongation and center line of Western Canyon Road and following the same in all its various courses to the southerly boundary of Griffith Park, as shown on County Surveyor's Map No. 2325, on file in the office of the Surveyor of the County of Los Angeles; thence westerly and northerly along the boundary of Griffith Park to its intersection with a direct line connecting the most southeasterly corner of the Rancho Providencia, as shown on map recorded in Book 1, pages 244 and 245 of Patents in the office of the Recorder of the County of Los Angeles, with the westerly terminus of the center line of Goodwin Avenue; thence easterly in a direct line to said most westerly terminus; thence easterly along the center line of Goodwin Avenue to the easterly boundary of the City of Los Angeles as the same existed on March 1, 1941; thence southeasterly along the boundary of said city to an angle point therein at the center line of Tyburn Street; thence southwesterly along the center line of Tyburn Street and its prolongation to the center line of Riverside Drive; thence southeasterly along the center line of Riverside Drive to the southwesterly prolongation of the center line of Dallas Street; thence southwesterly along said last mentioned prolongation to the center line of Chavez Ravine Drive; thence southeasterly along the center line of Chavez Ravine Drive and following the same in all its various courses to the center line of Elysian Park Drive; thence southwesterly along the center line of Elysian Park Drive and the southwesterly prolongation thereof to the

center line of Scott Avenue (Elysian Park Drive and Chavez Ravine Drive are park roads lying within Elysian Park as per Ordinance No. 37351 of the City of Los Angeles); thence southwesterly along the center line of Scott Avenue to the center line of Portia Street; thence southwesterly along the center line of Portia Street to the northwesterly prolongation of the center line of that certain alley lying adjacent to and parallel with the northerly line of Block 6, of Golden West Heights, as shown on map recorded in Book 34, page 91, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence southeasterly along said last mentioned prolongation and center line of said alley to the center line of Sutherland Street; thence southwesterly along the center line of Sutherland Street to the center line of Macbeth Street; thence southeasterly along the center line of Macbeth Street to the center line of Quintero Street; thence southwesterly along the center line of Quintero Street to the center line of Sunset Boulevard; thence northwesterly along the center line of Sunset Boulevard and following the same in all its various courses to the center line of Fountain Avenue; thence westerly along the center line of Fountain Avenue to the center line of Hoover Street (from the south); thence southerly along the center line of Hoover Street to the center line of Temple Street; thence southeasterly along the center line of Temple Street to the center line of Hoover Street (from the southwest); thence southwesterly and southerly along the center line of Hoover Street to the center line of Sixth Street; thence southeasterly along the center line of Sixth Street to the center line of Lafayette Park Place (from the southwest); thence southwesterly along the center line of Lafayette Park Place to the center line of Seventh Street; thence westerly along the center line of Seventh Street to the center line of Vermont Avenue; thence northerly along the center line of Vermont Avenue to the center line of Beverly Boulevard; thence westerly along the center line of Beverly Boulevard to the center line of Western Avenue; thence northerly along the center line of Western Avenue to the point of beginning, shall constitute the Fifty-sixth Assembly District. Assembly districts

57. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the southerly boundary of the Rancho Providencia, as shown on map recorded in Book 1, pages 244 and 245, of Patents, in the office of the Recorder of the County of Los Angeles, with the center line of Barham Boulevard; thence easterly along said southerly boundary to the most southeasterly corner of said Rancho Providencia; thence easterly along a direct line connecting said last mentioned corner with the westerly terminus of the center line of Goodwin Avenue to the intersection of said direct line with the westerly boundary of Griffith Park as shown on County Surveyor's Map No. 2325 on file in the office of the Surveyor of the County of Los Angeles; thence southerly and easterly

Assembly districts

along the boundary of said Griffith Park to the center line of a private street known as Western Avenue Canyon Road; thence southerly along the center line of said Western Avenue Canyon Road and the southwesterly prolongation thereof to the center line of Los Feliz Boulevard; thence southwesterly along the center line of Los Feliz Boulevard to the center line of Western Avenue; thence southerly along the center line of Western Avenue to the center line of Beverly Boulevard; thence westerly along the center line of Beverly Boulevard to the boundary of the Rosewood Addition to the City of Los Angeles, said boundary lying between Gardner and Vista Streets; thence southerly along the boundary of said Rosewood Addition and following the same in all its various courses to the center line of Beverly Boulevard; thence westerly along the center line of Beverly Boulevard to the center line of Fairfax Avenue; thence northerly along the center line of Fairfax Avenue to the southerly boundary of the City of Los Angeles, as the same existed on above mentioned date (on the northerly line of Fountain Avenue); thence westerly along the boundary line of said last mentioned city and following the same in all its various courses to the center line of Hayworth Avenue; thence northerly along the center line of Hayworth Avenue to the center line of Selma Avenue; thence westerly along the center line of Selma Avenue to the westerly boundary of the Hollywood Consolidation to the City of Los Angeles; thence northerly along the boundary of said consolidation and following the same in all its various courses to the center line of El Cerrito Place; thence northerly along the center line of El Cerrito Place to the center line of Outpost Drive; thence northerly along the center line of Outpost Drive and following the same in all its various courses to the center line of Mulholland Highway; thence northerly along the center line of Mulholland Highway to the center line of Base Line Trail; thence northerly along the center line of Base Line Trail to the center line of Pacific View Drive; thence easterly along the center line of Pacific View Drive and following the same in all its various courses to the center line of Woodrow Wilson Drive extending northwesterly from Cahuenga Boulevard; thence northwesterly and northeasterly along the center line of Woodrow Wilson Drive to a point due south of the intersection of the northwesterly line of said portion of Woodrow Wilson Drive with the southerly boundary of the San Fernando Addition to the City of Los Angeles; thence due north to said last mentioned intersection; thence southeasterly along the northeasterly line of said Woodrow Wilson Drive and the southeasterly prolongation thereof to the center line of the Pacific Electric Railway Company's Right of Way; thence northwesterly along the center line of said right of way to the center line of Barham Boulevard; thence northeasterly along the center line of Barham Boulevard to the point of beginning, shall constitute the Fifty-seventh Assembly District.

Assembly districts

58. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Beverly Boulevard and Highland Avenue, as shown on map of Tract No. 8498 recorded in Book 95, pages 53 to 55, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the center line of Beverly Boulevard to the center line of Vermont Avenue; thence southerly along the center line of Vermont Avenue to the center line of Seventh Street; thence easterly along the center line of Seventh Street to the center line of Westmoreland Avenue; thence southerly along the center line of Westmoreland Avenue to the center line of Ninth Street; thence westerly along the center line of Ninth Street to the center line of Vermont Avenue; thence northerly along the center line of Vermont Avenue to the center line of Ninth Street (from the west); thence westerly along the center line of Ninth Street to the center line of Western Avenue; thence southerly along the center line of Western Avenue to the center line of Washington Boulevard; thence westerly along the center line of Washington Boulevard to the center line of Victoria Avenue; thence northeasterly along the center line of Victoria Avenue to the center line of Pico Boulevard; thence westerly along the center line of Pico Boulevard to the center line of Highland Avenue; thence northerly along the center line of Highland Avenue to the center line of Wilshire Boulevard; thence westerly along the center line of Wilshire Boulevard to the center line of Highland Avenue (from the north); thence northerly along the center line of Highland Avenue to the point of beginning, shall constitute the Fifty-eighth Assembly District.

59. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most northeasterly corner of the Rancho San Vicente y Santa Monica, as shown on map recorded in Book 3, pages 30 and 31, of Patents, in the office of the Recorder of the County of Los Angeles, said corner being on the southerly boundary of the San Fernando Addition to the City of Los Angeles; thence easterly along the boundary of said last mentioned addition to the northeasterly line of Woodrow Wilson Drive extending northwesterly from Cahuenga Boulevard; thence due south to the center line of Woodrow Wilson Drive; thence southwesterly and southeasterly along the center line of Woodrow Wilson Drive to the center line of Pacific View Drive; thence southeasterly along the center line of Pacific View Drive and following the same in all its various courses to the center line of Base Line Trail; thence southerly along the center line of Base Line Trail to the center line of Mulholland Highway; thence southerly along the center line of Mulholland Highway to the center line of Outpost Drive; thence southwesterly along the center line of Outpost Drive and following the same in all its various courses to the center line of El Cerrito Place; thence southerly along

Assembly districts

the center line of El Cerrito Place to the northwesterly boundary of the Hollywood Consolidation to the City of Los Angeles; thence southwesterly along the boundary of said last mentioned consolidation and following the same in all its various courses to the center line of Selma Avenue; thence easterly along the center line of Selma Avenue to the center line of Hayworth Avenue; thence southerly along the center line of Hayworth Avenue to the center line of Sunset Boulevard; thence westerly along the center line of Sunset Boulevard to the center line of Hayworth Avenue (from the south); thence southerly along the center line of Hayworth Avenue to its first intersection with the southerly boundary of the City of Los Angeles, as the same existed on March 1, 1941, said boundary lying between Sunset Boulevard and Fountain Avenue; thence easterly along the boundary of said city and following the same in all its various courses to the center line of Fairfax Avenue; thence southerly along the center line of Fairfax Avenue to the center line of Beverly Boulevard; thence easterly along the center line of Beverly Boulevard to the westerly boundary of the Rosewood Addition to the City of Los Angeles; thence southerly along the boundary of said last mentioned addition and following the same in all its various courses to the center line of Beverly Boulevard; thence easterly along the center line of Beverly Boulevard to the center line of Highland Avenue; thence southerly along the center line of Highland Avenue to the center line of Wilshire Boulevard; thence easterly along the center line of Wilshire Boulevard to the center line of Highland Avenue (from the southwest); thence southwesterly along the center line of Highland Avenue to the center line of Pico Boulevard; thence westerly along the center line of Pico Boulevard and following the same in all its various courses to the center line of Heath Avenue; thence northwesterly along the center line of Heath Avenue to a point due west of an angle point in the boundary of the City of Beverly Hills, as the same existed on above mentioned date, lying at or near the northwesterly corner of Lot 8, Tract No. 11179, as shown on map recorded in Book 204, pages 4 to 6 of Maps, in the office of the Recorder of the County of Los Angeles; thence due east to said angle point; thence northwesterly along the boundary of said last mentioned city and following the same in all its various courses to the southerly line of Sec. 11, T. 1 S., R. 15 W., S. B. B. & M.; thence westerly along section lines to the southwesterly corner of fractional Sec. 10, of said last mentioned township and range, said corner being on the northeasterly boundary of the Rancho San Vicente y Santa Monica; thence northwesterly along the boundary of said rancho to the point of beginning, shall constitute the Fifty-ninth Assembly District.

60. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the northwesterly boundary of the County of Los Angeles and the north line of Sec. 8,

T. 1 S., R. 19 W., S. B. B. & M.; thence easterly along section lines to the northeast corner of Sec. 11, said last mentioned township and range; thence southerly along the easterly line of said last mentioned section to the northwesterly corner of Sec 13, said last mentioned township and range; thence easterly and southerly along the northerly and easterly lines of said last mentioned section to the northwesterly corner of Sec. 19, T. 1 S., R. 18 W., S. B. B. & M.; thence easterly along section lines to the first intersection with the boundary of the City of Los Angeles, as the same existed March 1, 1941; thence northeasterly along the boundary of said city to the southerly boundary of the San Fernando Addition to the City of Los Angeles; thence easterly along the southerly boundary of said addition to the northeasterly boundary of the Rancho San Vicente y Santa Monica, as shown on map recorded in Book 3, pages 30 and 31, of Patents, in the office of the Recorder of the County of Los Angeles; thence southeasterly along the northeasterly boundary of said rancho to the southwesterly corner of fractional Sec. 10, T. 1 S., R. 15 W., S. B. B. & M.; thence easterly along section lines to the first intersection with the boundary of the City of Beverly Hills, as the same existed on above mentioned date; thence southerly along the boundary of said city and following the same in all its various courses to an angle point in said boundary lying at or near the northwesterly corner of Lot 8, Tract No. 11179, as shown on map recorded in Book 204, pages 4 to 6, of Maps, in the office of the Recorder of the County of Los Angeles; thence due west to the center line of Heath Avenue; thence southeasterly along the center line of Heath Avenue to the center line of Pico Boulevard; thence southwesterly along the center line of Pico Boulevard to the northeasterly boundary of the City of Santa Monica, as the same existed on the above mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to the most southerly corner thereof, said corner being a point in the boundary of the County of Los Angeles; thence northwesterly along the boundary of said county and following the same in all its various courses to the point of beginning, shall constitute the Sixtieth Assembly District. Assembly districts

61. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most southerly corner of the City of Santa Monica, as same existed March 1, 1941, being also a point in the southwesterly boundary of the County of Los Angeles; thence northeasterly along the boundary of said City of Santa Monica and following the same in all its various courses to the center line of Pico Boulevard; thence northeasterly along the center line of Pico Boulevard and following the same in all its various courses to the center line of Victoria Avenue; thence southwesterly along the center line of Victoria Avenue to the center line of Washington Boulevard; thence easterly along the

Assembly districts

center line of Washington Boulevard to the center line of Bronson Avenue; thence southwesterly along the center line of Bronson Avenue to the center line of Adams Boulevard; thence westerly along the center line of Adams Boulevard to the center line of Crenshaw Boulevard; thence southerly along the center line of Crenshaw Boulevard to the southerly boundary of the Palms Addition to the City of Los Angeles; thence westerly along said last mentioned boundary to the westerly boundary of the Rancho Cienega O'Paso de La Tijera, as shown on map recorded in Book 1, page 259, of Patents, in the office of the Recorder of the County of Los Angeles; thence southerly along the boundary of said last mentioned rancho and following the same in all its various courses to the north and south quarter section line in Sec 17, T. 2 S., R. 14 W., S. B. B. & M.; thence southerly along said quarter section line to the east and west quarter section line in said Sec. 17; thence easterly along said last mentioned quarter section line and the easterly prolongation thereof to the westerly line of Tract No. 6177, as shown on map recorded in Book 144, pages 77 to 81, inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence northerly along the westerly line of said last mentioned tract to the center line of Chanson Drive; thence easterly and southeasterly along the center line of Chanson Drive to the center line of Lorado Way; thence northeasterly along the center line of Lorado Way to the center line of Mullen Avenue; thence southeasterly along the center line of Mullen Avenue to the center line of Angeles Vista Boulevard; thence southwesterly along the center line of Angeles Vista Boulevard to the center line of Mullen Avenue (from the south); thence southerly along the center line of Mullen Avenue to the center line of Fifty-second Street; thence easterly along the center line of Fifty-second Street to the westerly boundary of the City of Los Angeles, as same existed on the above mentioned date; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Pershing Drive; thence southeasterly along the center line of Pershing Drive to the center line of Culver Boulevard; thence southwesterly along the center line of Culver Boulevard and following the same in all its various courses, and the southwesterly prolongation thereof to the southwesterly boundary of the aforesaid county; thence northwesterly along the boundary of said county and following the same in all its various courses to the point of beginning, shall constitute the Sixty-first Assembly District.

62. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Maple Avenue with the center line of Ninth Street, said point being at or near the most northerly corner of Lot 1, Block B, Moran Tract, as shown on map recorded in Book 16, page 27, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence southeasterly along the center line of

Ninth Street to the center line of Olympic Boulevard; thence southeasterly along the center line of Olympic Boulevard to the center line of Alameda Street; thence southerly along the center line of Alameda Street to the southerly boundary of the City of Los Angeles, as same existed on March 1, 1941; thence westerly along the boundary of said city and following the same in all its various courses to the center line of Slauson Avenue (from the west); thence westerly along the center line of Slauson Avenue to the center line of Main Street; thence northerly along the center line of Main Street to the center line of Santa Barbara Avenue; thence easterly along the center line of Santa Barbara Avenue to the center line of Woodlawn Avenue; thence northerly along the center line of Woodlawn Avenue to the center line of Maple Avenue; thence northeasterly along the center line of Maple Avenue to the center line of Washington Boulevard; thence southeasterly along the center line of Washington Boulevard to the center line of Maple Avenue (from the north); thence northeasterly along the center line of Maple Avenue and following the same in all its various courses to the point of beginning, shall constitute the Sixty-second Assembly District. Assembly districts

63. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center lines of Washington Boulevard (formerly Washington Street) and Bronson Avenue (formerly Cheswick Drive), as shown on map of the Cheswick Tract recorded in Book 22, pages 98 and 99, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the center line of Washington Boulevard to the center line of Hoover Street (from the south); thence southerly along the center line of Hoover Street and southwesterly along the center line of that portion of Hoover Street lying southeasterly of and adjacent to the southeasterly line of Block Q, West Los Angeles, as shown on map recorded in Book 32, pages 71 and 72, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles, to the center line of Jefferson Boulevard; thence southeasterly along the center line of Jefferson Boulevard to the center line of Figueroa Street; thence southwesterly along the center line of Figueroa Street to the center line of the Pacific Electric Railway Company's Right of Way (Santa Monica Air Line); thence westerly along the center line of said right of way to the center line of Vermont Avenue; thence southerly along the center line of Vermont Avenue to the center line of the Los Angeles Railway Corporation's Right of Way (in Santa Barbara Avenue); thence westerly along the center line of said last mentioned right of way and following the same in all its various courses to the center line of Vernon Avenue; thence westerly along the center line of Vernon Avenue and following the same in all its various courses to the southeasterly boundary of the City of Los Angeles, as the same existed March 1, 1941; thence southeasterly along the

Assembly districts

boundary of said city and following the same in all its various courses to the center line of Fifty-second Street, as shown on map of Tract No. 5535, recorded in Book 76, pages 74 and 75, of Maps, in the office of the Recorder of the County of Los Angeles; thence westerly along the center line of Fifty-second Street to the center line of Mullen Avenue; thence northerly along the center line of Mullen Avenue to the center line of Angeles Vista Boulevard; thence northeasterly along the center line of Angeles Vista Boulevard to the center line of Mullen Avenue (from the northwest); thence northwesterly and northerly along the center line of Mullen Avenue to the center line of Larado Way; thence southwesterly along the center line of Larado Way to the center line of Chanson Drive; thence westerly along the center line of Chanson Drive to the westerly line of Tract No. 6177, as shown on map recorded in Book 144, pages 77 to 81, both inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along said tract line to the easterly prolongation of the east and west quarter section line of fractional Sec. 17, T. 2 S., R. 14 W., S. B. B. & M.; thence easterly along said prolongation and east and west quarter section line of said section to the north and south quarter section line in said Sec. 17; thence northerly along said last mentioned quarter section line to the southwesterly boundary of the Rancho Cienega O'Paso de la Tijera, as shown on map recorded in Book 1, page 259, of Patents, in the office of the Recorder of the County of Los Angeles; thence northwesterly along the boundary of said rancho and following the same in all its various courses to the southerly boundary of the City of Los Angeles, as the same existed on above mentioned date, being also the southerly boundary of the Palms Addition to the City of Los Angeles; thence easterly along the boundary of said Palms Addition to the center line of Crenshaw Boulevard; thence northerly along the center line of Crenshaw Boulevard to the center line of Adams Boulevard; thence easterly along the center line of Adams Boulevard to the center line of Bronson Avenue; thence northeasterly along the center line of Bronson Avenue to the point of beginning, shall constitute the Sixty-third Assembly District.

64. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center lines of Fountain Avenue and Hoover Street; thence easterly along the center line of Fountain Avenue to the center line of Sunset Boulevard; thence southeasterly along the center line of Sunset Boulevard and following the same in all its various courses to the center line of Boylston Street; thence southwesterly along the center line of Boylston Street to the center line of Bellevue Avenue; thence southeasterly along the center line of Bellevue Avenue to the center line of Boylston Street (from the southwest); thence southwesterly along the center line of

Boylston Street and the southwesterly prolongation thereof to the easterly prolongation of the center line of Huntley Drive; thence westerly along said prolongation of Huntley Drive to the center line of Huntley Drive (from the south); thence southerly along the center line of Huntley Drive to the center line of Boylston Street; thence southwesterly along the center line of Boylston Street to the center line of Sixth Street; thence southeasterly along the center line of Sixth Street to the center line of Sixth Street (from the southwest); thence southwesterly along the center line of Sixth Street to the center line of Wilshire Drive; thence southwesterly along the center line of Wilshire Drive to the center line of Wilshire Boulevard; thence northwesterly along the center line of Wilshire Boulevard to the center line of Kip Street; thence southwesterly along the center line of Kip Street to the center line of Ingraham Street (from the southeast); thence southeasterly along the center line of Ingraham Street to the center line of Kip Street (from the southwest); thence southwesterly along the center line of Kip Street to the center line of Seventh Street; thence southeasterly along the center line of Seventh Street to the center line of Francisco Street; thence southwesterly along the center line of Francisco Street to the center line of Eighth Street; thence northwesterly along the center line of Eighth Street and following the same in all its various courses to the center line of Hoover Street; thence northerly along the center line of Hoover Street to the center line of Lafayette Park Place; thence northeasterly along the center line of Lafayette Park Place to the center line of Sixth Street; thence northwesterly along the center line of Sixth Street to the center line of Hoover Street; thence northerly and northeasterly along the center line of Hoover Street to the center line of Temple Street; thence northwesterly along the center line of Temple Street to the center line of Hoover Street; thence northerly along the center line of Hoover Street to the point of beginning, shall constitute the Sixty-fourth Assembly District. Assembly districts

65. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of that portion of Vernon Avenue extending southwesterly from Crenshaw Boulevard with the southwesterly boundary of the City of Los Angeles, as the same existed on March 1, 1941; thence northeasterly and easterly along the center line of Vernon Avenue to the center line of the Los Angeles Railway Corporation's Right of Way (in Leimert Boulevard); thence northerly, northeasterly, and easterly along the center line of said right of way to the center line of Vermont Avenue; thence northerly along the center line of Vermont Avenue to the center line of the Pacific Electric Railway Company's Right of Way (Santa Monica Air Line) in Exposition Boulevard; thence easterly along the center line of said last mentioned right of way to the center line of Figueroa Street;

Assembly districts

thence northeasterly along the center line of Figueroa Street to the center line of Jefferson Boulevard; thence southeasterly along the center line of Jefferson Boulevard to the center line of Maple Avenue; thence southwesterly along the center line of Maple Avenue to the center line of Woodlawn Avenue; thence southerly along the center line of Woodlawn Avenue to the center line of Santa Barbara Avenue; thence westerly along the center line of Santa Barbara Avenue to the center line of Main Street; thence southerly along the center line of Main Street to the center line of Slauson Avenue; thence westerly along the center line of Slauson Avenue to the center line of the Los Angeles Railway Corporation's Right of Way in Crenshaw Boulevard; thence northerly along the center line of said last mentioned right of way to the center line of Fifty-second Street; thence westerly along the center line of Fifty-second Street to the center line of Victoria Avenue; thence northerly along the center line of Victoria Avenue to the southerly boundary of the aforesaid City of Los Angeles; thence easterly along the boundary of said city and following the same in all its various courses to the point of beginning, shall constitute the Sixty-fifth Assembly District.

66. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Slauson Avenue with the center line of Van Ness Avenue (from the south) at or near the northeasterly corner of Block A, Tract No 4893, as shown on map recorded in Book 53, pages 33 and 34 of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the center line of Slauson Avenue to the easterly boundary of the City of Los Angeles, as the same existed on March 1, 1941; thence northerly along the boundary of said city and following the same in all its various courses to the center line of Compton Avenue; thence southerly along the center line of Compton Avenue to the center line of Firestone Boulevard; thence westerly along the center line of Firestone Boulevard to the center line of Manchester Avenue; thence westerly along the center line of Manchester Avenue to the center line of that portion of Vermont Avenue lying easterly of the Los Angeles Railway Company's right of way; thence northerly along the center line of Vermont Avenue to the easterly prolongation of the center line of Seventy-ninth Street (from the west); thence westerly along said prolongation and center line of Seventy-ninth Street to the center line of Budlong Avenue; thence southerly along the center line of Budlong Avenue to the center line of Manchester Avenue; thence westerly along the center line of Manchester Avenue to the easterly boundary of the City of Inglewood, as the same existed on the above mentioned date, said easterly boundary lying on the center line of Van Ness Avenue; thence northerly along the boundary of said last mentioned city to an angle point in said last mentioned

boundary at or near the intersection of the center line of Van Ness Avenue and the southerly line of Seventy-sixth Street; thence northerly along the center line of Van Ness Avenue to the point of beginning, shall constitute the Sixty-sixth Assembly District. Assembly districts

67. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the intersection of the center line of Manchester Avenue with the easterly boundary of the City of Inglewood as the same existed on March 1, 1941; thence easterly along the center line of Manchester Avenue to the center line of Budlong Avenue; thence northerly along the center line of Budlong Avenue to the center line of Seventy-ninth Street; thence easterly along the center line of Seventy-ninth Street and the easterly prolongation thereof to the center line of that portion of Vermont Avenue lying easterly of the Los Angeles Railway Company's right of way; thence southerly along the center line of Vermont Avenue to the center line of Manchester Avenue; thence easterly along the center line of Manchester Avenue to the center line of Firestone Boulevard; thence easterly along the center line of Firestone Boulevard to the center line of Compton Avenue from the north; thence northerly along the center line of Compton Avenue to the center line of Florence Avenue; thence easterly along the center line of Florence Avenue to the southwesterly corner of the City of Huntington Park as the same existed on the above mentioned date, said corner being at or near the southwest corner of Tract No. 4286 as shown on map recorded in Book 45, pages 27 and 28, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along the boundary of said last mentioned city to the center line of Santa Fe Avenue; thence southerly along the center line of Santa Fe Avenue and the southerly prolongation of that portion of Santa Fe Avenue lying between Florence Avenue and Sale Place to the center line of the Southern Pacific Railroad Company's Right of Way (Santa Ana Branch); thence southeasterly along the center line of said right of way to the northerly prolongation of that portion of the westerly boundary of the City of South Gate, as same existed on the above mentioned date, lying on the westerly line of Tract No. 3233, as shown on map recorded in Book 36, page 70 of Maps, in the office of the Recorder of the County of Los Angeles; thence southerly along said last mentioned prolongation to the boundary of said last mentioned city; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the northerly boundary of the City of Lynwood as the same existed on the above mentioned date; thence westerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of 107th Place; thence westerly along the center line of 107th Place to the easterly boundary of the aforesaid

Assembly districts

City of Los Angeles; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Avalon Boulevard; thence southerly along the center line of Avalon Boulevard to the center line of Rosecrans Avenue; thence westerly along the center line of Rosecrans Avenue to the center line of San Pedro Street; thence southerly along the center lines of San Pedro Street, Avalon Boulevard and Wilmington and Los Angeles Road to the southerly line of the Bassett Tract, as shown on map recorded in Book 2, page 44, of Maps, in the office of the Recorder of the County of Los Angeles; thence westerly along the southerly line of said last mentioned tract and the westerly prolongation thereof to the center line of Main Street; thence southerly along the center line of Main Street to the center line of Victoria Street; thence southwesterly along the center line of Victoria Street to the westerly boundary of the aforesaid City of Los Angeles; thence southerly along the boundary of said last mentioned city and following the same in all its various courses to an angle point in said boundary at or near the northwest corner of Lot 1, Tract No. 4671, as shown on map recorded in Book 56, pages 30 and 31, of Maps, in the office of the Recorder of the County of Los Angeles; thence due north to the center line of 190th Street; thence westerly along the center line of 190th Street to the easterly boundary of the City of Torrance, as the same existed on aforementioned date; thence northerly along the boundary of said last mentioned city and following the same in all its various courses to the southerly prolongation of the center line of Prairie Avenue; thence northerly along said prolongation and center line of Prairie Avenue to the southerly boundary of the City of Hawthorne, as the same existed on above mentioned date; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of El Segundo Boulevard; thence easterly along the center line of El Segundo Boulevard to the center line of Arlington Avenue; thence northerly along the center line of Arlington Avenue to the center of Sec. 2, T. 3 S., R. 14 W., S. B. B. & M., said point being also an angle point in the boundary of the City of Inglewood, as the same existed on the above mentioned date; thence northerly along the boundary of said last mentioned city to the point of beginning, shall constitute the Sixty-seventh Assembly District.

68. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the most westerly corner of the City of Torrance, as the same existed on March 1, 1941, being also a point in the southwesterly boundary of the County of Los Angeles; thence easterly along the boundary of said City of Torrance and following the same in all its various courses to an angle point in the boundary of the City of Redondo Beach, as the same existed on the above mentioned date, said point being

Assembly districts

also the southeasterly corner of Block 70, Tract No. 10019, as recorded in Book 182, pages 1 to 13, inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence northwesterly along the boundary of said City of Redondo Beach to a point in the northwesterly boundary of the City of Torrance, as same existed on above mentioned date, said point being at or near the northeasterly corner of Block 21, of said last mentioned tract; thence northeasterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of 190th Street; thence easterly along the center line of 190th Street to a point due north of an angle point in the boundary of the City of Los Angeles, as same existed on above mentioned date, said angle point being at or near the northwesterly corner of Lot 1, Tract No. 4671, as shown on map recorded in Book 56, pages 30 and 31 of Maps, in the office of the Recorder of the County of Los Angeles; thence due south to said last mentioned angle point; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of Victoria Street; thence northeasterly along the center line of Victoria Street to the center line of Main Street; thence southerly along the center line of Main Street and following the same in all its various courses to the center line of Dominguez Street; thence easterly along the center line of Dominguez Street to the northerly line of Tract No. 3848, as shown on map recorded in Book 42, pages 68 and 69, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along said northerly line and the northerly line of Tract No. 4054, as shown on map recorded in Book 44, pages 39, 40 and 41, of Maps, in the office of the Recorder of the County of Los Angeles, and the easterly prolongation of said last mentioned line to the center line of Wilmington Avenue; thence southwesterly along the center line of Wilmington Avenue and the southwesterly prolongation thereof to the northerly boundary of above mentioned City of Los Angeles; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to a point in the southeasterly boundary of the County of Los Angeles; thence southwesterly along the southeasterly boundary of said county and following the same in all its various courses to the point of beginning.

Also including the Islands of Santa Catalina and San Clemente, shall constitute the Sixty-eighth Assembly District.

69. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwesterly corner of the City of South Gate, as the same existed on March 1, 1941, said point being near the northwesterly corner of Santa Ana Street and Long Beach Boulevard; thence easterly along the boundary of said city and following the same in all its various courses to the center line of the Official Channel of the Rio Hondo; thence northeasterly along the center line of said official channel and

Assembly dist icts

following the same in all its various courses to the center line of Anaheim Telegraph Road; thence southeasterly along the center line of Anaheim Telegraph Road and following the same in all its various courses to the center line of The Atchison, Topeka & Santa Fe Railway Company's Right of Way (Main Line Los Angeles to San Diego); thence southerly along the center line of said right of way to the center line of Lakeland Road; thence easterly along the center line of Lakeland Road to the center line of Carmenita Road; thence southerly along the center line of Carmenita Road to the center line of Imperial Highway; thence easterly along the center line of Imperial Highway to the center line of Luitwieler Avenue; thence southerly along the center line of Luitwieler Avenue to the center line of Rosecrans Avenue; thence easterly along the center line of Rosecrans Avenue to the easterly boundary of the County of Los Angeles; thence southerly along the boundary of said county and following the same in all its various courses to its first intersection with the northerly boundary of the City of Long Beach, as the same existed on March 1, 1941, said point of intersection being the most easterly corner of Lot 52, of Tract No. 10548, as shown on map recorded in Book 174, pages 15 to 23, both inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence westerly along the boundary of said City of Long Beach and following the same in all its various courses to its first intersection with the easterly boundary of the City of Los Angeles, as the same existed on above mentioned date; thence northerly along the boundary of said City of Los Angeles and following the same in all its various courses to the southerly prolongation of the center line of Wilmington Avenue; thence northerly along said prolongation and the center line of Wilmington Avenue to the easterly prolongation of the northerly line of Tract No. 4054, as shown on map recorded in Book 44, pages 39 to 41, both inclusive, of Maps, in the office of the Recorder of the County of Los Angeles; thence westerly along said easterly prolongation and northerly line of said last mentioned tract and westerly along the northerly line of Tract No. 3848, as shown on map recorded in Book 42, pages 68 and 69, of Maps, in the office of the Recorder of the County of Los Angeles to the center line of Dominguez Street from the west; thence westerly along the center line of said Dominguez Street to the center line of Main Street; thence northerly along the center line of Main Street to the westerly prolongation of the southerly line of the Bassett Tract, as shown on map recorded in Book 2, page 44, of Maps, in the office of the Recorder of the County of Los Angeles; thence easterly along said prolongation and southerly line of said last mentioned tract to the center line of Wilmington and Los Angeles Road; thence northwesterly along the center line of Wilmington and Los Angeles Road, center line of Avalon Boulevard, and the center line of San Pedro Street to the center line of Rosecrans Avenue; thence easterly along

the center line of Rosecrans Avenue to the center line of Avalon Boulevard; thence northerly along the center line of Avalon Boulevard to the southerly boundary of the aforesaid City of Los Angeles; thence easterly along the boundary of said last mentioned city and following the same in all its various courses to the center line of 107th Place; thence easterly along the center line of 107th Place to the westerly boundary of the City of Lynwood, as same existed on the above mentioned date; thence northerly along the boundary of said last mentioned city and following the same in all its various courses to its first intersection with the southerly boundary of the City of South Gate, as same existed on the above mentioned date; thence northerly along the boundary of said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Sixty-ninth Assembly District. Assembly districts

70. All that part of the County of Los Angeles within the following described boundaries:

Beginning at the northwest corner of the City of Long Beach, as the same existed on March 1, 1941, said corner being also the northwesterly corner of the Gateway Annex to said City of Long Beach; thence easterly along the boundary of said city and following the same in all its various courses to the southeasterly boundary of the County of Los Angeles; thence southwesterly along the boundary of said county and following the same in all its various courses to the southwesterly prolongation of the center line of Sixteenth Place, as shown on map of Alamitos Beach Townsite recorded in Book 59, page 11, of Miscellaneous Records, in the office of the Recorder of the County of Los Angeles; thence northerly along said southwesterly prolongation and center line of Sixteenth Place to the center line of Ocean Boulevard; thence northwesterly along the center line of Ocean Boulevard to the center line of Cherry Avenue; thence northerly along the center line of Cherry Avenue to the center line of Fourth Street; thence westerly along the center line of Fourth Street to the center line of Alamitos Avenue; thence northeasterly along the center line of Alamitos Avenue to the center line of California Avenue; thence northerly along the center line of California Avenue to the northeasterly boundary of aforesaid City of Long Beach; thence northwesterly along the boundary of said city and following the same in all its various courses to the center line of California Avenue; thence northerly along said center line of California Avenue and its northwesterly prolongation thereof to its intersection with the northwesterly line of the Bixby Knolls Country Club Manor District Annexation to the City of Long Beach; thence southwesterly along said last mentioned annexation line to an angle point in the boundary of the City of Long Beach, as the same existed on above mentioned date; said angle point lying at or near the northwesterly corner of San Antonio Drive and Atlantic Avenue; thence southwesterly along the boundary

Assembly districts

of said city and following the same in all its various courses to an angle point in said boundary, said angle point being in the southeasterly line of Lot 40, Tract No. 3554, as shown on map recorded in Book 38, pages 44 and 45, of Maps, in the office of the Recorder of the County of Los Angeles; thence southwesterly along said southeasterly line of Lot 40 and its southwesterly prolongation to center line of Long Beach Boulevard; thence northwesterly along the center line of Long Beach Boulevard to the southeasterly boundary of the Long Beach Boulevard District Annexation to the City of Long Beach; thence northeasterly along said southeasterly boundary to the center line of Atlantic Avenue; thence northerly along the center line of Atlantic Avenue to the southerly boundary of the Gateway Park Annexation to the City of Long Beach; thence westerly along the boundary of said last mentioned annexation and following the same in all its various courses to the point of beginning, shall constitute the Seventieth Assembly District.

71. All that part of the County of Los Angeles within the following described boundaries:

Beginning at a point in the northwest corner of the City of Long Beach, as same existed on March 1, 1941, said point being at or near the intersection of the northerly prolongation of the westerly line of Hesperian Avenue with the northerly line of 223d Street, said point being also in the easterly boundary of the City of Los Angeles as same existed on above mentioned date; thence easterly along the boundary of the City of Long Beach and following the same in all its various courses to the southwesterly corner of the Gateway Annexation to said City of Long Beach; thence easterly along the southerly boundary of said annexation to the center line of Atlantic Avenue; thence southerly along the center line of Atlantic Avenue to the southeasterly boundary of the Long Beach Boulevard District Annexation to the City of Long Beach; thence southwesterly along the boundary of said last mentioned annexation and following the same in all its various courses to the center line of Long Beach Boulevard; thence southeasterly along the center line of Long Beach Boulevard to the southwesterly prolongation of the southeasterly line of Lot 40, Tract No. 3554, as shown on map recorded in Book 38, pages 44 and 45, of Maps, in the office of the Recorder of the County of Los Angeles; thence northeasterly along said southwesterly prolongation to the first angle point in the boundary of the City of Long Beach, as same existed on above mentioned date; thence southeasterly along the boundary of said last mentioned city and following the same in all its various courses to the northwesterly line of the Bixby Knolls Country Club Manor District Annexation to the City of Long Beach; thence northeasterly along said last mentioned annexation line to the northwesterly prolongation of the center line of California Avenue; thence southeasterly along said last mentioned prolongation and southeasterly and

Assembly districts

southerly along the center line of California Avenue to its first intersection with the southerly boundary of the City of Long Beach as the same existed on the above mentioned date; thence westerly along the boundary of said City of Long Beach and following the same in all its various courses to the center line of California Avenue; thence southerly along the center line of California Avenue to the center line of Alamitos Avenue; thence southwesterly along the center line of Alamitos Avenue to the center line of Fourth Street; thence easterly along the center line of Fourth Street to the center line of Cherry Avenue; thence southerly and southwesterly along the center line of Cherry Avenue to the center line of Ocean Boulevard; thence southeasterly along the center line of Ocean Boulevard to the center line of Sixteenth Place; thence southerly along the center line of Sixteenth Place and the southerly prolongation thereof to the southerly boundary of the County of Los Angeles; thence westerly along the boundary of the said County of Los Angeles and following the same in all its various courses to the first intersection with the northeasterly boundary of the City of Los Angeles as the same existed on the above mentioned date (Ostend Addition); thence northwesterly along the boundary of said last mentioned city and following the same in all its various courses to the point of beginning, shall constitute the Seventy-first Assembly District.

72. All that portion of the County of San Bernardino which was, on January 1, 1941, included within the boundaries of the following judicial townships: Chino, Ontario, Upland, Cucamonga, San Bernardino, and Etiwanda, saving and excepting the following described territory from Etiwanda Judicial Township:

Beginning at the intersection of the center line of San Bernardino Avenue with the center line of Mulberry Avenue, as said avenues are shown on map of Tract No. 2102, recorded in Map Book 31, pages 11 to 15, inclusive, Records of San Bernardino County, State of California; thence southerly along the center line of said Mulberry Avenue to its intersection with the northerly line of the right of way of The Atchison, Topeka & Santa Fe Railway; thence westerly along said northerly right of way line of said railway to its intersection with the center line of Etiwanda Avenue; thence northerly along the center line of said Etiwanda Avenue to its intersection with the center line of Arrow Highway, sometimes known as Perris Avenue, as shown on said map; thence easterly along the center line of said Arrow Highway to its intersection with the center line of Hickory Avenue, as shown on said map; thence northerly along the center line of said Hickory Avenue to its intersection with the center line of San Bernardino Avenue, as shown on said map; thence easterly along the center line of said San Bernardino Avenue to its intersection with the center line of Mulberry Avenue, the place of beginning, shall constitute the Seventy-second Assembly District.

Assembly districts

73. All that portion of the County of San Bernardino not included within the Seventy-second Assembly District, as fixed and defined by this section, shall constitute the Seventy-third Assembly District.

74. All that portion of the County of Orange included in and comprising the first, fourth and fifth supervisorial districts of said county as the same existed on January 1, 1931, shall constitute the Seventy-fourth Assembly District.

75. All that portion of the County of Orange not included in the Seventy-fourth Assembly District, as fixed and defined by this section, shall constitute the Seventy-fifth Assembly District.

76. The County of Riverside shall constitute the Seventy-sixth Assembly District.

77. The County of Imperial shall constitute the Seventy-seventh Assembly District.

78. All that portion of the County of San Diego included and being in the City of San Diego, as the same existed on January 1, 1931, and included within the following described boundary lines, to wit: Lying northerly and westerly of the center line of Commercial Street, at its westerly end, to wit: At the Bayshore Line and thence running easterly along the center line of Commercial Street to its intersection with Twenty-eighth Street; and thence running northerly along the center line of Twenty-eighth Street to the intersection with the center line of University Avenue; thence westerly along the center line of University Avenue to the center line of Park Boulevard; thence northerly along the center line of Park Boulevard to the intersection with the center line of Adams Street; thence northerly along an extension of the center line of Park Boulevard to its intersection with the center line of El Camino del Rio; thence easterly along the center line of El Camino del Rio to its intersection with the city boundary, shall constitute the Seventy-eighth Assembly District.

79. All that portion of the County of San Diego included within the incorporated limits of the City of San Diego as the same existed on January 1, 1941, which is not included within the Seventy-eighth Assembly District as fixed and defined by this section, except that portion of the City of San Diego which was included in Precincts 142 to 150, inclusive, as such precincts were fixed and defined on November 5, 1940, shall constitute the Seventy-ninth Assembly District.

80. All that portion of the County of San Diego, including all that portion of the City of San Diego, not included within the Seventy-eighth and Seventy-ninth Assembly districts, as fixed and defined by this section, shall constitute the Eightieth Assembly District.

SEC. 2. Section 110 is hereby added to Chapter 3 of Title 1 of Part 2 of the Political Code, to read as follows: New section

110. The State is divided into 23 Congressional districts which are designated and constituted as follows: Congressional districts

1. The counties of Del Norte, Humboldt, Mendocino, Sonoma, Marin, Lake, Colusa, Glenn, Sutter, Yuba and Butte shall constitute the First Congressional District.

2. The counties of Siskiyou, Shasta, Modoc, Lassen, Amador, Tehama, Sierra, Inyo, Mono, Nevada, Alpine, Mariposa, Calaveras, Tuolumne, Plumas, El Dorado, Placer and Trinity shall constitute the Second Congressional District.

3. The counties of Sacramento, San Joaquin, Napa, Yolo and Solano shall constitute the Third Congressional District.

4. All that portion of the City and County of San Francisco comprising the Nineteenth, Twentieth, Twenty-first and Twenty-second Assembly districts, shall constitute the Fourth Congressional District.

5. All that portion of the City and County of San Francisco not included in the Fourth Congressional District shall constitute the Fifth Congressional District.

6. All that portion of the County of Alameda comprising the Thirteenth, Fourteenth and Fifteenth Assembly districts as those districts are designated, constituted and defined by Section 90 of this code, and the County of Contra Costa shall constitute the Sixth Congressional District.

7. All that portion of the County of Alameda not included in the Sixth Congressional District shall constitute the Seventh Congressional District.

8. The counties of San Mateo, Santa Clara, San Benito and Santa Cruz shall constitute the Eighth Congressional District.

9. The counties of Stanislaus, Madera, Merced and Fresno shall constitute the Ninth Congressional District.

10. The counties of Kern, Tulare and Kings shall constitute the Tenth Congressional District.

11. The counties of Monterey, San Luis Obispo, Santa Barbara and Ventura shall constitute the Eleventh Congressional District.

12. All that portion of the County of Los Angeles comprising the Forty-ninth, Fiftieth and Fifty-third Assembly districts, shall constitute the Twelfth Congressional District.

13. All that portion of the County of Los Angeles comprising the Forty-fifth, Fifty-fourth and Fifty-sixth Assembly districts, shall constitute the Thirteenth Congressional District.

14. All that portion of the County of Los Angeles comprising the Forty-fourth, Fifty-fifth, Sixty-second and Sixty-fourth Assembly districts, shall constitute the Fourteenth Congressional District.

15. All that portion of the County of Los Angeles comprising the Fifty-seventh, Fifty-eighth, Sixty-third and Sixty-fifth Assembly districts, shall constitute the Fifteenth Congressional District.

Congressional districts

16. All that portion of the County of Los Angeles comprising the Fifty-ninth, Sixtieth and Sixty-first Assembly districts, shall constitute the Sixteenth Congressional District.

17. All that portion of the County of Los Angeles comprising the Forty-sixth, Sixty-sixth, Sixty-seventh and Sixty-eighth Assembly districts, shall constitute the Seventeenth Congressional District.

18. All that portion of the County of Los Angeles comprising the Sixty-ninth, Seventieth and Seventy-first Assembly districts, shall constitute the Eighteenth Congressional District.

19. All that portion of the County of Los Angeles comprising the Fortieth, Fifty-first and Fifty-second Assembly districts, shall constitute the Nineteenth Congressional District.

20. All that portion of the County of Los Angeles comprising the Forty-second, Forty-third, Forty-seventh and Forty-eighth Assembly districts, shall constitute the Twentieth Congressional District.

21. All that portion of the County of Los Angeles comprising the Forty-first Assembly District, and all of the County of San Bernardino, shall constitute the Twenty-first Congressional District.

22. The counties of Orange, Riverside and Imperial shall constitute the Twenty-second Congressional District.

23. The County of San Diego shall constitute the Twenty-third Congressional District.

SEC. 3. Section 78 of the Political Code is hereby repealed.

SEC. 4. Section 117 of the Political Code is hereby repealed.

SEC. 5. Any precinct, or portion of any precinct, not situate within any portion of an Assembly district, as such districts are described in this act, shall be attached to and constitute a part of the Assembly district adjacent thereto and situated within the same county or city and county, having, as shown by the last Federal census, a less population than any other such district adjacent thereto.

CHAPTER 697

Stats 1937, p 2184, amended

An act to amend Section 4 of The Corporation Income Tax Act of 1937, relating to corporations exempt from tax.

In effect September 13, 1941

[Passed over Governor's veto June 12, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1939, p. 2904

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Exempted corporations

Sec. 4. (a) Corporations organized for religious, charitable, social, cemetery, scientific, educational, recreational,

literary, fraternal or civic purposes, if their organization or activities are not designed for, and do not result in financial or pecuniary gain or profit to the stockholders or members thereof, shall not be taxed under this act.

(b) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this act, shall not be taxed under this act.

(c) Corporations classified as diversified management companies under Section 5 of the Federal Investment Company Act of 1940, and registered as provided in that act, shall not be taxed under this act. Public 768, of 76th Congress

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CHAPTER 698

An act to amend Section 4 of the Bank and Corporation Franchise Tax Act, relating to corporations exempt from tax. Stats 1929, p 19, amended

[Passed over Governor's veto June 12, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2934

Sec. 4. (1) Every financial corporation doing business within the limits of this State, taxable under the provisions of Section 16 of Article XIII of the Constitution of this State, shall annually pay to the State for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, upon the basis of its net income for the next preceding fiscal or calendar year at the rate provided for in Section 4a hereof. Financial corporations to pay tax

(2) Each such financial corporation shall be entitled to an offset against said franchise tax, in the manner hereinafter provided, in the amount of personal property taxes and license fees for the privilege of operating as personal property brokers, or brokers as defined in Chapter 634, Statutes of 1909, as amended, paid to this State or to any county, city and county, city, town or other political subdivision of the State, and licenses for the privilege of operating motor vehicles paid to this State under Chapter 362, Statutes of 1935, as amended; provided, however, that the tax on such financial corporation after the allowance of offset shall not be less than 4 per centum of its net income for the preceding fiscal or calendar year or less than twenty-five dollars ($25). Offsets

(3) With the exception of financial corporations, every corporation doing business within the limits of this State and not expressly exempted from taxation by the provisions of the Tax on corporations other than financial

Constitution of this State or by this act, shall annually pay to the State, for the privilege of exercising its corporate franchises within this State, a tax according to or measured by its net income, to be computed, in the manner hereinafter provided, at the rate of 4 per centum upon the basis of its net income for the next preceding fiscal or calendar year. In any event, each such corporation shall pay annually to the State, for the said privilege, a minimum tax of twenty-five dollars ($25).

Minimum tax

Holding corporations

(4) Any corporation organized to hold the stock or bonds of any other corporation or corporations, and not trading in such stock or bonds or other securities held, and engaging in no other activities than the receipt and disbursement of dividends from such stock or interest from such bonds, shall not be considered a corporation doing business in this State for the purposes of this act.

Tax on corporations not otherwise taxed

(5) Every corporation not otherwise taxed in pursuance of this section and not expressly exempted by the provisions of this act or the Constitution of this State shall pay annually to the State a tax of twenty-five dollars ($25).

Exempt corporations

(6) (a) Corporations organized for religious, charitable, social, cemetery, scientific, educational, recreational, literary, fraternal or civic purposes, if their organization or activities are not designed for, and do not result in financial or pecuniary gain or profit to the stockholders or members thereof, shall not be taxed under this act.

(b) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this act, shall not be taxed under this act.

Public 768, of 76th Congress

(c) Corporations classified as diversified management companies under Section 5 of the Federal Investment Company Act of 1940, and registered as provided in that act, shall not be taxed under this act.

When taxes due

(7) Taxes under this section and under Sections 1 and 2 of this act shall accrue on the first day of the "taxable year," as defined in Section 11 hereof.

Ad valorem taxes

Taxes under this section shall be in lieu of all ad valorem taxes and assessments of every kind and nature upon the general corporate franchises of the corporations taxable hereunder but shall not be in lieu of any taxes or assessments upon special franchises owned, held or used by said corporations. All such special franchises shall be assessed annually by the State Board of Equalization (at their actual value) in the same manner as is provided for the assessment of other property to be assessed by said board under Section 14 of Article XIII of the Constitution of this State, and shall be subject to taxation to the same extent and in the same manner as other property so assessed by said board. Said board is hereby authorized and directed to assess said special franchises as of the first Monday in March of 1935 and annually thereafter.

Special franchises

CHAPTER 699

An act to amend Section 1030 of the Political Code, relating to office and working hours.

[Approved by Governor June 12, 1941. Filed with Secretary of State June 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1030 of the Political Code is hereby amended to read as follows: Stats 1933, p. 722

1030. Unless otherwise provided by law, every department, bureau, board, commission, and officer, except the State Compensation Insurance Fund, shall keep all of their offices open for the transaction of business from 9 o'clock a.m. until 5 o'clock p.m. of each day other than legal holidays; provided, that the office of the State Treasurer shall close one hour earlier than the time set herein for other departments, bureaus, boards, commissions and officers. State office hours

Nothing contained in this section shall prevent the head of any department, bureau, board, commission or office from operating with a skeleton crew from 9 o'clock a.m. to 12 o'clock noon of each Saturday; provided, that the total number of hours per week of employees of any such department, bureau, board, commission or office shall not be less than the total number of office hours herein established.

CHAPTER 700

An act to amend Sections 305 and 307 of the Agricultural Code, relating to the slaughtering of animals, the manufacturing of meat food products, and the inspection of meat intended for food purposes. Stats 1933, p. 60, amended

[Approved by Governor June 12, 1941. Filed with Secretary of State June 13, 1941.]

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

SECTION 1. Section 305 of the Agricultural Code is hereby amended to read as follows: Stats. 1933, p. 109 See also Stats 1941, p. 2438

305. No establishment may be operated in the State for the purpose of slaughtering animals, or for the manufacture of meat food products unless such establishment is operated under Federal inspection, State inspection, or approved municipal inspection. No dressed carcasses of animals intended for food purposes, parts thereof, prepared meats or meat food products shall be sold within the State unless the same shall bear the "Inspected and passed" stamp of an establishment operating under Federal inspection, State inspection or approved municipal inspection. Inspection required

Exception

This section shall be effective only in counties having a population of 28,000 or over.

Stats 1933, p 110

SEC. 2. Section 307 of the Agricultural Code is hereby amended to read as follows:

Exemptions from inspection

307. Nothing in this article prohibits:

(a) A live stock producer from slaughtering animals on his own premises that are a part of his own herd for his own consumption or from disposing of the carcasses and products of those animals thus slaughtered; provided, they can be identified as such, and are sound, healthful, wholesome, and fit for human food, and are disposed of in his locality; when cattle, sheep, swine or goats are sold by said producer in the vicinity where produced and slaughtered there shall be attached to said meat or meat products a statement giving substantially the following:

Certificate

I hereby certify that the uninspected meat (or meat products as the case may be) to which this certificate is attached is from animals slaughtered by the undersigned, a farmer, on his farm and that at this date it is sound, healthful, wholesome, and fit for human food.

(b) A live stock producer or dairyman from slaughtering upon his own premises calves under the age of eight months which are the actual increase of his own herd, if the calves are accompanied by a certificate of ownership, offered for inspection at any point where inspection is maintained in accordance with regulations issued by the director, and are marketed by whole carcass with hide on.

(c) The slaughter of animals of the bovine species under the age of eight months in establishments located in counties where meat inspection is not mandatory and which meet the sanitary requirements of the department and shipment thereof to counties where State inspection or approved municipal or county inspection is maintained, and said animals so slaughtered shall there be inspected and the carcasses stamped.

(d) Any butcher located in a remote section of a county in which the inspection provisions of this article are mandatory, when in the opinion of the director it is impractical or impossible to assign an inspector, may, upon written application, be granted an exemption certificate to be used in accordance with the regulations of the director; provided, that the meat of animals slaughtered in accordance with such exemption shall be offered for sale only in the immediate locality where the animals were slaughtered.

The certificate must be renewed the first day of January of each year.

Revocation of exemption certificate

Should facilities for inspection become available at any time, the director is empowered to withdraw such exemption certificate. The director is also empowered to withdraw such exemption certificate when, in his opinion, the person to whom the same is issued has not complied with the rules and regulations pertaining to the use thereof.

CHAPTER 701

An act to amend Section 4 of the Central Valley Project Act of 1933, relating to units.

Stats 1933, p 2648, amended

[Approved by Governor June 12, 1941 Filed with Secretary of State June 13, 1941]

In effect September 13, 1941

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

SECTION 1. Section 4 of the Central Valley Project Act of 1933 is hereby amended to read as follows:

Stats 1941, p 1134

Sec. 4. Said Central Valley Project as hereby authorized shall consist of the following units:

Units of project

(1) A dam, reservoir and hydroelectric power plant, or plants, with necessary afterbay and regulatory appurtenant works located on the Sacramento River, at or near Kennett, Shasta County, California; also a transmission line having capacity sufficient to transmit all the electric energy which can be generated at said dam, including substations, transformer stations, and other facilities for the distribution of power from Shasta Dam to a central substation near the City of Antioch, which transmission line shall be located in such manner and along such route as shall enable the most convenient distribution of electrical energy to the load centers traversed thereby, or capable of service therefrom. Said unit is designated as the Shasta Dam, and shall be constructed and used primarily for improvement of navigation on the Sacramento River to Red Bluff, for increasing flood protection in the Sacramento Valley, for salinity control in the Sacramento-San Joaquin Delta, and for storage and stabilization of the water supply of the Sacramento River for irrigation and domestic use, and secondarily for the generation of electric energy and other beneficial uses. Said dam shall be built to such height, said reservoir shall have such capacity and said power plant or plants shall be of such capacity as the authority shall determine; provided, that said reservoir shall have a storage capacity of not less than 2,940,000 acre-feet of water.

Shasta Dam

(2) A conduit or canal, equipped with all necessary pumping plants and other works to convey water, and extending westerly from a diversion point near Knightsen, California, southerly of Suisun Bay to the vicinity of Martinez, California. Said unit is designated as the Contra Costa Conduit, and shall be of such capacity as shall be determined by the authority to be necessary to furnish an adequate supply of water for industrial, agricultural, domestic and other beneficial uses in the area served by it.

Contra Costa Conduit

(3) A channel or canal, together with all necessary dams, pumping plants, conduits, and other works as shall be determined by the authority to be necessary to convey a supply of water for irrigation and other beneficial uses, from the lower Sacramento River into the San Joaquin Delta, and also adequate to convey and transport not less than 3,000 cubic feet

San Joaquin Pumping System

of water per second from a point on the lower San Joaquin River southerly to the mouth of Fresno Slough. Said unit is designated as the San Joaquin Pumping System.

Friant Dam (4) A dam, reservoir and hydroelectric power plant, or plants, to be located on the San Joaquin River, at or near Friant, Fresno County, California. Said unit is designated as Friant Dam, and shall be constructed and used primarily for improvement of navigation, flood control, and storage and stabilization of the water supply of the San Joaquin River, for irrigation and domestic use, and secondarily for the generation of electric energy and other beneficial uses. Said dam shall be built to such height, said reservoir shall have such capacity and said power plant, or plants, shall be of such capacity as the authority shall determine; provided, that said reservoir shall have a capacity of not less than 400,000 acre-feet of water.

Madera Canal (5) A canal or conduit leading from said Friant Reservoir northerly to a point on the Chowchilla River. Said unit is designated as the Madera Canal, and shall be of such capacity as shall be determined by the authority to be necessary to furnish an adequate supply of water for beneficial purposes in the area to be served by it.

Friant-Kern Canal (6) A canal or conduit extending from said Friant Reservoir southerly to a point on Kern River near the City of Bakersfield in Kern County. Said unit is designated as Friant-Kern Canal. Said canal or conduit shall be of such capacity as shall be determined by the authority to be necessary to furnish an adequate supply of water for beneficial purposes in the area to be served by it. Said unit may include such pumps, supplemental dams and other works as are determined by the authority to be necessary for the economical and advantageous construction and operation and maintenance of the said unit.

Tehama-Colusa Conduit (7) A conduit or canal, equipped with all necessary dams, pumping plants, and other appurtenant works, extending from the Sacramento River at or near the City of Red Bluff, Tehama County, California, southerly through Tehama, Glenn and Colusa counties. Said unit shall be designated as the Tehama-Colusa Conduit and shall be of such capacity as shall be determined by the authority to be necessary to furnish an adequate supply of water for industrial, agricultural, domestic and other beneficial uses in the area to be served by it.

Tehama-Butte Conduit (8) A conduit or canal, equipped with all necessary dams, pumping plants, and other appurtenant works, extending from the Sacramento River at or near the City of Red Bluff, Tehama County, California, southerly through Tehama, Butte, and Sutter counties. Said unit shall be designated as the Tehama-Butte Conduit and shall be of such capacity as shall be determined by the authority to be necessary to furnish an adequate supply of water for industrial, agricultural, domestic and other beneficial uses in the area to be served by it.

(9) Such other units as may be from time to time added by the authority to the units hereinabove specifically enumerated, and the authority shall be and is hereby empowered to add additional units consistent with and which may be constructed, maintained and operated as a part of said Central Valley Project and in furtherance of the single object contemplated by Section 3 of this act. Other units

In addition to the works specified in the foregoing subdivisions said units shall include such plants and works for the generation of electric energy by steam or other power, and such electric transmission lines and facilities for the sale, use and distribution of electric energy as are determined by the authority to be necessary for making a reasonable, proper and advantageous sale, use and distribution of electric energy made available by said units. What units include

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CHAPTER 702

An act to amend Section 5.540 of the School Code, relating to physical examinations of teachers for active tuberculosis.

[Approved by Governor June 12, 1941 Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 5.540 of the School Code is hereby amended to read as follows: Stats 1931, p 1282

5.540. No person shall be employed in a position requiring certification qualifications until his or her certificate has been filed or credential registered with the county superintendent of schools having jurisdiction over the district employing such person and if required by an order of the county board of education the person must also have on file with the said county superintendent of schools a certificate from a physician and surgeon licensed under the chapter on medicine of the Business and Professions Code showing that the person has submitted to a physical examination within three years last past and been found free from active tuberculosis. Reregistration of credentials Physician's certificate

When any person so employed is the holder of a California State teachers college diploma, accompanied by the certificate of the State Board of Education, as provided elsewhere in this part, an educational or life diploma of California, the superintendent of schools of the county, upon presentation thereof to him, shall record the name of said holder in a book provided for that purpose in his office, and the holder of said diploma shall thereupon be absolved from the provisions of this section, except any provision requiring a certificate of good health.

CHAPTER 703

Stats 1933, p. 60, amended

An act to amend Section 830 of, to repeal Section 830.5 of, and to add Sections 830.1, 830.2, 830.3, 830.4 and 830.5 to, the Agricultural Code, relating to by-products disposal.

In effect September 13, 1941

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.]

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

Stats 1937, p 2499

SECTION 1. Section 830 of the Agricultural Code is hereby amended to read as follows:

Exceptions

830. Fruits, nuts, and vegetables, of the kinds specified in this chapter, if not wrapped or packed, are exempt from the standards established in this chapter when being transported or delivered to the destinations and for the purposes herein set forth, or when prepared, loaded, shipped, or sold under the following conditions:

(a) From a packing plant which has not proper or adequate facilities for processing, grading, packing, or reconditioning, to another packing plant within the State which has such facilities;

(b) To a by-product plant within the State for commercial processing, preserving, or manufacture of by-products for resale; provided, that dates for such purpose are not exempt from the standards established by Section 798 of this code;

(c) To a feed yard within the State for live stock feeding purposes;

(d) To a dumping ground or waste disposal plant within the State for disposal;

(e) From the orchard or field where they were produced to a packing plant within the State for first processing, grading, or packing.

New section

SEC. 2. Section 830.1 is hereby added to the Agricultural Code, to read as follows:

Warning notice and disposal order

830.1. The enforcing officer may, and when requested by an enforcing officer of the county of destination shall, affix a warning notice to any vehicle or other means of transportation, or to any load or lot, of fruits, nuts, or vegetables exempt from the standards established by this chapter, and serve a disposal order upon the owner or person having custody or possession of any such load or lot.

Form

The warning notice, the disposal order directing the proper disposition of such products, and the disposal order receipt to be signed by an enforcing officer at destination confirming such disposition shall be in the form specified by and provided by the director.

Delivery to consignee

The enforcing officer at the point of destination of such load or lot shall determine that the load or lot has been delivered to the consignee at the destination specified in the

order and shall thereupon release the load or lot and countersign the disposal order receipt so given to him. He shall immediately forward the receipt to the enforcing officer who served the disposal order.

SEC. 3. Section 830.2 is hereby added to the Agricultural Code, to read as follows: New section

830.2. No person shall deliver any load or lot of fruits, nuts, or vegetables exempt from the standards established in this chapter to any other person or to any other destination than the person or destination shown on the disposal order, unless specifically authorized in writing by an enforcing officer. Delivery to other than consignee

No person shall dispose of in any manner, other than to unload and store, any such load or lot prior to the release in writing of the load or lot by the enforcing officer at the point of destination.

SEC. 4. Section 830.3 is hereby added to the Agricultural Code, to read as follows: New section

830.3. Any commissioner may issue to any person residing in his county or maintaining a principal place of business therein a permit to transport or deliver fruits, nuts, or vegetables exempt from the standards established in this chapter, for any one or more of the purposes set forth in Section 830; but no permit shall be issued for the purpose set forth in subparagraph (a) of Section 830 unless and until the commissioner has found and determined that the packing plant from which the fruits, nuts, or vegetables are to be transported or delivered has not proper and adequate facilities for processing, grading, packing, or reconditioning the particular lot of fruits, nuts, or vegetables, and that the packing plant to which the fruits, nuts, or vegetables are to be transported has such facilities. Such permits may be issued for a period not exceeding 12 months. Permit to deliver exempt products

No permit issued hereunder shall be valid except in the county where issued unless the permit, or a rider securely attached thereto, carries the indorsement of the commissioner of the county to which the fruits, nuts, or vegetables are to be transported or delivered. Validity

Any commissioner may refuse to issue or to indorse a permit if in his judgment the permittee does not have available proper and adequate facilities with which to pack, process or otherwise dispose of such commodities in accordance with the provisions of this chapter and the terms of the permit. A permittee shall, upon request of any commissioner, furnish such affidavits, receipts and other evidence as such commissioner reasonably may require as proof that the commodities have been disposed of in accordance with the provisions of this chapter and the terms of the permit. Condition of issuance

Revocation or suspension

Any commissioner, after notice and hearing, may revoke or suspend any permit or indorsement issued by him, and shall refuse to issue or to indorse any permit, if the facts established at such hearing reveal that the permittee or applicant has violated any of the provisions of this chapter or the terms of any permit issued hereunder, or has failed or refused to furnish the evidence required by the commissioner as hereinabove provided.

Notice of hearing when mailed to the permittee or applicant at the address given in his application shall give the commissioner jurisdiction to act in the matter.

New section

SEC. 5. Section 830.4 is hereby added to the Agricultural Code, to read as follows:

Disposal of products

830.4. It is unlawful to use or dispose of any fruits, nuts, or vegetables, for which a permit has been issued, in any manner or for any purpose other than that for which such permit was issued.

Stats 1939, p. 2273

SEC. 6. Section 830.5 of the Agricultural Code is hereby repealed.

New section

SEC. 7. Section 830.5 is hereby added to the Agricultural Code, to read as follows:

Unlawful transportation

830 5. It is unlawful for any person who does not hold a valid permit issued under the provisions of Section 830.3 to transport, or cause to be transported, any fruits, nuts, or vegetables, which are exempt from the standards established in this chapter, and which do not conform to such standards.

Exceptions

No such permit is required for fruits, nuts, or vegetables, under the conditions set forth in subparagraph (e) of Section 830. Nothing herein contained shall apply to a common carrier operating over a regular route or between fixed termini and transporting any such fruits, nuts, or vegetables, in good faith and in accordance with its duties as a common carrier.

CHAPTER 704

Stats. 1933, p. 60, amended

An act to add Sections 674 and 675 to the Agricultural Code, relating to the manufacture and sale of frozen products of milk in quantities less than one gallon.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

New section

SECTION 1. Section 674 is hereby added to the Agricultural Code, to read as follows:

Exception

674. No factory license is required for the operation and use of any freezing device in a retail store by means of

which ice cream mix, purchased from the licensed manufacturers of such mix, is frozen in lots of not more than four quarts each for sale at retail for consumption on the premises and until so consumed are kept in the freezing device.

SEC. 2. Section 675 is hereby added to said code, to read as follows: New section

675. No retail store shall operate any freezing device as defined in Section 674 without first having obtained a permit from the Director of Agriculture. Such permits may be issued for the calendar year or any portion thereof, and the fee for which shall be five dollars ($5) for each place of business where such devices are installed. Applications for renewal of said permits shall be made 30 days before the end of each year. Permit

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CHAPTER 705

An act to add Section 651.7 to the Fish and Game Code, relating to salmon. Stats 1933, p 394, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 651.7 is hereby added to the Fish and Game Code, to read as follows: New section

651.7. In that portion of the San Joaquin River from the junction of the Stanislaus River with the San Joaquin River to the highway bridge opposite Mossdale, salmon may be taken with hook and line between April 1st and December 31st. Salmon

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CHAPTER 706

An act to add Section 2326 to the Public Resources Code, relating to the records of dissolved mining districts. Stats 1939, p 1067, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 2326 is hereby added to the Public Resources Code, to read as follows: New section

2326. Whenever any mining district in this State, organized or created under the laws of the United States, is dissolved, the officers or custodians of the records of the mining district shall deposit with the county recorder of the county, Records of dissolved mining district

in which the district is located, all records of location notices or other documents affecting titles to mining claims in the mining district, shown by the records of the district.

County recorders of the several counties of the State of California shall accept any location notices and other documents affecting title to mining claims of dissolved mining districts. Thereafter all such notices and documents shall be open for public inspection.

CHAPTER 707

An act to amend Section 4281 of the Political Code, relating to compensation for public services in counties of the fifty-second class.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1941, p. 1634

SECTION 1. Section 4281 of the Political Code is hereby amended to read as follows:

Inyo County. Salaries

4281. In counties of the fifty-second class, the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums:

Auditor

1. The auditor, two thousand four hundred dollars ($2,400) per annum.

District attorney

2. The district attorney, two thousand four hundred dollars ($2,400) per annum.

Supervisors

3. Each member of the board of supervisors, one thousand two hundred dollars ($1,200) per annum; thirty cents ($0.30) per mile one way in attending the meetings of the board, and three dollars ($3) per day when actually serving as road commissioner, not to exceed three hundred dollars ($300) per annum.

Jurors

4. In counties of this class, jurors shall receive the following fees and mileage:

For attending as a grand juror, for each day's actual attendance, per day, three dollars ($3), and twenty cents ($0.20) per mile for each mile actually traveled, in going only; for attending as a trial juror in the superior court in civil and criminal cases, for each day's actual attendance, per day, three dollars ($3), and twenty cents ($0.20) per mile for each mile actually traveled, in going only; for attending as a trial juror in the justice's court, in civil cases only, for each day's actual attendance, per day, two dollars ($2), and twenty cents ($0.20) per mile for each mile actually traveled, in going only. The fee of such jurors shall be paid to them, respectively, on each day during the period of their attendance, if demanded, and the mileage herein provided for shall be paid at the time the fee for the first day's attendance is paid.

CHAPTER 708

An act to add Section 2160.7 to the Welfare and Institutions Code, relating to the aged confined in county institutions.

Stats 1937, p 1005, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 2160.7 is hereby added to the Welfare and Institutions Code, to read as follows:

New section

2160.7. Notwithstanding any provision of subdivision (e) of Section 2160, for each person, who is receiving assistance under this chapter on the date he enters a county hospital for medical care at county expense, the State, during the period following the first 60 days of such confinement, shall pay to the county the State's share of the assistance such person would have received under this chapter, if he were not confined. Nothing in this section shall prohibit a person from receiving his assistance during the first 60 days of his confinement, or after his release from the county hospital.

Person in county hospital

CHAPTER 709

An act to amend Section 949 of the Fish and Game Code, relating to fish nets.

Stats 1933, p 394, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 949 of the Fish and Game Code is hereby amended to read as follows:

Stats. 1933, p 478

949. Fyke nets the meshes of which are at least two and one-half inches in length, provided however a half-inch tolerance of mesh size be allowed in used nets, may be used in Districts 3, 12A, 12B and 12C to take catfish, carp, pike, hardheads and suckers between September 1st and May 1st.

Fyke nets

CHAPTER 710

Stats 1933, p 394, amended

An act to amend Section 723 of the Fish and Game Code, relating to the taking of catfish.

In effect September 13, 941

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.]

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

Stats. 1933, p. 461

SECTION 1. Section 723 of the Fish and Game Code is hereby amended to read as follows:

Catfish

723. No dressed catfish less than seven inches in length, exclusive of any part of the head, and no undressed catfish less than nine inches in length may be sold.

CHAPTER 711

An act to amend Section 4250 of the Political Code, relating to compensation for public services in counties of the twenty-first class.

In effect September 13, 1941

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.]

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

Stats 1941, p 1616

SECTION 1. Section 4250 of the Political Code is hereby amended to read as follows:

Imperial County. Salaries

4250. In counties of the twenty-first class the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

1. The auditor, three thousand dollars ($3,000) per annum.

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum, which shall be in full for all services performed by him as such district attorney. The district attorney shall devote his entire time during office hours to the duties of his office, and shall not engage in private practice of the law during his term of office.

Supervisors

3 Each supervisor, one thousand two hundred dollars ($1,200) each per annum which shall be in full for all services performed by him as supervisor and road commissioner for each year; provided, however, that each supervisor shall be allowed his necessary and actual traveling expenses at the rate of seven cents ($0.07) per mile traveled within the county in attending the meetings of the board of supervisors and in performing his duties as road commissioner. In case it shall be necessary for any member of said board of supervisors to travel outside of the county and within the State of California on official matters pertaining to his duties as supervisor and as road commissioner, he shall receive his actual and

necessary expenses only and shall file his demand in the same manner as other county officers and shall submit signed receipts and vouchers for all such expenses in excess of one dollar ($1).

4. Trial jurors in criminal cases, shall receive as compensation for each day's attendance for trial in the superior courts the sum of three dollars ($3) per day, and for each mile actually and necessarily traveled from their residence in attending the superior court, one way only, the sum of ten cents ($0.10) per mile. Jurors

Grand jurors shall receive as compensation for each day's attendance at sessions of the grand jury, the sum of three dollars ($3) per day, and for each mile actually and necessarily traveled from their residence in attending the sessions of the grand jury, one way only, the sum of ten cents ($0.10) per mile, such mileage for said grand jurors to be allowed but once during each meeting day said grand jurors are required to attend sessions thereof.

All jurors who are required to attend trials in the several justice's courts in such counties shall receive as compensation for each day's attendance for trial in a justice court, the sum of one dollar and fifty cents ($1.50) per day, and for each mile actually and necessarily traveled, one way only, in attending trials in said justice's courts, the sum of ten cents ($0.10) per mile, such mileage to be allowed but once during each meeting day said trial jurors are required to attend trial.

CHAPTER 712

An act to amend Section 4271 of the Political Code, relating to compensation for public services in counties of the forty-second class.

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 4271 of the Political Code is hereby amended to read as follows: Stats 1941, p. 1628

4271. In counties of the forty-second class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: El Dorado County. Salaries

1. The auditor, one thousand eight hundred dollars ($1,800) per annum. Auditor

2. The district attorney, one thousand eight hundred dollars ($1,800) per annum. District attorney

3. Each member of the board of supervisors, one thousand five hundred dollars ($1,500) per annum and twenty cents ($0.20) per mile for traveling from his residence to the county seat, also his actual necessary expenses while acting as ex officio road overseer or commissioner not to exceed three hundred dollars ($300) in any one year. Supervisors

Jurors

18. In the superior court, jurors' fees in criminal cases shall be allowed as follows:

For attending as a grand juror, for each day's attendance, three dollars ($3), and fifteen cents ($0.15) per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

For attending as a trial juror in criminal cases, for each day's actual attendance, three dollars ($3), and fifteen cents ($0.15) per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

CHAPTER 713

Stats 1933, p. 394, amended

An act to amend Section 62.5 of the Fish and Game Code, relating to Fish and Game District 1⅛.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1937, p. 1405

SECTION 1. Section 62.5 of the Fish and Game Code is hereby amended to read as follows:

District 1⅛

62.5. District 1⅛. The following shall constitute Fish and Game District 1⅛: The waters of that portion of the Sacramento River including its tributaries for a distance of five miles upstream from their mouths, within the exterior boundaries of District 1, lying between the Vina Ferry near the town of Vina, in Tehama County, and the junction of Middle Creek and the Sacramento River, in Shasta County. Except as otherwise provided, and so far as consistent with other provisions of this code relating to a particular district, the provisions of this code relating to District 1 apply to District 1⅛.

CHAPTER 714

Stats 1933, p 394, amended

An act to repeal Section 290.5 of the Fish and Game Code, relating to application of other laws.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1937, p. 1405

SECTION 1. Section 290 5 of the Fish and Game Code is hereby repealed.

CHAPTER 715

An act to add Chapter 12, comprising Sections 9201 to 9225, inclusive, to Part 4, Division 8 of the Health and Safety Code, relating to abandonment of cemeteries by public cemetery districts.

Stats 1939, p 482, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Chapter 12, comprising Sections 9201 to 9225, inclusive, is hereby added to Part 4, Division 8 of the Health and Safety Code, to read as follows:

New chapter

CHAPTER 12. ABANDONMENT

Acquisition of abandoned cemeteries

9201. Any public cemetery district may acquire, by grant, gift, or any other method, abandoned cemeteries existing within the boundaries of a public cemetery district at the time of its formation.

Declaration of abandonment

9202. Any nonperpetual care cemetery in which there has not been interred any human dead for the period of twenty-five (25) years may be declared an abandoned cemetery.

Resolution

9203. Any public cemetery district having acquired a cemetery within its district boundary lines, as hereinbefore provided, may, by resolution of its board of directors, if no human dead have been interred therein for a period of twenty-five (25) years immediately preceding the date of the resolution, declare the abandonment in whole or in part of the cemetery as a burial place for the human dead and for the removal of human remains interred therein to another cemetery or cemeteries within the boundaries of the district as in this chapter provided.

Contents of resolution

9204. Any resolution or declaration for abandonment and removal duly adopted and made under the provisions of this chapter shall specify and declare that at any time after the expiration of two months after the first publication of the notice of declaration of abandonment and removal required to be published, as in this chapter set forth, the human remains then remaining in the cemetery or part thereof will be removed by the district owning or controlling the cemetery.

Publication of notice

9205. Notice of the declaration of abandonment and the proposed removal of the human remains from any abandoned cemetery, or part thereof, shall be given, to all persons interested therein, by publication in a newspaper of general circulation published within the public cemetery district and most likely to give notice to the parties concerned. If no newspaper

of general circulation is published in the district, then publication shall be made in a newspaper of general circulation published in the county within which the district is located. Publication shall be made once a week for four consecutive times. The notice shall be entitled "Notice of the Declaration of Abandonment of Lands for Cemetery Purposes and of Intention to Remove the Human Bodies Interred Therein" and shall specify a date not less than two months after the first publication of the notice when the district owning or controlling the cemetery lands and causing the notice to be published will proceed to remove the human remains then remaining in such cemetery, or part thereof.

Posting and mailing

9206. Copies of the notice so published shall within 10 days after the first publication thereof be posted in at least three conspicuous places in the cemetery from which the removal of the human remains interred therein are to be made, and a further copy of the notice shall be mailed by registered letter to every person who owns or holds or has the right of burial in any lot, or plot in the cemetery, or part thereof, affected by the resolution or declaration of abandonment and removal, whose name appears as owner or controller upon the records of the cemetery. The notice so mailed shall be addressed to the last known post-office address of the respective lot owner or plot holder as the same appears from the records of the cemetery, and if no address appears or is known, then it shall be addressed to such persons at the county seat of the county in which the cemetery land is situated. Notice shall be mailed to any known living heir at law of any person whose remains are interred in the cemetery when the address of the heir is known.

Removal of human remains

9207. After the completion of the publication, posting and mailing of the "Notice of Declaration of Abandonment of Land for Cemetery Purposes and of Intention to Remove the Human Bodies Interred Therein," and after the expiration of two months as specified in the notice, the district owning or controlling the cemetery shall have power to cause the removal of all human remains interred in the cemetery, or part thereof, to be abandoned as a cemetery or burial place of the dead, and to cause the reinterment in other cemeteries in the district where burials are permitted, without further notice to any persons claiming any interest in the cemetery or part thereof, or in the remains therein interred.

Notice by relative or friend

9208. At any time before the date fixed for the removal of the remains by the district owning or controlling such cemetery land, any relative or friend of any person whose remains are interred in the cemetery or part thereof, from which it is proposed to make removal may give the district proposing to make removals, written notice that he or she desire to be present when the remains of a friend or relative,

are disinterred or reinterred. The notice shall state the name of the person whose remains are referred to and as accurately as possible shall describe the lot or plot where the remains are buried and the date of the burial, and shall specify an address to which the notice provided for in Section 9209 may be made. Notice may be delivered at the office or the principal place of business of the district owning or controlling the cemetery land and proposing to make removal, or may be forwarded thereto by registered mail.

Notice of time of removal

9209. Upon receipt of such notice before the date fixed for the removal of the remains by the district proposing to make removals, it shall be the duty of the district to give written notice, to the persons giving the notice provided in Section 9208, of the time when the remains shall be disinterred and of the time when and the place where the same will be reinterred. The notice shall be given by delivery thereof at the address stated in the notice referred to in Section 9208, or by mailing the same to the person giving such notice, at the address stated, delivery or mailing to be made not less than ten (10) days prior to the date specified for the disinterment of such remains. Whenever written notice shall be given by a relative or a friend of any persons interred in the cemetery lands from which removals are proposed to be made, the district owning or controlling such cemetery land and proposing to remove the bodies interred therein shall not disinter the bodies until notice of time of such disinterment is given such relative or friend.

Voluntary removal

9210. At any time prior to the removal, by the district owning or controlling the abandoned cemetery land, of the remains of any persons buried in the abandoned cemetery, any relative or friend of the person may voluntarily remove the remains and deposit the same as he may desire; provided, however, that the persons desiring to cause removal prior to such removal shall deliver to the district owning or controlling the abandoned cemetery, an affidavit, duly sworn to before an officer qualified to administer oaths, stating the name of the person whose remains it is desired to remove and further stating, so far as is known to affiant, the date of burial of the remains and the names and places of residence of the heirs at law of the deceased person.

Consent of heirs

9211. In the event that the person desiring to cause such removal is not an heir at law of the person whose remains he desires to remove, removal shall not be made by him until he shall have delivered to the district owning or controlling the abandoned cemetery a written consent of a majority of the known heirs at law of the deceased person who are residents of the State of California. The statements in the affidavit shall be sufficient evidence of the numbers, names and residence of the heirs at law for all the purposes of this chapter, and

the written consent of the majority of the heirs at law named in the affidavit shall be sufficient warrant and authority for the district owning or controlling the abandoned cemetery to permit the removal of the remains by such persons.

Removal by owner of lot

9212. The purchaser or owner of any burial lot or plot in the abandoned cemetery, or part thereof, or of the right of burial therein or any one of the joint purchasers of any lot or plot of burial land therein may cause the removal of any person or of the remains interred in such lot or plot without the necessity of signing any affidavit of consent as specified in Section 9210.

Removal by heir

9213. If the right, title or interest of any grantee of any burial lot or plot of the abandoned cemetery, or the right of burial therein, shall have passed by succession to the heir or heirs at law of the grantee without formal distribution by order of court, the heir or heirs at law may remove the remains of persons interred in such lot or plot, and the affidavit of any heir at law setting out the fact of heirship shall be accepted by the district owning or controlling the abandoned cemetery land from which removals are to be made as sufficient evidence for all the purposes of this chapter of the fact of the transfer of title or right of burial to such heir, or heirs at law.

Reinterment

9214. Whenever the remains of any person shall have been removed from any abandoned cemetery, or the part thereof abandoned as a burial place under the provisions of this chapter, by the district having charge or control of the abandoned cemetery lands, the remains shall be transported and reinterred in any other cemetery lands, within the boundaries of the district having charge or control of the abandoned cemetery land as provided in this chapter.

Rules and regulations

9215. The remains of each person reinterred shall be placed in a separate and suitable receptacle and decently and respectfully interred under the rules and regulations now in force or that may be adopted by the district making removal.

Removal of vaults, etc: By relative or friend

9216. Whenever the remains of any person shall be removed from any abandoned cemetery by any relative or friend of such person, under the provisions of this chapter, the persons causing such removal shall also be entitled to remove any vault, monument, headstone, coping or other improvement appurtenant to the grave from which the remains have been removed, and the affidavit or written consent given under the provisions of Section 9210 shall be sufficient warrant and authority for the district owning or controlling the abandoned cemetery to permit the removal of any vault, monument, headstone, coping or other improvement appurtenant to the grave.

Removal of vaults, etc. By district

9217. Whenever the remains of any person buried in any lot or plot shall have been removed, and any vault, monument, headstone, coping or other improvement appurtenant thereto shall remain on the lot or plot for more than sixty (60) days after removal of the last human remains therefrom, the vault, monument, headstone, coping or other improvement may be removed and disposed of by the district owning or controlling the abandoned cemetery land, and thereafter no persons claiming any interest in the lot or plot or the vault, monument, headstone, coping or other improvement appurtenant thereto, shall have the right to maintain in any court, any action in relation to such vault, monument, headstone, coping or other improvement so removed or disposed of.

Sale of land

9218. Whenever a cemetery or part thereof has been abandoned as a cemetery or place of burial for the human dead, as provided in this chapter, by the district owning or controlling the same, the parts or portions thereof in which no interments have been made and the parts and portions thereof from which all human remains have been removed may be sold by the district owning and controlling the abandoned cemetery lands. No order of any court shall be required in order to make any sale of lands abandoned for cemetery purposes and from which the human remains have been removed.

Expenses

9219. Whenever any district shall have resolved upon the abandonment of any cemetery, or part thereof, and the removal of the human remains therefrom, under the provisions of this chapter, the district shall have power to employ any moneys in its treasury to defray the expenses of such abandonment and removal, including the expenses of purchasing additional lands or otherwise providing a suitable place for the interment in any other cemetery within the boundaries of the district and under its control; also including the expenses of disinterment, transportation and reinterment; also including the expenses of the removal and disposal of any vaults, monuments, headstones, coping or other improvements which may remain after the human bodies are removed from any abandoned cemetery or part thereof; also including all necessary expenses incident to the sale of any lands; also including all other expenses necessarily incurred in carrying out the abandonment of the abandoned cemetery lands and the removal and reinterment of the bodies removed and all other expenses incident to any of the above purposes.

Use of moneys

9220. Any moneys received by the district from the sale of the lands of the abandoned cemetery may be used for any purpose as the district may lawfully declare.

Exchange of lots

9221. Whenever any district shall remove human bodies or the remains thereof from any abandoned cemetery lands the district shall reinter any human remains removed in the

established cemetery of the district; and thereafter the lots or plots in which the human remains removed have been reinterred shall be conveyed to the person or persons, if known, who owned the lot or plot in the abandoned cemetery from which the human remains were removed, and the conveyance shall be in full of all right, title and interest of any person or persons owning any lot or plot in the abandoned cemetery from which the human remains have been removed.

Same

9222. In event of any person or persons owning any lot or plot of land within the abandoned cemetery in which no human remains have been interred, the directors of the district owning or controlling the lands of the abandoned cemetery, shall convey to such person or persons owning any lot or plot in the abandoned cemetery a lot or plot of equal dimensions in the cemetery owned and conducted by the district and such conveyance shall be in full of all right, title and interest in and to the lot or plot owned by such person or persons in the abandoned cemetery, and thereafter no person or persons claiming any interest in any such lot or plot shall have the right to maintain in any court an action in relation to such lot or plot owned by such person or persons in the abandoned cemetery.

Markers and records

9223. After the removal and reinterment of the human bodies disinterred from any abandoned cemetery, or part thereof, the district owning or controlling the abandoned cemetery lands and making removals shall cause to be erected upon or imbedded in any lot or plot wherein any such body is reinterred, a suitable permanent marker identifying the remains and shall prepare a complete record of the name of each person, where known, whose body was reinterred and the lot or plot in the cemetery where the body is reinterred and such record shall be kept on file in the office of the district making the removals and reinterments and shall at all times be open to inspection of the relatives or friends of those so reinterred.

Recording declaration of removal

9224. After the removal of all human remains interred in any part or the whole of the cemetery lands abandoned as a burial place for the human dead as provided in this chapter, the district owning or controlling the abandoned cemetery lands may file for record in the office of the county recorder of the county or city and county in which the lands are situated, a written declaration reciting that all human remains have been removed from the part or portion of the lands described in the declaration. The declaration shall be acknowledged in the manner of the acknowledgment of deeds to real property by the president and secretary, or other corresponding officers, of the district owning or controlling the abandoned cemetery lands, and thereafter any deed or other conveyance of any part of such lands shall be conclusive

evidence in favor of any grantee therein named, his successors or assigns, of the fact of the complete removal of all human bodies therefrom.

Permit for removal, etc

9225. In the disinterment, transportation, and removal of human remains made under the provisions of this chapter, it shall not be necessary for the district owning or controlling the abandoned cemetery lands to obtain from the board of health or health officer of the city, city and county, or town where the cemetery lands are located, a separate permit for the disinterment, transportation, or removal of the remains of each person so disinterred, transported, or removed, but disinterment, transportation, and removal of the human remains shall be made subject to reasonable rules and regulations relative to the manner of disinterring, transporting or removing remains as may be adopted by the board of health or the health officer of the city, city and county, or town wherein the cemetery lands are situated.

CHAPTER 716

An act to add a new section to the Agricultural Code, to be numbered 737.6-1, relative to sales of milk for cash.

Stats 1933, p 60, amended

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 737.6-1 is hereby added to the Agricultural Code, to read as follows:

New section

Distributor purchasing from producer-distributor

737.6-1. No bond shall be required of any distributor who purchases fluid milk or fluid cream from a producer-distributor; provided, that the buyer at the time of obtaining possession or control of each delivery pays for the same in full in lawful money of the United States; and provided, that said fluid milk or fluid cream is purchased in package form ready for human consumption, and not in bulk form Any distributor before purchasing fluid milk or fluid cream on the above terms shall notify the director of his intention to make such purchases, stating from whom, and the average daily quantity of such purchases. Such distributor shall also keep a record of such purchases, showing dates of purchases, amounts of purchases, and the name or names of seller or sellers, and shall make such other and further reports to the director as he may from time to time require.

CHAPTER 717

An act to repeal certain obsolete or superseded acts, all relating to appropriations of money from the State Treasury, and matters incidental thereto.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Repeals

SECTION 1. The following acts, together with all acts amendatory thereof and supplementary thereto, are hereby repealed:

Year	Chapter	Page	Year	Chapter	Page
1871-2	1	1	1873-4	57	57
1871-2	2	1	1873-4	58	58
1871-2	25	31	1873-4	73	83
1871-2	26	31	1873-4	89	100
1871-2	30	34	1873-4	98	105
1871-2	43	44	1873-4	118	152
1871-2	84	82	1873-4	190	281
1871-2	202	242	1873-4	197	296
1871-2	203	243	1873-4	200	298
1871-2	235	309	1873-4	281	389
1871-2	274	379	1873-4	307	442
1871-2	323	436	1873-4	358	519
1871-2	325	437	1873-4	465	697
1871-2	354	509	1873-4	547	782
1871-2	359	513	1873-4	572	804
1871-2	497	730	1875-6	22	10
1871-2	513	755	1875-6	71	46
1871-2	533	769	1875-6	93	64
1871-2	544	793	1875-6	248	326
1871-2	555	799	1875-6	249	327
1871-2	568	834	1875-6	297	391
1871-2	603	892	1875-6	587	882
1871-2	610	899	1875-6	602	900
1871-2	611	900			

CHAPTER 718

An act to add Section 28.7 to Article 1 of Chapter 1 of Division 1 of the Agricultural Code, relating to bonds and licenses.

Stats 1933, p 60, amended

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941]

In effect September 13, 1941

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

SECTION 1. A new section, 28.7, is hereby added to the Agricultural Code, to read as follows:

New section

28.7. Unless otherwise specifically provided by other provisions of this code, any license or registration issued under the authority of this code expires whenever the bond required of a licensee or registrant under the same chapter or article of this code lapses or is canceled; however, in a case where the bond is canceled as a result of the retirement from business of the bonding company, and when the director is satisfied that the licensee is solvent he may continue in force, the license in question for a period of not to exceed 30 days to enable the licensee to secure a new bond.

Expiration of license or registration

CHAPTER 719

An act to amend Section 78 of the Fish and Game Code, relating to Fish and Game Districts 12 and 12B.

Stats 1933, p 394, amended

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941]

In effect September 13, 1941

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

SECTION 1. Section 78 of the Fish and Game Code is hereby amended to read as follows:

Stats 1933, p 401

78. District 12. The following shall constitute Fish and Game District 12: The waters and tidelands of San Francisco Bay to high water mark not included in Districts 11 and 13, the waters and tidelands to high water mark of San Leandro Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County, Racoon Straits, and San Pablo Bay, and the Carquinez Straits to the Carquinez Bridge, and all lands and waters included within the exterior boundaries of said districts and excluding all tributary sloughs, creeks, bays, rivers, and overflowed areas not specifically described herein. For the purpose of this code that portion of San Francisco Bay lying westerly of a line drawn from California Point to San Quentin Point, and that portion of San Francisco Bay lying westerly of a line drawn from San Quentin Point to San Pedro Point, in Marin County, and that portion of San Pablo Bay lying westerly of a line drawn from San Pedro Point to

District 12

the south side of the mouth of Novato Creek, and that portion of San Pablo Bay lying northerly of a line drawn due east from the south side of the mouth of Novato Creek to the westerly shore of Mare Island, shall be included in District 2.

CHAPTER 720

An act to transfer to the City of Oakland a surface easement over certain tide and submerged lands and to define the powers and duties of the city in relation thereto.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Surface easement to City of Oakland

SECTION 1. There is hereby transferred to the City of Oakland, a municipal corporation, and to its successors forever, a surface easement over all lands, salt marsh, tidelands and submerged lands, whether filled or unfilled, included within that portion of the City of Oakland described as follows:

Description

Bounded on the north by the line of ordinary low tide, as said line may have come to rest under natural conditions; on the south by the southern boundary line of said City of Oakland lying in the estuary of San Antonio; on the west by the projection southerly of the westerly line of Harrison Street, a public street of said city; and on the east by the projection southerly of the western line of Alice Street, a public street of said city.

Bounded on the north by the line of ordinary low tide, as said line may have come to rest under natural conditions; on the south by the southern boundary line of said City of Oakland lying in the estuary of San Antonio; on the west by the projection southerly of the easterly line of Washington Street, a public street of said city; and on the east by the projection southerly of the westerly line of Broadway, a public street of said city.

Bounded on the north by the line of ordinary low tide, as said line may have come to rest under natural conditions; on the south by the southern boundary line of said City of Oakland lying in the estuary of San Antonio; on the west by the projection southerly of the easterly line of Broadway, a public street of said city; and on the east by the projection southerly of the center line of Franklin Street, a public street of said city.

Said transfer is made for the following uses and purposes and subject to the following conditions:

Conditions

Harbor

(a) That said lands shall be used by said city, and its successors, only for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, ships ways or other industrial uses and other utilities, structures and

appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors, shall not, at any time, grant, convey, give or alienate said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said city, or its successors, may grant franchises thereon for terms not in excess of 25 years for uses specified in this paragraph; and may lease said lands for the purposes aforesaid, or any of them, for such period or periods not to exceed 50 years, and under such terms and conditions as may be prescribed by the governing body of the City of Oakland.

Improvements

(b) That said harbor shall be improved by said city without expense to the State, and shall always remain a public harbor for all purposes of commerce and navigation, and the State of California shall have at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, or airplane or seaplane owned or operated by the State of California.

Discrimination

(c) That in the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances herein mentioned, no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors.

Right to fish

(d) There is hereby reserved, however, in the people of the State of California the absolute right to fish in the waters of said harbor with the right of convenient access to said waters over said lands for said purposes.

Mineral rights

(e) That there is hereby reserved to the State of California the right and power to prospect for, mine, extract, and remove from said lands any minerals, oil, gas, and other hydrocarbons, and all other things of value which may be contained in the subsurface of said lands; but any such prospecting, mining, extraction, and removal shall not be conducted by the State, or those who hold under the State, in such manner as to unreasonably interfere with the administration herein transferred to the city.

Highway purposes

(f) The lands herein described are granted subject to the express reservation and condition that the State may at any time in the future use said lands or any portion thereof for highway purposes without compensation to the city, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements have been placed upon the property taken by the State for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements taken or the damages to such interest.

Abutting owners

SEC. 2. Portions of the low tide line above mentioned never having been located on the ground, the city hereby is empowered to fix the same by agreement with abutting owners or by other appropriate means.

CHAPTER 721

An act to add Section 5.45 to the School Code, relating to leaves of absence for employees of State colleges.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

New section

SECTION 1. Section 5.45 is hereby added to the School Code, to read as follows:

Leave of absence

5.45. The Director of Education, on the recommendation of the president of a State college, may grant a leave of absence, without compensation, for not to exceed one calendar year, to any employee of such State college not serving in the State civil service, after said person has been employed by the State college for not less than one calendar year.

A leave of absence granted hereunder to any person may be extended for not to exceed one calendar year by the Director of Education on the recommendation of the president of the State college in which the employee is employed.

Upon the expiration of any such leave of absence the person to whom such leave of absence was granted shall be entitled to reinstatement in the position he held at the time such leave of absence was granted him, if such position is still in existence, or to any other comparable existing vacant position for which the person is qualified.

CHAPTER 722

Stats 1933, p 60, amended

An act to amend Section 332.5 of, and to add Section 334.5 to, the Agricultural Code, relating to the branding of live stock.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1939, p 2261

SECTION 1. Section 332.5 of the Agricultural Code is hereby amended to read as follows:

Identification brands

332.5. Identification brands for dairy cattle of the Holstein, Jersey, Guernsey, Ayrshire, Brown Swiss, Dutch Belted and Milking Shorthorn breeds may be placed upon either the right loin in front of the hip and behind the ribs or upon the right hip, provided such brands are used for purposes of identification only and not as evidence of ownership. When placed upon the right loin any such brand shall consist of a numeral or combination of numerals, but when placed upon the right hip any such brand shall consist of at least three

numerals constituting a number greater than 200. Such brands may not be recorded.

SEC. 2. Section 334.5 is hereby added to the Agricultural Code, to read as follows: New section

334.5. Whenever branded cattle are moved from a district where the brand on said cattle is recorded, to another district where a similar brand is recorded, the owner of the latter similar brand may request the director to make an investigation, and the director may require the cattle from the other district to be branded with some other brand or mark, and may require the said cattle to be branded on the neck with a brand designated by the owner of the similar brand. Rebranding

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CHAPTER 723

An act to amend Section 336 of the Agricultural Code, relating to live stock brands. Stats 1933, p 60, amended

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941] In effect September 13, 1941

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

SECTION 1. Section 336 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 2280

336. The director shall receive a fee for the recordation or rerecordation of any brand or brand and mark. For the right to continue the use of said brand or brand and mark, the owner thereof shall, before January 1st of each year after its recordation or rerecordation transmit to the director an annual renewal fee. When the said renewal fee is not paid by January 1st, the brand becomes delinquent and may be reinstated for the legal use thereof within the delinquent calendar year. When a brand or brand and mark is delinquent for more than one year, it becomes forfeited, and may be rerecorded by the former owner or recorded by any other person. A forfeited brand may be rerecorded only when an affidavit of nonuse during the period of delinquency and forfeiture or penalty accompanies the application. Recordation fee. Renewal fee. Forfeited brand

Any brand or brand and mark which has been recorded may be canceled by written request from the person or persons in whose name such brand is recorded. It is unlawful to use an unrecorded, forfeited, or canceled brand to brand cattle, except in accordance with the provisions of this section. Cancellation

The amount of fees and penalties prescribed by this section payable to the director is that fixed by the following schedule:

(a) The fee for recording or rerecording a brand or brand and mark is two dollars ($2). Fees

(b) The annual renewal brand fee which must be paid before January 1st of each year is one dollar and fifty cents ($1.50); provided, that the owner may, at his option, pay the sum of six dollars ($6) which payment shall entitle him to use the brand or brand and mark for a period of four years.

(c) The fee to reinstate a delinquent brand is four dollars ($4).

Penalty

(d) Any person who brands cattle with an unrecorded, forfeited, or canceled brand must pay a penalty of twenty-five dollars ($25) which shall be in addition to any other penalties provided by law. Any person subject to said penalty may apply to the director for a hearing, and if the director finds that said person did not knowingly or wilfully brand his cattle in violation of this subdivision, the director may cancel the penalty.

CHAPTER 724

An act to amend Section 2980 of the Civil Code, and to provide for the recording of conditional sales contracts and leases of live stock, animate chattels, mining equipment and machinery, and bailment or feeder agreements relating to live stock and other animate chattels, and prescribing rights and remedies in connection therewith.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats. 1935, p. 2230

SECTION 1. Section 2980 of the Civil Code is hereby amended to read as follows:

Recording of conditional sales, etc., of chattels

2980. Every conditional sales contract, lease, and bailment or feeder agreement covering live stock and other animate chattels and every conditional sales contract of equipment and machinery used or to be used for mining purposes, must be acknowledged, or proved and certified, and must be recorded within twenty (20) days after its execution in the office of the recorder of the county where the buyer, the party feeding, the lessee or the bailee, respectively, resides at the time he executes such contract, lease, feeder or bailment agreement, or in case the buyer, the party feeding, the lessee or the bailee is a nonresident of this State, in the office of the recorder of the county or counties where the property involved is located at the time the contract, lease, feeder or bailment agreement is executed by the buyer, lessee, or bailee or feeder, and a contract of conditional sale of equipment and machinery used or to be used for mining purposes shall also be recorded in every case in the county where the property is situated otherwise, it shall be void as to the lien or interest of the seller, the lessor, bailor or owner against bona fide purchasers, encumbrancers

and those having no actual knowledge of the contract, lease, feeder or bailment agreement who become creditors of the buyer, the party feeding, the lessee or the bailee, while said property is in the possession of any of the last mentioned parties.

A conditional sales contract, lease or bailment or feeder agreement covering live stock or other animate chattels shall also be void as to the lien or interest of the seller, lessor, bailor or owner against bona fide purchasers, encumbrancers, and those having no actual knowledge of the contract, lease, feeder or bailment agreement who become creditors of the buyer, the party feeding, the lessee or the bailee, while the property is in the possession of any of the last mentioned parties after a lapse of four years from the last recording or rerecording thereof.

Sections 2959a and 2965 of the Civil Code are hereby made applicable to the instruments required to be recorded by this section in the same manner as to mortgages of personal property. As used in this section the term "mining purposes" includes oil drilling purposes. "Mining purposes"

CHAPTER 725

An act to amend Section 465.6 of the Vehicle Code, relating to signs alongside highways. Stats 1935, p. 93, amended

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 465.6 of the Vehicle Code is hereby amended to read as follows: Stats 1939, p. 1437

465.6. Signs on Open Range. The State Department of Public Works may place and maintain, with respect to highways in open range country, appropriate signs indicating that the territory traversed is open live stock range and warning against danger of live stock on the highway. The boards of supervisors of the several counties may place and maintain, with respect to county highways or county roads under their respective jurisdictions, appropriate signs indicating that the territory traversed is open live stock range and warning against the danger of live stock on the highway or road. Open range signs

CHAPTER 726

Stats 1897, p 254, amended

An act to add Section 52½ to the California Irrigation District Act, relating to credits on and payments of irrigation district assessments and the finality thereof.

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

New section

SECTION 1. Section 52½ is hereby added to the act cited in the title hereof, to read as follows:

Time for commencing action

Sec. 52½. No credit on or payment of any irrigation district assessment made pursuant to the provisions of Section 52a of the California Irrigation District Act prior to its repeal may be canceled or set aside and no action or proceeding, including an action or proceeding by the State, the irrigation district involved, any other public agency, or any officer of any of them, may be brought to contest the validity of the credit or payment unless the action or proceeding is commenced within one year after the effective date of this act. This section is not intended to revive any cause of action heretofore barred by any other statute of limitations.

CHAPTER 727

Stats 1897, p 254, amended

An act to amend Section 45 of the California Irrigation District Act, relating to property sold or deeded to an irrigation district for delinquent assessments and the recording of certificates of sale of the property, and validating certificates of sale of property sold to irrigation districts for delinquent assessments, collectors' deeds issued pursuant to the certificates, and other acts, the validity of which depends upon the validity of the certificates or deeds.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1935, p 481

SECTION 1. Section 45 of the act cited in the title hereof is hereby amended to read as follows:

Certificate of sale

Sec. 45. After the sale the collector shall make out in duplicate a certificate of sale for each lot, piece or tract of land separately assessed and sold, giving a description of the property sold and the amount paid therefor, and stating that it was sold for a delinquent assessment and when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy shall be retained by him and the other filed in the office of the county recorder of the county in which the property is situated. The district as such

purchaser may sell, assign and transfer such certificate of sale for a consideration of not less than the amount of the assessment, penalties and costs, and thereupon the secretary of the board of directors shall notify the collector of such assignment. On receiving the certificate of sale the county recorder must file it and prepare an index thereto in which in separate columns he must enter the name of the person to whom the land was assessed as recited in the certificate, the name of the assessing district and the date of sale. The certificate of sale may be in substantially the following form, with the blanks properly filled in accordance with the facts in each case: Form

Certificate of Sale
_____Irrigation District No._____

I, the undersigned collector of_____Irrigation District, hereby certify that on the___day of_____, 19___, I did, after notice given as provided by law, sell to_____Irrigation District, hereinafter called the purchaser, for the sum of_____ dollars ($_____) that certain real property within said district and in the county of_____, State of California, bounded or described as follows, to wit:

(Insert description.)

Said land was assessed to_____.

Said land was sold for a delinquent assessment levied thereon by the board of directors of said district, and the amount aforesaid was the sum due and unpaid under said assessment and the penalties and costs accruing thereon. The purchaser will be entitled to a deed to said property at any time after three years from the date of said sale unless in the meantime said property is redeemed as provided by law.

WITNESS my hand and the seal of said district this_____ day of_____, 19___.

(District seal.)

_____

Collector of_____Irrigation District.

SEC. 2. To the extent that certificates of sale of property heretofore sold to irrigation districts for delinquent assessments, collectors' deeds issued pursuant to the certificates, and other acts, the validity of which depends upon the validity of the certificates or deeds, are invalid for failure of any county recorder to file the certificates in book form, the certificates, deeds, and acts, are hereby validated. Validation

CHAPTER 728

Stats 1933, p 60, amended

An act to amend Sections 1081, 1083, 1083.1, 1083.2, 1083.5, 1086, 1088 and 1089, and to repeal Section 1081.1, of the Agricultural Code, relating to commercial feeding stuffs.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1939, p 2227

SECTION 1. Section 1081 of the Agricultural Code is hereby amended to read as follows:

"Commercial feeding stuffs"

1081. "Commercial feeding stuffs" includes all feeding stuffs and concentrates used for feeding live stock and poultry except the following:

(a) Whole seeds or grains, when unmixed.

(b) Fresh green roughage, and unprocessed liquid milk in all its forms.

(c) Whole hays, straws, cottonseed hulls, corn stover and wet citrus waste residue, when unprocessed and unmixed with other materials.

(d) Wet garbage, and salt except in block or chunk form.

(e) Preparations which are sold as or represented to be primarily for the cure or mitigation of disease.

(f) Preparations which are sold for feeding domestic pets; such as, dogs, cats, and birds.

Stats 1939, p. 2228 See also Stats 1941, p 2912

SEC. 1.5. Section 1083 of the Agricultural Code is hereby amended to read as follows:

Labels

1083. Every lot or parcel of commercial feeding stuffs sold or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement certifying:

(a) the net weight of the contents of the lot or parcel;

(b) the name, brand or trade-mark;

(c) the name and principal address of the licensed manufacturer or person responsible for placing the commodity on the market;

(d) the minimum per cent of crude protein;

(e) the minimum per cent of crude fat;

(f) the maximum per cent of crude fiber;

(g) the maximum per cent of ash;

(h) the recognized official name of each ingredient used in its manufacture;

(i) the per cent of such ingredients as corn cobs, oat hulls, barley hulls, rice hulls, ground light rice, or similar materials, when such constitute a portion of the lot or parcel;

(j) the maximum per cent of mineral matter it contains;

(k) in the case of mixed feeds containing more than 5 per cent of mineral ingredients, the minimum percentage of

calcium (Ca), of phosphorus (P), of iodine (I), and the maximum percentage of salt if the same be added;

(*l*) the maximum percentage of salt in any mixed feeds if more than 2 per cent of salt is added;

(m) in the case of commercial feeding stuffs for which special qualities are claimed, such as, vitamin potency or protein quality, a definite guarantee relative to such quality; provided, however, the director may by rule and regulation permit the deletion of any such guarantees as may not be pertinent to a specific commodity. Additional claims and guarantees

Whenever a manufacturer, processor, or mixer of feeding stuffs makes a claim or guarantee on or with the package in addition to those required by law, he shall be responsible for maintaining such claim or guarantee, and he may be required to submit information and records pertinent to such claim or guarantee.

SEC. 2. Section 1083.1 of the Agricultural Code is hereby amended to read as follows: Stats 1941, p. 1640

1083.1. Any person who sells, or who manufactures, processes, or mixes, for another, or who distributes commercial feeding stuffs shall, before engaging in such activity, obtain for each plant operated a license from the director authorizing him to sell, manufacture, process, mix or distribute commercial feeding stuffs. No person shall be entitled to such a license unless he shall have an established plant, warehouse or place of business as defined in this chapter. Licenses

Each application for license shall be accompanied by a fee of three dollars ($3) for each plant for each fiscal year or portion thereof beginning July 1st. Each license shall be renewed annually and each application for renewal shall be accompanied by a fee of three dollars ($3) for each plant operated. Fee

SEC. 3. Section 1083.2 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p. 2228

1083.2. An established plant, warehouse, or place of business when used in this chapter means any permanent office headquarters maintained by an importer, broker, seller or authorized manufacturer's agent, or any permanent warehouse, building, or structure, in or from which a legitimate permanent business is carried on as such in good faith and not for the purpose of evading this chapter, during the usual and customary business hours, and at which stocks of the commercial feeding stuffs regulated by this chapter are sold, manufactured, processed, mixed, distributed, stored or kept in quantities reasonably adequate and usually carried for the requirements of such business, and available for regular inspection by the director or his inspectors, and shall not mean temporary residences, tents, temporary stands, itinerant Established plant, warehouse or place of business

trucks or transportation vehicles, or other temporary quarters, occupied pursuant to any temporary arrangement to evade this chapter.

Stats 939, p 2229

SEC. 4. Section 1083.5 of the Agricultural Code is hereby amended to read as follows:

Inspection taxes

1083.5. Any manufacturer, importer, jobber, firm, association, corporation or person selling to the consumer-buyer any commercial feeding stuffs as defined in Section 1081 of this chapter shall pay to the director an inspection tax of four cents ($0.04) for each ton thereof, and shall affix to each parcel of such commercial feeding stuffs a tag, stamp or other approved indication that all charges specified in this section have been paid. Whenever any commercial feeding stuffs, as defined in Section 1081, is offered or exposed for sale in bulk the manufacturer, importer, jobber, firm, association, corporation or person having the same for sale shall keep on hand and shall furnish to the purchaser label upon which appears the statements required by the provisions of Section 1083, and shall make payment of the tax in accordance with regulations promulgated by the director.

Statement for purchaser

Stats 1933, p 242

SEC. 5. Section 1086 of the Agricultural Code is hereby amended to read as follows:

Mislabeling

1086. Commercial feeding stuffs shall be deemed to be mislabeled if in any respect they are not as represented.

Stats 1935, p 1027

SEC. 6. Section 1088 of the Agricultural Code is hereby amended to read as follows:

Notice and hearing

1088. If it appears that any provision of this chapter or of any rule or regulation established hereunder has been violated, the director shall notify the manufacturer or dealer and shall afford any party so notified an opportunity to be heard. After such hearing the director shall dismiss the charges or shall certify the facts to the proper district attorney, who shall forthwith institute proper proceedings.

Stats 1939, p 2230

SEC. 7. Section 1089 of the Agricultural Code is hereby amended to read as follows:

Penalties

1089. Any person is guilty of a misdemeanor and is punishable by a fine of not more than one hundred dollars ($100) for the first violation and not less than one hundred dollars ($100) for each subsequent violation, who:

Violation

(a) sells or distributes in this State, any commercial feeding stuffs without having attached thereto such labels, tax stamps or tags as are required by this chapter;

(b) obstructs or prevents or attempts to prevent the department or its authorized agent in the performance of its duty in connection with the provisions of this chapter;

(c) sells or distributes in this State any commercial feeding stuffs without complying with the provisions of this chapter and the rules and regulations established hereunder;

(d) sells or distributes in this State any commercial feeding stuffs which does not conform to the analysis on the tag or label;

(e) fails to properly state the recognized official name of each ingredient used in its manufacture;

(f) fails to properly state the per cent of such ingredients as corn cobs, oat hulls, barley hulls, rice hulls, ground light rice, or similar materials, when such constitute a portion of the package, lot or parcel or the per cent of grit or inert matter;

(g) uses, for the purpose of evading payment of the tax, tags or stamps which have been used previously;

(h) uses, without proper authority and for the purpose of misleading or defrauding, the bags or tags of another dealer or manufacturer; or

(i) makes any false or fraudulent claim or representation, relating to any commercial feeding stuffs, on any label or invoice, or in any advertisement, or in any other manner.

Upon a second conviction, when ordered by the court, the license of said person may be suspended or revoked.

SEC. 8. Section 1081.1 of the Agricultural Code is hereby repealed. Stats 1935, p 1025

CHAPTER 729

An act to add Section 465.7 to the Vehicle Code, relating to warning signs, lights and devices. Stats 1935, p 93, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 465.7 is hereby added to the Vehicle Code, to read as follows: New section

465.7. Warning Signs, Lights and Devices for Highway Work. Warnings for highway work

The State Department of Public Works shall determine and publicize the specifications for uniform types of warning signs, lights and devices to be placed upon a highway by any person, firm or corporation engaged in performing work which interferes or endangers the safe movement of traffic upon such highway.

On and after July 1, 1942, only those signs, lights and devices as are provided for in this section shall be placed upon a highway to warn traffic of work which is being performed on such highway. Operative date

CHAPTER 730

An act to add Chapter 8 to Part 1 of Division 3 of the School Code, which chapter shall consist of Section 3.107, relating to insurance premium deductions from salaries.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

New chapter

SECTION 1. Chapter 8 consisting of Section 3.107 is hereby added to Part 1 of Division 3 of the School Code, to read as follows:

CHAPTER 8. DEDUCTIONS FOR GROUP LIFE AND DISABILITY INSURANCE PREMIUMS

Deductions for insurance premiums

3.107. The governing board of each elementary school district not governed by a city board of education and the governing board of each union high school district and joint union high school district when drawing an order for the salary payment due to employees of such district, shall reduce such order by the amount which it has been requested in a revocable written authorization by such employee to deduct for the purpose of paying premiums on any policy or certificate of group life insurance for the benefit of such employee and/or for group disability insurance for the benefit of such employee or his dependents issued by an admitted insurer on a form of policy and/or certificate approved by the Insurance Commissioner. The governing board of the district shall each month draw its order upon the funds of the district in favor of the insurer which has issued such policies and/or certificates for an amount equal to the total of said premium deductions made during said month.

CHAPTER 731

An act to amend Section 4288 of the Political Code, relating to the payment of the salaries of county officers, deputies, clerks and employees.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1917, p. 57

SECTION 1. Section 4288 of the Political Code is hereby amended to read as follows:

Time of payment of county officials and employees

4288. The salaries of such officers named in this title and all deputies, clerks and employees of the several counties of the State as are entitled to salaries shall be paid monthly out

of the county treasury; and it shall be the duty of the auditor, on the first day of each and every month, to draw his warrant upon the treasurer in favor of each of said officers and deputies, clerks and employees for the amount of salary due him under the provisions of this title for the preceding month; except that, unless in this title otherwise provided, one-half of the annual salary of the assessor shall be paid to him in equal monthly installments for the months of March, April, May and June, and one-half in equal monthly installments for the remaining eight months of the year. The treasurer shall pay said warrants on presentation, out of the salary fund of the county treasury; provided, that in counties of the first class or in counties operating under a charter, the board of supervisors may, by ordinance, fix a date or schedule of dates for the payment of salaries of the officers, deputies, clerks and other employees of the several departments and institutions of the county government. The salaries of all county officers, deputies, clerks and employees, including the employees of the several road districts, may, if the board of supervisors, by ordinance, so provides, be paid monthly out of the county treasury on warrants drawn by the auditor upon the treasurer in favor of each of said officers, deputies, clerks and employees.

Manner of payment

CHAPTER 732

An act to amend Section 1065 of the Agricultural Code, relating to the sale of economic poisons.

Stats. 1933, p. 60, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1065 of the Agricultural Code is hereby amended to read as follows:

Stats. 1935, p. 1158

1065. The registrant of economic poisons shall attach to every separate lot, and every separate, finished, sealed or closed container or package of economic poisons which he intends to sell within this State, a plainly printed label, stating the name, brand or trade-mark, if any, under which sold, and the name and address of the registered manufacturer, importer, or vendor.

Labels

The registrant of any economic poison sold or delivered to a consumer in this State shall furnish printed directions for use, and dilution if any, upon the label, or shall inclose such printed directions in each container or package thereof, except that such printed directions for use shall not be required when the economic poison, in accordance with established local custom, is to be used in its original form as sold, without dilution or further preparation for use.

Directions

Warranty

A registrant of economic poisons may cause to be printed upon the label of any sealed or closed container or package of economic poisons which he intends to sell within this State, or upon the label of any opened lot from which sales have been authorized by the director, such limitations of warranty with respect to the use thereof, as the registrant may consider proper; but no such limitations shall exclude or waive the implied warranty that the economic poison corresponds to all claims and descriptions which the registrant has made in respect thereto in print; nor shall any such limitation exclude or waive the implied warranty that such economic poison is reasonably fit for use for any purpose for which it is intended according to any printed statement of the registrant.

Liability

The registrant shall not be liable in respect to any injury or damage suffered solely by reason of the use of said economic poison for a purpose not indicated by the label, or when used contrary to the printed directions of the registrant or seller, or in respect to the breach of any warranty by the registrant not expressly printed on the label, except as provided in this section.

Sales

Sales of economic poisons in any other than the registrant's sealed or closed container or package are prohibited. The director, in his discretion, in accordance with regulations prescribed by him, may authorize sales of economic poisons to be made out of registrant's opened but properly labeled lot, container or package. The director shall serve notice of his proposed action, by depositing a copy thereof in a United States post office, inclosed in a sealed envelope with postage prepaid thereon and addressed to each economic poisons registrant at his last address on file with the Division of Chemistry of the department, and allow 15 days during which any protest may be filed.

CHAPTER 733

An act to amend Section 1457 of the Penal Code, relating to the disposition of fines.

In effect September 13, 1941

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.]

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

Stats 1927, p 355

SECTION 1. Section 1457 of the Penal Code of the State of California is hereby amended to read as follows:

Discharge of defendant

1457. Upon payment of the fine, the officer must discharge the defendant, if he is not detained for any other legal cause, and pay over the fine to the court which rendered the judgment, and the court shall, within 10 days, pay the fine so collected to the county treasurer if the offense is prosecuted for the violation of a State law in a justice's court; provided, that all fines and forfeitures collected in any police court, city

Disposition of fines

justice's court or recorder's court of cities or towns of the fifth or sixth class, that is maintained and the salaries of the officers thereof paid by the city, whether prosecuted for violation of a State law or a city ordinance shall be paid by the court to the city treasurer of the city in which such court is located, excepting, however, all forfeitures collected by the judge of any of such courts when sitting as a committing magistrate; and further provided, that all fines and forfeitures collected for the violation of a city or town ordinance, in a justice's court shall be paid over by the court to the city or town treasurer of the city or town in which such ordinance is in force, subject, however, to the provisions of Chapter 1 of Title 15 of Part 1 of this code.

CHAPTER 734

An act to amend Section 36 of the Civil Code, relating to contracts of minors.

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 36 of the Civil Code is hereby amended to read as follows: Stats 1931, p 2259

36. A minor can not disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary for his support, or that of his family, entered into by him when not under the care of a parent or guardian able to provide for him or them; provided, that these things have been actually furnished to him or to his family. When minor may not disaffirm contracts

A minor can not disaffirm a contract, otherwise valid, to perform or render services as actor, actress, or other dramatic services, as participant or player in professional sports, including, but without being limited to, professional boxers, professional wrestlers and professional jockeys, where such contract has been approved by the superior court of the county where such minor resides or is employed. Such approval may be given on the petition of either party to the contract after such reasonable notice to the other party thereto as may be fixed by said court, with opportunity to such other party to appear and be heard.

CHAPTER 735

Stats 1927, p 51, amended

An act to add Section 3 5 to an act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, as amended, relating to credit unions, the licensing, regulation and powers thereof.

In effect September 13, 1941

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.]

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

New section

SECTION 1. Section 3.5 of the act cited in the title hereof is hereby added, to read as follows:

Gifts or donations

SEC. 3 5. Gifts or donations by a credit union are prohibited unless first authorized by a resolution of the board of directors and approved by the vote of the majority of the members of the credit union.

CHAPTER 736

An act to amend Sections 2045, 2049 and 2924 of, to add Sections 2059 and 2060 to, and to repeal Section 2523 of the Penal Code, relating to State prisons and the powers and duties of the State Board of Prison Directors in connection therewith.

In effect September 13, 1941

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.]

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

Stats 1941, p 1085

SECTION 1. Section 2045 of the Penal Code is hereby amended to read as follows:

Quarterly visits

2045. At least three of the directors shall visit each of the prisons once in every three months and oftener if necessary, at such times as they may select.

SEC. 1.5. Section 2049 of the Penal Code is hereby amended to read as follows:

Stats 1941, p 1085 Audit of claims

2049. The board, or any officer or employee designated by it, shall audit all claims for supplies, services and expenses and any and all other claims against the prisons.

New section

SEC. 2. Section 2059 is hereby added to said code, to read as follows:

Salaries, etc

2059. The board shall fix the compensation of its officers and employees, other than those of wardens and clerks, at a gross rate which shall include a cash allowance for board and lodging, but in no case shall the money compensation, exclusive of the cash allowance for board and lodging, be less than one hundred ten dollars ($110) per month. There shall

be deducted from the gross salaries of the officers and employees of the prison the value of any board, lodging, services or supplies rendered or sold to each such officer or employee. The deduction for board and lodging shall not exceed the cash allowance therefor.

SEC. 2.3. Section 2060 is hereby added to said code, to read as follows: New section

2060. For the purposes of Political Code Section 352, the following constitute, among other proper purposes, State business for directors on the board, wardens, clerks, officers and employees of the board for which such directors, wardens, clerks, officers and employees shall be allowed actual and necessary traveling expenses when the State travel and expense have been approved by the Governor and the Director of Finance as provided in said section: State business

Attending meetings of any National association or organization, having as its principal purpose the study of matters relating to penology, including prison management and paroles, or to a particular field thereof; conferring with officers or employees of the United States relative to problems relating to penology, including prison management and paroles, in California; conferring with officers or employees of other States engaged in the performance of similar duties; and obtaining information useful to the board in the conduct of its work.

SEC. 2.5. Section 2924 of said code is hereby amended to read as follows: Stats 1941, p 1107

2924. Such forfeiture of credits shall not be had except upon a hearing upon the question of such violation and an adjudication by the board that such prisoner was guilty thereof, which adjudication shall be final. The board may hold the hearing itself or authorize a committee of officials of the prison, including the warden, to hold the hearing and make its recommendations to the board. At any hearing such prisoner, unless outside the walls of the prison as an escape and a fugitive from justice, shall be present and entitled to be heard and may present evidence and witnesses in his behalf. Hearing

SEC. 3. Section 2523 of said code is hereby repealed. Stats 1941, p 1090

CHAPTER 737

Stats 1935, p 248, amended

An act to amend Sections 195 and 203 of, and to add Sections 205 and 206 to, the Streets and Highways Code, relating to the expenditure of moneys from the State Highway Fund within cities.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1935, p 268

SECTION 1. Section 195 of the Streets and Highways Code is hereby amended to read as follows:

Expenditures on streets of major importance other than State highways

195. Except as provided in Section 200, all moneys allocated under the provisions of Section 194 shall be expended for the acquisition of real property or interests therein for, or the construction, maintenance, or improvement of streets of major importance within such city, other than State highways, as are agreed upon by the department and the legislative body of the city.

Such expenditures shall be limited to that portion of the street available for use by vehicular traffic except that such funds may be expended for pedestrian underpasses or pedestrian overhead crossings and the installation and maintenance of traffic control devices, but such funds shall not be expended for street lighting, or for the construction or maintenance of sidewalks, or, except as hereinbefore expressly authorized, for the construction or maintenance of any structure or facility in, over, or under the street which is not of direct and primary service in providing a way for vehicular traffic. Sidewalks may be constructed with such funds on bridges or to replace those removed or damaged by construction or improvement of the street.

Stats 1935, p 271

SEC. 2. Section 203 of the Streets and Highways Code is hereby amended to read as follows:

Expenditures on State highways in cities

203. The commission shall allocate and the department shall expend, or cause to be expended, from the moneys required to be allocated by Section 188, an amount not less than the net revenue derived from one-quarter cent per gallon tax on motor vehicle fuel, on State highways within cities.

Such expenditures shall be made within each city in the proportion that the total population of such city bears to the total population of all cities in this State. The population of each city shall be determined as provided in Section 194.

Delegation to city

Any expenditure of moneys allocated under this section may be delegated by the department to the city, in the discretion of the department and on such terms as may be agreed upon by the department and the city.

The provisions of this section guarantee and require the expenditure of not less than the amount specified herein but shall not be deemed to prevent the expenditure by the department of a larger amount on the State highways within the cities in this State. The expenditures required by this section shall be made first for the acquisition of real property, or interests therein, for, or the construction, improvement, or maintenance of State highways within cities. Guarantees Purposes

In the event that the department determines that the amount of money available under this section for expenditure in any city is greater than is necessary to adequately maintain and improve to adequate standard all State highways within such city then any surplus amount available for expenditure therein under this section shall be expended for the acquisition of real property or interests therein, for, or the construction, maintenance, or improvement of streets of major importance within such city, other than State highways and such expenditures shall be made in the same manner and for the same purposes as the expenditure of any money allocated to a city under Section 194. When the city council, by resolution adopted by a four-fifths vote, requests that funds allocated under this section for expenditure in a city, be expended on a State highway outside of the limits of such city, the department may expend such funds for the purposes authorized in the resolution. Expenditure of surplus amount

SEC. 3. A new section is hereby added to Article 5 of Chapter 1 of Division 1 of the Streets and Highways Code, to be numbered 205 and to read as follows: New section

205. The incorporation of a new city, or any annexation or exclusion of territory to or from an existing city, shall not be considered for the purpose of apportionment of funds under this article until the beginning of the next fiscal year following such incorporation, annexation or exclusion of territory. Change in city territory

In the event of the disincorporation of a city, or in the event the incorporation of a city is adjudged invalid, any funds allocated for expenditure therein under the provisions of Section 194 shall be expended by the department for the completion of any projects budgeted, or the department may transfer such unexpended balances to the board of supervisors of the county, who shall expend the same for the completion of the projects for which such funds were budgeted. In the event of any such disincorporation or invalidation, any funds accrued for expenditure in the city but unbudgeted shall be deemed to revert to the unallocated funds in the State Highway Fund.

The department shall not be required to reallocate funds previously allocated for expenditure in the different cities of the State by reason of any subsequent incorporation, invalidation of incorporation, annexation or exclusion of territory.

New section

SEC. 4. A new section is hereby added to Article 5 of Chapter 1 of Division 1 of the Streets and Highways Code, to be numbered 206 and to read as follows:

Effect of territorial change

206. Whenever, after the effective date of this section, any city, by incorporation, annexation or exclusion of territory, establishes the incorporated limits of such city so that the right of way of any State highway lies between portions of a city, the contiguous property on each side of the highway being within the incorporated limits thereof, then such State highway shall be deemed to be within such city for all purposes of this article.

CHAPTER 738

Stats 1937, p 1005, amended

An act to add Section 158.5 to the Welfare and Institutions Code, relating to officers and employees at State institutions.

In effect September 13, 1941

[Approved by Governor June 13, 1941 Filed with Secretary of State June 13, 1941.]

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

New section

SECTION 1. Section 158.5 is hereby added to the Welfare and Institutions Code, to read as follows:

Meals and subsistence

158.5. At the request of one or more employees of any institution within the department, the department may, at its option, provide, within the grounds of any institution, meals and subsistence for employees who do not reside within the institution, or living facilities, meals and subsistence for employees who reside within the institution. The department may make a reasonable charge for all facilities taken by or furnished to employees, to be determined by the State Board of Control, and to be deducted from the salary of the employee. No employee shall be compelled to eat his meals at the institution, nor shall he be charged for meals or facilities not furnished to or taken by him. No employee shall be discriminated against in any manner whatsoever because he elects to eat his meals outside the institution grounds.

The provisions of this section apply only to those employees who are not officers and who receive gross salaries as specified by the salary scales of the State Personnel Board, and do not apply to those employees who are officers of an institution or who receive a cash salary plus maintenance for self and family as provided by the salary scales of the State Personnel Board.

CHAPTER 739

An act to regulate the dissolution of districts whose taxes or assessments are computed and collected by county officers, and providing the procedure therefor.

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Any district whose taxes or assessments are computed and collected by county officers may be dissolved as provided in this act if: Dissolution of district

(a) It appears that the district is not in debt, or if in debt, that all claims against it are barred by the statutes of limitations, and

(b) The district, or the officers thereof, are not exercising the powers of the district, and such powers have not been exercised for a period of three years or more.

SEC. 2. Any county officer who is required by law to compute or collect the taxes or assessments of any district may, by filing a request in writing with the board of supervisors of his county, ask that proceedings be instituted to dissolve the district. A request must fully express the grounds for such action. Request for dissolution

SEC. 3. The board of supervisors shall hear and pass upon the request, and may grant or deny it. If granted, the board shall direct the district attorney to commence proceedings in the superior court for dissolution of the district. It is the duty of the district attorney to comply promptly with this direction. Hearing

SEC. 4. The district attorney shall bring an action in the name of the people of this State for the dissolution of the district for nonuser of its powers. The action shall be brought in the superior court of the county for which the district attorney is an officer and in which the district is partly or wholly contained. Action in superior court

SEC. 5. In the action, the complaint and summons shall be personally served upon the district by delivery of a copy thereof to the president or presiding officer of the board of directors or the legislative body of the district. If personal service can not be made, an affidavit stating why such service was not made shall be filed in lieu of personal service. Service of complaint

SEC. 6. When service has been made, or an affidavit filed, the court, upon application of the district attorney, shall enter an order fixing a day for hearing, which shall not be less than 60 days from the date of the order. Order for hearing

SEC. 7. The court shall also enter an order directing notice by publication to be given to all persons interested in the district as owners of land or of interests in land in the district, as creditors of the district, or who are interested in any other Notice

capacity. The publication shall require such persons to appear on the day fixed for the hearing, and to show cause why the district should not be dissolved.

Publication

The notice shall be published once a week for two successive weeks in any newspaper or newspapers of general circulation published in the county in which the land contained in the district is located, and if the land contained in the district is located in more than one county, then in at least one or more newspapers published in each county. The last publication shall not be less than 10 days before the date set for hearing.

Hearing

SEC. 8. On the date fixed for the hearing, or at some later date to which the cause may be continued, the court may proceed with the hearing, proof having been first made of the service of the notice by publication in the manner prescribed in this act.

Objections

SEC. 9. Any person interested in the district may file an answer or objections to the dissolution of the district and shall from the filing of the answer or objections become a party defendant and be entitled to all the rights of a defendant in a civil action. Any person who is a creditor of the district shall file an objection to the dissolution, and if he does not do so, his claim shall be conclusively presumed to be barred by the statute of limitations.

Decree of dissolution

SEC. 10. The court shall enter a decree dissolving the district if, upon the trial, it is determined by the court:

(a) The district is not in debt, or if in debt, that all claims against the district presented by creditors who have filed objections to the dissolution of the district are barred by the statute of limitations.

(b) The district, or the officers thereof, are not exercising the powers of the district and have not been doing so for a period of three years prior to the date on which proceedings were commenced for dissolution of the district.

Declaration of intent

SEC. 11. The provisions of this act shall in no wise effect any other act or acts providing for the dissolution of any district by any other method or procedure. This act is intended to and does provide only an additional method by which a district may be dissolved.

CHAPTER 740

An act to add Section 135.8 to the Vehicle Code requiring reports of damaged fences.

Stats 1935, p 93, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 135.8 is hereby added to the Vehicle Code, to read as follows:

New section

135.8. All members of the California Highway Patrol and other peace officers engaged in enforcing traffic regulations who observe any fence along any highway, which has been damaged as a result of a traffic accident, shall promptly report the same to the owner, lessee, occupant or person in charge of the property inclosed by the fence, or to the local headquarters of the California Highway Patrol.

Report of damaged fence

CHAPTER 741

An act to amend Sections 777 and 874 of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, relating to public work contracts in cities of the fifth and sixth class.

Stats 1883, p 93, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

In effect September 13, 1941

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

Stats 1939, p 1579. See also Stats 1941, p 2672

SECTION 1. Section 874 of the act cited in the title hereof is hereby amended to read as follows:

Sec. 874. In any project for the erection, improvement, and repair of public buildings and works; in all work in or about streams, bays, or water fronts, or in or about embankments, or in other works for the protection against overflow; in all street or sewer work exclusive of maintenance and repair; and in the furnishing of any supplies or materials for any such project inclusive of projects for maintenance or repair of streets or sewers, when the expenditures required for the same exceed the sum of one thousand dollars ($1,000), the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice which shall consist of the publication of a notice inviting bids by two or more insertions thereof, not less than five days apart, in a newspaper of general circulation, printed and published in such city, which publication shall be commenced not less than 10 days prior to the date set in the notice for the opening of bids, or if there be no

Public work in cities of 6th class

Contracts

newspaper of general circulation printed and published therein, by posting copies of said notice inviting bids in at least three public places in said city, which places shall be those designated by ordinance as the places for posting of public notices, not less than 10 days prior to the date set in the notice for the opening of bids. Such notice shall distinctly and specifically state the work contemplated to be done; provided, that the city council may reject any and all bids presented and readvertise, in its discretion, and if any two or more bids are the same and are the lowest bids received, the council may accept whichever one it chooses; provided further,

Day labor after rejecting bids, the city council may declare and determine by a four-fifths vote of all its members that in its opinion the work in question may be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market, and after the adoption of a resolution to this effect it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section; and provided further, that in

Emergency case of a great public calamity such as an extraordinary fire, flood, storm, epidemic or other disaster, the city council may, by resolution passed by vote of four-fifths of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, and thereupon it may proceed to expend or enter into a contract involving the expenditure of any sum required in such emergency.

Call for bids In the event that there is more than one newspaper of general circulation printed and published in such city the city council shall, annually, prior to the beginning of each fiscal year, publish a notice inviting bids, and, contract for the publication of all legal notices required to be published in a newspaper of general circulation printed and published in said city. Said contract shall include the printing and publishing of all such legal notices during the ensuing fiscal year. In the event there is only one newspaper of general circulation printed and published in said city, then the city council shall have the power to contract with such newspaper for the printing and publishing of such legal notices without being required to

Stats 1915, p 1304 advertise for bids therefor.

See also Stats 1941, p 2673 SEC. 2. Section 777 of the act cited in the title hereof is hereby amended to read as follows:

Public work in cities of 5th class SEC. 777. In any project for the erection, improvement, and repair of public buildings and works; in all street and sewer work exclusive of maintenance or repair, and in all work in or about streams, bays or waterfronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for any such project inclusive of projects for maintenance or repair of streets or sewers, when the expenditures required for the same exceed the sum of one thousand dollars ($1,000), the

Contracts same shall be done by contract, and shall be let to the lowest

responsible bidder, after notice which shall consist of the publication of a notice inviting bids by two or more insertions thereof, not less than five days apart, in a newspaper of general circulation, printed and published in such city, which publication shall be commenced not less than 10 days prior to the date set in the notice for the opening of bids, or if there be no newspaper of general circulation printed and published therein, by posting copies of said notice inviting bids in at least three public places in said city, which places shall be those designated by ordinance as the places for posting of public notices, not less than 10 days prior to the date set in the notice for the opening of bids; such notice shall distinctly and specifically state the work contemplated to be done; provided, that the board of trustees may reject any and all bids presented and readvertise, in their discretion, and if any two or more bids are the same and are the lowest bids received, the board of trustees may accept whichever one it chooses; provided further, after rejecting bids, the board of trustees may declare and determine by a four-fifths vote of all its members that in its opinion the work in question may be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market, and after the adoption of a resolution to this effect they may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section; and provided further, that in case of a great public calamity such as an extraordinary fire, flood, storm, epidemic or other disaster, or in the doing of emergency work deemed necessary in the preparation for National or local defense, the board of trustees may, by resolution passed by vote of four-fifths of all its members declare and determine that public interest and necessity demands the immediate expenditure of public money to safeguard life, health or property and thereupon they may proceed to expend or enter into a contract involving the expenditure of any sum required in such emergency.

Day labor

Emergency

In the event that there is more than one newspaper of general circulation printed and published in such city the board of trustees shall, annually, prior to the beginning of each fiscal year, publish a notice inviting bids, and contract for the publication of all legal notices required to be published in a newspaper of general circulation printed and published in said city. Said contract shall include the printing and publishing of all such legal notices during the ensuing fiscal year. In the event there is only one newspaper of general circulation printed and published in said city, then the board of trustees shall have the power to contract with such newspaper for the printing and publishing of such legal notices without being required to advertise for bids therefor.

Call for bids

CHAPTER 742

An act to amend Section 669 of the Penal Code, relating to terms of imprisonment.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1935, p 1370

SECTION 1. Section 669 of the Penal Code is hereby amended to read as follows:

Terms of imprisonment upon conviction for two or more crimes

669. When any person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent judgment shall direct whether the terms of imprisonment or any of them to which he is sentenced shall run concurrently, or whether the imprisonment to which he is or has been sentenced upon the second or other subsequent conviction shall commence at the termination of the first term of imprisonment to which he has been sentenced, or at the termination of the second or subsequent term of imprisonment to which he has been sentenced, as the case may be; provided, however, if the punishment for any of said crimes is expressly prescribed to be life imprisonment, then the terms of imprisonment on the other convictions, whether prior or subsequent, shall be merged and run concurrently with such life term. In the event that the court at the time of pronouncing the second or other judgment upon such person had no knowledge of a prior existing judgment or judgments, or having knowledge, fails to determine how the terms of imprisonment shall run in relation to each other, then, upon such failure so to determine, or upon such prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of 60 days from and after the actual commencement of imprisonment upon the second or other subsequent judgments, the court shall, in the absence of the defendant and within 60 days of such notice, determine how the term of imprisonment upon said second or other subsequent judgment shall run with reference to the prior incompleted term or terms of imprisonment. Upon the failure of the court so to determine how the terms of imprisonment on the second or subsequent judgment shall run, the term of imprisonment on the second or subsequent judgment shall run concurrently.

Duty of State Board of Prison Directors

The State Board of Prison Directors shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment upon which have not been completely served.

CHAPTER 743

An act to amend Section 6.180 of the School Code, relating to sale or lease of school property.

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 6.180 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 274

6.180. Boards of school trustees, high school boards, city boards of education, and junior college boards, constituting the governing body of an elementary school district, a high school district and a junior college district, or any two of such districts, are hereby authorized to sell, or lease for a term not exceeding 99 years, any real property belonging to one of their respective districts to another district, upon the conditions set forth in this article; provided, however, that a majority of the personnel of the governing body of the district selling or leasing and the majority of the personnel of the governing body of the district purchasing or to which the property is to be let, are the same. Lease or sale of real property

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CHAPTER 744

An act to amend Sections 11166.12, 11200 and 11712 of the Health and Safety Code, relating to narcotics. Stats. 1939, p. 482, amended

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect September 13, 1941

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

SECTION 1. Section 11166.12 of the Health and Safety Code is hereby amended to read as follows: Stats. 1941, p. 20

11166.12. The provisions of this code with reference to the writing of narcotic prescriptions on official triplicate blanks and the filling thereof do not apply to any preparations containing codeine or to preparations containing not more than two grains of opium to the fluid or avoirdupois ounce, without additional narcotics when compounded with other medicinal ingredients or to preparations containing apomorphine hydrochloride, or ethylmorphine hydrochloride (dionin), prescribed in writing in good faith for medicinal purposes only. Exemption

When codeine, or tincture opii camphorata (paregoric) is not compounded with other ingredients, it shall be prescribed on the official blanks.

Stats. 1941, p. 24

SEC. 2. Section 11712 of said code is hereby amended to read as follows:

Unlawful possession

11712. Any person convicted under this division for having in possession any narcotic, or of violating the provisions of Sections 11530 or 11557 shall be punished by imprisonment in the county jail for not less than 90 days nor more than one year, or in the State prison for not more than six years.

Prior conviction

If such a person has been previously convicted of a felony under the laws of the United States or of this or any other State, and if the previous conviction of a felony is charged in the indictment or information and is found to be true by the jury, upon a jury trial, or is found to be true by the court, upon a court trial, or is admitted by the defendant, he shall be imprisoned in the State prison for not more than 10 years.

Stats 1941, p 20

SEC. 3. Section 11200 of said code is hereby amended to read as follows:

Exemptions

11200. The provisions of this division requiring prescriptions and physicians' reports do not apply to preparations or to remedies or prescriptions sold or prescribed in good faith for medicinal purposes only and not for the purpose of satisfying addiction, containing not more than one grain of codeine in one fluid ounce without additional narcotics, or not more than 10 grains of chloralhydrate in one fluid ounce, or two grams of cannabis sativa in one fluid ounce, or, if a solid preparation, in one ounce avoirdupois.

CHAPTER 745

Stats 1931, p 477, amended

An act to amend an act entitled "An act to authorize the counties of the State of California to establish systems for the retirement and pension of certain county and township officers and employees, namely, county peace officers as defined in the act, and to provide certain benefits for their dependents, and empowering county boards of supervisors to levy a special tax," approved May 5, 1931, as amended, by amending Sections 1, 2, 3, 4, 6, 9, 10, 11, 12, 13 and 15 thereof, and by adding thereto three new sections, to be Sections 4 5, 10 5 and 11 5 thereof, relating to county peace officers' retirement system.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

Stats 1935, p 1161

SECTION 1. Section 1 of the act entitled "An act to authorize the counties of the State of California to establish systems for the retirement and pension of certain county and township

officers and employees, namely, county peace officers as defined in the act, and to provide certain benefits for their dependents, and empowering county boards of supervisors to levy a special tax," approved May 5, 1931, is hereby amended as follows:

Peace officers' retirement fund Board of retirement

Section 1. The management of the peace officers' retirement system shall be vested in a board of retirement, consisting of five members, one of whom shall be the county treasurer, acting in an ex officio capacity. The second and third members shall be members of said retirement system elected by the members thereof within 30 days after the date on which the retirement system becomes operative, as hereinafter in this section provided, in a manner to be determined by the county board of supervisors. The fourth and fifth members shall be qualified electors of the county who are not connected with county government in any capacity, appointed by the board of supervisors within 30 days after said date; provided, that one of such members may but need not be a member of that body. The first persons so elected or appointed as the second and fourth members shall serve for two years from said date, and the third and fifth members so elected or appointed shall serve for a term of three years from said date. Thereafter, the term of office of the four elected members shall be three years.

First board

Provided, however, that in any county in which the provisions of this act shall have become effective prior to the effective date of this amendment, the first persons so elected or appointed as the second and fourth members of such board shall be elected or appointed within 30 days after said effective date, and shall serve for two years from said effective date, and the third and fifth members shall be elected or appointed within 30 days after said effective date, and shall serve for a term of three years from said effective date. Said peace officers' retirement board shall exercise the powers and perform the duties hereinafter prescribed.

Acceptance by supervisors

The provisions of this act shall become effective in any particular county, only upon condition that the provisions of this act are accepted by ordinance passed by four-fifths ($\frac{4}{5}$) vote of its board of supervisors, in which event the provisions of this act shall become operative in such county on the first day of January, or on the first day of July next following the expiration of three months after the passage of said ordinance.

Abolition of system

In any county in which a retirement system shall have been established as provided for herein, the board of supervisors may upon the adoption of an ordinance passed by a four-fifths ($\frac{4}{5}$) vote of said board abolish said system in said county; provided, however, that such abolishment of said system shall not impair the right of any person to whom pension rights shall have accrued to continue to receive such pension as provided for herein after the abolishment of said system in said county.

Refund

In the event that any such system shall have been abolished in any county, each active member as of the date of such

abolishment shall be entitled to a refund of all contributions made by him to said county peace officers' retirement fund, together with one-half of all interest which shall have been credited to his contributions as of said date of abolishment of said system.

Stats 1935, p 1161

SEC. 2. Section 2 of said act is amended to read as follows:

Organization of board

Sec. 2. (a) They shall organize as such county peace officers' retirement board by choosing from their number a chairman, and thereafter said officers shall be chosen biennially by said board. The members of said board shall serve without compensation, but they shall be reimbursed out of the funds of the county for any expense or loss of salary or wage which they may have incurred through services on the board and for costs of operation of this retirement system.

(b) Said board shall meet for the transaction of business at least once every three months in each calendar year and shall meet at such other times as said board or a majority thereof may order. Notice of all meetings shall be given by the secretary at least three days in advance thereof.

(c) A majority of said members may transact business in lieu of all of the members.

Stats 1935, p 1162

SEC. 3. Section 3 of said act is amended to read as follows:

Powers of board

Sec. 3. In addition to the other powers herein granted, said board shall be vested with the following powers and duties:

(a) To compel witnesses to attend and testify before it, upon all matters connected with the operation of this act, in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its chairman, or any member of said board, may administer oaths to such witnesses.

(b) To appoint a secretary, and to provide for the payment from said fund of all its necessary expenses, including secretary hire and printing; provided, that no compensation or emolument shall be paid to any members of said board for any duty required or performed under this act.

(c) To make by-laws and regulations not inconsistent with the provisions of this act and such by-laws and regulations shall become effective when approved by the board of supervisors.

(d) It shall be the duty of said board to report annually in the month of January to the board of supervisors, or other governing authority of the county, or city and county, the condition of the county peace officers' retirement fund and the receipts and disbursements on account of the same with a full and complete list of the beneficiaries of said fund and the amounts paid them, for the preceding calendar year.

(e) The said board shall annually prepare a budget of the cost of maintaining the pension fund and for this purpose may employ an actuary to assist the board in preparing its

budget and report to the end that said system may be scientifically financed and administered.

(f) Said board of retirement shall cause to be made an actuarial investigation and valuation of such system immediately after the first year of operation and thereafter at not to exceed five-year intervals. Such investigation shall be conducted under the supervision of an actuary and shall cover the mortality, service and salary experience of the members and beneficiaries, and shall evaluate the assets and liabilities of said retirement fund. Upon the basis of any or all of such determination, investigation and valuation, and upon the recommendation of the actuary said board of retirement shall recommend to the board of supervisors such changes in the rate of interest, in the rates of contributions of members, as well as such changes in county appropriations as may be deemed necessary. No adjustment shall be included in the new rates for time prior to the effective date of such revision.

Said board of supervisors shall promptly thereafter adjust the rate of interest, the rates of contributions of members, and county appropriations, as deemed advisable, but in no event shall said board of supervisors fix the rate of interest, the rates of contributions of members or county appropriations that will have the effect of reducing the amount of individual benefits as provided for herein.

(g) Said board shall have charge and control of said fund or funds and shall administer the same and shall have power to order payments therefrom in accordance with the provisions of this act.

SEC. 4. Section 4 of said act is amended to read as follows: Stats 1935, p 1162

Sec. 4. For the purpose of providing and maintaining a Sources of fund fund to meet the payments of demands drawn for the payment of pensions and the expenses of said retirement board, a fund is hereby created to be known as the "county peace officers' retirement fund." There shall be paid into said fund the following moneys, to wit:

(a) The normal rates of contribution of members shall be Normal rate of contribution based on age at the nearest birthday at the time of entrance into the retirement system. The normal rates of contribution shall be such as will provide an average annuity at the lowest age at which the respective members shall be eligible for service retirement equal to one-half of terminal salary, according to the tables adopted by said board, subject to adjustment as provided for in subsection (f) of Section 3 hereof.

(b) Until revised as a result of the actuarial investiga- Table of rates tion and valuation provided for in subsection (f) of Section 3 hereof, the rate of contribution of each member shall be that percentage of the salary actually paid to him, disregarding any portion thereof in excess of three hundred dollars

Table ($300) per month, shown in the following table according to age at the time of entry into said retirement system:

Age at entry into system	Contribution, percentage of salary
21	4.31
22	4.48
23	4.66
24	4.85
25	5.05
26	5 26
27	5.49
28	5.73
29	5 98
30	6.25
31	6.54
32	6.85
33	7.18
34	7.54
35	7.93
36	8.34
37	8.80
38	9.30
39	9.86
40	10.47

The normal rate of contribution established for age 40 shall be the rate for any member who has attained a greater age before entrance into said retirement system. In like manner the normal rate of contribution established for age 21 shall be the rate for any member who enters said retirement system at a lesser age.

Computation (c) The rate of contribution of members shall apply to so much of the salary actually paid to them, plus the monetary value as determined by the board of retirement of board, lodging, fuel, laundry and other advantages of any nature furnished to him made in payment for his services as does not exceed three hundred dollars ($300) per month, and shall be deducted by the county auditor or other officer charged with the duty of drawing salary or wage warrants from the first salary or wage warrant drawn in each month in favor of each member of said retirement system which shall be paid by such auditor or other officer to the county treasurer and placed to the credit of each individual member's account. Payment of salaries and wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by such members during the period covered by such payment except their claims to the benefits to which they may be entitled as members of such retirement system.

(d) Upon election by any said person to come within the provisions of this act, said person shall automatically be excluded from any other retirement system as aforementioned, and any sums due or to the credit of such person under such other system, shall be transferred to this pension system, to the credit of such person, in accordance with the law made and provided for such cases, it being the intention that the retirement system provided by this act shall be exclusive and that the persons, who having elected to come under the provisions of this act shall not participate in any other system now or hereafter provided by law for county or township officers or employees; provided, however, that where said person elects to come within the provisions of this act and elects to secure credit for prior service as a county peace officer under this act, and where the sum to the credit of said person so transferred from some other system to this system exceeds that necessary to entitle said person to credit for said prior service as a peace officer under this system, there shall be refunded to said person such portion of said sum so transferred to the credit of said person, as exceeds the amount necessary to entitle said person to the credit claimed for such prior service. Credit for prior service

(e) An amount to be determined and appropriated each year by the board of supervisors. Said amount to be sufficient, together with the contribution of peace officers to meet all of the current demands, including interest, against said pension fund. The board shall monthly deposit all contributions received in the county treasury to the credit of said fund. County donation

From and after the date any system created by this act becomes operative, the board of supervisors shall in the preparation and adoption of the county budget, add to the appropriation for salaries and wages and include therein an appropriation equal in amount to 8.70 per cent of the total salaries provided for those employees who are members of said retirement system

The county auditor shall certify to said board of supervisors at the end of each month the total amount of contributions paid by members to said retirement fund, and said board of supervisors shall thereupon transfer a like amount for such appropriation to said retirement fund.

(f) All contributions and deposits shall bear simple interest at a rate to be fixed by said board of retirement with the approval of said board of supervisors but said rate shall in no event be greater than 4 per cent per annum. Interest

Interest shall be credited semiannually on June 30th and December 31st to all contributions in said retirement fund to the credit of each member which have been on deposit for six months immediately prior to such date.

SEC. 5. There is added to the act cited in the title a new section, to read as follows: New section

Sec. 4.5. In any case where a member of said system shall have separated from the service of the county before Separation from service

retirement, and such separation is for any cause other than for permanent disability, there shall be paid to him, or, in case of his death before retirement, there shall be paid to his legal representative, all the money paid in by him as his contribution to said fund, together with one-half of all interest which shall have been credited to his account as provided for herein.

Stats 1935, p. 1163

SEC. 6. Section 6 of said act is amended to read as follows:

Investment of fund

Sec. 6. The board shall have charge and control of and shall safely keep the funds of the system, and shall invest and reinvest the same, and may from time to time sell any securities held by them and invest and reinvest the proceeds therefrom, and any and all unappropriated income of said funds; provided, however, that all funds received by them not required for current disbursements shall be invested in those securities only which shall be legal for savings bank investments, or deposited at interest in any State or National bank doing business with the county in accordance with the provisions of law authorizing and controlling the deposit of public funds in banks; provided, that the credit of the county shall not be given or lent in aid of, or to, any person, association or corporation, whether municipal or otherwise, nor shall it be pledged in any manner whatever for the payment of the liabilities of any individual, association, municipal or other corporation whatever. Whenever securities belonging to or held for said retirement system are sold, the county treasurer shall deliver the securities so sold upon receiving the proceeds thereof, and may execute any and all documents necessary to transfer title thereto. The duties herein imposed upon the county treasurer shall be deemed a part of his official duties, for the faithful performance of which he shall be liable on his official bond.

Stats 1931, p. 480

SEC. 7. Section 9 of said act is amended to read as follows:

Definitions

Sec. 9. As used in this act, the term "county peace officers" shall mean all sheriffs, undersheriffs, chief deputy sheriffs, jailers, turnkeys, deputy sheriffs, bailiffs, process servers, constables, deputy constables, motorcycle officers, the heads and assistant heads of all divisions of the sheriff's office, and all their regularly appointed deputies, but does not include clerks, bookkeepers, stenographers and other employees who may have been appointed as deputy sheriffs but who do not perform the duties of any of the peace officers above enumerated and does not include honorary deputy sheriffs or other persons holding appointments as deputy sheriffs but who receive no compensation therefor and who do not regularly perform particular official duties. "Terminal salary" shall mean the average salary earnable by any member during the last three years prior to the date of his retirement.

Stats 1931, p. 480

SEC. 8. Section 10 of said act is amended to read as follows:

Persons eligible

Sec. 10. Except as otherwise provided herein, all peace officers shall be eligible for participation under the system

provided by this act, and shall be included in and shall be subject to the provisions of said act on the first day of the calendar month following the expiration of 30 days after said act becomes operative in any county, or on the first day of the calendar month following the expiration of 30 days after their entrance into the service; provided, however, that any such peace officer may elect to be excluded from the provisions of this act at any time within 30 days after said act becomes operative in any county or within 30 days after his entrance into the service, upon his written election to be so excluded, and no employee who has so elected to be excluded, may thereafter be included in or participate in the system herein provided. Exclusion

SEC. 9. There is added to the act cited in the title a new section, to read as follows: New section

Sec. 10.5. In the event that on or after June 1, 1940, any member shall have entered or shall hereafter enter the armed forces of the United States during war or National emergency proclaimed by the President or entrance into such service under the Congress of the United States or act of Congress providing for peacetime induction or conscription, and thereafter shall have returned to active service as a peace officer within 90 days after the termination of such service during such war or emergency, he shall be deemed to have been in continuous service as a peace officer during the time he was in such armed forces of the United States; provided, that he shall have during the period of his absence from active duty, or shall have within six months after his return from active duty, paid into said retirement fund an amount equal to the amount of contributions which he would have made had he remained on active duty. Service with armed forces

SEC. 10. Section 11 of said act is amended to read as follows: Stats 1937, p 664

Sec. 11. Any member shall be retired for disability regardless of age or amount of service, if incapacitated for the performance of duty as the result of an injury or disease occurring in and arising out of the course of his employment. Any member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, shall be retired regardless of age but only after 10 years of service as a county peace officer as defined under Section 9 of this act. Incapacity for performance of duty shall be determined by the board. Physical disability: Service connected

Upon retirement of a member for service connected disability, such member shall receive an annual pension, payable in monthly installments, equal to one-half of his terminal salary; provided, that such pension shall in no case be more than one hundred fifty dollars ($150) per month. Pension

Whenever any member shall be killed, or die, as a result of any injury received during the performance of his duty, or from sickness caused by the discharge of such duty, or after Payments to widow or children

retirement for service connected disability, an annual pension shall be paid in equal monthly installments to his widow, or child or children, in an amount equal to one-half of such member's terminal salary; provided, that such pension shall in no case be more than one hundred fifty dollars ($150) per month. Said pension shall be paid to the widow, during her lifetime or until she remarries, and thereafter such pension shall be paid to the legally appointed guardian of the child or children of such deceased member until such child or children shall have attained the age of 18 years, or, should there be no widow, or widow qualified to receive such pension, then to such guardian of his child or children, until such child or children shall have attained the age of 18 years; provided, however, that no widow of a pensioner shall be entitled to a pension unless she shall have been married to such deceased pensioner at least five years prior to the date of his retirement; and provided further, that if such widow, child or children shall marry, then the pension paid to the person so marrying shall cease.

Nonservice connected disability

Upon retirement of a member for nonservice connected disability such member shall receive an annual pension, payable in monthly installments, as follows, dependent upon the aggregate length of his service:

After 10 years but less than 12 years of service, the sum of fifty dollars ($50) per month;

After 12 years but less than 14 years of service, the sum of fifty-five dollars ($55) per month;

After 14 years but less than 16 years of service, the sum of sixty dollars ($60) per month;

After 16 years but less than 18 years of service, the sum of sixty-five dollars ($65) per month;

After 18 years but less than 20 years of service, the sum of seventy dollars ($70) per month;

After 20 years of service, the sum of seventy-five dollars ($75) per month;

provided, that in no case shall any pension for nonservice connected disability exceed an amount equal to one-half of the terminal salary of such member.

Medical examination

The board of retirement may, within its discretion, require any member retired for disability, under the age of 50 years, to undergo medical examination. The examination shall be made by a physician or physicians, appointed by said board, at the place of residence of said retired member or other place mutually agreed upon. Upon the basis of such examination said board shall determine whether such retired member is still incapacitated, physically or mentally, for service in the position held by him at the time of his retirement. If said board determines that such retired member is not so incapacitated, his pension shall be canceled forthwith, and subject to rules and regulations which may have been adopted by the county for the reinstatement or reemployment of personnel

he is eligible for reinstatement or reemployment in the county service.

Should the pension of any such retired member be canceled there shall be paid to him immediately out of said fund an amount equal to his accumulated contributions, as of the date of his retirement, together with all interest which shall have been credited to his account as provided for herein, less an amount equal to one-half of the pension payments made to him during the period of his retirement. Cancellation

Should such retired member reenter county service and be eligible for membership in said retirement system, his rate of contribution for future years shall be that established for his age at the time of such reentry. He shall also receive credit for all service rendered by him prior to the time of his disability retirement; provided, that he shall have deposited into said fund within six months after his reinstatement or reemployment an amount equal to the amount paid to him upon the cancellation of his pension. Reentry into county service

SEC. 11. There is added to the act cited in the title a new section, to read as follows: New section

Sec. 11.5. At any time before the first payment on account of any pension is made, or within 60 days after the effective date of this section, a member or beneficiary may elect to receive the actuarial equivalent at that time of his pension in a lesser pension payable throughout his life and that of his widow, if she survives him, in accordance with one or the other of the following options: Options

Option 1: Upon his death, such lesser pension shall be continued throughout the life of and paid to his widow.

Option 2: Upon his death one-half of such lesser pension shall be continued throughout the life of and paid to his widow.

SEC. 12. Section 12 of said act is amended to read as follows: Stats 1941, p 1977

Sec. 12. Whenever any person at the time this act becomes effective or thereafter shall have been duly appointed, selected, or elected and qualified, and shall have served for 20 years or more in the aggregate, as a county peace officer, and who shall have reached the age of 60 years, said board shall upon its own motion, except as to the sheriff and the undersheriff, or upon the application of such person, order and direct that such person be retired and such person shall thereafter receive a pension payable in monthly installments during his lifetime, equal to one-half of his terminal salary; provided, however, that the amount of such pension shall in no case be more than one hundred fifty dollars ($150) per month; and provided further, that any motorcycle police officer, may, after 20 years of service, be retired by the board under the provisions of this act, if, in the judgment of three physicians appointed by the board, such motorcycle police officer is unable to properly discharge the duties of his office. Retirement age

Stats 1931, p. 481

SEC. 13. Section 13 of said act is amended to read as follows:

Employment restrictions

Sec. 13. No officer or employee who accepts any of the benefits under the provisions of this act shall engage in any public or private employment, where as a result of such employment the aggregate compensation paid to such pensioner would exceed the compensation paid to him in the position from which he was retired, and any violation of the provisions of this section shall result in the immediate termination of any and all such benefits.

Stats 1931, p. 482

SEC. 14. Section 15 of said act is amended to read as follows:

Special tax

Sec. 15. The boards of supervisors, in their respective counties, shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law, to levy a special tax to be used for the payment of pensions and annuities to county and township employees under such pension, retirement and benefit systems or associations as may have been established by law for county and township employees.

CHAPTER 746

Stats 1901, p. 27, amended

An act to add a new section to be numbered Section 5.1 to an act entitled "An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof" which became a law under constitutional provision without the Governor's approval (February 25, 1901), relating to the issuance and retirement of municipal improvement bonds.

In effect September 13, 1941

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.]

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

New section

SECTION 1. A new section is hereby added to the act cited in the title hereof to be numbered Section 5.1 and to read as follows:

Bonds redeemable

Sec. 5.1. The legislative body of the municipality issuing the bonds may, in its discretion, provide that the bonds be redeemable, at the option of the issuer, at such price or prices as the legislative body may determine.

CHAPTER 747

An act to provide for the formation, government, operation and dissolution of Tamalpais Forest Fire District, to prevent and extinguish forest, brush and grass fires therein, and protect persons and property, including public property and resources, from injury, loss or damage resulting from any such fires; to provide for the assessment, levy, collection and disbursement of taxes, and revenues therein, and the contribution or payment of public funds therefor; to provide for the reestablishment of the Tamalpais Forest Fire District created by Chapter 560 of the Statutes of 1917 and to confirm to said district so reestablished the title to all property heretofore acquired, or purported to have been acquired, in the name of said district as created by said chapter; to validate certain acts and proceedings of officers of said district, and other public officers purporting to have acted since the repeal of said Chapter 560 of the Statutes of 1917 pursuant to the provisions thereof; to validate and legalize the existence of the de facto Tamalpais Forest Fire District and to provide for the continuation of said district as a legal entity for the period prescribed in this act; to provide for the transfer of the property of the district to the county in which said district is situated and to authorize the county to use such property and to provide for fire protection; to declare the urgency of this act, to take effect immediately.

Stats. 1917, p. 774

[Approved by Governor June 13, 1941. Filed with Secretary of State June 13, 1941.] In effect immediately

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

SECTION 1. There is hereby organized, created, established and incorporated a forest fire district to be known as "Tamalpais Forest Fire District" the boundaries of which are hereby established and determined as follows, to wit: "Tamalpais Forest Fire District"

Commencing at a point where the center line of the State highway intersects the northwesterly boundary line of those certain lands shown and delineated as the lands of the Sausalito Land and Ferry Company, upon that certain map entitled "Official map of the lands of the Sausalito Land and Ferry Company" filed in the office of the county recorder of the County of Marin, State of California, on the twenty-sixth day of April, 1869, said point of beginning being upon the southeasterly banks of Coyote Creek at the easterly end of the concrete bridge; running thence southwesterly and southerly along the northwesterly boundary line of the said lands of the Sausalito Land and Ferry Company, aforesaid, to the common corner of Ranches A, E and F as said ranches are shown and delineated on that certain map entitled "Tamalpais Land and Water Company Map No. 3" which said map is recorded in the office of the county recorder of the County Description

of Marin, State of California, in Book 1 of maps, at page 104; thence southerly and following the easterly boundary line of Ranches F, G and H as said ranches are shown upon the said Tamalpais Land and Water Company Map No. 3, through Tennessee Valley to the northeasterly boundary line of Ranch I, as shown upon said last mentioned map; thence along the easterly line of said Ranch I to the southeasterly corner of said ranch; and thence southwesterly along the southerly boundary line of said Ranch I to high water mark on the Pacific Ocean; thence following the line of ordinary high tide aforesaid of the Pacific Ocean northwesterly to the entrance of the channel connecting Bolinas inner bay or lagoon with the Pacific Ocean; thence crossing said channel to high water mark on the westerly side of said channel; thence following high water mark in a westerly direction to Duxbury Point; thence following said line of high water mark of the Pacific Ocean in a northwesterly direction and following the indentations and sinuosities of the coast to Point Reyes; thence following said line of high water mark in a northeasterly and northwesterly direction to Pierce's Point at the mouth of Tomales Bay; thence following high water mark in a southeasterly direction along the southwesterly side of Tomales Bay to the mouth of Paper Mill Creek; thence following up the center of Paper Mill Creek to a point where said creek is crossed by the bridge on the county road leading from Point Reyes Station to Olema; thence following the center line of the county road leading from Point Reyes Station in a southerly direction to its intersection with the Tocaloma Road at the Village of Olema; running thence easterly along said county road leading to Tocaloma to its intersection with the county road running along the easterly bank of Paper Mill Creek; running thence northerly and easterly along said county road running along the easterly bank of Paper Mill Creek to the mouth of Nicasio Creek; running thence up the county road running up Nicasio Creek in an easterly and southerly direction, through the Village of Nicasio to the intersection of the Nicasio and San Geronimo county road with the Lucas Valley county road; thence easterly and along said Lucas Valley county road to a point thereon at the summit near a large boulder known as "Big Rock" on the northwesterly boundary of that certain ranch known as the "Victor Sartori Ranch"; thence northerly along said last mentioned line, following the northerly boundary of San Rafael Township to the line of ordinary high tide in San Pablo Bay; thence in a general southerly and westerly direction along the line of ordinary high tide in San Pablo Bay and San Francisco Bay to the northeasterly corporate limits of the City of San Rafael; thence westerly, northerly and westerly along the northerly corporate limits of the City of San Rafael to the easterly corporate limits of the Town of San Anselmo; thence southerly along the easterly corporate limits of the Town of San Anselmo to the easterly corporate limits of the Town of Ross; thence southerly

along the easterly corporate limits of the Town of Ross and westerly along the southerly corporate limits of the Town of Ross to the intersection thereof with the State highway; thence southerly along the State highway to the northwesterly corporate limits of the Town of Larkspur; thence northerly, easterly and southerly along the corporate limits of the Town of Larkspur to their intersection with the northerly corporate limits of the Town of Corte Madera; thence easterly, southerly and westerly along the corporate limits of the Town of Corte Madera to their intersection with the State highway; and thence along the State highway to the point of beginning.

Board of trustees

SEC. 2. The governing board of trustees for said district shall consist of one trustee appointed from said district at large by the board of supervisors of said County of Marin, and of one trustee to be appointed from each municipality lying wholly or partially within said district by the governing board of such municipality. The governing board of such district shall be called "the board of trustees of Tamalpais Forest Fire District." Each trustee appointed by a municipal board shall be an elector of the municipality from which he is appointed, and each appointee of the board of supervisors shall be an elector of the district. All such trustees shall hold office for the term of two years from and after the second day of the calendar year succeeding their appointment.

Term

Officers

SEC. 3. One of the members of the board shall be president and one secretary. The members of the board shall serve without compensation; provided, that the necessary expenses of each member for actual traveling expenses on meetings or business connected with said board shall be allowed and paid. In event of the resignation, death or disability of any member, his successor shall be appointed by the board of supervisors, if such board originally made such appointment, or by the governing board of the appropriate municipality, if such appointment were originally made by the board of a municipality. The board of trustees shall provide for the time and place of holding its regular meetings, and the manner of calling the same, and shall establish rules for its proceedings. Special meetings may be called by three trustees and notice of the holding thereof shall be given to each member at least three hours before the meeting. All sessions, whether regular or special, shall be open to the public and a majority of the members of the board shall constitute a quorum for the transaction of business.

Expenses

Meetings

Powers of board of trustees

SEC. 4. The board of trustees of such district shall have power to take all necessary or proper steps for the prevention or extinguishing of forest, brush or grass fires within the district, and for the protection of persons or property from any injury, loss or damage resulting from any such fire or fires; to purchase such supplies and materials and to employ such labor or skilled services as may be necessary or proper in furtherance of the objects of this act, and if necessary or

proper in the furtherance of the same to build, construct and thereafter to keep clear and maintain necessary fire roads or fire trails, hydrants or other fire fighting apparatus upon the lands within the district or adjacent thereto, and to acquire by purchase, condemnation, license or other lawful means, in the name of the district, all necessary lands, rights of way, easements or property or material requisite or necessary for any of such purposes; to make contracts, to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers by this act conferred, or arising out of the use, taking or damage of such property for any such purposes, and generally to do any and all things necessary or incident to the powers hereby granted and to carry out the objects specified herein.

Estimate of money needed

SEC. 5. The board of trustees of said district shall at least 15 days before the first day of the month in which the board of supervisors of Marin County is required by law to levy the amount of taxes required for county purposes, furnish to said board of supervisors and to the county auditor of said county, respectively, an estimate in writing of the amount of money necessary for all purposes required under the provisions of this act during the next ensuing fiscal year.

Tamalpais Forest Fire District tax

The board of supervisors of such county shall thereafter at the time and in the manner of levying other county taxes levy upon all of the taxable property within the district and cause to be collected a tax, to be known as the "Tamalpais Forest Fire District tax," the maximum rate of which must not be greater than sufficient to raise the amount estimated to be raised by the said board of trustees of the district, nor in any event shall such tax exceed ten cents ($0.10) on each one hundred dollars ($100) of taxable property in such district.

Levy and collection

All taxes levied under the provisions of this section shall be computed and entered on the county assessment roll of said county by the county auditor thereof, and collected at the same time and in the same manner as State and county taxes, and when collected shall be paid into the county treasury of said county for the use of said district.

Warrants

The funds shall be withdrawn from said county treasury upon the warrant of the board of trustees of such district signed by the president or acting president of the board, and countersigned by its secretary. The provisions of this section shall not apply to the fiscal year commencing July 1, 1941, nor thereafter.

Proposal of amount to be paid toward expenses by State, etc

SEC. 6. The board of trustees of such forest fire district, prior to its estimate of the amount of money necessary for all purposes of the district for the ensuing fiscal year, as hereinabove provided, may request from the governing board or body having jurisdiction and control over any forest, brush or grass lands within such district owned or held for any purpose whatsoever by the State of California, or any county, city, township, municipal corporation, public corporation, or

other political corporation or subdivision of the State, a proposal or promise as to what amount, if any, the State of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the State owning or holding such lands, will agree to pay to such district towards its necessary expenses for the next ensuing fiscal year, or such proposal may be for the next two ensuing fiscal years in the event that such lands shall be under the control of the State of California, in consideration of said district taking over the supervision and concurrent control, as hereinafter set forth, of such lands so owned or held, only, however, in so far as is necessary or proper to prevent or extinguish forest, brush or grass fires thereon or within such district, or to protect persons or property from any injury, loss or damage resulting from any such fire, and said governing body having jurisdiction and control over such lands is hereby authorized and empowered, for the consideration aforesaid, to propose or promise, as aforesaid, and so obligate the State of California or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the State owning or holding such lands respectively, to such district upon its board of trustees accepting such proposal for such purpose, whereupon such agreement shall be duly executed in the form of a contract, and such district shall thereupon take over the supervision and control of the prevention and extinguishing of forest, brush or grass fires upon such lands in the manner aforesaid for the next ensuing fiscal year, or for the life of such contract. The provisions of this section shall not apply to the fiscal year commencing July 1, 1941, nor thereafter.

Governing board authorized to make proposal

SEC. 7. Any territory, incorporated or unincorporated, lying adjacent and contiguous to said forest fire district, and within the same county therewith, may be added and annexed to such district, at any time, upon proceedings being had and taken as in this act provided; and any territory, incorporated or unincorporated, lying within said district, may be withdrawn and excluded therefrom upon proceedings being had and taken as in this act provided. The board of trustees of such district upon receiving a written petition containing a description of the new territory sought to be annexed to such district, signed by the owners comprising more than one-half of the assessed value of such territory as shown by the last county assessment roll, must thereupon submit to the electors of the district and also to the electors residing in the territory sought to be annexed, the proposition of whether such proposed territory shall be annexed and added to such district. The proposition to be submitted to the electors at such election, both within said district and within said territory so proposed to be annexed, shall be as follows: "for annexation," or "against annexation," or words equivalent thereto. Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election in

Annexation of territory

Petition

Proposition submitted to electors

a newspaper printed and published in such district, and also in a newspaper, if any, printed and published in such territory so proposed to be annexed. The board of trustees, shall canvass, separately, the votes cast within said district, and the votes cast within said territory so proposed to be annexed, and if it shall appear from such canvass that a majority of all the ballots cast in such district and a majority of all the ballots cast in such territory so proposed to be annexed are in favor of annexation, the board of trustees shall certify such fact to the Secretary of State describing said property proposed to be annexed and upon receipt of such last-mentioned certificate, the Secretary of State shall thereupon issue his certificate reciting that the territory (describing the same) has been annexed and added to the Tamalpais Forest Fire District and a copy of such certificate of the Secretary of State shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the territory named therein shall be deemed added and annexed to and form a part of said forest fire district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. If the property so proposed to be annexed is included within a municipality, consent to such annexation shall first be obtained from the governing board of such municipality, and an authenticated copy of the resolution or order of such board so consenting to such annexation, shall be attached to the petition, and be made a part thereof. At any time after the organization of said forest fire district, and the appointment of the board of trustees thereof, the owner or owners of the record title to any land or lands within said district may file a petition with the board of supervisors of the county praying that his or their lands be excluded from the district; provided, that no petition shall be presented or received for the exclusion of lands which, either by themselves, or together with other lands included in the same petition, do not lie adjacent to the exterior boundaries of said forest fire district. At its first regular meeting after the filing of such petition the board of supervisors shall, by its order, set said petition for hearing, which hearing shall not be more than 40 days nor less than 10 days from the date of its said order. Notice of such hearing shall be mailed to the petitioners, and to the members of the board of trustees of the forest fire district at least one week before the hearing. At such hearing, or at any continuation thereof, the board of supervisors shall hear and determine the facts urged for or against said petition, and shall make a finding determining whether or not the said lands petitioned to be withdrawn, or any part thereof, shall be withdrawn from the district. In case such finding shall be in favor of excluding such lands, or any portion thereof from the district, the board of supervisors shall make its order certifying such fact to the Secretary of State, describing said property proposed to be

If majority vote favors

Territory deemed added

Exclusion of land

Hearing

Notice

excluded by said findings, and upon receipt of such last-mentioned certificate, the Secretary of State shall issue his certificate reciting that the territory (describing the same) has been excluded from the Tamalpais Forest Fire District, and a copy of such certificate of the Secretary of State shall be transmitted to and filed with the county clerk of the County of Marin From and after the date of such certificate, the territory described therein shall be deemed excluded from said forest fire district. Territory deemed excluded

SEC. 8. Said district shall be dissolved and shall terminate and cease to exist without further act, vote or decision upon the part of any person, at 12 o'clock, midnight at the end of the thirtieth day of June, 1941. Upon the dissolution of the district all of its assets and properties of whatsoever kind or character, including equipment, bank accounts, funds, land titles, easements, leaseholds and contracts, shall vest in and become the property of the County of Marin and shall be subject to the management, disposition, replacement and control of the board of supervisors and other officers of said county, as in the case of other properties of said county. Dissolution of district

SEC. 9. Every notice herein required to be published may be published in a daily or weekly or semiweekly newspaper; and if there is no daily, or weekly or semiweekly newspaper published within the district or within a subdivision thereof or other territory wherein the same is required to be published, then such notice shall be posted for the length of time herein required for the publication of the same in three public places of such district or such subdivision thereof or such other territory as the case may be. The term "municipality," as used in this act, shall include a city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes. The word "district" shall apply, unless otherwise expressed or used, to said forest fire district formed under the provisions of this act, and the word "trustees," and the words "board of trustees," shall apply to the trustees and to the board of trustees of such district. Publication of notices; Definitions

SEC. 10. The provision herein contained for the entering into proposals and contracts with said forest fire district by the State of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of this State, is hereby declared to be optional and permissive and no further authority of law shall be required for such proposals or contracts than that herein contained, and no further authority of law shall be required than that contained in this act for the levy of taxes by boards of supervisors for the purposes herein specified, and no further authority shall be required by law for the bringing of actions in eminent domain, for the acquiring by said forest fire district of rights of way for fire roads or trails, Provision optional and permissive

and easements to cut timber, brush or grass thereon, and to maintain the same, than the authority contained in this act.

Constitutionality

SEC. 11. The Legislature hereby declares that in enacting this act it intends, in so far as it constitutionally has the power so to do, to abrogate the effect of the repeal of Chapter 560 of the Statutes of 1917 by Chapter 60 of the Statutes of 1939, to recognize the continued existence of the Tamalpais Forest Fire District despite said repeal, and to provide for the continuation of said district during the further period provided for by this act.

Validation: Proceedings

SEC. 12. All acts and proceedings of any person purporting to act as an officer, employee, or agent of the Tamalpais Forest Fire District and all acts or proceedings of any other public officer in relation to the district purporting to have been the legally constituted Tamalpais Forest Fire District, which acts or proceedings purported to have been in conformity with, or pursuant to the provisions of, Chapter 560 of the Statutes of 1917, are hereby validated, confirmed, and declared to be legal in all respects from and after the time said acts were done or proceedings taken.

Transfer of title

SEC. 13. The title to all property, real or personal, heretofore transferred to the Tamalpais Forest Fire District is hereby confirmed in said district and no action shall be commenced nor defense interposed alleging as a ground of invalidity of any such title the nonexistence of a statute under which said district purported to be organized and existing.

Time for commencing action

If, notwithstanding the foregoing provisions of this section, any right of action shall exist in any person, to attack or question the acts or purported acts of the de jure or de facto officers of said district, which acts have heretofore or shall hereafter occur prior to the hour of dissolution specified in this act, then such right must be asserted by the commencement of an action thereon within six months from the said thirtieth day of June, 1941.

Contracts

SEC. 14. No contract by or on behalf of the Tamalpais Forest Fire District heretofore made shall be deemed to be invalid on the ground that said district lacked legal authority to make and perform such contract because of the nonexistence of a statute under which said district purported to be organized and existing.

Tax levy

SEC. 15. All acts or proceedings of any officer of the County of Marin in connection with the assessment, levy, or collection of any tax purported to have been assessed, levied, or collected in conformity with the provisions of Chapter 560 of the Statutes of 1917 are hereby validated, confirmed, and declared legally effective.

Existing officers

SEC. 16. The persons who, at the time this act takes effect, are acting as officers and employees of the Tamalpais Forest Fire District under the purported authority of Chapter 560 of the Statutes of 1917 shall continue to hold office and employment according to the tenure and conditions thereof and for

the same times and under the same conditions as would be applicable if said Chapter 560 of the Statutes of 1917 had not been repealed. All terms of office which have expired and all employments which have terminated since said repeal and prior to the effective date of this act shall be deemed to have lawfully expired or to have lawfully terminated to the same extent as they would have expired or terminated had said Chapter 560 of the Statutes of 1917 not been repealed.

Exception

SEC. 17. Nothing in this act shall be construed to validate, ratify or legalize any act, proceeding, or any other matter or thing which would have been unlawful had Chapter 560 of the Statutes of 1917 not been repealed by Chapter 60 of the Statutes of 1939.

Stats 1917, p 774
Stats 1939, p 482

Declaration of intent

SEC. 18. Nothing in this act nor in any other provision of law, including Section 4041.6 of the Political Code, shall be construed to limit the powers of any county in relation to general fire protection therein or its powers to provide such fire protection as in the opinion of its board of supervisors shall be proper and adequate or to provide in the general budget and tax rate to be levied in such county, for the levy, collection and expenditure of such tax and other funds as in its opinion shall be necessary, proper, or adequate to provide fire protection for persons and property, game, and other resources therein.

Nonexistence of general law

SEC. 19. It is hereby found and determined that no general law exists under which Tamalpais Forest Fire District can be or could be or could have heretofore been organized in a manner or with the powers required, and that a special law for the creation of said district has at all times since the effective date of Chapter 560 of the Statutes of 1917, been required, for each of the following reasons: First, said district as hereinabove bounded has and at all of said times has had large numbers and resources of fish and game which have been imperiled and are now imperiled by fire hazards; that said district abounds in quail, deer, trout which are now and long have been specially protected by a game refuge established by law; that the creation of said district for the protection of these resources has at times been necessary whether or not the district was required for the protection of persons or property; second: said district is now required for the purpose of marshaling the assets and affairs of the formerly existing district and conducting the affairs thereof until the County of Marin has reorganized its facilities and prepared to take over the duties of the district; third: there is no general law which provides the means for speedy enough action to afford fire protection from the dangers of the immediate future; fourth: there is no general law under which fire protection can be gained during the immediate future for the purpose of National defense.

Urgency

SEC. 20. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California

and therefore shall take effect immediately. The following is a statement of the facts constituting such necessity:

The Tamalpais Forest Fire District was created by Chapter 560 of the Statutes of 1917. In enacting the Health and Safety Code in 1939 said Chapter 560 was inadvertently repealed. Notwithstanding said repeal the district has continued to function under the mistaken impression of all parties concerned that the basic act under which it was created was still in legal existence. The de facto district has operated during the period subsequent to the repeal of said act in the same manner as if said act had never been repealed, and it is necessary to validate the acts and proceedings of, and connected with, the de facto district and continue said district as a legal entity for the period provided for in this act. The area involved presents a serious fire problem during the summer months and it is necessary that the steps provided to be taken by this act be taken immediately in order that such fire hazards to valuable park property and agricultural and urban property may be overcome.

CHAPTER 748

Stats 1897, p 254, amended

An act to amend Section 57 of the California Irrigation District Act, relating to the government of irrigation districts.

In effect September 13, 1941

[This bill having remained with the Governor ten days (Sundays excepted), and the Legislature being in session, it has become a law this fourteenth day of June, 1941. PAUL PEEK, Secretary of State.]

[Filed with Secretary of State June 14, 1941.]

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

Stats 1927, p 251

SECTION 1. Section 57 of the act cited in the title hereof is hereby amended to read as follows:

Compensation of directors and officers

Sec. 57. The directors, when sitting as a board or acting under the orders of the board, shall receive not to exceed eight dollars ($8) per day and ten cents ($0.10) per mile for each mile actually traveled from their respective places of residence to the office of the board, and returning therefrom, and actual and necessary expenses paid while engaged in official business under the orders of the board; provided, that in irrigation districts containing 500,000 acres or more the directors, in lieu of said per diem, shall each receive a salary of two hundred dollars ($200) per month and the board of directors may fix an additional sum to be paid to the president of the board which additional compensation shall be subject to termination or change from time to time at the will of the board. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; provided, that the board shall, upon the petition of at least 50 freeholders within the district therefor, submit to the

electors at any general election a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board not less than 20 days, nor more than 40 days prior to a general election and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act.

SEC. 2. The amendment of Section 57 of the act cited in the title hereof is not a change in, but is declaratory of, the preexisting law.

CHAPTER 749

An act to add Sections 3.5 and 3.75 to "An act to provide for the government of irrigation districts having an area of more than 500,000 acres and for elections and the qualification of electors therein and to enable such irrigation districts to construct levees and to protect the lands within such district from damage resulting from floods and the overflow of rivers and for that purpose to provide additional powers for boards of directors within such irrigation districts," approved January 21, 1915, relating to the management of irrigation districts having an area of more than 500,000 acres.

Stats 1915, p 1, amended

[This bill having remained with the Governor ten days (Sundays excepted), and the Legislature being in session, it has become a law this fourteenth day of June, 1941. PAUL PEEK, Secretary of State.]

In effect September 13, 1941

[Filed with Secretary of State June 14, 1941.]

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

SECTION 1. Section 3.5 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 3.5. The board of directors of any such irrigation district has power to provide for and create divisions or departments for management and operating purposes, to select, appoint and designate department heads and classify and reclassify employees, including the appointment of any director or directors as a department head or to an executive position and to fix the duties, terms, and time of employment and to provide for and fix the salaries, compensation, and expenses in connection therewith; provided, however, that all department heads and employees of every kind and class shall hold such employment at the will of the board of directors.

Officers and employees

SEC. 2. The addition of Section 3.5 to the act cited in the title hereof is not a change in, but is declaratory of, the preexisting law.

Declaration of intent

SEC. 3. Section 3.75 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 3.75. Any appointment of a director as a department head or to an executive position or to any other employment while a director shall be subject to termination at the will of

Employment of director

the board and shall in no event be for a period longer than the term for which the director was elected. If the president of the board of directors is being paid a compensation in excess of two hundred dollars ($200) per month as provided by Section 57 of the California Irrigation District Act, no other director shall during the continuance of such payment receive any compensation, exclusive of expenses and mileage, in excess of two hundred dollars ($200) per month for services as director or otherwise. Notwithstanding any provision of Section 3.5 of the act cited in the title hereof not more than one director, whether he be president of the board or not, shall during the same time receive any compensation in excess of two hundred dollars ($200) per month, exclusive of expenses and mileage.

Stats 1941, p 2284

CHAPTER 750

Stats 1935, p 1123, amended

An act to add Section 6.5 to the Alcoholic Beverage Control Act, relating to the age of whiskey sold at retail.

In effect September 13, 1941

[Passed over Governor's veto, June 13, 1941. Filed with Secretary of State June 16, 1941.]

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

New section

SECTION 1. Section 6.5 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Age of whiskey

Sec. 6.5. From and after the effective date of this section, it shall be unlawful for any person to sell at retail any potable spirituous liquor product labeled as whiskey, including blended whiskey and blends of straight whiskies, except such products as shall contain 20 or more per cent of straight whiskey or whiskies which shall have been aged in charred oak containers for four or more years after distillation and before bottling; provided, however, that nothing herein contained shall be construed to prohibit the sale at retail of unaged corn whiskey, when so labeled, or to prohibit the sale at retail of gins, brandies, rums, cordials, liqueurs, bitters or other distilled liquor products, or products compounded of distilled spirits and other materials, when in no wise labeled as whiskey or blended whiskey or blends of straight whiskies or prohibit the sale at retail of Scotch whiskies. This section shall take effect July 1, 1942.

Exception

Operative date

CHAPTER 751

An act to amend Section 2193 of the Business and Professions Code, relating to applications for a physician's and surgeon's certificate by graduates of foreign medical schools.

Stats 1937, p 1229, amended

[Passed over Governor's veto, June 14, 1941 Filed with Secretary of State, June 16, 1941]

In effect September 13, 1941

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

SECTION 1. Section 2193 of the Business and Professions Code is hereby amended to read as follows:

Stats 1937, p 1263

2193. An applicant, whose application is based on a diploma issued to him by a foreign medical school approved by the board, except a Canadian school, shall furnish documentary evidence, satisfactory to the board, that:

Foreign applicants

(a) He has completed a resident course of professional instruction in an approved medical school or schools equivalent to that required in this article for a physician and surgeon applicant.

(b) Subsequent thereto, he has had issued to him by an approved medical school, a medical diploma, as evidence of the completion of the course of medical instruction required in this chapter.

(c) He has been admitted or licensed to practice medicine and surgery in the country wherein is located the institution in which he has completed the resident courses of professional instruction required under this chapter.

(d) He has completed either the senior or fourth or final year in an approved medical school in the United States, or in lieu of this, that he has served at least one year in residence in a hospital located in the United States and approved by the board for training of internes.

(e) If the applicant is not a citizen of the United States, the country in which he has been licensed to practice medicine and surgery will admit to practice therein citizens of the United States upon proof of prior admission to practice medicine and surgery in some State of the United States or upon proof of matters similar to those required in this section for graduates of foreign medical schools.

SEC. 2. Subdivision (e) added to Section 2193 of the Business and Professions Code by this amendatory act does not apply to any person who on March 31, 1941, was registered as an interne under Chapter 5 of Division 2 of the Business and Professions Code, relating to the practice of medicine.

Exception

CHAPTER 752

Stats 1933, p 94, amended

An act to repeal Sections 10, 11 and 12 of, and to add Sections 10, 11, 12 and 13 to, the Fish and Game Code, relating to the transfer to the Fish and Game Commission created by the Constitution of this State of the powers, duties, and jurisdiction of the Fish and Game Commission heretofore existing, to take effect immediately.

In effect immediately [Passed over Governor's veto, June 14, 1941. Filed with Secretary of State June 16, 1941.]

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

Repeals SECTION 1. Sections 10, 11 and 12 of the Fish and Game Code are hereby repealed.

New section SEC. 2. Section 10 is hereby added to the Fish and Game Code, to read as follows:

Organization 10. There is a Division of Fish and Game in the Department of Natural Resources, which division shall be administered through the Fish and Game Commission provided for by Section 25½ of Article IV of the Constitution of this State.

New section SEC. 3. Section 11 is hereby added to the Fish and Game Code, to read as follows:

Compensation 11. The commissioners shall receive no compensation but shall receive their actual and necessary expenses incurred in the performance of their duties.

New section SEC. 4. Section 12 is hereby added to the Fish and Game Code, to read as follows:

Bond of president 12. The commissioners shall elect one of their number as president, who, before entering upon his duties, shall execute an official bond in the sum of four thousand dollars ($4,000).

New section SEC. 5. Section 13 is hereby added to the Fish and Game Code, to read as follows:

Transfer of powers 13. The Fish and Game Commission provided for by the Constitution of this State shall administer the provisions of this code and shall succeed to and is hereby vested with all the powers, duties, purposes, responsibilities, and jurisdiction of the Fish and Game Commission heretofore established.

Wherever by the provisions of any statute or law now in force a duty or jurisdiction is imposed or authority conferred upon the Fish and Game Commission, the duty, jurisdiction, and authority are hereby transferred to and imposed and conferred upon the commission created by the Constitution and the appropriate officers and employees thereof.

The old Fish and Game Commission heretofore in existence is hereby abolished and has no further legal existence.

The commission shall be in possession and control of all records, books, papers, offices, equipment, supplies, and all other property, real or personal, now held for the benefit or use of the old Fish and Game Commission.

From the effective date of this section the new Fish and Game Commission may expend the unencumbered balance of moneys in any appropriation or in any special fund in the State Treasury now remaining or made available by law for expenditure by the old commission.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health, and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. A statement of the facts constituting such necessity is as follows:

The preservation and maintenance of an adequate supply and balance of wild life in this State is a matter of vital interest to the people of this State. It is imperative to the existence of the fishing industry, essential to pest-free agriculture, and necessary to the recreational life of this State. In these far-reaching aspects wild life conservation directly affects the public peace, health, and safety.

To obtain a proper program of fish and game conservation which will produce effective results in the near future, it is necessary to establish policies now and without delay. To avoid uncertainty the policies should be formulated by the new Fish and Game Commission created on November 5, 1940. This can be accomplished only by the immediate conferring of powers and duties on the new commission.

CHAPTER 753

An act making an appropriation for aviation facilities for the California National Guard, declaring the urgency of this act, to take effect immediately.

[Approved by Governor June 16, 1941. Filed with Secretary of State June 16, 1941.]

In effect immediately

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

Appropriation National Guard Stats 1941, p. 107

SECTION 1. In augmentation of the appropriation made by Chapter 40 of the Statutes of the First Extra Session of 1940, there is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of one hundred twenty-five thousand dollars ($125,000) to be expended by The Adjutant General for the construction and equipment of one or more National Guard aviation units, including the construction of hangars, quarters, barracks, machine shops, and

other necessary buildings, the equipment, removal and relocation thereof, and the conditioning of landing fields.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore take effect immediately. The facts constituting such necessity are as follows:

The activities of certain nations whose philosophies and ambitions are hopelessly incompatible with our own have compelled the United States, in self-defense, to commit herself to a policy of adequate military and naval protection, to be achieved in part by the immediate building of additional aviation facilities and an augmented aviation reserve corps from which piloting material can be drawn readily in case of National emergency. One of the several agencies contributing towards the fruition of this policy is the California National Guard.

This act will enable the California National Guard to continue apace its work of diffusing military education and training in aviation. The present world crisis threatening our public peace, health and safety requires that it go into effect immediately.

CHAPTER 754

Stats 1933, p 60, amended

An act to amend Section 317 of the Agricultural Code, relating to slaughterhouses.

In effect September 13, 1941

[Passed over Governor's veto, June 14, 1941. Filed with Secretary of State June 17, 1941.]

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

Stats 1933, p 114

SECTION 1. Section 317 of the Agricultural Code is hereby amended to read as follows:

Sanitary requirements

317. It is unlawful to maintain a slaughterhouse that is unclean or insanitary.

Protest

In the event that the owner of an establishment feels that the building requirements demanded by the department are unreasonable, he may then, in writing, protest to the director and upon the receipt of such protest the director shall appoint an arbitration committee of three people composed of a representative of the department, a representative named by the owner, and these two members shall select another. Said arbitration committee shall hold a hearing in the county in which the establishment in question is located within 30 days of filing of protest and hear all evidence in connection with the demands of the department and the protest of the owner of the establishment and the decision of said arbitration committee shall be final and binding upon the department and the owner. All expenses of said hearing shall be borne by the parties in equal proportion. Each party shall bear his own attorney fees.

Hearing

CHAPTER 755

An act to add Sections 556.1 and 556.2 to the Military and Veterans Code, relating to the organization of the State Guard, making an appropriation therefor, declaring the urgency hereof, to take effect immediately.

Stats. 1935, p. 1338, amended

[Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.]

In effect immediately

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

SECTION 1. Section 556.1 is hereby added to the Military and Veterans Code, to read as follows:

New section

556.1. The Governor is directed to organize and maintain a State Guard with a minimum numerical strength of 10,000 persons and not to exceed such maximum numerical strength as the Governor may prescribe.

Numerical strength

SEC. 2. Section 556.2 is hereby added to said code to read as follows:

New section

556.2. There shall be prescribed a distinctive ornament to be worn on the left shoulder as part of the uniform of each member of the State Guard, and the same ornament shall be prominently displayed on all official motor vehicles and airplanes used by the State Guard.

Shoulder ornament, etc

SEC. 2. The sum of two hundred fifty thousand dollars ($250,000), or so much thereof as may be necessary, is hereby appropriated out of moneys in the State Treasury not otherwise appropriated to be expended during the Ninety-second, Ninety-third and Ninety-fourth Fiscal Years by The Adjutant General in the carrying out of the provisions of this act.

Appropriation

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting the necessity:

Urgency

An emergency exists in the United States and the State of California in providing adequate armies and facilities for defense. A large rearmament program is also under way, in which the manufacturing, airplane, shipbuilding and other plants of this State are taking their part. The National Guard, which has heretofore been available to this State as an organization for the defense and for the guarding of such plants and other places of strategic and military value is being called into the service of the United States and many units thereof have already left the State in such service. It is therefore necessary that steps be taken to provide troops to take

their place and to make the unorganized militia more readily available for defense in this emergency and for the guarding of such plants and places of military and strategic value. It is therefore necessary that this act take effect immediately.

Effective date

SEC. 4. If any part or provision of this act should, by reason of the provisions of Section 1 of Article IV of the Constitution, be delayed from taking immediate effect, the remainder of the act shall go into immediate effect notwithstanding the fact that some provisions may not become effective until 90 days following final adjournment of this Fifty-fourth Session of the Legislature enacting this law.

CHAPTER 756

Stats 1939, p. 482, amended

An act to amend Section 13101 of the Health and Safety Code, relating to the compensation of the State Fire Marshal.

In effect September 13, 1941

[Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.]

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

Stats 1939, p. 792

SECTION 1. Section 13101 of the Health and Safety Code is hereby amended to read as follows:

Appointment and compensation

13101. The State Fire Marshal shall be appointed by the Governor with the advice and consent of the Senate and shall hold office at the pleasure of the Governor. He shall be paid a salary of four thousand eight hundred dollars ($4,800) per annum, payable out of the State Fire Marshal's Fund.

CHAPTER 757

An act making an appropriation for the purchase of water stock at Pacific Colony-State Narcotic Hospital, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.]

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

Appropriation Pacific Colony-State Narcotic Hospital

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of fifty thousand dollars ($50,000) for the purchase of water stock at Pacific Colony-State Narcotic Hospital.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. Urgency

The following is a statement of facts constituting such necessity: This act will enable the obtaining of water for Pacific Colony-State Narcotic Hospital. It is essential that this water be furnished at once, in order to relieve a serious fire and health hazard now existent due to there being insufficient water available for the hospital. It is therefore imperative that this act go into effect immediately.

CHAPTER 758

An act to add Sections 28 and 28.1 to the Unemployment Insurance Act, relating to the obligations of this State for funds received from the United States, and to provide that this act take effect immediately. Stats. 1935, p. 1226, amended

[Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.] In effect immediately

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

SECTION 1. Section 28 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 28. This State recognizes its obligations to replace, and hereby pledges the faith of this State that funds will be provided in the future, and applied to the replacement of, any moneys received after July 1, 1941, from the Social Security Board under Title 3 of the Social Security Act, any unencumbered balances in the Unemployment Administration Fund as of that date, any moneys thereafter granted to this State pursuant to the provisions of the Wagner-Peyser Act, and any moneys thereafter made available by this State or its political subdivisions matched by moneys granted to this State pursuant to the provisions of the Wagner-Peyser Act, which the Social Security Board finds have, because of any action or contingency, been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Social Security Board for the proper administration of this act. Such moneys shall be replaced within a reasonable time by moneys appropriated by the Legislature from the general funds of this State to the Unemployment Administration Fund. The commission shall report to the Director of Finance, in the same manner as is provided generally for the submission of financial requirements for the ensuing biennium, and the Governor shall include in his budget report to the next regular session of the Legislature, the amount required for such replacement. This section shall not be construed to relieve Replacement of Federal funds

U. S. Code, Title 42, Sec. 501 to 503

4 Stats. at Lge., p. 113

this State of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title 3 of the Social Security Act.

So that this State may carry out its pledge given by this section:

(a) The commission shall be subject to and shall comply with all applicable provisions of the Political Code relating to contracts, budgets and other fiscal matters, including Section 677.5 of said code, in the same manner and to the same extent as other State agencies, in so far as such provisions are not inconsistent with the provisions of the Social Security Act and the rules and regulations of the Social Security Board.

(b) Each officer and employee of the commission whose duties include the handling of property or funds shall execute to the State of California an official bond conditioned upon the faithful performance of his duties in such amount as the Director of Finance shall fix.

New section

SEC. 1.5. Section 28.1 is hereby added to the act cited in the title hereof, to read as follows:

Expenditure of Social Security funds

SEC. 28.1. All moneys received from the Social Security Board pursuant to Section 302 of the Social Security Act shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board for the proper and efficient administration of this act.

Appropriation

SEC. 1.7. The sum of twelve thousand dollars ($12,000), or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated for expenditure by the Department of Finance during the Ninety-third and Ninety-fourth Fiscal Years in carrying out the provisions of this act. Of such amount, not more than two thousand dollars ($2,000) shall be available for premiums on the official bonds required by Section 28 of the Unemployment Insurance Act.

Urgency

SEC. 2 This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, and shall therefore, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

The facts constituting the necessity are as follows:

Under the Federal Social Security Act it is made a condition for the continuance of administrative grants that State laws relating to unemployment insurance must contain a provision effective July 1, 1941, that moneys received from the Social Security Board will be expended in amounts found necessary by the board, and a further provision that funds lost or expended for purposes other than those approved by the board will be replaced by the State within a reasonable time. Unless such a provision is contained in the California Unemployment Insurance Act effective July 1, 1941, there will be no further administrative moneys received by the State of California from the Social Security Board, thereby resulting in a cessation of

operations of the Department of Employment. In such event, payment of unemployment insurance to thousands of unemployed individuals throughout the State would be discontinued, thus resulting in further unemployment and unrest and thereby endangering the public peace, health and safety.

CHAPTER 759

An act to add Section 1817 to Article 8, Chapter 1, Part 7 of the Labor Code, relating to working laws on public work and providing that this act shall take effect immediately.

Stats. 1937, p. 185, amended

[Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.]

In effect immediately

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

SECTION 1. A new section is hereby added to Article 8, Chapter 1, Part 7 of the Labor Code, to be numbered Section 1817, and to read as follows:

New section

1817. Notwithstanding the provisions of Sections 1810 to 1816, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of eight hours per day shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. The verified report required under Section 1813 need not include any instances in which such compensation for the excess hours is paid.

Overtime upon public work

This section shall remain in effect only until such time as the Governor finds and proclaims that the emergency in preparing for the National defense no longer exists.

Period in effect

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and therefore shall take effect immediately. A statement of the facts constituting such urgency is as follows:

Urgency

Under the existing law work in excess of eight hours a day on public work contracts is prohibited regardless of the payment of wages at a higher rate for overtime work, except in cases of extraordinary emergency, caused by fire, flood, or danger to life or property or except on work upon public military or naval defenses or works in time of war. Such restrictions are not applicable upon National defense projects or upon projects upon other than public works projects. Many projects of this State and of local governmental agencies, while not upon military or naval defenses, are directly

connected with the program of National defense. Under the present law workmen are constantly leaving projects of this State and local governmental agencies thereof to accept employment where the above restrictions are not applicable. The result is that this act must take immediate effect to prevent the serious curtailment of work upon these projects.

CHAPTER 760

Stats 1939, p. 2663, amended

An act to amend Section 1 of an act entitled "An act making an appropriation for the support of the California Commission on Interstate Cooperation, and providing for the expenditure of the same," approved July 22, 1939, extending the period of time during which the appropriation is available, this act to take effect immediately.

In effect immediately

[Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.]

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

Stats 1939, p. 2663

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Appropriation: Commission on Interstate Cooperation

Section 1. The sum of ten thousand dollars ($10,000) is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the support of the California Commission on Interstate Cooperation during the Ninety-second, Ninety-third and Ninety-fourth Fiscal Years.

Current expenses

SEC. 2. Inasmuch as this act makes an appropriation for usual current expenses of the State it shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 761

Stats 1935, p. 1153, amended

An act to add Section 6 to an act entitled "An act providing for State planning and a State Planning Board, and prescribing the powers, duties and jurisdiction thereof," approved June 14, 1935, relating to duties of the State Planning Board, and making an appropriation therefor, to take effect immediately.

In effect immediately

[Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.]

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

New section

SECTION 1. Section 6 is hereby added to the act cited in the title hereof, to read as follows:

National defense

Sec. 6. The State Planning Board shall have authority to gather information relating to National defense, to act to coordinate the activities of public, private and governmental

agencies for National defense, to consider and recommend means for public defense and security for the protection of agricultural and industrial production facilities and resources and routes of communication and transport, for the betterment and preservation of public health, for the protection of consumer interest, for the providing of housing, for the preservation of civil liberties, for the suppression of sabotage and subversive activities, for the development of the natural and productive resources of the State, and to assist Federal agencies in planning for National defense.

Appropriation

SEC. 2. The sum of five thousand dollars ($5,000) or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the purposes of this act, to be expended under the direction of the State Planning Board.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

An emergency exists in the United States and the State of California in providing adequate armies and facilities for defense. It is necessary that all information be gathered relating to National defense, and the facilities of agricultural and industrial production, of communication and transport, of the natural and productive resources of the State, and of the opportunities for sabotage and subversive activities, in order that by proper cooperation and coordination of Federal, State and private agencies the defenses of the State and Nation may be protected, and it is therefore necessary that this act take effect immediately.

SEC. 4. This act shall expire on September 13, 1941.

CHAPTER 762

An act making an appropriation to the Department of Natural Resources, Division of Forestry, declaring the urgency of the act and that it take effect immediately.

[Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.]

In effect immediately

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

Appropriation
Fire trails, etc

SECTION 1. Out of any money in the State Treasury, not otherwise appropriated, there is hereby appropriated the sum of forty-eight thousand four hundred thirty-three dollars and sixty-five cents ($48,433.65) to the Department of Natural Resources, Division of Forestry, for repair or restoration, or both, of fire trails, fire breaks, forestry bridges, forestry roads,

etc., damaged or destroyed by storm or flood subsequent to January 1, 1941.

Urgency SEC. 2. This act is hereby declared an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall, therefore, go into immediate effect. A statement of facts constituting such necessity is as follows:

Unprecedented floods and washouts subsequent to January 1, 1941, have created demands upon the forest service that can not be met from existing appropriations, and it is necessary that funds be immediately available in order to restore essential public service in forest areas for the preservation of life and property.

CHAPTER 763

An act making an appropriation to the Division of Forestry, Department of Natural Resources, for support, construction and equipment, declaring the urgency thereof, to take effect immediately.

In effect immediately [Approved by Governor June 17, 1941. Filed with Secretary of State June 17, 1941.]

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

Appropriation: Division of Forestry SECTION 1. In addition to any money otherwise appropriated, the sum of one hundred five thousand four hundred four dollars and fifty cents ($105,404.50), or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated to the Division of Forestry, Department of Natural Resources, for support, construction and equipment during the Ninety-second and Ninety-third Fiscal Years.

Urgency SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the State Constitution, and shall, therefore, go into immediate effect. A statement of facts constituting such necessity is as follows:

The centering of vital National defense activities in California has caused a heavy influx of people, many of whom have taken to living in trailers, tents and camps along the highways because they have been unable to secure adequate housing facilities. This necessarily has greatly enhanced the possibility of brush and forest fires in this State. To combat this situation it is imperative that fire protection measures be instituted with the greatest possible speed. Such will be the result if this bill is enacted and becomes effective immediately.

CHAPTER 764

An act to amend Sections 118, 2020 and 2021 and to repeal Section 2025 of, and to add Sections 103.5 and 119.5 to, the Welfare and Institutions Code, relating to public assistance and the administration thereof, making an appropriation, declaring the urgency of this act, to take effect immediately.

Stats. 1937, p. 1005, amended

[Approved by Governor June 18, 1941. Filed with Secretary of State June 19, 1941.]

In effect immediately

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

SECTION 1. Section 103.5 is hereby added to the Welfare and Institutions Code, to read as follows:

New section

103.5. It is hereby declared that provision for public aid to the needy aged and aid to dependent children as in this code provided is a matter of State-wide concern.

Legislative declaration

The board is hereby designated as the single State agency with full power to supervise every phase of the administration of the public assistance plans for which grants-in-aid are received from the United States Government in order to secure full compliance with the provisions of Titles 1 and 4 of the Federal Social Security Act.

Administration

SEC. 2. Section 118 of said code is hereby amended to read as follows:

Stats. 1937, p. 1012

118. All applications and records concerning any individual made or kept by any public officer or agency under any provision of this code, including Chapter 1 of Part 2 of Division 2, and Chapter 1 of Division 3, or which relates to the Department of Social Welfare, or which gives it any authority, shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such provision of this code.

Information confidential

No person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public assistance. Except for purposes directly connected with the administration of old-age assistance and aid to dependent children, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient. Any violation of this section is a misdemeanor.

Penalty

The State Department of Social Welfare may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the public assistance laws. The rules and regulations shall be binding on all departments, officials and employees of the State, or of any political subdivision of the State.

Rules and regulations governing records, etc

New section SEC. 3. Section 119.5 is hereby added to said code, to read as follows:

Personnel standards 119.5. For the purposes of the administration of aid to needy children under Chapter 1 of Part 2 of Division 2 and aid to the aged under Chapter 1 of Division 3, the State Department of Social Welfare shall establish and maintain personnel standards on a merit basis (including therein standards of qualifications, competency, education, experience, tenure and compensation) necessary for the proper and efficient administration of the cited portions of this code which standards shall be applicable to the counties, as agents of the State for the purposes of administering State and Federal funds provided for assistance under the cited portions of this code, in employing personnel for such purposes.

In the exercise of its functions under this section, the State Department of Social Welfare shall exercise no authority with respect to the selection, tenure of office and compensation of any individual if he is employed in accordance with such standards.

County merit systems Nothing in this section shall prevent any county from establishing its own merit system and determining thereunder the personnel standards to be applicable to its employees, but as to those employees engaged in the administration of State and Federal funds granted to a county as agent of the State for the cited portions of this code, the State Department of Social Welfare shall have a supervisory power to insure compliance with the personnel standards it establishes to the end that this State shall at all times conform to the requirements of Federal law for the continued receipt of Federal grants-in-aid.

Stats 1939, p 2239 SEC. 4. Section 2020 of said code is hereby amended to read as follows:

Amount of aid 2020. The amount of aid to which any applicant shall be entitled shall be, when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources, forty dollars ($40) per month. If, however, in any case it is found the actual need of an applicant exceeds forty dollars ($40) per month, such applicant shall be entitled to receive aid in an amount, not to exceed forty dollars ($40) per month, which when added to his income (including the value of currently used resources, but excepting casual income and inconsequential resources) from all other sources, shall equal his actual need.

Stats 1937, p 1080 SEC. 5. Section 2021 of said code is hereby amended to read as follows:

Appropriation to counties 2021. There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated to every

county within this State for maintaining or supporting aged persons who come within the provisions of this chapter aid not in excess of two hundred forty dollars ($240) per annum for each such aged person maintained or supported by such county.

There is hereby further appropriated to every county within this State for the purpose of maintaining or supporting aged persons who come within the provisions of this chapter and who have no county residence as provided in this chapter, aid not in excess of four hundred eighty dollars ($480) per annum for each such aged person.

Payments of aid shall be made in the manner provided in Sections 2187 to 2189, inclusive, of this code.

SEC. 6. Section 2025 of said code is hereby repealed. Stats 1937, p 1081

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety and shall, therefore, under the provision of Section 1 of Article IV of the Constitution take effect immediately and become operative July 1, 1941. Urgency

The facts constituting such necessity are as follows:

In order to conform to the requirements of the Federal Social Security Act, Chapter 1 of Part 2 of Division 2 and Chapter 1 of Division 3 of the Welfare and Institutions Code of this State must provide (a) methods relating to the establishment and maintenance of personnel standards on a merit basis, (b) a designation of a single State agency to supervise the administration of the law and, (c) after July 1, 1941, (i) that, in determining need, the income and resources of the individual shall be considered and (ii) that information concerning the persons assisted shall be used only for purposes directly connected with administration. If this is not done, Chapter 1 of Part 2 of Division 2 and Chapter 1 of Division 3 of the Welfare and Institutions Code of this State will not be approved by the Federal Social Security Board and the State will not be eligible for Federal financial assistance. This act makes the changes necessary to secure such approval. Unless this act takes effect immediately and provides the safeguards required, Federal financial assistance will be refused the State, the strain upon the revenues of the State and counties to carry the complete cost of this program of public assistance, now Federal financed in part, will threaten the solvency of the State, aid will not be available for those entitled thereto and the public peace, health and safety will thereby be endangered.

CHAPTER 765

Stats 1937, p 1035, amended

An act to amend Sections 3076, 3079 and 3084 and to repeal Section 3000 of, and to add Sections 103.6, 118.1, 119.6 and 3083.5 to, the Welfare and Institutions Code, and to add Chapter 3 to Part 1 of Division 5 of the Welfare and Institutions Code, relating to public assistance for the blind and the administration thereof, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor June 18, 1941. Filed with Secretary of State June 19, 1941.]

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

New section

SECTION 1. Section 103.6 is hereby added to the Welfare and Institutions Code, to read as follows:

Legislative declaration

103.6. It is hereby declared that provision for public aid to the needy blind as in this code provided is a matter of Statewide concern.

Administration

The board is hereby designated as the single State agency with full power to supervise every phase of the administration of this public assistance plan for which grants-in-aid are received from the United States Government in order to secure full compliance with the provisions of Title 10 of the Federal Social Security Act.

U S C, Tit 42, Sec 1201, et seq.

New section

SEC. 2. Section 118.1 is hereby added to said code, to read as follows:

Applications and records confidential

118.1. All applications and records concerning any individual made or kept by any public officer or agency under any provision of this code, including Chapter 1 of Part 1 of Division 5, or which relates to the Department of Social Welfare, or which gives it any authority, shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such provision of this code.

No person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public assistance. Except for purposes directly connected with the administration of aid to the blind, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient. Any violation of this section is a misdemeanor.

Penalty

Rules and regulations governing records, etc.

The State Department of Social Welfare may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the public assistance laws. The rules and regulations shall be binding on all departments, officials and employees of the State, or of any political subdivision of the State.

SEC. 3. Section 119.6 is hereby added to said code, to read as follows: New section

119.6. For the purposes of the administration of aid to the blind under Chapter 1 of Part 1 of Division 5 of this code, the State Department of Social Welfare shall establish and maintain personnel standards on a merit basis (including therein standards of qualifications, competency, education, experience, tenure and compensation) necessary for the proper and efficient administration of the cited chapter of this code which standards shall be applicable to the counties, as agents of the State for the purposes of administering State and Federal funds provided for assistance under the cited chapter of this code, in employing personnel for such purposes. Personnel standards

In the exercise of its functions under this section, the State Department of Social Welfare shall exercise no authority with respect to the selection, tenure of office and compensation of any individual if he is employed in accordance with such standards.

Nothing in this section shall prevent any county from establishing its own merit system and determining thereunder the personnel standards to be applicable to its employees, but as to those employees engaged in the administration of State and Federal funds granted to a county as agent of the State, the State Department of Social Welfare shall have a supervisory power to insure compliance with the personnel standards it establishes to the end that this State shall at all times conform to the requirements of Federal law for the continued receipt of Federal grants-in-aid. County merit systems

SEC. 3.5. Section 3000 of said code is hereby repealed. Stats. 1937, p. 1102

SEC. 4. Section 3076 of said code is hereby amended to read as follows: Stats. 1937, p. 1106

3076. There shall be in the Department of Social Welfare a division devoted exclusively to carrying out the provisions of this chapter. This division shall be headed by a chief, who is a trained social worker experienced in work for the blind. Blindness shall not be grounds to disqualify a person from holding this position. Division and chief

SEC. 5. Section 3079 of said code is hereby amended to read as follows: Stats. 1937, p. 1107

3079. All papers and records pertaining to his case on file in the Department of Social Welfare or on file in the office of any county clerk or elsewhere shall be open to inspection at any time during business hours by the applicant or his attorney or agent. Inspection of papers and records

New section SEC. 5.5. Section 3083.5 is hereby added to said code, to read as follows:

Eligibility for other aid 3083.5. Any person, granted aid under this chapter, shall not be eligible for aid under Chapter 3 of this part until the expiration of one year from the date upon which he filed his application under this chapter. The county shall review annually the case of every person receiving aid under this chapter to determine whether he will be eligible for aid under Chapter 3 of this part during the ensuing year period. The determination by the county as to the chapter under which it is to grant aid shall be subject to review by the State Social Welfare Board upon appeal by the applicant.

Stats 1939, p 2570 SEC. 6. Section 3084 of said code is hereby amended to read as follows:

Order for payment of aid 3084. If the county board of supervisors is satisfied that the applicant is entitled to aid under the provisions of this chapter, it shall, without delay, issue an order therefor.

Limitation on amount The amount of aid to which any applicant shall be entitled shall be, when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources, fifty dollars ($50) per month. If, however, in any case it is found the actual need of an applicant exceeds fifty dollars ($50) per month such applicant shall be entitled to receive aid in an amount, not to exceed fifty dollars ($50) per month, which when added to his income (including the value of currently used resources, but excepting casual income and inconsequential resources) from all other sources, shall equal his actual need.

Manner of payment The aid granted under this chapter shall be paid monthly, in advance, out of such funds as may be designated by the board of supervisors on warrant of the county auditor of the county. Payments of aid shall be commenced as of the first day of the month in which the application is granted, unless otherwise directed by the State Social Welfare Board in cases in which an appeal is taken; but in any event the beginning of aid shall not antedate the date of application.

New chapter SEC. 7. Chapter 3 is hereby added to Part 1 of Division 5 of the Welfare and Institutions Code, to read as follows:

CHAPTER 3. AID TO PARTIALLY SELF-SUPPORTING BLIND RESIDENTS

Article 1. General Provisions

Purpose 3400. The purpose of this chapter is to provide a plan for this State whereby the blind residents of this State may be encouraged to take advantage of and to enlarge their economic

opportunities, to the end that they may render themselves independent of public assistance and become entirely self-supporting.

To achieve this objective, resources and income beyond the necessities of bare decency and subsistence are required. This chapter, by allowing the retention of necessary income and resources by those of the blind showing a reasonable probability of being able and willing to undertake the acquisition of resources and income necessary for self-support, will encourage them in their efforts to become self-supporting.

Construction

3401. The provisions of this chapter shall be liberally construed to effect its objects and purposes.

Expenditure of aid

3402. No person concerned with the administration of this chapter shall dictate how any applicant shall expend the aid granted to him.

"Blind persons" defined

3403 As used in this chapter, "blind persons" means any person who by reason of loss or impairment of sight is unable to provide himself fully with the necessities of life and who has not income and resources through his own means, as defined under this chapter, sufficient to provide a reasonable and decent standard of living.

"Department of Social Welfare"

3404. As used in this chapter, "Department of Social Welfare" means the State Department of Social Welfare.

False statements

Restitution

3405. Any person who, in order to secure for himself or another the aid provided in this chapter, makes a false statement under oath, shall be deemed guilty of perjury. Whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device obtained aid under this chapter, he shall make restitution and all actions necessary to secure restitution may be brought against him.

State share of refunds

3406. Whenever any aid under this chapter is refunded to a county, the State shall be entitled to a share of the amount received, proportionate to the amount of State funds paid.

Aid inalienable

3407. All aid given under this chapter shall be absolutely inalienable by any assignment, sale attachment, execution, or otherwise and in case of bankruptcy the aid shall not pass through any trustee or other person acting on behalf of creditors.

Article 2. State and County Aid

State appropriation to counties

3420. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated to every county in the State, maintaining, supporting, or caring for, as hereinafter provided in this chapter, any blind person, resident of such county, and not an inmate of any institution supported

in whole or in part by the State or any of its political subdivisions, aid not in excess of three hundred dollars ($300) per annum for each such blind person so maintained, supported and cared for, or aid not in excess of six hundred dollars ($600) per annum in the event such blind person has no county residence as provided in this chapter.

County aid

3421. It shall be the duty of each county to aid blind persons as provided in this chapter.

Article 3. Persons Eligible for Aid

Residents Age and residence

3430. No person who has become blind while a resident of the State is entitled to aid under the provisions of this chapter, unless he is at least 16 years of age and unless, except as provided in Section 3432, he has been a resident of the county in which his application is filed for a period of six months immediately preceding the filing of his application.

Nonresidents Same

3431. No person who became blind while he was a nonresident of the State, is entitled to aid under the provisions of this chapter, unless he is at least 16 years of age and unless, except as provided in Section 3432, he has been a resident of the county in which his application is filed, for a period of one year immediately preceding the filing of his application and a resident of the State for a period of 10 years immediately preceding the filing of his application.

Persons without county residence

3432. Any person otherwise eligible who has resided in the State for the required period and who has no county residence may file his application in the county in which he resides, and the aid, if granted to him, shall be paid entirely by the State until the first day of the first month beginning after the date upon which he gains such county residence unless the day upon which he gains county residence is the first day of the month in which event the county shall assume its share of the costs thereon.

Separate residence of spouses

3433. For the purposes of this chapter neither the residence nor domicile of the husband or wife shall be deemed the residence or domicile of the other, but each may have a separate residence or domicile dependent upon proof of the fact and not on legal presumptions.

Residence of minor child

For the purposes of this chapter a minor child shall be deemed to have resided in the State during any period in which such child has been physically present in the State.

Inmates of public institutions

3444. No applicant shall receive aid under the provisions of this chapter while he is an inmate of any institution supported in whole or in part by the State or any of its political subdivisions, but recipients of aid under the provisions of this chapter who are patients in a public hospital for a period not

exceeding 30 days, and blind persons employed in a shop maintained by the State when such shop does not provide board and room to the employee shall not be considered inmates of public institutions. No applicant shall be denied the aid provided for in this chapter, however, because he is attending or intends to attend any public high school in this State, the University of California, or any other institution of higher learning in this State. Students

Any such inmate, however, may make an application for aid under this chapter and have his application investigated and acted upon without delay, in the same manner as applications of other persons are acted upon, while he is such an inmate, and, if he is otherwise qualified under the terms of this chapter, such application shall be approved. Payment of the aid granted shall commence within one month following such approval and the applicant may remain an inmate until he receives his first monthly payment, whereupon he shall cease to be such inmate. Applications

If on the first day of the month a recipient of aid is eligible for aid though an inmate of an institution or hospital, he is entitled to receive aid for the month.

If a recipient of aid becomes ineligible for aid due to confinement in an institution or hospital, the order of the board of supervisors suspending his aid may provide that the aid shall be restored when the recipient ceases to be an inmate, without further order from the board of supervisors.

3445. No aid to needy blind shall be given under the provisions of this chapter to any individual who receives aid under the Old Age Security Law, which is Chapter 1, Division 3 of this code. Recipients of old age aid

3446. No person who publicly solicits alms in any part of the State shall be eligible to receive aid under the provisions of this chapter. "Publicly solicits" shall be construed to mean either wearing, carrying, or exhibiting signs denoting blindness for the securing of alms, or carrying receptacles, for the purpose of securing alms, or doing the same by proxy; or stationary or house to house begging; or any other means of publicly seeking alms. Persons who publicly solicit alms

3447. Aid shall not be received under the provisions of this chapter by any person who owns personal or real property, or both, the county assessed valuation of which, less all encumbrances thereon of record, is in excess of three thousand dollars ($3,000). Persons owning property in excess of $3,000

The term "personal property" shall not include a policy or policies of insurance which has or have been in effect at least five years prior to the date of application, if the value of the policy or policies at maturity is in an amount not exceeding one thousand dollars ($1,000). Insurance policies

Free board and lodging

3449. Free board and lodging supplied to an applicant, because of his necessity therefor, by a friend or relative who is not responsible for his support or who is financially unable to support him, shall not be a ground for refusing aid.

Removal from one county to another

3450. Any person qualified for and receiving aid under the provisions of this chapter in any county of the State, who removes to another county in the State, shall be entitled to aid under the provisions of this chapter upon the first day of the first month beginning after the date upon which he attained one year of residence in the county to which he has removed, unless the day upon which he attains one year of residence is the first day of the month in which event the transfer of costs shall take place upon this day, and such removal shall not work a forfeiture during such one-year period of the aid previously awarded under this chapter.

Presumptions as to residence

For the purposes of this section, it is presumed that the period of time for the acquisition of one year's residence in the county to which the person has removed, shall start to run upon the date of removal from the county in which he has previously acquired residence. Any residence once acquired is presumed to continue unless terminated by a subsequent act of the recipient. The county to which such person has removed shall provide the necessary medical or hospital care, or both, during the one-year period of establishment of residence under this section. The county providing such medical or hospital care, or both, may demand payment of the county granting the aid in an amount not in excess of the cost thereof and it shall be a proper charge and duty of the county granting the aid to pay such medical or hospital care, or both.

Any blind person who leaves his county for the purpose of attending an institution of learning located in the State shall be deemed, for the purposes of this chapter, not to have moved from his county.

If a recipient returns to the county granting aid to him, after an absence of less than one year, he shall not be deemed to have lost his residence therein.

Article 4. Administration and Procedure

Administration

3460. The administration of this chapter is vested in the State Department of Social Welfare and the counties to be performed in accordance with the provisions of this code applicable to aid to needy blind. Unless otherwise expressly provided in this chapter, all provisions of this code applicable to the powers and duties of the State Department of Social Welfare and the counties with respect to the needy blind shall apply to the powers and duties of the State Department of Social Welfare and the counties with respect to aid to the blind under this chapter.

Same

3461. The State Department of Social Welfare through the Division of the Blind shall supervise the administration of the provisions of this chapter.

Treatments for blind

3462. The privilege of treatment and operations for the prevention of blindness or the restoration of sight available to the needy blind under Section 3051 of this code shall be available to the blind receiving aid under this chapter.

Article 5. Terms and Conditions of Aid

Application for aid

3470. Each applicant for aid under the provisions of this chapter shall file with the county in which he resides, an application, accompanied by an affidavit, signed by himself, stating, if known, his age, sex, counties of residence during the preceding 10 years, his financial resources and income, the name and address of his spouse, parent, or adult child, the degree of his blindness, how long he has been blind, what employment and education he has had, his general physical condition, and such other statistical data as the Department of Social Welfare requires.

The application shall forthwith be transmitted to the board of supervisors of the county.

When certificate of qualification may be granted

3471. The county board of supervisors shall not grant any certificate of qualification for aid under the provisions of this chapter until it has been satisfied that the applicant is entitled to such aid by the evidence of two reputable citizens of the State that they know that the applicant has the required residential qualifications to entitle him to the aid asked for, and by the evidence of a duly licensed and practicing physician skilled in the diseases of the eye that the applicant is blind. The physician shall describe the condition of the applicant's eyes and testify to the degree of his blindness. The evidence of each person shall be in writing, signed by him, and he shall be subject to cross-examination by the county board of supervisors or any other person appointed by the board of supervisors to conduct such investigation.

Order for payment of aid

3472. If the county board of supervisors is satisfied that the applicant is entitled to aid under the provisions of this chapter, it shall, without delay, issue an order therefor. The amount of aid to which any applicant shall be entitled shall be, when added to the income of the applicant from all other sources, fifty dollars ($50) per month. Income from any of the following sources of a combined total value not exceeding four hundred dollars ($400) per annum shall not be considered for any purpose:

Income not considered

(a) Income from applicant's labor or services;

(b) The value of foodstuffs produced by the applicant or his family for his use or that of his family;

(c) The value of firewood and/or water produced on the premises of the applicant or given to him by another for the applicant's use;

(d) The value of gifts other than regular contributions by relatives legally responsible under this act;

(e) The value of the use and occupancy of premises owned and occupied by the applicant;

(f) The net income from real and personal property owned by the applicant.

Income in addition to the above specified shall be computed on the basis of net income.

Proof as to self-support

3473. An applicant for aid under this chapter shall in addition prove that he is able to secure and willing to use resources and income he is permitted to retain under this chapter, for the purposes of achieving self-support.

County to determine type of aid

The county shall determine whether the applicant has the qualifications necessary for aid under this chapter and may, despite his application, deny him aid under this chapter, and, if eligible thereunder, grant him aid to the needy blind under Chapter 1 of this part. Any applicant denied aid under this chapter may file an appeal with the State Social Welfare Board.

An applicant granted aid under this Chapter 3 shall not be eligible for aid under Chapter 1 of this part for a period of one year from the date upon which he filed his application for aid and an applicant granted aid under Chapter 1 of this part shall not be eligible for aid under this Chapter 3 for a period of one year from the date upon which he filed his application for aid under Chapter 1 of this part.

Annual redeterminations

At least annually, the county shall review the case of every applicant receiving aid under this chapter and shall redetermine whether he is eligible for aid under this chapter or should for the year following the then current year period, be granted aid, if eligible, under Chapter 1 of this part. Any redetermination by the county shall be subject to review by the State Social Welfare Board upon the appeal of the applicant.

Recovery of aid paid from recipient's kindred

3474. If any applicant receiving aid under the provisions of this chapter has residing within the State a spouse, parent, or adult child, pecuniarily able to support him, upon the failure of such kindred to perform their duty to support the blind person the board of supervisors may request the district attorney or other civil legal officer of the county to proceed against the kindred in the order of their responsibility for support.

Upon such request the district attorney, or other civil legal officer of the county granting aid may, on behalf of the county, maintain an action in the superior court of the county granting such aid, against such relatives, in the order named: (1) to recover for the county such portion of the aid granted as the courts find such relative or relatives pecuniarily able to pay and (2) to secure an order requiring the payment to the county of any sums which may become due in the future for which the relative may be liable. The receipt of aid by the applicant under the provisions of this chapter, however, shall not be contingent upon such recovery or such order. The sums so recovered shall be credited by the county in its settlement with the State.

Article 6. Fiscal Procedure

Payment of State funds to counties

3480. From the sums appropriated in Section 3420 of this code the State Treasurer shall pay to each county an amount, which shall be used exclusively for aid to the blind under this chapter, equal to one-half of the sums expended by the county as aid to the blind under this chapter, except that the State shall pay the county the full amount of aid granted any person otherwise qualified who has resided in the State for the required period and who has no county residence.

Method of computing and paying

3481. The method of computing and paying the amounts provided for in Section 3480 for each quarter shall be as follows:

(a) The Department of Social Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid for such quarter to each county under Section 3480. This estimate shall be based on a report which shall be filed by each county containing (1) its estimate of the total sum to be expended in such quarter in accordance with the provisions of this chapter, and stating the amount appropriated or made available by the county for such expenditures in such quarter, and if the amount is less than that portion of the total sum of such estimated expenditures which is required under this chapter to be paid by each such county, the source or sources from which the difference is expected to be derived, (2) records, showing the number of blind individuals receiving aid under the authority of this chapter in the county, and (3) such other information and investigation as the Department of Social Welfare may find necessary.

(b) The Department of Social Welfare shall then certify to the State Controller the amounts so estimated by it for each county, reduced or increased as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the county under this chapter for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Department of Social Welfare for such prior quarter.

(c) The State Controller shall thereupon draw the necessary warrants, and prior to audit or settlement by the Department of Social Welfare, and the State Controller, the State Treasurer shall pay to the treasurer of each county the amount so certified. Upon the order of the Department of Social Welfare, the amount approved for the quarter, may be paid in monthly installments and, if paid in monthly installments, all necessary adjustments for the prior quarter shall be made by additions or deductions from the allowance for the first month of each new quarter or in the manner prescribed by the State Department of Social Welfare.

Reports of aid paid

3482. Reports of aid to blind paid out under this chapter shall be presented by the respective counties at times and in the form prescribed by the Department of Social Welfare. Such reports shall be audited by the Department of Social Welfare and the State Controller and, when and in the amount approved, shall be allowed to said county or city and county as a credit to apply against advances made under the terms of Section 3481.

Review by counties of grants to needy blind

SEC. 8. Between the effective date of this act and October 1, 1941, the counties shall review all grants of assistance under Chapter 1 of Part 1 of Division 5 of the Welfare and Institutions Code, relating to the needy blind, to determine which persons are eligible for assistance under Chapter 1 of Part 1 of Division 5 of the Welfare and Institutions Code, relating to the needy blind, and which persons are eligible for assistance under Chapter 3 of Part 1 of Division 5 of the Welfare and Institutions Code, relating to the partially self-supporting blind residents of this State. Any determination of the county shall be subject to review by the State Social Welfare Board upon the appeal of the person affected.

Urgency

SEC. 9. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety and shall, therefore, under the provisions of Section 1 of Article IV of the Constitution take effect immediately and become operative July 1, 1941.

The facts constituting such necessity are as follows:

In order to conform fully and completely to the requirements of the Federal Social Security Act, the public assistance program of this State for the blind must provide (a) methods relating to the establishment and maintenance of personnel standards on a merit basis, (b) a designation of a single State agency to supervise the administration of the law and, (c) after July 1, 1941, (i) that, in determining need, the income and resources of the individual shall be considered and (ii) that information concerning the persons assisted shall be used only for purposes directly connected with administration. If this is not done, the above mentioned public assistance program of this State will not be approved by the Federal Social Security Board and the State will not be eligible for Federal financial assistance. This act makes the changes necessary to provide complete conformity and to secure such approval and provides for the assistance of those blind residents of this State whose grants of assistance are adversely affected by such conformity. Unless this act takes effect immediately and provides the safeguards required, Federal financial assistance will be refused the State, the strain upon the revenues of the State and counties to carry the complete cost of this program of public assistance, now Federal financed in part, will threaten the solvency of the State, aid will not be available for those entitled thereto and the public peace, health and safety will thereby be endangered.

CHAPTER 766

An act to amend Section 6062 of the Business and Professions Code, relating to admissions to the practice of law. Stats 1937, p 1229, amended

[Approved by Governor June 21, 1941 Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 6062 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 354

6062. To be certified to the Supreme Court for admission, and a license to practice law, a person, who has been admitted to practice law outside of this State, shall: Reciprocity

a. Be a citizen of the United States.

b. Be of the age of at least 21 years.

c. Be of good moral character.

d. Have been a bona fide resident of this State for at least three months immediately prior to the date of his examination and continuing to and including the date of his admission.

e. Have been admitted to practice before the highest court of a sister State or of any jurisdiction where the common law of England constitutes the basis of jurisprudence and have been actively and substantially engaged in the practice of law in any such jurisdiction or jurisdictions for at least four years out of the six years immediately preceding the filing of his application for admission to practice in this State. Teaching in a law school accredited by the committee and services as a judge of a court of law shall be considered practice within the meaning of this section.

f. Have passed such examination as in the discretion of the examining committee may be required.

CHAPTER 767

An act to amend Section 6756 of the Revenue and Taxation Code and to amend Section 26½ of the Retail Sales Tax Act of 1933 and Section 20 7 of the Use Tax Act of 1935, relating to priority of the sale and use taxes. Stats 1939, p 1274, amended

[Approved by Governor June 21, 1941 Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 26½ of the Retail Sales Tax Act of 1933 is hereby amended to read as follows: Stats 1939, p 2183

Sec. 26½. Whenever any retailer or other person liable for any tax levied hereunder is insolvent, whenever any retailer or other person makes a voluntary assignment of his assets, whenever the estate of a deceased retailer or other person in the Insolvent taxpayer Satisfaction of tax, etc

hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased, or whenever the estate and effects of an absconding, concealed, or absent retailer or other person are levied upon by process of law, the tax, together with interest and penalties attaching thereto, shall be first satisfied; provided, however, that this section shall not be construed to give the State a preference over any recorded lien which attached prior to the date when the tax became a lien.

The preference given to the State by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

Stats 1937, p 2166

SEC. 2. Section 20.7 of the Use Tax Act of 1935 is hereby amended to read as follows:

Insolvent taxpayer-Satisfaction of tax, etc

Sec. 20.7. Whenever any person required to pay any amount hereunder is insolvent, whenever any such person makes a voluntary assignment of his assets, whenever the estate of such person in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased, or whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount hereunder are levied upon by process of law, the amounts required to be paid by such person together with interest and penalties attaching thereto shall be first satisfied; provided, however, that this section shall not be considered to give the State a preference over any recorded lien which attached prior to the date when the amounts required to be paid become a lien.

The preference given to the State by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

Stats 1941, p 550

SEC. 3. Section 6756 of the Revenue and Taxation Code is hereby amended to read as follows:

Priority of tax, etc

6756. The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the State a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

The preference given to the State by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

SEC. 4. Section 3 of this act takes effect only if Part 1 of Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fourth Session, and, in such case, at the same time as said Part 1 takes effect; at which time Section 26½ of the Retail Sales Tax Act of 1933 and Section 20.7 of the Use Tax Act of 1935 amended by this act are hereby repealed.

Effective date
See Stats 1941, p 532

CHAPTER 768

An act to amend Section 714 of the Probate Code, relating to actions on rejected claims.

Stats 1931, p 587, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 714 of the Probate Code is hereby amended to read as follows:

714. When a claim is rejected either by the executor or administrator or by the judge, written notice of such rejection shall be given by the executor or administrator to the holder of the claim or to the person filing or presenting it, and the holder must bring suit in the proper court against the executor or administrator, within three months after the date of service of such notice if the claim is then due, or, if not, within two months after it becomes due; otherwise the claim shall be forever barred. Within 10 days after the filing of such complaint the plaintiff shall file or cause to be filed in the estate proceedings, in the office of the clerk of the court in which the estate proceedings are pending, a notice of the pendency of such action. If such notice is not filed within said period, the executor or administrator shall incur no liability whatsoever by reason of any distribution of the estate. Personal service of a copy of the summons and complaint upon the executor or administrator within said period is equivalent to the filing of such notice. If it appears to the satisfaction of the court that the residence of the claimant is not known, and that he can not be found, the court shall order the notice to be served on the claimant by filing it with the clerk.

Rejection of claim

Suit

Notice of pendency of action

CHAPTER 769

Stats 1931, p 587, amended

An act to amend Section 442 of the Probate Code, relating to opposition to petition for letters of administration.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1931, p 609

SECTION 1. Section 442 of the Probate Code is hereby amended to read as follows:

Contest

442. Any person interested may contest the petition by filing written grounds of opposition thereto, challenging the competency of the applicant or his right to letters, or may assert his own right to letters. In the latter case he must file a petition and give the notice required for an original petition, and the court must hear the two petitions together.

CHAPTER 770

Stats 1935, p 248, amended

An act to amend Section 942 of the Streets and Highways Code, relating to powers of board of supervisors.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1935, p 304

SECTION 1. Section 942 of the Streets and Highways Code is hereby amended to read as follows:

Ordinances and regulations

942. Such boards may enact and enforce ordinances and regulations for the construction, improvement or maintenance of county highways, and for the protection, supervision, management, control, or use of such highways. Any such board may by a four-fifths vote of all its members let county equipment used in the maintenance and construction of county roads, when such equipment is not in use upon the roads under the jurisdiction of the board, and may charge for the use thereof a rental, and arrange the basis of compensation, in keeping with the general conditions prevailing in the county in which the transaction is made.

Rental of equipment

CHAPTER 771

An act to add Article 11 to Chapter 2 of Part 1 of Division 2 of the School Code, relating to the inclusion in school districts of lands owned by the United States of America.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Article 11 is hereby added to Chapter 2 of Part 1 of Division 2 of the School Code, to read as follows: New article

Article 11. Inclusion in School Districts of Lands Owned by the United States of America

2.197. Any land owned by the United States of America and lying within the boundaries of any school district in California is hereby declared to be a part of such school district and to have been continuously a part of such school district from the time such land first lay within the boundaries of such school district. Inclusion of U S territory in districts

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CHAPTER 772

An act to amend School Code Section 6.320, relating to the ordering of State textbooks by heads of State institutions.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

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

SECTION 1. School Code Section 6.320 is hereby amended to read as follows: Stats. 1939, p 1691

6.320. The president, principal, or other head of any State institution, in which instruction is given in the elementary branches, may order such State textbooks as may be used to advantage, for use in said institution, on blanks supplied by the Superintendent of Public Instruction. The president of any State college may order such State textbooks as may be used to advantage by the college in giving instruction in elementary subjects, or in giving instruction in the teaching of such subjects. Order for State textbooks

CHAPTER 773

An act to amend Section 410 of the Political Code, relating to the laws, resolutions and journals of the Legislature.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats. 1937, p. 178

SECTION 1. Section 410 of the Political Code is hereby amended to read as follows:

Distribution of laws, resolutions and journals

410. The laws, resolutions and journals of the Legislature shall be distributed by the State Printer as follows:

1. To the Library of Congress, three copies.

2. To the State Library or other library or department in each State and Territory, authorized to receive them, one copy.

3. To the Lieutenant Governor, each member of the Legislature, the Secretary of the Senate and the Clerk of the Assembly, one copy each.

4. To each municipal and county free library, county law library, and the library of each incorporated college or university in the State, one copy.

5. To the State Library 50 copies or as many more as the State Librarian may require for exchange purposes.

6. To the Attorney General, six copies of each, and such number of additional copies as may be requested, not exceeding such number as may be necessary to supply each Assistant Attorney General, and each Deputy Attorney General, with one copy of each.

7. To the Legislative Counsel Bureau such number of copies of each as may be requested, not exceeding such number as may be necessary to supply one copy of each for the use of the Legislative Counsel, each Assistant Legislative Counsel, and each Deputy Legislative Counsel.

All other copies of the laws, resolutions and journals shall be sold by the State Printer at such price as may be fixed by the Department of Finance.

CHAPTER 774

Stats. 1921, p. 1727, amended

An act to amend Sections 9 and 36 of the California Water Storage District Act, relating to voting in California water storage districts.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats. 1923, p. 915

SECTION 1. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Qualifications of voters

Sec. 9. Only the holders of title or evidence of title to lands situated within the district shall be entitled to vote at such election, and every such holder of title or evidence of

title shall be entitled to vote, in person or as hereinafter provided, in each precinct in which any of the lands so owned by him are situated and to cast one vote for each one hundred dollars ($100), or fraction thereof, worth of land exclusive of improvements, minerals, and mineral rights therein in said precinct so owned by him. Each male or female voter over the age of 21 years shall be entitled to vote in person or by proxy. Any guardian, administrator, or executor of a person or estate owning land within the district shall be considered the holder of title or evidence of title to such lands for the purposes of this act, where the owner in fee is not entitled to vote. Any corporation holding title or evidence of title to lands within the district shall be entitled to vote as such land owner through any officer or agent thereunto duly authorized in writing under the seal of the corporation. Entrymen upon public lands situated within the district shall be considered as the holders of title or evidence of title to such lands for the purposes of this act. No person shall vote by proxy unless his authority to cast such vote shall be evidenced by an instrument in writing duly acknowledged and certified in the same manner as grants of real property and filed with the board of election. The provisions of this act relating to general elections shall, except as herein otherwise specifically provided, apply to elections on organization of any water storage district under this act.

Stats 1923, p 962

SEC. 2. Section 36 of the act cited in the title hereof is hereby amended to read as follows:

Qualifications for voting

Sec. 36. Only the holders of title or evidence of title to lands situated within the district shall be entitled to vote at a general election, and every such holder of title or evidence of title shall be entitled to vote, in person or as hereinafter provided, in each precinct in which any of the lands so owned by him are situated and to cast one vote for each one hundred dollars ($100), or fraction thereof, worth of land exclusive of improvements, minerals, and mineral rights therein in said precinct so owned by him. Each male or female voter over the age of 21 years shall be entitled to vote in person or by proxy. Any guardian, administrator, or executor, of a person or estate owning land within the district shall be considered the holder of title or evidence of title to such lands for the purposes of this act, where the owner in fee is not entitled to vote. Any corporation holding title or evidence of title to lands within the district shall be entitled to vote as such land owner through any officer or agent thereunto duly authorized in writing under the seal of the corporation. Entrymen upon public lands situated within the district shall be considered as the holders of title or evidence of title to such lands for the purposes of this act. No person shall vote by proxy unless his authority to cast such vote shall be evidenced by an instrument in writing duly acknowledged and certified in the same manner as grants of real property and filed with the board of election.

CHAPTER 775

Stats 1939, p 482, amended

An act to amend Section 14227 of the Health and Safety Code, relating to fire protection districts in unincorporated areas and the inclusion of contiguous territory therein.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1939, p 828

SECTION 1. Section 14227 of the Health and Safety Code is hereby amended to read as follows:

Petition: Who may file

14227. Owners of real property in contiguous territory, which represents at least 51 per cent of the total assessed valuation of the contiguous territory, as shown by the last equalized assessment roll of the county in which the district is located, may petition for inclusion of the territory within the district.

CHAPTER 776

Stats 1933, p 60, amended

An act to add Section 372.5 to the Agricultural Code, relating to reports by railroad corporations as to animals killed by trains.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

New section

SECTION 1. Section 372.5 is hereby added to the Agricultural Code, to read as follows:

Report of live stock killed on railroads

372.5. When any live stock is killed upon the right of way of any railroad corporation in this State, the corporation shall report the fact to the director, giving a description of the animal and the brands and marks, if any, thereon, and the location of the point of collision.

CHAPTER 777

An act to amend Section 4252 of the Political Code, relating to compensation for public services in counties of the twenty-third class.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1941, p 1617

SECTION 1. Section 4252 of the Political Code is hereby amended to read as follows:

Solano County Salaries

4252. In counties of the twenty-third class, the following shall receive as compensation for their services required of them by law or by virtue of their offices the following sums:

(a) The auditor, three thousand eight hundred dollars ($3,800) per annum. Auditor

(b) The district attorney, three thousand dollars ($3,000) per annum. District attorney

(c) Each member of the board of supervisors, one thousand two hundred dollars ($1,200) per annum for all services rendered including mileage and including services as road commissioners; provided, that when required to go on business to any point outside of the county, they shall be allowed actual expenses. Supervisors

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CHAPTER 778

An act to amend Section 81 of the Code of Civil Procedure, relating to the classification of judicial townships and the jurisdiction of justices' courts.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 81 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1939, p. 1493

81. Justices' courts in cities, towns and judicial townships, having a population of 30,000 or more, shall be known, and may be designated, as "Justices' courts of Class A." Justices' courts classified

Justices' courts in cities, towns, and judicial townships having a population of less than 30,000 shall be known, and may be designated, as "Justices' courts of Class B."

For the purpose of determining the jurisdiction of any justice's court therein, the population of a judicial township shall be deemed to be above or below 30,000 either as may have been found to be the fact in any proceeding in mandamus brought in a court having jurisdiction thereof, or as shown by the last preceding census taken under the direction of the Congress of the United States, whichever may be later. Determination of population

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CHAPTER 779

An act to amend Section 5055 of the Welfare and Institutions Code, relating to mentally irresponsible persons. Stats. 1937, p. 1005, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 5055 of the Welfare and Institutions Code is hereby amended to read as follows: Stats. 1939, p. 1558

Certificate of medical examiners

5055. The medical examiners, after making the examination and hearing the testimony, shall make and sign a certificate showing as nearly as possible the facts herein indicated, in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF_____

The People For the Best Interest and Protection of _____ as a Mentally Ill Person and Concerning _____, and _____, Respondents.	CERTIFICATE OF MEDICAL EXAMINERS

We, Dr. _____ and Dr. _____, medical examiners in the County of _____, duly appointed and certified as such, do hereby certify under our hands that we have examined _____, alleged to be mentally ill, and have attended before a judge of said court, at the hearing on the petition concerning said person, and have heard the testimony of all witnesses, and, as a result of the examination, have testified under oath before the court to the following facts concerning the alleged mentally ill person:

Name _____

Address _____

Age _____Sex _____

Occupation_____Marital status_____

(Single, married, widowed, divorced)

Religious belief_____

Pertinent case history_____

_____

_____

_____

General physical condition and present mental status_____

_____

_____

Laboratory reports_____

_____

Tentative diagnosis_____

_____

Recommendation for disposition or supervision, treatment and care _____

Date: _____.

_____

Medical Examiner

_____

Medical Examiner

CHAPTER 780

An act to amend Section 1297 of the Penal Code, relating to bail.

[Approved by Governor June 21, 1941 Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1297 of the Penal Code is hereby amended to read as follows: Stats 1937, p 1498

1297. When money has been deposited, a receipt shall be issued in the name of the depositor. If the money remains on deposit at the time of a judgment for the payment of a fine, the clerk must, under the direction of the court, if the defendant be the depositor, apply the money in satisfaction thereof, and after satisfying the fine and costs, must refund the surplus, if any, to the defendant. If the person to whom the receipt for the deposit was issued was not the defendant, the deposit after judgment shall be returned to the depositor. Disposition of moneys deposited

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CHAPTER 781

An act to add Section 12108 to the Business and Professions Code, relating to specifications and standards for weighing devices. Stats 1937, p 1229, amended

[Approved by Governor June 21, 1941 Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 12108 is hereby added to the Business and Professions Code, to read as follows: New section

12108. The department shall, subject to the approval of the Division of Architecture in the Department of Public Works, prescribe specifications and standards of construction and installation for commercial weighing devices of a weighing capacity of five tons or more. No such weighing device shall be sold or advertised for sale unless it conforms to such specifications as are prescribed for its type and class. No such weighing device shall be constructed or installed except in conformity with such standards as are prescribed for its construction or installation. Provided, however, that nothing in this section shall prevent the continued use of such weighing devices which are installed and in use on the effective date hereof, or the removal of such weighing devices to some other location and their use at such new location. Specifications and standards for commercial weighing devices

CHAPTER 782

Stats 925, p 648, amended

An act to amend Section 7 of an act entitled "An act authorizing the establishing of municipal courts, prescribing their constitution, regulation, government, procedure and jurisdiction, and providing for the election and appointment of the judges, clerks and other attaches of such courts, their terms of office, qualification and compensation and for the selection of jurors therein," approved May 23, 1925, relating to municipal courts.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1939, p 1530

SECTION 1. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Municipal courts: Cities of first and one-half class (Los Angeles)

Sec. 7. The municipal court in a city or city and county of the first and one-half class shall be constituted, and the judges, officers and attaches thereof shall be as herein enumerated and shall have the qualifications and shall receive the compensation herein affixed, as follows:

There shall be 30 judges, each of whom must be registered and qualified electors of the city wherein they are to serve and must have had at least five years active practice of law in this State prior to their election or appointment and each of whom shall receive seven thousand five hundred dollars ($7,500) payable in equal monthly installments; one clerk to be appointed by the judges of the court who shall receive five hundred dollars ($500) per month; one marshal to be appointed by the judges of the court, who shall receive five hundred dollars ($500) per month; one referee to be appointed by the judges of the court who shall receive three hundred twenty-five dollars ($325) per month.

CHAPTER 783

Stats 1937, p 1229, amended

An act to add Section 5600.5 to the Business and Professions Code, relating to retirement of persons from the practice of architecture.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

New section

SECTION 1. Section 5600.5 is hereby added to the Business and Professions Code, to read as follows:

Retirement of architects

5600.5. Every architect, who desires to retire from the practice of architecture and not to renew his license, shall inform the board prior to the expiration of his current license.

Upon receipt of the information, the board shall note upon its records that the architect has retired.

An architect, who has been retired by action of the board, shall be excused from the payment of his annual license fee and shall not engage in the practice of architecture.

CHAPTER 784

An act to amend Section 1946 of the Civil Code, relating to hiring of real property.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 1946 of the Civil Code is hereby amended to read as follows: Stats. 1937, p. 773

1946. A hiring of real property, for a term not specified by the parties, is deemed to be renewed as stated in the last section, at the end of the term implied by law unless one of the parties gives notice to the other of his intention to terminate the same, at least as long before the expiration thereof as the term of the hiring itself, not exceeding one month; provided, however, that as to tenancies for a period of a month or longer either of the parties may terminate the same by giving one month's notice thereof at any time and then rent shall be due and payable to and including the date of termination. It shall be competent for the parties to provide by an agreement at the time such tenancy is created that a notice of the intention to terminate the same may be given at any time not less than seven days before the expiration of the term thereof. Hiring of real property. Notice to terminate

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CHAPTER 785

An act to add Section 3.103 to the School Code, relating to the observance of Constitution Week in public schools.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 3.103 is hereby added to the School Code, to read as follows: New section

3.103. All public schools and educational institutions are directed to include in the school work on or near the anniversary of the adoption of the Constitution of the United States exercises and instruction for pupils of the various ages in the purpose, meaning and importance of the Constitution of the United States, including the Bill of Rights. Study of the U. S. Constitution

CHAPTER 786

Stats 937, p 005, amended

An act to amend and renumber Section 3045 of the Welfare and Institutions Code (as added by Chapter 916 of the Statutes of 1939), relating to aid to the needy blind.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1939, p. 2568

SECTION 1. Section 3045 of the Welfare and Institutions Code (as added by Chapter 916 of the Statutes of 1939) is hereby renumbered 3044.5 and amended to read as follows:

Aid to inmates of fraternal homes

3044.5. Aid shall be granted to any person who is an inmate of a home or institution maintained by any fraternal, benevolent, or other nonprofit organization if both of the following conditions exist:

(a) The organization has not been paid for the life care and maintenance of the person through assessment of or dues of said inmate or otherwise, whether or not the person has agreed or promised to pay for his maintenance in the event that he receives any pension, bequest, devise, or other inheritance;

(b) The per capita cost of maintenance in the organization of the applicant for aid does not exceed the sum of eighty-three dollars and thirty-three cents ($83.33) per month.

CHAPTER 787

Stats 1937, p 1229, amended

An act to amend Section 12701 of the Business and Professions Code, relating to public weighmaster bonds and license fees.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1939, p 2770

SECTION 1. Section 12701 of the Business and Professions Code is hereby amended to read as follows:

License fee

12701. Each public weighmaster shall pay a license fee of ten dollars ($10) for the fiscal year or any part thereof to the department for the locality of the place of principal business and an additional license fee of two dollars and fifty cents ($2.50) for each additional locality where service as a public weighmaster is rendered.

An additional license fee of one dollar ($1) for each fiscal year or part thereof shall be paid for each deputy public

weighmaster and for each additional license fee the department shall issue a deputy's certificate.

Renewal

Persons previously licensed to be public weighmasters shall, between May 1st and July 1st of each year pay each required license fee for the fiscal year commencing with July 1st of such year, which shall be for all or any part of such year. Failure of a person previously licensed to renew his license on or before July 1st of any one year shall ipso facto forfeit his right to serve as a public weighmaster. No license shall be issued to a person who has so failed to renew his license and forfeited his right to serve as a public weighmaster until written application shall have been made by him to the department and accompanied by a restoration fee in an amount twice that required as the regular license fee or fees.

Bond

Before any license is issued to any public weighmaster, the applicant shall execute and deliver to the director a surety bond in the sum of one thousand dollars ($1,000) executed by the applicant as principal and by a corporate surety company qualified and authorized to do business in this State as surety. Said bond shall be conditioned upon the faithful and honest compliance with the provisions of this chapter. Said bond shall be to the State in favor of every person availing himself of the services and certifications issued by a public weighmaster.

The department may refuse to issue or may revoke a deputy public weighmaster certificate issued to any person who can not capably or reliably perform the duties of a deputy public weighmaster.

CHAPTER 788

An act to add a new section to Chapter 7 of Division 5 of the Business and Professions Code, to be numbered 12701.5, relating to weighmaster bond and license.

Stats. 1937, p. 1229, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

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

SECTION 1. A new section, to be numbered 12701.5, is hereby added to the Business and Professions Code, to read as follows:

New section

12701.5. Whenever the bond required by this chapter lapses or is canceled, the license of the person thereby bonded as a public weighmaster shall expire and the license of any deputy public weighmaster appointed by him shall likewise expire.

Expiration of license on lapsing of bond

CHAPTER 789

An act to add Section 6.94 to the School Code, and to amend Section 6.90a of the School Code, relating to the construction and maintenance of dormitories by school districts.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

New section

SECTION 1. Section 6.94 is hereby added to the School Code, to read as follows:

High school dormitories

6.94. The governing board of any district maintaining a high school shall have the power, when in its judgment necessity therefor exists, to construct and maintain dormitories in connection with any high school within the district for use and occupancy by pupils in attendance at such high school and shall fix the rates to be charged such pupils for quarters therein.

Stats 1935, p. 911

SEC. 2. School Code Section 6.90a is hereby amended to read as follows:

Junior college dormitories

6.90a. The governing board of any district maintaining a junior college shall have the power, when in its judgment it is deemed necessary, to construct and maintain dormitories in connection with any junior college within the district for use and occupancy by pupils in attendance at such junior college and shall fix the rates to be charged such pupils for quarters therein.

CHAPTER 790

Stats 1937, p 1229, amended

An act to amend Sections 551 and 556 of the Business and Professions Code, relating to the prevention of blindness at childbirth.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1937, p 1237

SECTION 1. Section 551 of the Business and Professions Code is hereby amended to read as follows:

Treatment of eyes

551. It is the duty of any physician, surgeon, obstetrician, midwife, nurse, maternity home or hospital of any nature, parent, relative, and any person or persons attendant upon, or assisting in any way whatsoever, either the mother or child, or both, at childbirth, to treat both eyes of the infant within two hours after birth with a prophylactic efficient

treatment, and in all cases where the child develops within two weeks after its birth ophthalmia neonatorum, and such person knows it to exist, to report the case within 24 hours after knowledge, in such form as the State Department of Public Health directs, to the local health officer of the county or city within which the mother of any such infant resides. Report of cases

SEC. 2. Section 556 of said code is hereby amended to read as follows: Stats 1937, p 1238

556. The failure of any person mentioned in Section 551 to report, or the failure of any maternity home, hospital, or similar institution, to use the treatment prescribed in Section 551 and to record any and all cases of ophthalmia neonatorum, as directed in Section 553, or the failure or refusal of any person or institution, mentioned in this article, to obey any rule or regulation adopted by the State Department of Public Health under this article constitutes a misdemeanor, and upon conviction thereof shall be fined, for the first offense not to exceed fifty dollars ($50); for a second offense not to exceed one hundred dollars ($100); and for a third offense, and thereafter not to exceed two hundred dollars ($200) for each violation. Penalty for violation

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CHAPTER 791

An act to add Section 767 to the Agricultural Code, relating to the furnishing of boxes to growers of vegetables and deciduous fruit. Stats 1933, p 60, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 767 is hereby added to the Agricultural Code, to read as follows: New section

767. The failure of a canner wilfully and without due cause to furnish vegetable or deciduous fruit picking boxes to a grower as agreed upon, or any wilful discrimination against any grower in this regard, shall subject such canner to an action for all damages sustained by the grower as a direct result thereof, and judgment against any such canner may be entered in the discretion of the court either for the amount of the damages sustained or for three times such amount so found; provided, however, that treble damages may only be awarded in the event grower has furnished canner written notice of the claimed failure or discrimination within 48 hours after the claimed failure or discrimination. Nothing in this section shall be held to affect existing remedies for violation of contract but shall be in addition thereto. Civil damages for failure to furnish fruit picking boxes

CHAPTER 792

An act to add Article 2 to Chapter 2 of Part 2 of Division 3 of the School Code, relating to the supervision of instruction in elementary schools.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

New article

SECTION 1. Article 2 is hereby added to Chapter 2 of Part 2 of Division 3 of the School Code, to read as follows:

Article 2. Supervision of Instruction

Supervision of instruction

3.160. The governing board of any elementary school district having an average daily attendance of 300 or more and the county superintendent of schools having jurisdiction over such district are hereby authorized to enter into an agreement for the supervision of instruction in such district by the county superintendent of schools. The county superintendent of schools shall transfer from the funds of such district to the county elementary school supervision fund such amounts as may be set forth in the agreement.

CHAPTER 793

Stats. 1937, p. 1229, amended

An act to add Section 5041.5 to the Business and Professions Code, relating to fee and tax exemptions under the chapter on accountants, declaring the urgency thereof, and to take immediate effect.

In effect immediately

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

New section

SECTION 1. Section 5041.5 is hereby added to the Business and Professions Code, to read as follows:

Exemption of persons in military service from renewal fee

5041.5. Every person licensed under this chapter is exempt from the payment of the annual renewal fee while serving in the armed forces of the United States.

Every person so exempted from the payment of the renewal fee by this section shall not engage in any private practice while so serving and shall become liable for the fee upon the completion of the service and shall have a period of 90 days after becoming liable within which to pay the tax and fee. Any person who completes his service in the armed forces within 90 days of the end of the calendar year is exempt from the payment of a renewal fee for that year.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, and shall therefore, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. The facts constituting the urgency are as follows: Persons in civil life are being called into and are entering the armed forces of the United States on account of the rearmament program necessary for the defense of the country. Urgency

Such persons are with difficulty able to meet their civil liabilities during their period of service. To relieve licensees under the chapter on accountants of the Business and Professions Code from the burden imposed upon them by that chapter, it is necessary that this act take effect immediately prior to the completion of the collection period for existing licensees, otherwise the burden can not be removed effectively, the licensees will continue to bear their burden, and the danger to the public peace, health and safety will thereby be increased.

CHAPTER 794

An act to amend Section 347½ of the Penal Code, relating to the sale and use of drugs.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 347½ of the Penal Code is hereby amended to read as follows: Stats. 1941, p. 428

347½. It shall be unlawful for any person, firm, or corporation to sell, furnish, or give away, or offer to sell, furnish, or give away any veronal, barbital (acid diethylbarbituric) or other barbituric acid derivative of their salts, derivatives, or compounds of the foregoing substance, or any preparation or compound containing any of the foregoing substances, or their salts, derivatives or compounds, except upon the order or prescription of a physician and surgeon, dentist, chiropodist, or veterinary surgeon duly licensed to practice in the State of California, and shall not be refilled without the order of the prescriber; provided, however, that any prescription for phenobarbital or any preparation, mixture or compound of phenobarbital may be refilled, and said prescription or order shall be at all times open to the inspection by duly authorized officers of the law, and shall be preserved for at least three years from the date of filing thereof; provided, however, that the above provisions shall not apply to the sale at wholesale by drug jobbers, drug wholesalers and drug manufacturers to pharmacies as defined in, Chapter 9 of Division 2 of the Business and Professions Code, or to physicians, dentist, chiropodist, or veterinary surgeon, nor to each other, nor to the sale Sale and use of poisons. Exceptions

at retail in pharmacies by pharmacists to each other or to physicians and surgeons, dentists, chiropodists, or veterinary surgeons duly licensed to practice in this State. Every person who violates any of the provisions of this section is guilty of a misdemeanor, and punishable by a fine not exceeding two hundred dollars ($200) or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment.

CHAPTER 795

Stats 1909, p 87, amended

An act to amend Sections 61 and 105 of the Bank Act, relating to the investment of trust funds.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

Stats 1939, p 1522

SECTION 1. Section 61 of the Bank Act is hereby amended to read as follows:

Savings banks Real and personal property

Sec. 61. Any savings bank may purchase, hold or sell real or personal property, as follows:

1. The lot and building in which the business of the bank is carried on; furniture and fixtures, vaults and safe deposit vaults and boxes and other personal property such as may be necessary or proper to carry on its banking business; but no savings bank shall hereafter invest an amount exceeding one-half of its paid up capital and surplus in such lot and building, and banking equipment, except with the written consent of the Superintendent of Banks and hereafter, the authority of a two-thirds vote of all the directors shall be necessary to authorize the purchase of such a lot and building, or the construction of such building.

2. Such as may have been mortgaged, pledged or conveyed to it in trust for its benefit in good faith, for money loaned in pursuance of the regular business of the corporation.

3. Such as may have been purchased at any sales under pledge, mortgage, or deed of trust made for its benefit for money so loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon.

Bullion

4. Gold or silver bullion, and United States mint certificates of ascertained value.

5. Irrespective of the provisions of Subdivision 6 of this section, bonds and other securities of the following classes:

U S securities

(a) Bonds or other interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or those issued under the authority of the United States;

California bonds

(b) Bonds of the State of California, or those for which the faith and credit of the State of California are pledged for

the payment of principal and interest, or those of any county, city and county, city, metropolitan water district, municipal utility district, flood control district or school district of this State, or registered warrants of the State of California;

Securities of other States

(c) Bonds or stocks or notes of any State in the United States, other than the State of California, that has not, within 25 years previous to making such investment by such bank, defaulted in the payment of any part of either principal or interest, or those of any county, city and county, city or town, or school district, in any State in the United States other than the State of California, issued under authority of any law of such State, which county, city and county, city or town, or school district, had, as shown by the Federal or State census next preceding such investment, a population of more than 20,000 inhabitants; provided, however, that the entire bonded indebtedness of such county, city and county, city or town, or school district, including such issue of bonds or stocks or notes, does not exceed 15 per centum of the value of the taxable property therein as shown by its last equalized assessment roll; and provided further, that such county, city and county, city or town, or school district, or the State in which it is located has not defaulted in payment of any part of either principal or interest due upon any legally authorized bond or stock or note issue within 25 years next preceding such investment;

District bonds

(d) Bonds of any district organized under the laws of the State of California which are required to be and are investigated and approved by a commission now or hereafter authorized by a law of this State to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks;

Secured notes and bonds

(e) Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of Chapter 8 of Title 2 of Part 4 of Division 1 of the Civil Code; provided, however, that if the Superintendent of Banks shall ascertain that any mortgage participation certificate issued by any mortgage insurance company and owned or held by any bank exceeds 50 per centum of the market value of the real estate, with improvements, covered by the same, the Superintendent of Banks shall give 30 days' written notice to the mortgage insurance company issuing such certificate of the facts ascertained by him, including a statement of the appraisals on which such ascertainment is based, and if such mortgage insurance company shall not within said period of 30 days have corrected such condition to the satisfaction of the Superintendent of Banks, he may order such mortgage participation certificate removed from the assets of the bank owning or holding such certificate;

Legal investments in N Y or Mass

(f) Bonds legal for investment by savings banks in the State of New York or the State of Massachusetts;

Securities of Federal home loan banks

(g) Bonds, debentures and notes issued by any Federal home loan bank, or consolidated Federal home loan bank bonds or debentures issued by the Federal Home Loan Bank Board in accordance with the provisions of the Federal Home Loan Bank Act.

6. Bonds and other securities of the following classes; provided, that such bonds or securities shall first have been certified by the Superintendent of Banks after an investigation as provided for under Section 61a of this act:

Foreign government bonds

(a) Bonds or interest-bearing notes or obligations of any foreign country or government, or those for which the faith and credit of any foreign country are pledged for the payment of principal and interest;

Bonds of irrigation districts

(b) Bonds of any district organized under the laws of any State in the United States other than the State of California for the purpose of irrigating lands within such district, which are required to be and are investigated and approved by a commission now or hereafter authorized by a law of said State to conduct such investigation and give such approval; provided, that the entire indebtedness of such district, including the bonds under consideration, and all prior liens, within the meaning of Section 57a of this act, do not exceed 50 per centum of the aggregate market value of the lands within said district, and of the irrigation system owned or to be acquired by said district with the proceeds of said bonds;

California district bonds

(c) Bonds of any reclamation, drainage, street improvement, county waterworks, or any other district organized under the laws of the State of California not otherwise provided for in this section;

Railroad bonds

Stats 1915, p 115

(d) (1) Bonds of any railroad corporation, as the same is defined in the "Public Utilities Act," incorporated under the laws of any State in the United States and operating exclusively in the United States; provided, that said corporation shall have had net earnings for either its fiscal year or 12 consecutive months in the 14 months next preceding application for certification of said bonds under the provisions of Section 61a of this act, amounting to at least one and one-half times the interest on all bonded indebtedness outstanding at the time of said certification, and on all additional bonds then proposed to be issued; or,

(2) Bonds of any railroad corporation, the payment of which is guaranteed, both as to principal and interest, by a railroad corporation whose bonds are a legal investment for savings banks in this State;

Other public utility bonds

(e) (1) Bonds of any other public utility corporation, as the same is defined in the "Public Utilities Act," incorporated under the laws of any State in the United States and operating exclusively in the United States; provided, that said corporation shall have had net earnings for either its fiscal year or 12 consecutive months in the 14 months next preceding

application for certification of said bonds under the provisions of Section 61a of this act, amounting to at least one and one-half times the interest on all bonded indebtedness outstanding at the time of said certification, and on all additional bonds then proposed to be issued; or,

(2) Bonds of any similar public utility corporation, the payment of which is guaranteed, both as to principal and interest, by a public utility corporation other than a railroad corporation, whose bonds are a legal investment for savings banks in this State.

Determination of income

In determining the income of any railroad or other public utility corporation mentioned herein, there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation the entire business and income-producing property of which the corporation issuing such bonds has wholly acquired.

Security for utility bonds

All bonds issued by a railroad or other public utility corporation must be secured by a mortgage or deed of trust which at the time of said certification is: Either

I. A closed first mortgage or deed of trust; or,

II. A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the 12 months next preceding the issuance of any additional bonds, to meet the earning requirements heretofore specified in either paragraph (d) or (e) of Subdivision 6 of this section applicable to such corporation after including the additional bonds then proposed to be issued; or,

III. A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation and restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the 12 months next preceding the issuance of any additional bonds, to meet the earning requirements of such corporation after including the additional bonds then proposed to be issued; or,

IV. An underlying or divisional closed mortgage or deed of trust of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or deed of trust, the net income required by this section shall be based exclusively upon the income, maintenance charges, operating expenses, taxes and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust, or, if such income, maintenance charges or operating expenses can not be definitely ascertained on the proper proportionate share of such property in the general income, maintenance charges, operating expenses and taxes of the corporation then owning such property and on the mortgage indebtedness of or against

the property covered by such underlying or divisional closed mortgage or deed of trust.

Bonds secured by first lien on real estate

(f) Notes or bonds secured by first mortgage or deed of trust or other first lien upon real estate, improved or unimproved; provided, that the entire note or bond issue shall not exceed 60 per centum of the market value of such real estate, or such real estate with improvements, taken as security; and provided further, in case the said note or bond issue is created for a building loan on real estate, that at no time shall the entire outstanding note or bond issue exceed 60 per centum of the market value of the real estate and the actual cost of the improvements thereon taken as security; and provided, also, in case said real estate is located outside of this State, that the provisions of this paragraph shall be subject to the limitations and modifications contained in Section 57a of this act; and provided, also, that no such notes or bonds shall be disqualified as investments for savings banks for the reason that the payment thereof is guaranteed by a policy of mortgage insurance.

Determination of market value

In determining the market value of any real estate under the provisions of the preceding paragraph where such real estate, improved or unimproved, consists of oil or other mineral or timber land, the value represented by such oil or other mineral or timber shall not be included in fixing such market value. Nothing herein contained shall prevent savings banks from making loans secured by mortgage or deed of trust upon lands wherein redwood timber is included in fixing the market value thereof.

Purchase of entire issue

Any bank, however, may, without such certification by the Superintendent of Banks, purchase any note or bond or issue of notes or bonds provided for in said paragraph (f) of Subdivision 6 of this section, whenever such purchase constitutes the entire amount of notes or bonds executed by the makers thereof and secured by the same real estate; provided, that no savings bank shall hold any such notes or bonds unless such holding constitutes the entire issue thereof at any time outstanding; and provided, also, that nothing in this paragraph shall be construed to permit savings banks to invest in notes or certificates evidencing participation in any mortgage on real estate unless by law specifically authorized, or in or on any form of obligation secured by any undivided interest in real estate designed to distribute the obligation so secured.

Collateral trust bonds or notes

(g) Collateral trust bonds or notes:

(1) When secured by deposit of notes or bonds authorized for investment by this section of a market value at least 15 per centum in excess of the par value of the collateral trust bonds or notes issued; or,

(2) When secured by deposit of notes or bonds authorized for investment by this section and other securities of a combined market value at least 20 per centum in excess of the par value of the collateral trust bonds or notes issued; provided, that the par value of said collateral trust bonds or

notes shall in no case exceed the market value of that portion of the security represented by notes or bonds authorized for investment by this section;

(3) When issued by a corporation organized and doing business under the laws of the State of California and having a paid-up and unimpaired capital of not less than one million dollars ($1,000,000), and when secured by deposit, as herein provided, of money, or of notes accompanied by mortgage or deed of trust constituting a first lien on real estate, improved or unimproved, in the State of California having a market value of not less than one and two-thirds times the amount of each note deposited, and when such security so deposited shall have an aggregate market value of not less than par value of the collateral trust bonds or notes issued and outstanding, and when such collateral trust bonds or notes have a maturity of not more than twenty (20) years from their date of issue; provided, that such security shall be deposited as a court trust with a trust company, authorized to transact business in this State, and under such conditions and regulations as may, from time to time, be prescribed by the Superintendent of Banks; provided, however, that in prescribing such conditions and regulations the Superintendent of Banks shall permit the exchange, withdrawal and redeposit of any security in this paragraph authorized, so long as the aggregate market value of the security remaining on deposit shall be not less than the par value of the collateral trust bonds or notes issued and outstanding, all securities deposited as herein provided being subject to approval by the Superintendent of Banks. No such bonds or notes shall be eligible for investment by savings banks, if issued by a corporation having outstanding bonds or notes in an amount greater than 15 times its paid-up capital and surplus.

Railroad equipment trust certificates

(h) Railroad equipment trust certificates or obligations issued or guaranteed by a corporation to which a loan or loans for the construction, acquisition, purchase or lease of railroad equipment has or have been made with the approval of the Interstate Commerce Commission; provided, that the entire issue shall not exceed 60 per centum of the cost of such equipment and shall mature serially not later than 15 years from date of issue; provided further, that said certificates or obligations must be secured by or be evidence of a prior lien upon or reservation of title to such equipment, or by an assignment of or prior interest in the rent or purchase notes given for the hiring or purchasing of said equipment.

Acceptances

(i) Acceptances issued by a discount, acceptance or investment corporation, formed under the Federal statute commonly known as the "Edge Act" or under the "Investment Companies Act" of New York, or by a corporation of identical character and capacity, organized under the laws of any State of the United States.

Bonds issued by city of not less than 25,000 population

(j) Bonds issued by any city or city and county of this State having a population of not less than 25,000 according

to the last Federal census, or by any department or board of any such city or city and county, which are payable solely and exclusively out of the revenues from a revenue producing utility owned, controlled or operated by such city or city and county, or by any department or board thereof, where the net income, as hereinafter defined, from such utility (first) for each of the five fiscal years next preceding the issuance and sale of such bonds, or for each of the five fiscal years next preceding application for certification of said bonds under the provisions of Section 61a of this act, shall have amounted to at least all debt service requirements, including principal, interest and sinking fund requirements, in each of such fiscal years, respectively, on all funded indebtedness payable in whole or in part out of the revenues from such utility; (second) for the last fiscal year of such period, or for 12 consecutive months in the 14 months next preceding application for certification of said bonds under the provisions of Section 61a of this act, shall have amounted to at least one and one-half (1½) times, the maximum annual interest charges in any fiscal year thereafter on all funded indebtedness so payable, outstanding at the end of such last fiscal year, or of such 12 months, and on all funded indebtedness so payable, evidenced by bonds or other evidences of indebtedness issued subsequently thereto, including bonds, issued or to be issued, of the issue with respect to which application for certification is made; and (third) if such last fiscal year, or such 12 months period, shall have amounted to at least the maximum annual debt service requirements in any such fiscal year thereafter on all such funded indebtedness.

"Funded indebtedness" The term "funded indebtedness," wherever used in this paragraph (j), shall include any general obligation bonds of such city, or city and county, to the payment of the principal or interest of which the revenues from any such utility are required to be applied pursuant to any charter or statutory provision or pursuant to the proceedings taken for the issuance of such general obligation bonds.

"Net income" The term "net income" for the purposes of this paragraph (j) shall mean the balance of the revenues from such utility remaining after deducting therefrom all operation and maintenance charges directly applicable to such utility, taxes, liability for the payment of which results from the ownership and operation of such utility, insurance, and all repair expenditures properly chargeable to income account in accordance with sound accounting practice, but before deducting depreciation, interest on funded indebtedness or amortization.

In determining the net income of any utility for the purposes of this paragraph (j) there shall be included the net income from property acquired within the period with respect to which the tests provided by this paragraph (j) are to be made, or acquired subsequently to such period, or to be acquired out of the proceeds of bonds of the issue with respect to which application for certification is made, adjusted, as

nearly as practicable, to conform to the definition hereinabove set forth, for any portion of the period in question prior to such acquisition.

The legality of investments heretofore lawfully made pursuant to the provisions of this section, or of any law of this State as it existed on and subsequent to July 1, 1909, shall not be affected by any amendments to this section or this act; nor shall any such amendments require the changing of investments once lawfully made under this act.

Book value of bonds

Any bonds authorized by this section as a legal investment for savings banks may be carried on the books of said bank at their investment value, based on their market value at the time they were originally bought, unless the Superintendent of Banks shall require any or all of the bonds which may thereafter have a market value less than the original investment value to be written down to such new market value which shall be done gradually if practicable and in such manner as he may determine or he may, by a plan of amortization to be determined by him, require such gradual extinction of premium as would bring such bonds to par at maturity.

Bonds of railroads operating exclusively in California

When it shall be necessary to prevent loss to any savings bank on an obligation owned or on a debt previously contracted in good faith, it may, with the previous written consent of the Superintendent of Banks, purchase or acquire bonds of any railroad corporation incorporated under the laws of the State of California and operated exclusively therein notwithstanding such bonds do not conform to the requirements in this section contained; provided, any bond so purchased or acquired must be sold for the best price obtainable by any bank within five years after such purchase or acquisition.

Conditions of loans on utility bonds

Stats First Ex Sess 1911, p 18

No savings bank shall hereafter purchase or loan money upon any bond, note or other evidence of indebtedness, issued by any "public utility," subject to the jurisdiction, regulation or control of the Railroad Commission of this State, under the provisions of the "Public Utilities Act," approved December 23, 1911, and acts amendatory thereof or supplemental thereto, unless each such bond, note or other evidence of indebtedness was either:

(1) Issued prior to the taking effect of the "Public Utilities Act"; or,

(2) Issued under authority of the Railroad Commission in accordance with the provisions of said act; or,

(3) A note issued for a period not exceeding 12 months, in accordance with the provisions of subdivision (b) of Section 52 of said act.

Stats 1935, p 1050

SEC. 2. Section 105 of the Bank Act is hereby amended to read as follows:

Trust companies' investments

Sec. 105. Except as otherwise provided by law every trust company shall invest its capital and surplus and any trust funds received by it in connection with its trust business, in accordance with the provisions of this act relative to the

investment or loan of funds deposited with savings banks, unless the terms or provisions of the trust of which such funds constitute a part contain a specific agreement or provision to the contrary or unless it is otherwise ordered by the court in connection with any court trust.

Deposit in banks

Any trust company holding funds awaiting investment or distribution may deposit such funds with any State or National bank which has been designated as a depositary by the Superintendent of Banks, or in which such deposit will be fully insured under the provisions of any law of the United States, and any trust department of any bank doing a departmental business may deposit such funds so held by it with the savings department or the commercial department of the same corporation or association; provided, however, that no such funds so held awaiting investment shall be deposited by any trust department of a departmental bank with the savings department or the commercial department of the same corporation or association or of any corporation or association holding or owning the whole or any part of the capital stock of the trust company making such deposit unless such corporation or association shall first set aside, as security for such deposit, bonds or securities of the kind in which savings banks are permitted to invest and which bonds or securities so set aside shall have a value not less than the funds so deposited; provided further, that no security shall be required in case of any such part of any such deposits as is insured under the provisions of any law of the United States; provided, the deposit of funds by a trust company in a savings account shall be deemed to be an authorized investment if such deposit is fully insured under the provisions of any law of the United States.

Registration of stock

Any trust company when acting as executor, administrator, guardian, or testamentary trustee, or trustee under a private trust, unless the instrument creating such trust contains a provision to the contrary, may cause any stock or other securities held in any such capacity to be registered in the name of a nominee or nominees of such trust company. Any such trust company shall be liable for any loss occasioned by the acts of any nominee of such trust company with respect to such stock or other securities so registered. The records of such trust company shall at all times show the ownership of any such stock or other securities. Such stock or other securities shall at all times be kept separate and apart from the assets of such trust company.

Holding trust property

Every trust company may hold, during the life of the trust, all property, real and personal, received by it into the trust from any source, irrespective of whether such property be legal for the investment of trust funds, in the same manner and upon the same conditions as if such property were legal and proper for the investment of trust funds, unless the terms of the instrument creating or declaring the trust specifically provide to the contrary.

SEC. 3. Section 1 of this act, in so far as it provides for amendment to Subdivision 5 of Section 61 of the Bank Act, is hereby declared to be a positive expression of a continuing legislative intent with respect to the provisions of said Subdivision 5 since the first enactment thereof. Legislative intent

CHAPTER 796

An act to amend Section 352 of the Political Code, relating to the traveling expenses of State officers and employees.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 352 of the Political Code is hereby amended to read as follows: Stats. 1935, p. 380

352. All heads of departments, chiefs of divisions, assistants, deputies, agents, experts and other employees of a department shall be entitled to receive in addition to their salaries, their actual necessary traveling expenses when away from their headquarters on State business. The headquarters of heads of departments, unless fixed by law, shall be determined and fixed by the State Board of Control, and the headquarters of all other officers, agents and employees of departments shall be determined and fixed by the appointing power. Actual and necessary traveling expenses shall be allowed such persons when traveling outside of the State, when such traveling and expenses have been approved by the Governor and by the Director of Finance. Except as otherwise expressly provided by any act creating a new department, the members of no State board or commission which is created or continued in force by such act, shall receive any compensation for their services, but they shall be allowed necessary expenses incurred in the performance of duty. Traveling expenses

CHAPTER 797

An act to amend Section 664 of the Political Code, empowering the State Board of Control to prescribe by rule and regulation limitations upon amounts to be expended by officers, agents and employees of the State while traveling on official business of the State.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

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

SECTION 1. Section 664 of the Political Code is hereby amended to read as follows: Stats. 1933, p. 2618

664. The board by a majority vote shall adopt general rules and regulations, limiting the amount, time and place of Rules re traveling expenses

expenses and allowances to be paid to officers, agents, and employees of the State while traveling on official business of the State, governing such matters as are specifically committed to the jurisdiction of said board, and governing the presentation and audit of claims against the State for which an appropriation has been made or for which a State fund is available. In accordance with such general rules and regulations of said board, the State Controller shall audit such claims before drawing his warrant therefor as prescribed by law.

Distribution of rules

The board shall cause to be printed for distribution among all State officers and for the use of any one desiring to present a claim against the State, a set of such general rules and regulations.

Presentation of claims

Any person having a claim against the State for which an appropriation has been made, or for which a State fund is available, may present the same to the State Controller in the form and manner prescribed by the general rules and regulations adopted by the Board of Control for the presentation and audit of claims.

CHAPTER 798

Stats 1897, p 254, amended

An act to add Sections 28.25, 28.35 and 19d to the California Irrigation District Act, relating to the manner of selecting officers of certain irrigation districts.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

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

New section

SECTION 1. Section 28.25 is hereby added to the act cited in the title hereof, to read as follows:

Abolition of divisions in certain districts having three divisions

Sec. 28.25. The board of directors of any existing irrigation district having less than 2,500 acres within its boundaries, having less than 25 electors residing within it, and having only three divisions may petition the board of supervisors of the county in which it or the greater portion of land in it is situated for an order by the board of supervisors abolishing the divisions in the district. The board of supervisors to which the petition is presented shall thereupon determine whether or not there are less than 2,500 acres in the district, less than 25 electors residing in it, and only three divisions in it. If the board of supervisors finds that there are less than 2,500 acres in the district, less than 25 electors residing in it, and only three divisions in it, the board of supervisors may order that there shall be no divisions in the district. Upon the making of the order, there shall be no divisions in the district, the directors of the district need only be voters and freeholders of the district, and the directors of the district shall be elected, and appointed to fill vacancies, at large

from the whole district. From the adoption of the order the district shall have three directors, and the offices of the directors shall have the numbers formerly identifying the division represented by each director, or if none, last incumbent director, and candidates for election for director shall be nominated and elected for a particular office. The making of the order does not change any term of office.

SEC. 2. Section 28.35 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 28.35. In any irrigation district having no divisions, at least 60 days before any general election required to be held in irrigation districts, a majority of the electors in the district may file in the office of the district a petition signed by them requesting the board of directors to establish divisions. The petition shall contain a showing that it is expedient to divide the district into three divisions as nearly equal in area and population as may be practicable and to elect the directors of the district therefrom. The board of directors may independently investigate whether or not the facts are consistent with the showing made in the petition and shall hear any evidence produced to sustain or disprove the showing. Within 30 days after the filing of the petition, the board shall find whether or not it is expedient to divide the district into three divisions as nearly equal in area and population as may be practicable and to elect the directors of the district therefrom. If the board finds in the affirmative, it shall forthwith order the establishment of divisions in the district and divide the district into three divisions as nearly equal in area and population as may be practicable. At the general election next following the making of the order directors shall be elected at large in the district, one director to represent each division. The directors so elected shall at their first meeting classify themselves into two groups in the same manner and with the same effect as provided as to directors elected at an election for the organization of a district, except that the classification shall not affect the term of any offices other than those held by the directors. Establishing divisions in districts having none

SEC. 3. Section 19d is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 19d. The California Districts Securities Commission may file a report with the board of supervisors of a county in which an irrigation district or the greater part thereof is situated informing the board that: Appointment of directors Report of commission

(a) Not less than 90 per cent of the land in the irrigation district is deeded for delinquent taxes or assessments to either the State or the irrigation district or both.

(b) No election of directors of the irrigation district has been held for a period of more than four years next preceding the filing of the report.

(c) In the opinion of the commission the interests of the public will best be served by the appointment of directors pursuant to this section.

Notice and hearing

Upon receipt of the report, the board of supervisors shall promptly give notice by publication in at least two issues of a newspaper published in the county in which the board of supervisors has its office of the time and place at which a hearing will be held to determine whether or not a board of directors for the irrigation district should be appointed as provided in this section. The date of such hearing shall be not less than 10 days nor more than 30 days from the first publication of the notice. At such hearing, if it appears to the satisfaction of the board of supervisors that not less than 90 per cent of the land in the district is deeded for delinquent taxes or assessments to either the State or the irrigation district or both, and that no election of directors has been held for more than four years next preceding, the board of supervisors may appoint for the district a board of directors to consist of three members who need not be residents or landowners in the district, but each of whom shall be a resident landowner of a county supervisorial district in which all or a portion of the land in the irrigation district is situated. The directors so

Qualification of directors

appointed shall take office as soon as they shall have qualified in accordance with the provisions of this act, and shall hold office for a period of four years and thereafter until their successors are elected or appointed and qualified.

Officers

Upon its organization as a board, the board so appointed shall fill by appointment the offices of treasurer, collector and assessor, and none of the persons so appointed need be residents or landowners within the district.

Election of directors

Not more than 60 nor less than 30 days before the first Wednesday in February of any odd-numbered year a majority of the electors in a district then having a board of directors appointed pursuant to this section, may petition the board of directors that an election be held, showing in such petition that there are persons who could qualify under Section 26 of this act as directors representing each division in the district, that there are more than five owners of land in the district who are residents and electors thereof, and that there are sufficient electors in the district to conduct an election. If the board of directors finds the facts alleged in the petition to be true it shall order that a general election be held, as provided in this act, at which election a director for each division and all other elective officers shall be elected. The directors elected shall at their first meeting classify themselves into two groups in the same manner and with the same effect as is provided in Section 13 of this act.

CHAPTER 799

An act to amend Section 1407 of the Probate Code, relating to the appointment of guardians of minors.

Stats 1931, p 587, amended

[Approved by Governor June 21, 1941 Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

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

SECTION 1. Section 1407 of the Probate Code is hereby amended to read as follows:

Stats 1931, p 670

1407. Of persons equally entitled in other respects to the guardianship of a minor, preference is to be given as follows:

Order of right to guardianship

(1) To a parent;

(2) To one who was indicated by the wishes of a deceased parent;

(3) To one who already stands in the position of a trustee of a fund to be applied to the child's support;

(4) To a relative;

(5) If the child has already been declared to be a ward of the juvenile court, to the probation officer of said court.

CHAPTER 800

An act to amend Section 200 of the Code of Civil Procedure, relating to exemptions from jury duty.

[Approved by Governor June 21, 1941 Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 200 of the Code of Civil Procedure is hereby amended to read as follows:

Stats 1935, p 1674

200. A person is exempt from liability to act as a juror if he be:

Exemptions from jury service

1. A judicial, civil, naval or military officer of the United States, or of this State while on active duty;

2. A person holding a county, city and county, city, town or township office of profit;

3. An attorney at law, or the clerk, secretary, or stenographer of an attorney at law;

4. A minister of the gospel, or a priest of any denomination following his profession;

5. A teacher in a university, college, academy, or school;

6. A practicing physician, or practicing licensed dentist, practicing chiropodist, or practicing registered optometrist, or druggist, actually engaged in the business of dispensing medicines;

7. An officer, keeper or attendant of an almshouse, hospital, or other charitable institution;

8. Engaged in the performance of duty as officer or attendant of the State prison or of a county jail;

9. Employed on board of a vessel navigating the waters of this State;

10. An express agent, mail carrier, or a superintendent, employee, or operator of a telegraph or telephone company, doing a general telegraph or telephone business in this State, or keeper of a public ferry or tollgate;

11. An active member of the National Guard of California, or an active member of a paid fire department of any city and county, city, town or village in this State, or any exempt member of a duly authorized fire company;

12. A superintendent, engineer, fireman, brakeman, motorman, or conductor on a railroad;

13. A person drawn as a juror in any court of record in this State, upon a regular panel, who has served as such within a year, or a person drawn or summoned as a juror in any such court, who has been discharged as a juror within a year as hereinafter provided; or a person who is incompetent under Subdivision 3 of the preceding section; provided, however, that in counties having less than 5,000 population the exemption provided by this subdivision shall not apply; or,

14. A practitioner who treats the sick by prayer in the practice of the religion of any well recognized church or denomination, or a reader whose duty is to conduct regular religious services of such church or denomination.

CHAPTER 801

Stats 1931, p 587, amended

An act to amend Section 1081 of the Probate Code, relating to determination of heirship.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

The people of the State of California do enact as follows:

Stats 1931, p 657

SECTION 1. Section 1081 of the Probate Code is amended to read as follows:

Trial of facts by jury unless waived

1081. At the time appointed, a trial of the facts must be by jury, as in the case of the contest of a will, unless a jury is waived as provided by the Code of Civil Procedure, or unless a jury is not requested and the first day's fees deposited at least five days prior to the date fixed for hearing on the original petition. If the jury is so waived or not so requested and the filing fees so deposited, the court shall hear the petition and any objection thereto that may have been presented, and shall determine who are the heirs of the decedent or

entitled to distribution of the estate and shall specify their interests.

In any such trial the rules of procedure shall be those of the Code of Civil Procedure. Any depositions taken in accord with said code shall be admissible in evidence. Any claimant entering or re-entering such proceedings shall be bound by evidence introduced and depositions taken prior to his entry into the proceeding or during his absence therefrom, except that he may in the discretion of the court have the right to examine any witness further if it be possible so to do. Rules of procedure and evidence

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CHAPTER 802

An act to amend Sections 1995 and 1997 of the Code of Civil Procedure, and to repeal Sections 2620, 2621, 2622, 2623 and 2624 of, and to add Sections 2620, 2621, 2621.5, 2622 and 2623 to, the Penal Code, relating to the manner of bringing prisoners before the courts.

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Sections 2620, 2621, 2622, 2623 and 2624 of the Penal Code are hereby repealed. Repeals

SEC. 2. Section 2620 is hereby added to the Penal Code, to read as follows: New section

2620. When it is necessary to have a person imprisoned in the State prison brought before any court to be tried for an offense triable in the superior court, or for an examination before a grand jury or magistrate preliminary to such trial, or for the purpose of hearing a motion or other proceeding, to vacate a judgment, an order for his temporary removal from said prison, and for his production before such court, grand jury or magistrate, must be made by the superior court of the county in which said action, motion, or examination is pending or by a judge thereof; such order shall be made only upon the affidavit of the district attorney or defense attorney, stating the purpose for which said person is to be brought before the court, grand jury or magistrate or upon the court's own motion. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, grand jury or magistrate, to safely keep him, and when his presence is no longer required to return him to the prison from whence he was taken; the expense of executing such order shall be a proper charge against and shall be paid by, the county in which the order shall be made. Production of prisoner for trial, etc

Such order shall recite the purposes for which said person is to be brought before the court, grand jury or magistrate,

and shall be signed by the judge making the order and sealed with the seal of the court. The order must be to the following effect:

Form of order

County of _____ (as the case may be).

The people of the State of California to the warden of _____:

An order having been made this day by me, that A. B. be produced in the _____ court (or before the grand jury, as the case may be) to be prosecuted or examined for the crime of _____, an offense triable in the superior court (or to have said motion heard), you are commanded to deliver him into the custody of _____ for the purpose of (recite purposes).

Dated this _____ day of _____, 19___.

Prisoner removed still in custody of warden

When a prisoner is removed from a State prison under this section he shall remain in the constructive custody of the warden thereof and any order affecting his status in any manner whatever, other than that provided for in said order, may only be made after due notice to the warden. During the prisoner's absence from the State prison he shall not be permitted to testify in any other proceeding or appear in any other court for any purpose whatever other than that stated in the order causing his removal.

New section

SEC. 3. Section 2621 is hereby added to the Penal Code, to read as follows:

Production of prisoner for use as witness

2621. When the testimony of a material witness is required in a criminal action, before a court of record in this State, or in an examination before a grand jury or magistrate for an offense triable in the superior court and such witness is a prisoner in a State prison, an order for his temporary removal from such prison, and for his production before such court, grand jury or magistrate, may be made by the superior court of the county in which such action or examination is pending or by a judge thereof; but in case the prison is out of the county in which the application is made, such order shall be made only upon the affidavit of the district attorney or of the defendant or his counsel, showing that the testimony is material and necessary; and even then the granting of the order shall be in the discretion of said superior court or a judge thereof. The order shall be executed by the sheriff of the county in which it is made, whose duty it shall be to bring the prisoner before the proper court, grand jury or magistrate, to safely keep him, and when he is no longer required as a witness, to return him to the prison whence he was taken; the expense of executing such order shall be a proper charge against, and shall be paid by, the county in which the order shall be made.

Such orders shall recite the purposes for which said person is to be brought before the court, grand jury or magistrate, and shall be signed by the magistrate or judge making the order, and sealed with the seal of the court, if any.

Such order must be to the following effect: Form of order
County of _____ (as the case may be).
The people of the State of California to the warden of _____:
An order having been made this day by me, that A. B. be produced in this court as witness in the case of _____, you are commanded to deliver him into the custody of _____ for the purpose of (recite purposes).
Dated this _____ day of _____, 19___.

When a prisoner is removed from a State prison under this section he shall remain in the constructive custody of the warden thereof, and any order affecting his status in any manner whatever, other than that provided for in the order may only be made after due notice to the warden. During the prisoner's absence from the State prison he shall not be permitted to testify in any other proceeding or appear in any other court for any purpose whatever other than that stated in the order causing his removal. Prisoner removed still in custody of warden

SEC. 3.5. Section 2621.5 is hereby added to the Penal Code, to read as follows: New section

2621.5 The provisions of Sections 2620 and 2621 which impose a charge upon the counties shall not apply to cases coming within the provisions of Section 4700 of this code. Exceptions

SEC. 4. Section 2622 is hereby added to the Penal Code, to read as follows: New section

2622. When the order for personal appearance is not made pursuant to Section 2620 or Section 2621 the deposition of the prisoner may be taken in the manner provided for in the case of a witness who is sick, and the provisions of the Penal Code, commencing with Section 1335 and ending with Section 1345, shall, so far as applicable, govern in the application for and in the taking and use of such deposition. Such deposition may be taken before any magistrate or notary public of the county in which the prison is situated; or in case the defendant is unable to pay for taking the deposition, before an officer of the prison designated by the board, whose duty it shall be to act without compensation. Every officer, before whom testimony shall be taken by virtue hereof, shall have authority to administer, and shall administer, an oath to the witness that his testimony shall be the truth, the whole truth, and nothing but the truth. Depositions of prisoners

SEC. 5. Section 2623 is hereby added to the Penal Code, to read as follows: New section

2623. If in a civil action or special proceeding a witness be a prisoner, confined in a State prison within this State, an order for his examination in the prison by deposition may be made: Examination of prisoner who is witness in civil action

1. By the court itself in which the action or special proceeding is pending, unless it be a justice's or small claims court.

2. By a judge of the superior court of the county where the action or proceeding is pending, if pending before a justice's or small claims court or before a judge or other person out of court.

Such order can only be made on the motion of a party, upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality. The deposition, when ordered, shall be taken in accordance with Section 2622.

C A 1880, p 115

SEC. 6. Section 1995 of the Code of Civil Procedure is hereby amended to read as follows:

Examination by deposition of witness who is a prisoner

1995. If the witness be a prisoner, confined in a jail within this State, an order for his examination in the jail upon deposition, or for his temporary removal and production before a court or officer may be made as follows:

1. By the court itself in which the action or special proceeding is pending, unless it be a justice's or small claims court.

2. By a Justice of the Supreme Court, or a judge of the superior court of the county where the action or proceeding is pending, if pending before a justice's or small claims court, or before a judge or other person out of court.

1872 Code

SEC. 7. Section 1997 of the Code of Civil Procedure is hereby amended to read as follows:

How examined

1997. If the witness be imprisoned in a jail in the county where the action or proceeding is pending, his production may be required. In all other cases his examination, when allowed, must be taken upon deposition.

CHAPTER 803

Stats 1935, p 496, amended

An act to amend Section 11840 of the Insurance Code, relating to periods for which State Compensation Insurance Fund may write workmen's compensation insurance.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 729

SECTION 1. Section 11840 of the Insurance Code is hereby amended to read as follows:

Policy periods

11840. The insurance contracts or policies of the State Compensation Insurance Fund may be either limited or unlimited. The insurance contracts or policies may be issued for like periods as are allowed by law to other workmen's compensation insurers or, in the form of stamps or tickets or otherwise, for one month, for any number of months less than one year, for one day, for any number of days less than one month or during the performance of any particular work, job or contract. The rates charged shall be proportionately greater for a shorter than for a longer period and a minimum premium charge shall be fixed in accordance with a reasonable rate for insuring one person for one day.

CHAPTER 804

An act to add Section 104.9 to the Streets and Highways Code, relating to deeds and other evidences of title in connection with rights of way and other property necessary for highway purposes.

Stats. 1935, p. 248, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. A new section is added to the Streets and Highways Code, to be numbered 104.9 and to read as follows:

New section

104.9. None of the deeds, conveyances or other evidences of title to or interests in real property acquired by the department under the provisions of this code for highway purposes, need be recorded by the Secretary of State.

Recording deeds, etc., not necessary

CHAPTER 805

An act to add Section 326.5 to the Political Code, and to repeal Section 13 of the Business and Professions Code, relating to the construction of statutes.

Stats. 1937, p. 1229, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 326.5 is added to the Political Code, to read as follows:

New section

326.5. Whenever the provisions of one statute are carried into another statute under circumstances in which they are required to be construed as restatements and continuations and not as new enactments, any reference made by any statute, charter or ordinance to such provisions shall, unless a contrary intent appears, be deemed a reference to the restatements and continuations.

Rule of construction

SEC. 2. Section 13 of the Business and Professions Code is hereby repealed.

Stats. 1937, p. 1231

CHAPTER 806

An act to add Section 5.604 to the School Code, relating to the attendance of teachers upon institutes and educational meetings.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 5.604 is hereby added to the School Code, to read as follows:

Attendance at other institutes

5.604. The superintendent of schools of any district or county holding an annual institute may, in his discretion and for good reason, authorize any teacher or teachers of such district or county, in lieu of attending one day of the institute held by such superintendent of schools, to attend an institute held by the superintendent of schools of another city or county, or to attend an educational meeting held by the State Department of Education, or by a recognized institution or organization in the same or another district or county, for an equivalent period.

The attendance of a teacher upon an institute under the provisions of this section shall be equivalent to attendance upon the institute he would otherwise be required to attend.

CHAPTER 807

Stats. 1939, p. 482, amended

An act to add Section 15035 and Sections 17821 to 17829, inclusive, to the Health and Safety Code, relating to definition of "Building unfit for human habitation" and providing for demolition, closing or repair thereof.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Health and Safety Code, to be numbered Section 15035, which said section shall read as follows:

Building unfit for human occupancy

15035. "Building unfit for human habitation or occupancy" means any building or buildings used for human habitation, or designed or intended for such use, which are dangerous to human life or detrimental to health, through lack either of maintenance, or repair generally, or through improper sanitary facilities, and include, but are not limited to, buildings in which exist one or more of the following conditions:

(a) The exterior walls, doors, windows, floors or roof are so deteriorated, broken or damaged as not to exclude rain or

wind and by reason of such condition are dangerous to human life or detrimental to health;

(b) The foundations or supporting walls are deteriorated or damaged to the extent that walls list or lean and by reason of such condition are dangerous to human life or detrimental to health.

SEC. 2. A new section is hereby added to the Health and Safety Code, to be numbered Section 17821, which said section shall read as follows: New section

17821. Any building which has become unfit for human habitation or occupancy, as defined herein, is hereby declared to be a nuisance. The enforcement agency, after so determining, shall notify the owner of such building and any mortgagee or beneficiary under any deed of trust, of record, in the manner hereinafter stated. The notice shall state the conditions which render the building unfit for human habitation and shall order the correction or abatement thereof, either by demolition, closing or repair, within 30 days after date of notice. If, in the opinion of the enforcement agency, such conditions can be corrected or abated by repair thereof, the notice shall state the repairs which will be required. If such building is encumbered by a mortgage or deed of trust, of record, and the owner of such building shall not have complied with the order of the enforcement agency on or before the expiration of 30 days after the mailing and posting of the notice, the mortgagee or beneficiary under such deed of trust, may within 15 days after the expiration of said 30-day period, comply with the requirements of the order of the enforcement agency, in which event the costs to such mortgagee or beneficiary shall be added to and become a part of the lien secured by said mortgage or deed of trust and shall be payable at the same time and in the same manner as may be prescribed in said mortgage or deed of trust for the payment of any taxes advanced or paid by said mortgagee or beneficiary for and on behalf of said owner. If the order of the enforcement agency shall not have been complied with on or before the expiration of 45 days after the mailing and posting of the notice, the enforcement agency may institute such appropriate action or proceeding to correct or abate the condition as would be taken to correct or abate any nuisance or any violation of any other provision of this part or as an alternative procedure such enforcement agency may institute proceedings for the abatement of such nuisance, after notice and hearing, before the governing board of such agency in the manner in this chapter hereinafter set forth. Nuisance

SEC. 3. A new section is hereby added to the Health and Safety Code, to be numbered Section 17822, which said section shall read as follows: New section

17822. For the purpose of providing for the advancement of costs in the enforcement of the provisions of this chapter, Revolving fund

any city or county may create a revolving fund or funds from which may be paid the costs of enforcing the provisions of this chapter and into which may be paid the receipts from the collection of costs or fines imposed in the enforcement thereof.

New section SEC. 4. A new section is hereby added to the Health and Safety Code, to be numbered Section 17823, which said section shall read as follows:

Manner of giving notice 17823. The notices required in Section 17821 shall be given in the following manner: The enforcement agency shall post conspicuously at least one copy of the notice on the building alleged to be unfit and shall send another copy by registered mail, postage prepaid, return receipt requested, to the person owning the land on which the building is located as such person's name and address appear on the last equalized assessment roll or as known to the clerk of the governing board of such enforcement agency and to any mortgagee or beneficiary under any deed of trust, of record, at the last known address of such mortgagee or beneficiary, and if such address is unknown to the enforcement agency, then said fact shall be stated in said copy so mailed and it shall be addressed to him at the county seat of the county wherein said property is situated. The officer or employee of the enforcement agency upon giving notice as aforesaid shall file an affidavit thereof with the clerk of the governing board of such enforcement agency certifying to the time and the manner in which such notice was given. He shall also file therewith any receipt card which may have been returned to him in acknowledgment of the receipt of such notice by registered mail. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken hereunder.

New section SEC. 5. A new section is hereby added to the Health and Safety Code, to be numbered Section 17824, which said section shall read as follows:

Abatement of nuisances 17824. If the enforcement agency determines to proceed with the abatement of such nuisance through proceedings instituted before its governing board, it shall give a second notice in the same manner as set forth in Section 17823, directing the owner of such building to appear before the governing board of the enforcement agency at a stated time and place and show cause why such building should not be condemned as a nuisance and said nuisance be abated as herein provided, and a copy of said notice shall be mailed to each mortgagee or beneficiary under any deed of trust, of record, in the manner prescribed in Section 17823. Said notice shall be headed "Notice to Abate Nuisance" in letters of not less than three-

fourths of an inch in height and shall be substantially in the following form: Notice

NOTICE TO ABATE NUISANCE

The owner of the building situated at_____is hereby notified to appear before_____(insert name of governing board) of the_____(insert name of enforcement agency) at its meeting to be held_____, 19___, at_____(place of meeting) at the hour of_____o'clock ___m, or as soon thereafter as he may be heard, and show cause, if any he has, why said building should not be condemned as a public nuisance and said nuisance be abated by reconstructing or properly repairing said building or by razing or removing same. Dated_____

_____
(Name of enforcement agency)

By _____
(Name of officer)

The officer or employee of the enforcement agency giving such notice shall file an affidavit of posting and mailing in the manner required by Section 17823 hereof, but the failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken hereunder. Affidavit

SEC. 6. A new section is hereby added to the Health and Safety Code, to be numbered Section 17825, which said section shall read as follows: New section

17825. At the time fixed in said notice, the governing board of the enforcement agency shall proceed to hear the testimony of the officers or employees of the enforcement agency and the testimony of the owner or his representatives, if present at said hearing, and other competent persons who may be present and desire to testify, respecting the condition of said building, the estimated cost of its reconstruction, repair or removal, and any other matter which said governing body may deem pertinent thereto. Upon the conclusion of said hearing said governing board may, by resolution, declare its findings and in the event that it so concludes it may declare said building to be a nuisance and direct the owner to abate the same within 30 days after the date of posting on said premises a notice of the passage of said resolution by having said building properly reconstructed or repaired, or by having the same razed or removed and notifying said owner that if said nuisance is not abated said building will be razed or removed by the enforcement agency and the expense thereof made a lien on the lot or parcel of land upon which said building is located. Hearing

At any time within 60 days after the passage of any resolution directing the abatement of a nuisance, the enforcement agency shall post a copy thereof conspicuously on the building so declared to be a nuisance and mail another copy by registered mail, postage prepaid, return receipt requested, to

the person owning the land on which the building is located as such person's name and address appear on the last equalized assessment roll or as known to the clerk of the governing board of such enforcement agency, and a copy of said notice shall be mailed to each mortgagee or beneficiary under any deed of trust, of record, at the last known address of such mortgagee or beneficiary, and if such address is unknown to the enforcement agency, then said fact shall be stated in said copy so mailed and it shall be addressed to him at the county seat of the county wherein said property is situated. The officer or employee of the enforcement agency, upon giving notice as aforesaid, shall file an affidavit thereof in the manner provided for in Section 17823 hereof. The governing board of the enforcement agency may grant any extension of time to abate said nuisance that it may deem justifiable upon good cause therefor being shown.

New section

SEC. 7. A new section is hereby added to the Health and Safety Code, to be numbered Section 17826, which said section shall read as follows:

Time to bring action

17826. Any owner or other interested person having any objections, or feeling aggrieved at any proceedings taken by the governing board of the enforcement agency in ordering abatement of any nuisance, must bring an action in a court of competent jurisdiction within 30 days after the date of posting on said premises a notice of the passage of the resolution declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution, otherwise all objections will be deemed to have been waived.

New section

SEC. 8. A new section is hereby added to the Health and Safety Code, to be numbered Section 17827, which said section shall read as follows:

Jurisdiction to abate

17827. Thirty days after the posting of the copies of the resolution declaring any building a nuisance, the enforcement agency shall be deemed to have acquired jurisdiction to abate such nuisance by razing or removing the building, unless the nuisance is abated by the owner or other person interested within the 30-day period or any extension thereof granted by the governing board as provided for in this chapter. In the event that the nuisance is not abated within the time prescribed the enforcement agency may thereupon raze and remove the building so declared to constitute a nuisance or have the same done under its direction and supervision.

New section

SEC. 9. A new section is hereby added to the Health and Safety Code, to be numbered Section 17828, which said section shall read as follows:

Sale of materials

17828. The building materials contained in such building so razed or removed shall be sold by the governing board at

public sale to the highest responsible bidder after not less than five days' notice of intended sale published at least once in a newspaper of general circulation published in the city or county wherein such building is located, either before or after said building has been razed or removed, and any amount received from the sale of such building materials shall be deducted from the expense of razing or removing said building. The enforcement agency shall keep an itemized account of the expense involved in the razing or removing of any such building and shall deduct therefrom the amount received from the sale of the building materials. The enforcement agency shall cause to be posted conspicuously on the property from which the building was razed or removed a statement verified by the officer of the enforcement agency in charge of the doing of the work showing the gross and net expense of the razing or removing of such building together with a notice of the time and place when and where said statement shall be submitted to the governing board of the enforcement agency for approval and confirmation and at which time said governing board shall consider any objections or protests, if any, which may be raised by any property owner liable to be assessed for the cost of such work and any other interested persons. A copy of said statement and notice shall be mailed in the manner prescribed in Section 17823 and an affidavit of such posting and mailing shall be filed in the manner prescribed in said section. The time for submitting said statement to the governing board of the enforcement agency for confirmation shall be not less than five days from the date of the posting and mailing of said statement and notice.

SEC. 10. A new section is hereby added to the Health and Safety Code, to be numbered Section 17829, which said section shall read as follows: New section

17829. At the time fixed for the hearing of the statement of expense the governing board of the enforcement agency shall consider the statement, together with any objections or protests which may be raised by any of the property owners liable to be assessed for the doing of the work and any other interested persons and thereupon said governing board may make such revision, correction or modification in the statement as it may deem just, after which, by motion or resolution, said report as submitted, or in the event any revisions, corrections or modifications have been ordered made by said governing board then said statement as revised, corrected or modified, shall be confirmed. The board may adjourn said hearings from time to time and its decisions on said statement and on all protests and objections which may be made shall be final and conclusive. Statement of expense

In the event that the cost of razing or removing said nuisance exceeds the proceeds received from the sale of any

materials, then the amount of the net expense of abating such nuisance, if not paid within five days after the decision of
Lien said governing board on said statement, shall constitute a lien on the real property upon which the same was abated or removed, which lien shall continue until the amount thereof and interest thereon at the rate of 6 per cent per annum, computed from the date of confirmation of the statement until paid, has been paid, or until it is discharged of record. Such lien shall, for all purposes, be upon a parity with the lien of State, county and municipal taxes. In the event of nonpayment the governing board shall, at any time within 60 days after the decision of the governing board on the statement, cause to be filed in the office of the county recorder of the county in which such property is located a certificate substantially in the following form, to wit:

NOTICE OF LIEN

Pursuant to the authority vested in the undersigned by Chapter 1, Part 2, Division 13, of the Health and Safety Code of the State of California, the undersigned did on the _____day of_____, 19___, cause a nuisance to be abated on the real property hereinafter described and the undersigned did on the_____day of_____, 19___, by action duly recorded in its official minutes as of said date, assess the cost of such abatement, less the amount received from the sale of any building materials, upon the real property hereinafter described, and the same has not been paid nor any part thereof and the said_____(enforcement agency) does hereby claim a lien on said real property for the net expense of the doing of said work in the sum of $_____, and the same shall be a lien upon said real property until the said sum, with interest at the rate of 6 per cent per annum, from the said_____day of_____, 19___ (insert date of confirmation of statement), has been paid in full and discharged of record.

The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain piece or parcel of land lying and being in the City of_____, County of_____, State of_____, and particularly described as follows, to wit:
Dated_____

_____
(Enforcement agency)
By_____
(Name of officer)

From and after the date of the recording of said notice of lien all persons shall be deemed to have had notice of the contents thereof. The statute of limitations shall not run against the right of the enforcement agency to enforce the payment of said lien.

In the event that the amount received from the sale of materials exceeds the expense of razing or removing such building,

then such excess shall be deposited with the treasurer of the enforcement agency to the credit of the owner of said property or to such other person legally entitled thereto and such excess shall be payable to said owner or other person on demand and upon producing evidence of ownership satisfactory to said treasurer.

CHAPTER 808

An act to amend Section 134 of the Vehicle Code, relating to the distribution of publications by the Department of Motor Vehicles.

Stats 1935, p 93, amended

[Approved by Governor June 21, 1941 Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 134 of the Vehicle Code is hereby amended to read as follows:

Stats 1937, p 166

134. Distribution of the Vehicle Code and Synopsis. (a) The department shall publish the complete text of the California Vehicle Code together with other laws relating to the use of highways or the operation of motor vehicles at least once every two years and may republish said code and laws and distribute the same as may be deemed advisable without charge, and the cost of such publication shall be a proper expenditure from the appropriations made for the support of the department.

Distribution of code and synopsis of laws

(b) The department may publish a synopsis or summary of the laws regulating the operation of vehicles and the use of the highways and may deliver a copy thereof without charge with each original vehicle registration and with each original operator's and chauffeur's license.

(c) The department may prepare and from time to time disseminate information relating to prevention of traffic accidents.

CHAPTER 809

An act to amend Section 374b of the Penal Code, relating to disposal of garbage and refuse upon public and private highways and roads, and providing penalties for the violation thereof.

[Approved by Governor June 21, 1941 Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 374b of the Penal Code is hereby amended to read as follows:

Stats 1939, p 1689

374b. It shall be unlawful to place, deposit or dump, or cause to be placed, deposited or dumped, any garbage, swill,

Offensive matter on highways, etc

cans, bottles, papers, ashes, refuse, carcass of any dead animal, offal, trash or rubbish or any noisome, nauseous or offensive matter in or upon any public or private highway or road, including any portion of the right of way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or on any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for such purpose by the governing board or body having charge thereof. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

No portion of this section shall be construed to restrict a private owner in the use of his own private property.

CHAPTER 810

An act to amend Section 117b of the Code of Civil Procedure, relating to small claims courts.

In effect September 13, 1941

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1818

SECTION 1. Section 117b of the Code of Civil Procedure is hereby amended to read as follows:

Form of affidavit

117b. The affidavit mentioned in the last section shall be on a blank substantially in the following form:

In the Small Claims Court of _____, County of _____, State of California

_____, Plaintiff

vs.

_____, Defendant

State of California, } ss.
County of _____ }

_____, being duly sworn, deposes and says: That the defendant is indebted to the plaintiff in the sum of $_____; that this affiant has demanded payment of said sum and no part thereof has been paid; that the defendant resides at _____, in the above named county, or city and county (or, "that the obligation sued on was contracted to be performed at _____ in the above named county, or city and county"); that this affiant resides at _____, county (or city and county) of _____ in the State of California.

Subscribed and sworn to before me this _____ day of _____, 19___.

_____
Justice (Clerk or notary public)

On the affidavit shall be printed:

ORDER

The people of the State of California, to the within named defendant, greeting:

You are hereby directed to appear and answer the within and foregoing claim at my office in _____, _____ in _____ County of _____, State of California (or at the (name of building or residence) courtroom of Department _____ of the municipal court in, etc.), on the _____ day of _____, 19___, at the hour of _____ o'clock in the _____noon of said day; and to have with you, then and there, all books, papers, and witnesses needed by you to establish your defense to said claim.

And you are further notified that in case you do not so appear, judgment will be given against you for the amount of said claim as it is stated in said affidavit.

Dated this _____ day of _____, 19___.

_____
Justice of the Peace (or, clerk of the court)

CHAPTER 811

An act to add Sections 8.1, 8.2 and 8.3 to the County Waterworks District Act, relating to the refunding of the indebtedness of county waterworks districts.

Stats. 1913, p. 785, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 8.1 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 8.1. The board of supervisors may issue refunding bonds of any county waterworks district for the purpose of refunding any or all outstanding bonds of the district. Said board shall by resolution determine the amount of the outstanding bonds to be refunded, fix the maximum amount of refunding bonds to be issued, the maximum rate of interest to be paid thereon (which shall not exceed the rate of interest on the bonds to be refunded), and the number of years, not exceeding 30, the whole or any part of such refunding bonds are to run. In such resolution the board shall call an election and submit to the qualified voters of the district the question whether such refunding bonds shall be issued. Such resolution shall fix the time of the election, establish one or more voting precincts therefor, designate the polling place or places, appoint an inspector, judge and clerk for each precinct, and fix the hours during the day in which the polls will

Refunding bonds

be open and the manner of voting for and against the issuance of such refunding bonds. In all particulars not set forth in this section said election shall be held and conducted as provided in Section 6 of this act. Said resolution shall be published twice in a newspaper of general circulation in the county and designated by said board of supervisors for that purpose, the last publication to be at least one week before the date of the election. No other notice of said election need be given.

If at such election a majority of the votes cast are in favor of the issuance of the refunding bonds, said board of supervisors shall thereupon be authorized to issue refunding bonds of such district in not exceeding the maximum amount set forth in said resolution, payable out of the funds of said district to be provided as in Section 8.3 of this act prescribed.

New section

SEC. 2. Section 8.2 is hereby added to the act cited in the title hereof, to read as follows:

Form of refunding bonds

Sec. 8.2. Said board shall, by order entered in its minutes, prescribe the form of said refunding bonds and of the interest coupons to be attached thereto; shall fix the date of such refunding bonds, the maturities thereof, and the rate or rates of interest to be paid thereon. Said bonds and the interest coupons thereof shall be signed as provided in Section 7 of this act.

Exchange

Said refunding bonds or any part thereof may be exchanged at the par value thereof for any outstanding bonds to be refunded at the par value thereof or less, and upon such terms as may be agreed upon by said board of supervisors and the holders of such bonds, but in any event subject to adjustment of accrued interest to the date of exchange. Any moneys required for such adjustment of interest may be paid from any funds of the district. In lieu of the exchange for outstanding bonds hereinbefore provided, the refunding bonds

Sale

may be sold by said board of supervisors for cash at not less than par and accrued interest, and the proceeds thereof used for the purchase or retirement of the outstanding bonds upon terms agreed upon by said board of supervisors and the holders of such bonds, but not to exceed par and accrued interest. Any bonds refunded and all interest coupons appurtenant thereto shall be canceled immediately by the county treasurer. Expenses of the refunding proceedings may be paid from any funds of the district.

New section

SEC. 3. Section 8.3 is hereby added to the act cited in the title hereof, to read as follows:

Levy of taxes

Sec. 8.3. Taxes for the payment of principal and interest of refunding bonds shall be levied as provided in Section 9 of this act except that if the bonds refunded were payable from taxes levied upon land only, as provided in Section 10½ of this act, the taxes for the payment of principal and interest of refunding bonds shall likewise be levied upon lands only.

CHAPTER 812

An act to amend Sections 7643, 7662, 7665, 7666, 7668 and to repeal Section 7664 of the Business and Professions Code, relating to embalmers and apprentices.

Stats. 1937, p. 1229, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7643 of the Business and Professions Code is hereby amended to read as follows:

Stats. 1939, p. 417

7643. In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

Qualifications

(a) Be over 21 years of age.

(b) Be of good character.

(c) Hold a junior college diploma or have completed a full two years' college course or the equivalent of either.

(d) Have completed a one-year course of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this State in a funeral establishment which shall have been first approved for apprentices by the board.

(e) Have completed a course of instruction of not less than nine months which embraces the subjects specified in Section 7646 of this code, in an embalming school approved by the board.

SEC. 2. Section 7662 of the Business and Professions Code is hereby amended to read as follows:

Stats. 1939, p. 418

7662. In order to qualify as an embalmer's apprentice, an applicant shall comply with all of the following requirements:

Same

(a) Be over 19 years of age.

(b) Be of good moral character.

(c) Hold a junior college diploma or have completed a full two years' college course or the equivalent of either.

SEC. 3. Section 7664 of the Business and Professions Code is hereby repealed.

Stats. 1939, p. 418

SEC. 4. Section 7665 of the Business and Professions Code is hereby amended to read as follows:

Stats. 1939, p. 418

7665. The board shall supervise and control all registered apprentices and shall require them to report quarterly during the apprenticeship period, upon forms provided by the board, showing the work which they have performed during the quarterly period preceding the first day of the month on which the report is made. The report shall include the number of hours served and the number of bodies the apprentice has assisted in embalming or otherwise preparing for disposition during the period.

Supervision

The information contained in the report shall be certified to as correct by the funeral director in whose establishment the apprentice has been employed during the period, and by the embalmer under whom he has served during the period.

Stats 1939, p 419

SEC. 5. Section 7666 of the Business and Professions Code is hereby amended to read as follows:

Term of apprenticeship

7666. The term of apprenticeship shall be one year. An apprentice shall be entitled to two weeks' vacation during the apprenticeship period without leave of absence from the board.

The board may grant leaves of absence and extensions thereof to registered apprentices. No credit shall be given to an apprentice upon his apprenticeship for the period during which he is absent from duty on leave.

Not more than an aggregate of two months' leave of absence shall be granted to any apprentice during the term of his apprenticeship, except that the board shall give an apprentice a leave of absence for such time as he is absent in the Military Service of the United States and such time of absence shall not be taken into consideration in arriving at such aggregate.

Stats 1939, p 1235

SEC. 6. Section 7668 of the Business and Professions Code is hereby amended to read as follows:

Suspension or revocation of certificate

7668. The board may suspend or revoke a certificate of apprenticeship, after notice and upon complaint and hearing in accordance with the provisions of Article 6, where the apprentice is guilty of any of the following acts or omissions:

(a) Failure to devote not less than an average of 15 hours per week, to the duties of his apprenticeship.

(b) Failure to make any report required by law to the board.

(c) Absence from duty except on vacation for an aggregate of more than seven days during the apprenticeship period, without leave of absence granted by the board.

(d) Gross immorality.

(e) Being on duty as an apprentice while under the influence of liquor.

(f) Disobedience of proper orders or instructions of his superior.

(g) Violation of any provision of this chapter or any rule or regulation of the board.

(h) Soliciting business for a funeral director or for an embalmer in violation of this chapter.

(i) Failure to complete his one-year course of apprenticeship within two years after registration, excepting from computation, however, such time as the apprentice may spend on leave in military service.

(j) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

CHAPTER 813

An act to amend Section 7602 of the Business and Professions Code, relating to the Board of Funeral Directors and Embalmers.

Stats 1937, p 1229, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7602 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 412

7602. Members of the board shall only be appointed from persons who are licensed as funeral directors or embalmers and who have had a minimum of five consecutive years' experience in funeral directing or embalming immediately preceding their appointment, and who are not financially interested, directly or indirectly, in any institution engaged in embalming or funeral directing instruction and who are not members of the faculty of such an institution.

Qualifications

CHAPTER 814

An act to add Sections 9b and 9c to the California Business Opportunity Act, relating to persons licensed as business opportunity brokers and business opportunity salesmen, entering the military service of the United States, declaring the urgency thereof, and providing that the act shall take effect immediately.

Stats 1937, p 2235, amended

[Approved by Governor June 21, 1941. Filed with Secretary of State June 24, 1941.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 9b is hereby added to the California Business Opportunity Act, to read as follows:

New section

Sec. 9b. Any person who while licensed under this act has heretofore entered or enters the military service of the United States and who notifies the Real Estate Commissioner of that fact within two months of the effective date of this act or within two months of such entry, shall not be required for the period of military service to renew his license under this act, and said license shall remain in full force and effect for the period of military service and until the termination of the license period during which his period of military service terminates. If his period of military service terminates during the last two months of the license period, the time for filing such applications shall be extended for two months after termination of the license period.

Licensees in military service

New section SEC. 2. Section 9c is hereby added to the California Business Opportunity Act, to read as follows:

Definitions Sec. 9c. As used in this act, the terms "military service," "period of military service" and "person in the military service of the United States" have the meanings ascribed to them by Section 101 of the "Soldiers' and Sailors' Civil Relief Act of 1940."

Urgency SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

Under the present provisions of the California Business Opportunity Act persons licensed to engage in the business, act in the capacity of, advertise or assume to act as business opportunity brokers or business opportunity salesmen, who have been or will be called into the military service of the United States in the present emergency, will forfeit their licenses and suffer loss of their business. By providing for the preservation of the licenses of such persons during such military service, this act will contribute to the public peace, health and safety. It is essential that a change be made before the renewal license period begins in order to avoid such harsh results which appear to be inevitable under the present law.

CHAPTER 815

Stats 1931, p 483, amended *An act to amend Section 12.10 of, and to add Section 8.12 to, the Building and Loan Association Act, relating to building and loan associations, investments, and certificates.*

In effect September 13, 1941 [Approved by Governor June 23, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

New section SECTION 1. Section 8.12 is hereby added to the act cited in the title hereof, to read as follows:

Security for faithful performance Sec. 8.12. Security for Faithful Performance Investment certificates, if issued by an association which is an "insured institution" as defined in Title 4 of the National Housing Act, shall be acceptable and may be used as security for the faithful performance of any public or private trust or obligation. Shares, if issued by an association issuing no investment certificates and which is an "insured institution" as defined in Title 4 of the National Housing Act, shall be acceptable and may be used as security for the faithful performance of any public or private trust or obligation.

Stats 1931, p 535 SEC. 2. Section 12.10 of the act cited in the title hereof is hereby amended to read as follows:

Forms Sec. 12.10. Forms. All associations at least 10 days before issuing any stock, shares or investment certificates and at

least 10 days before making any loans evidenced or secured by notes, trust deeds or mortgages, shall file in the office of the commissioner copies of the forms of such instruments to be used; and in the event the commissioner within such period of 10 days shall notify such association in writing that, in his opinion, any such form is unauthorized and shall state the reason or reasons that such form is unauthorized, such association shall not thereafter use such form. Notwithstanding anything to the contrary contained in this section, any form of stock, shares, investment certificate, note, trust deed or mortgage may be used without delay if such form has been approved by the commissioner. All notes shall express the rate of interest to be paid thereon. No violation of any of the provisions of this section shall render invalid any stock, shares, investment certificate, note, trust deed or mortgage.

Approved forms

CHAPTER 816

An act to amend Section 9.18 of the Building and Loan Association Act, relating to building and loan associations and the making of loans by such associations, declaring the urgency hereof, and providing that this act shall take effect immediately.

Stats 1931, p 483, amended

[Approved by Governor June 23, 1941 Filed with Secretary of State June 25, 1941]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 9.18 of the Building and Loan Association Act is hereby amended to read as follows:

Stats Ex Sess 1938, p 115

Sec. 9.18. National Housing Act Loans and Insurance. An association (a) either with or without security, may make loans, advance credit, and purchase obligations representing loans and advances of credit, pursuant to Title 1 of the National Housing Act, as amended, for the purpose of financing repairs, alterations or improvements upon or in connection with existing structures upon real property securing a loan then held by such association, or upon real property owned by such association and sold by such association under contract of sale or leased by such association with or without option to purchase, and for the purpose of financing the building of new structures, provided that such loans for the purpose of financing the building of new structures must be secured by a first mortgage or first trust deed upon fee title to real property, if the Federal Housing Administrator shall insure such association against losses which it may sustain as a result of such loans, advances of credit and purchases made by such association for such purposes, to the extent of 10 per cent of the total amount of the loans, advances of credit and purchases made by such association for such purposes on and after the

National Housing Act loans and insurance

date of the enactment of the National Housing Act Amendments of 1938; (b) may make loans upon the security of improved real property pursuant to the provisions of this section and pursuant to Title 2 and Title 6 of the National Housing Act, as amended, if the Federal Housing Administrator pursuant to said Title 2 or Title 6 shall have insured, or shall have made a commitment to insure, such association against losses of principal which it may sustain as a result of such loans; and (c) may secure insurance pursuant to said National Housing Act. No law of this State prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit or purchases made pursuant to this section.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall take effect immediately. The facts constituting this necessity are as follows:

It is essential to our National defense that adequate housing be available in defense areas. Amendments to the National Housing Act have just been enacted providing for the insuring of mortgages on property in areas or localities in which the President of the United States finds that an acute shortage of housing exists or impends which would impede National defense activities. By permitting building and loan associations to take advantage of these new provisions of the National Housing Act, the construction of housing will be stimulated in defense areas.

It is therefore imperative that this act take effect immediately in order that adequate housing may be obtained in all defense areas in this State.

CHAPTER 817

Stats 1931, p 488, amended

An act to add Section 13.16c to the Building and Loan Association Act, relating to building and loan associations, including the disposition of records and of unpaid or unclaimed dividends of liquidated building and loan associations and the dissolution of such associations.

[Approved by Governor June 23, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 13.16c is hereby added to the Building and Loan Association Act, to read as follows:

Order approving final statement

Sec. 13.16c. Disposition of unpaid or unclaimed dividends and of records. In making its order approving the commissioner's final statement of the liquidation of an association the

court shall determine the amounts of the liquidating dividends to which claimants and investors are entitled but which then remain unpaid or unclaimed in the hands of the commissioner. The order of the court shall direct the commissioner to deposit such amounts with the State Treasurer, and shall provide that such amounts shall escheat to the State five years after such deposit is made, to be received, invested, accounted for and paid out in the same manner and by the same officers as is provided in the case of escheated estates of deceased persons.

Provided, however, that until the termination of said five-year period, the persons entitled thereto shall have the right to claim such amounts in the manner provided in Section 1272a of the Code of Civil Procedure.

The order of the court approving the final statement shall provide for the destruction or other disposition of the books and records of the association or pertaining to the liquidation of the association, and the court may declare the association dissolved as a corporation.

CHAPTER 818

An act to amend Sections 1 and 5 of an act entitled "An act to establish a Legislative Counsel Bureau and making an appropriation therefor," approved May 26, 1913, relating to the Legislative Counsel.

Stats 1913, p 626, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1931, p 1748

Section 1. A bureau is hereby created to be known as the Legislative Counsel Bureau, which shall be in charge of a chief, who shall be a civil executive officer and who shall be known as the Legislative Counsel of California. He shall be selected by concurrent resolution at the beginning of each regular session and shall serve until his successor is selected and qualified. The Legislative Counsel in office at the time of the approval of this act shall, until a selection is made under this act, hold the office of Legislative Counsel of California created by this act, subject to removal by the Legislature. If a vacancy should occur while the Legislature is not in session, a committee consisting of the Speaker of the Assembly, the Speaker pro tempore of the Assembly, the President pro tempore of the Senate and the chairman of the Finance Committee of the Senate shall select the Legislative Counsel to serve until the Legislature in session makes a selection for the office. The Legislative Counsel shall be chosen without reference to party affiliations

Creation of bureau
Selection of counsel

and solely on the ground of fitness to perform the duties of his office.

Stats 1917, p 1400

SEC. 2. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Salaries

Sec. 5. The salary of the Legislative Counsel shall be six thousand dollars ($6,000) per annum and shall be payable in equal monthly installments. The Legislative Counsel shall have authority to employ and to fix the compensation of such professional assistants and such clerical and other employees as he may deem to be necessary for the effective conduct of the work under his charge. The salary of the Legislative Counsel and of every other employee of the bureau shall be paid in the same way as the salaries of other State officers are paid. The Legislative Counsel shall be repaid all actual expenses incurred or paid by him in carrying out the provisions of this act.

CHAPTER 819

An act to amend School Code Section 4.102a, relating to, and making an appropriation for, vocational rehabilitation.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 2276

SECTION 1. School Code Section 4.102a is hereby amended to read as follows:

Appropriation Vocational rehabilitation

4.102a. In addition to any other sums provided for in this article, there is hereby appropriated from any funds in the State Treasury not otherwise appropriated, for each fiscal year, the sum of one hundred and ten thousand dollars ($110,000), or so much thereof as will equal such amount in excess of sixty-five thousand dollars ($65,000) as is received by the State from the Federal Government or any agency thereof during such fiscal year for the purposes of this chapter.

CHAPTER 820

An act making an appropriation for equipment for the California School for the Deaf, and providing that this act shall take effect immediately.

[Approved by Governor June 24, 1941 Filed with Secretary of State June 25, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of seven thousand five hundred dollars ($7,500) for equipment of the hospital building for the California School for the Deaf during the Ninety-third and Ninety-fourth Fiscal Years. Appropriation California School for Deaf

SEC. 2. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provision of Section 1, of Article IV of the Constitution of the State of California, take effect immediately. Current expenses

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CHAPTER 821

An act making an appropriation for equipment for the Fresno State College and providing that this act shall take effect immediately.

[Approved by Governor June 24, 1941 Filed with Secretary of State June 25, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of thirty-six thousand dollars ($36,000) for equipment of the student activities building for the Fresno State College during the Ninety-third and Ninety-fourth Fiscal Years. Appropriation Fresno State College

SEC. 2. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provision of Section 1, of Article IV of the Constitution of the State of California, take effect immediately. Current expenses

CHAPTER 822

Stats 1937, p 750, amended

An act to amend Section 6 of, and to add Section 10 to, an act entitled "An act providing for State and county exhibits at the Golden Gate International Exposition to be held in the San Francisco Bay region, California, providing for the construction of a State building or buildings therefor and the gardening and improvement of the surrounding grounds, providing for the disposition or demolition of buildings, exhibits, and other property upon the termination of the exposition, creating a California Commission for the Golden Gate International Exposition to have charge and control of such exhibits and such building or buildings, defining its powers and duties and making an appropriation therefor," approved May 25, 1937, relating to the disposal of the property of the California Commission for the Golden Gate International Exposition, abolishing the California Commission for the Golden Gate International Exposition and transferring its powers, duties, purposes, responsibilities and jurisdiction to the Department of Finance.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 160

SECTION 1. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

Disposition of property

Sec. 6. The commission is hereby authorized, with the approval of the Department of Finance, to lease buildings or space therein or other property owned by it or under its jurisdiction or control to such persons, firms, or corporations and under such terms and conditions as it may deem desirable to facilitate the success of the exposition.

Upon the termination of the exposition the commission is hereby authorized to remove, dispose of, or demolish all buildings, exhibits or other structures owned or controlled by it, and to restore the grounds used or occupied by the commission in such manner as the commission deems proper. The commission may, with the approval of the Department of Finance, sell or otherwise dispose of any or all property or materials owned or controlled by it, and shall deposit the proceeds of any such sale in the State Treasury. The commission is hereby expressly authorized, with the approval of the Department of Finance, upon request, to donate any furniture, equipment, exhibits, or any of such other property owned or controlled by it to any State institution upon such terms and conditions as the commission deems appropriate.

Upon the final winding up of the affairs of the commission, it shall submit a complete report of its transactions and affairs to the Governor, and from time to time prior thereto shall report to the Governor as requested regarding its affairs and transactions.

SEC. 2. Section 10 is hereby added to said act, to read as follows: New section

Sec. 10. The California Commission for the Golden Gate International Exposition is abolished on and after the thirtieth day after the effective date of this section. Prior to said thirtieth day the commission shall submit a complete report of its transactions and affairs to the Governor as provided in Section 6 of this act. On and after said thirtieth day after the effective date of this section the Department of Finance shall succeed to and is hereby invested with all the powers, duties, purposes, responsibilities and jurisdiction of the California Commission for the Golden Gate International Exposition. The Department of Finance shall thereupon succeed to and have possession of all records, books, papers, equipment, supplies, moneys, funds, appropriations and all other property both real and personal now or hereafter belonging to, held by or for the benefit of said California Commission for the Golden Gate International Exposition and all such property is hereby transferred to the Department of Finance for the purposes of carrying out the provisions of any and all acts or statutes governing said California Commission for the Golden Gate International Exposition. Abolition of commission

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CHAPTER 823

An act to provide for leasing adequate facilities and service for the establishment and operation of a telephone-typewriter system of communication between counties and cities and counties of this State, to authorize the connection of this system with that of any adjacent State, to make an appropriation therefor, and to repeal certain acts inconsistent therewith.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The board of managers of the Bureau of Criminal Identification and Investigation shall lease facilities and equipment to be used under its direction and control in maintaining and operating a telephone-typewriter system of communication between points to be selected by the board in the counties of Alameda, Butte, Contra Costa, Fresno, Humboldt, Imperial, Kern, Los Angeles, Madera, Marin, Merced, Monterey, Napa, Nevada, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Tehama, Tulare, Ventura and Yuba and in the City and County of San Francisco. The board may arrange for the connection of such system with that of any adjacent State. Teletype system

Appropriation

SEC. 2. The sum of eight thousand dollars ($8,000) is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, to be expended in accordance with law in carrying out the provisions of this act.

Repeals

SEC. 3. The following acts are hereby repealed:

a. Chapter 625 of the Statutes of 1931,

b. Chapter 564 of the Statutes of 1933, and

c. Chapter 838 of the Statutes of 1935.

CHAPTER 824

An act to amend Section 689 of, and to add Section 689.5 to, the Political Code, relating to collections by the State Department of Finance from other State agencies, making an appropriation and declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2710

SECTION 1. Section 689 of the Political Code is hereby amended to read as follows:

Collections from "self-supporting agencies"

689. From any State department, officer, board or commission having any special fund in the State Treasury made available by law for the use, support or maintenance of any part or all of the work and affairs of such department, office, board or commission, the Department of Finance may fix and collect:

Motor vehicle insurance and claims cost

(a) The pro rata share of the cost of insuring motor vehicles belonging to such department, officer, board or commission against liability for damages resulting from the negligent operation of motor vehicles and arising under the provisions of Section 400 of the Vehicle Code or, in the discretion of the director, an amount which he considers equivalent to such pro rata share to be expended by him in accordance with law paying claims under Section 400 of the Vehicle Code and paying for the investigation, adjustment, defense and administration of such claims;

Rentals

(b) Rent for the use or occupancy of space in any building owned, managed or controlled by the State and used or occupied by such State department, officer, board or commission where such space is utilized in carrying out the work and affairs, or that portion of the work and affairs, of such department, officer, board or commission, for the carrying out of which said special fund was created;

Cost of janitor service

(c) The actual cost of janitor and maintenance service rendered to such department, officer, board or commission to enable it to carry out the work and affairs, or that portion of

its work and affairs, for the carrying out of which the special fund was created; and

(d) The pro rata cost of workmen's compensation insurance covering the officers and employees of such department, officer, board, or commission. Workmen's compensation insurance cost

The State Department of Finance may file a claim against any appropriations made from special funds for the support or maintenance of any part or all of the work and affairs of any State department, officer, board or commission for a pro rata share of the costs or services included within this section, when such State department, officer, board, or commission refuses to pay such pro rata share of such costs or services, and the State Controller shall draw his warrant in accordance with law upon such claim in favor of the State Department of Finance. Claim

All moneys received by the Department of Finance pursuant to paragraphs (a) and (d) under the provisions hereof shall be accounted for and reported at the end of each month by said department to the State Controller to be by said Controller credited as an abatement of the expenses of said department, and at the same time such moneys shall be remitted to the State Treasury to become a part of any appropriation made available by law from out of which the expenses for such purposes were paid. Report to State Controller

All other moneys received by the Department of Finance under the provisions of paragraph (b) hereof shall be accounted for and reported at the end of each month by said department to the State Controller, and at the same time such moneys shall be remitted to the State Treasurer to become a part of the General Fund and all moneys received by the Department of Finance under the provisions of paragraph (c) herein shall be accounted for as provided in Section 689.5 of the Political Code.

SEC. 2. Section 689.5 is hereby added to the Political Code, to read as follows: New section

689.5. There is hereby created in the State Treasury the Service Revolving Fund, from which fund shall be paid all salaries and wages and other expenses incurred by the Bureau of Buildings and Grounds in the Department of Finance. The cost of rendering services to agencies supported from funds other than the General Fund, and the cost of rendering services to any agency at its request, shall be determined monthly by the Department of Finance and by said department charged to such agencies. After deducting the cost of services rendered and charged to other agencies, the remaining expenditures out of the Service Revolving Fund shall be a charge against the appropriation for the support of the Bureau of Buildings and Grounds and upon certification by the Department of Finance shall be transferred monthly by the State Controller from said appropriation to the Service Revolving Fund. Service Revolving Fund

Any moneys received by the Department of Finance for services rendered to other State agencies shall be accounted for and reported at the end of each month by the Department of Finance to the State Controller to be by the Controller credited to the Service Revolving Fund, and at the same time such money shall be remitted to the State Treasury to become a part of said fund.

Appropriation

SEC. 3. Out of any moneys in the State Treasury not otherwise appropriated there is hereby appropriated the sum of seven hundred fifty-nine thousand seven hundred fifteen dollars ($759,715) for the support of the State Department of Finance, five hundred nine thousand seven hundred fifteen dollars ($509,715) of which is to be expended for support of the Bureau of Buildings and Grounds during the Ninety-third and Ninety-fourth Fiscal Years and two hundred fifty thousand dollars ($250,000) shall be paid into the Service Revolving Fund.

Current expenses

SEC. 4. Inasmuch as this act provides an appropriation for the usual current expenses of the State it shall, pursuant to the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 825

An act making an appropriation for the control of disease-harboring rodents on and near areas established for defense purposes.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Rodent control

SECTION 1. For the purpose of controlling or suppressing field rodents in accordance with the provisions of Section 139.5 of the Agricultural Code on and near areas being utilized for the training and housing of armed forces, there is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of twenty-five thousand dollars ($25,000) to be expended during the Ninety-third and Ninety-fourth Fiscal Years.

CHAPTER 826

An act making an appropriation for the support, activities and functions of the California Farm Debt Adjustment Commission, disposing of unexpended money of a previous appropriation for such purposes, and providing that this act shall take effect immediately.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Out of any money in the State Treasury not otherwise appropriated the sum of nineteen thousand six hundred dollars ($19,600) is hereby appropriated to be expended in accordance with law by the California Farm Debt Adjustment Commission, commencing July 1, 1941. Of such money not more than nine thousand six hundred dollars ($9,600) shall be expended for the maintenance of the office of the commission and the carrying on of its work, including all necessary clerical, stenographic, and other office or field assistance, telephone and telegraph service, and contributions to the expense of county farm debt adjustment committees in its discretion; and not more than ten thousand dollars ($10,000) shall be expended by the commission for initiating and carrying on farm debt adjustment work and then only, if and when, in the opinion of the commission, the Federal Government has discontinued or substantially curtailed its present farm debt adjustment work. Appropriation California Farm Debt Adjustment Commission

Upon the effective date of this act, the twenty thousand dollars ($20,000) allotted by Chapter 940 of the Statutes of 1939 for carrying out the provisions of the Farm Finance Act of 1939 shall revert to the General Fund in the State Treasury. On July 1, 1941, the twenty thousand dollars ($20,000) allotted by Chapter 940 of the Statutes of 1939 for initiating and carrying on farm debt adjustment work, and the then remaining unexpended and unencumbered balance of any other money allotted by that chapter for any other purpose, shall revert to the General Fund in the State Treasury.

SEC. 2. This act, inasmuch as it provides an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

CHAPTER 827

An act to make an appropriation for the construction of an additional building at San Quentin Prison.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Appropriation San Quentin State Prison

SECTION 1. Out of any money in the State Treasury not otherwise appropriated there is hereby appropriated the sum of sixty thousand dollars ($60,000) to the State Board of Prison Directors for the construction and equipment of a hall at San Quentin State Prison where religion, educational and vocational training may be provided for the persons confined at such prison.

CHAPTER 828

An act making an appropriation to meet a deficiency in the appropriation for legislative printing, binding, etc., to take effect immediately.

In effect immediately

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Appropriation Legislative printing, etc., current expenses

SECTION 1. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated out of any money in the State Treasury not otherwise appropriated to meet a deficiency in the appropriation for legislative printing, binding, etc., for the Ninety-first and Ninety-second Fiscal Years.

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately.

CHAPTER 829

An act making an appropriation to the State Personnel Board, to take effect immediately.

In effect immediately

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Appropriation State Personnel Board

SECTION 1. In augmentation of any other appropriation, there is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of nine thousand six hundred dollars ($9,600) to be expended at an equal

monthly rate by the State Personnel Board during the Ninety-third and Ninety-fourth Fiscal Years for the compensation of a hearing officer and confidential secretary.

SEC. 2. This act, inasmuch as it makes an appropriation for the usual current expenses of the State, shall, under Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

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CHAPTER 830

An act making an appropriation for the support of the State Department of Social Welfare, to take effect immediately.

[Approved by Governor June 24, 1941 Filed with Secretary of State June 25, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Subject to abatement by any amount received from the Federal Government for such purpose, there is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of one million five hundred eighty-six thousand six hundred seventy-seven dollars ($1,586,677) for the support of the State Department of Social Welfare during the Ninety-third and Ninety-fourth Fiscal Years. Appropriation State Department of Social Welfare

SEC. 2. This appropriation shall be reduced to the extent that any money is received from the Federal Government for the administrative costs of the State Department of Social Welfare under Chapter 1 of Part 2 of Division 2 (relating to needy children), Chapter 1 of Division 3 (relating to the aged) and Chapters 1 and 3 of Part 1 of Division 5 (relating to the blind) of the Welfare and Institutions Code.

SEC. 3. This act, inasmuch as it provides an appropriation for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately. Current expenses

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CHAPTER 831

An act to repeal Article 5, consisting of Sections 5570 to 5578, inclusive, of Chapter 3 of Division 3, and to add a new article numbered 5, consisting of Sections 5560 to 5587, inclusive, to Chapter 3 of Division 3 of the Business and Professions Code, relating to the practice of architecture. Stats 1937, p 1229, amended

[Approved by Governor June 24, 1941 Filed with Secretary of State June 25, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Article 5, consisting of Sections 5570 to 5578, inclusive, of Chapter 3 of Division 3 of the Business and Professions Code is hereby repealed. Repeal

New article SEC. 2. A new article numbered 5, consisting of Sections 5560 to 5587, inclusive, is hereby added to Chapter 3 of Division 3 of the Business and Professions Code, to read as follows:

Article 5. Disciplinary Proceedings

Disciplinary action 5560. The board may upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any architect and may temporarily suspend for a period not exceeding one year or permanently revoke the certificate, whether it be a provisional or a final certificate, of any such architect who is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action under this chapter.

Complaint and citation 5561. Upon the filing of a verified complaint with the board charging the holder of any certificate issued under this chapter with the commission, within two years prior to the date of filing of the complaint, of any act constituting a cause for disciplinary action, the secretary of the board shall forthwith issue a citation.

The citation shall direct the holder of the certificate, within 30 days after service of the citation upon him, to appear by filing with the secretary of the board his verified answer to the complaint, showing cause if any he has, why his certificate should not be suspended or revoked.

The appearance of the holder of the certificate by the filing of an answer may be waived by the complainant with the approval of the board, in which case the board shall proceed to a hearing.

Service upon the holder of the certificate shall be fully effected by mailing a copy of the citation together with a copy of the complaint.

Notice and place of hearing 5562. Upon the filing of the answer, the secretary of the board shall fix a time and place for the hearing and give the holder of the certificate and the complainant not less than 30 days' notice thereof by mail. The hearing shall be set only in the county in which the offense is committed or in which the principal place of business of the holder of the certificate is located.

With the notice to the complainant there shall be attached or inclosed a copy of the answer.

Failure to defend 5563. Failure of the holder of the certificate to answer or to appear at the hearing, after having been served, may be deemed an admission by him of the commission of the act or acts charged in the complaint and his certificate shall thereupon be suspended forthwith pending any hearing of the cause which the board in its discretion may order. The board may, in the event of such failure to answer or to appear at the

hearing suspend or revoke the certificate without further evidence than the verified complaint in the case.

Hearing

5564. Upon the hearing, the board shall hear all pertinent evidence material to the issues. It may continue the hearing from time to time as in its judgment may be necessary or proper.

Decision

After the hearing is concluded and the matter submitted, the board shall, within 30 days after submission, render its decision in writing, suspending or revoking the certificate or dismissing the complaint, with a brief statement of its reasons therefor.

It shall give to the complainant and the holder of the certificate or their respective attorneys, notice of the decision, by mail.

Same

5565. The decision may:

(a) Provide for the immediate complete suspension by the holder of the certificate of all operations as an architect during the period fixed by the decision.

(b) Permit the holder of the certificate to complete any or all contracts for the performance of architectural services shown by evidence taken at the hearing to be then uncompleted.

(c) Impose upon the holder of the certificate compliance with such specific conditions as may be just in connection with his operations as an architect disclosed at the hearing and may further provide that until such conditions are complied with no application for restoration of the suspended or revoked certificate shall be accepted by the board.

When effective

5566. The decision of the board suspending or revoking a certificate shall take effect 20 days after the service of the notice of decision. The board may grant a stay of execution of the decision suspending or revoking a certificate, pending the filing by the holder of the certificate of an action in the courts regarding the decision or an application to the board for a rehearing or pending an application for a rehearing.

Rehearing

5567. The holder of the certificate may within 20 days after the service of notice of the decision of the board suspending or revoking his certificate apply for a rehearing by filing with the secretary of the board his petition in writing therefor. Within 10 days after the filing of the petition, the secretary of the board shall cause notice thereof to be served upon the complainant by mailing a copy of the petition for rehearing to the complainant.

Within a period of 30 days after the service of the notice, the board shall either grant or deny the petition. If the petition is not granted within the 30-day period, it shall be deemed denied.

In its formal order granting or denying a rehearing, the board shall set forth a statement of the particular grounds

and reasons for its action on the petition and shall forthwith mail a copy of the order to the parties who have appeared in support of or in opposition to the petition for rehearing.

Vacating decision

5568. If a rehearing is granted, the board shall vacate the decision theretofore rendered suspending or revoking the certificate and shall set the matter for further hearing on notice to the parties, by mail.

After submission of the matter upon rehearing, the board shall promptly render its decision in writing and give notice thereof by mail.

Application to courts

5569. Any decision of the board, whether upon an original hearing or after a rehearing shall be subject to examination by the courts.

The party desiring a review of the decision of the board shall file his petition therefor in the superior court within 20 days after service upon him of the board's decision, or, in case a rehearing has been applied for, within 20 days after service upon him of the order denying the application therefor, or within 20 days after service upon him of the board's decision upon rehearing.

Bond

5570. In any proceeding for examination by a court, the court may in its discretion, upon the filing of a proper bond by the holder of the certificate in an amount to be fixed by the court, guaranteeing the compliance by the holder of the certificate with specific conditions imposed upon him by the board's decision, if any, permit the holder of the certificate to continue to practice as an architect pending entry of judgment by the court in the case.

The person desiring a review shall pay to the secretary of the board the sum of twenty cents ($0.20) for each 100 words of the transcript of the record and proceedings certified to the court.

Appeal from superior court

5571. A judgment of suspension or cancellation of a certificate by the superior court shall be subject to appeal or review in accordance with the provisions of law as to appeal from or review of judgments of superior courts.

There shall be no stay of execution or enforcement of the judgment pending such proceedings on appeal or review unless the appellant or applicant for review shall file a bond in all respects conditioned as, and similar to, the bond required to stay the effect of the board's decision in the first instance.

The clerk of the court whose judgment has become final shall, within 10 days after its entry, transmit, by regular United States mail, to the secretary of the board a notice containing information as to the affirmance, modification or reversal of the judgment of the superior court in the matter.

Notice to county recorder

5572 When the decision of the board or of the court suspending or revoking a certificate has become final, the secretary of the board shall give notice of that action to the county recorder of the county in which the certificate was recorded. The recorder shall mark "suspended" or "revoked" on the certificate of the architect recorded in his office.

Renewal of certificate

5573. After suspension of a certificate upon any of the grounds set forth in this chapter, the board may renew the certificate upon proof of compliance by the architect with all provisions of the decision as to renewal or, in the absence of such decision or any provisions therein as to renewal, in the sound discretion of the board.

After revocation of a certificate upon any of the grounds set forth in this chapter, the certificate shall not be renewed or reissued within a period of one year after the final decision of revocation and then only on the filing of an application with the board for a new certificate and on a proper showing that all loss caused by the act or omission for which the certificate was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with.

Amendments to pleadings

5574. At any time before a case is finally submitted to the board for decision, whether upon an original hearing, or upon a rehearing, a complaint or answer may upon the motion of either party and with the consent of the board, or upon the board's own motion, be amended. If new charges are alleged in an amended complaint, the defendant may, upon request, be allowed not more than 20 days to prepare his defense to such new charges.

Service

5575. All service required by this article may be effected by personal service or by mail.

In case of service by mail, a copy of the notice, complaint, answer or other paper shall be sent by registered mail, in a sealed envelope, with postage thereon fully prepaid addressed to the person on whom it is to be served at his latest address of record in the office of the board. After appearance of a party, service may be effected upon him by service upon his counsel, if any he has. Service by mail is completed at time of deposit. Proof of service by mail may be made as provided in Section 1013a of the Code of Civil Procedure

In the case of personal service, a copy of the notice, complaint, answer or other paper may be served in the same manner as a summons is served as provided in Section 410 of the Code of Civil Procedure and proof may be made thereof as provided in Section 415 of the Code of Civil Procedure. Personal service is effected by delivery to the person to be served. After appearance of a party, service may be effected upon him by service upon his counsel, if any he has.

Re eree 5576. In any investigation, proceeding or hearing which the board is empowered to institute, conduct or hold, the board, or any referee authorized by it to conduct such investigation, proceeding, or hearing, may administer oaths, certify to official acts, issue subpenas for the attendance of witnesses and the production of books, papers, and records, and exercise all of the powers conferred upon the head of a department by the provisions of Section 353 of the Political Code. All of the provisions of that section are incorporated herein with the same force and effect as if herein set forth at length and wherever in that section "head of a department" or similar designation occurs, the same, for the purpose of this reference, means the board and such referee.

If a hearing is held before a referee he shall prepare a report for the board. The board shall review the referee's report and all other data and material he submits and shall make the decision.

Grounds for discipline —Unlawful practice 5578. The fact that the holder of a certificate of registration is practicing in violation of the provisions of this chapter constitutes a ground for disciplinary action.

—Fraud 5579. The fact that the holder of a certificate has obtained the certificate by fraud or misrepresentation, or that the person named in the certificate has obtained it by fraud or misrepresentation constitutes a ground for disciplinary action.

—False personation 5580. The fact that the holder of a certificate is falsely impersonating an architect or former architect of a like or different name, or is practicing under an assumed, fictitious or corporate name, constitutes a ground for disciplinary action.

—Aiding unauthorized practice 5582. The fact that the holder of a certificate has aided or abetted in the practice of architecture, any person not authorized to practice architecture under the provisions of this chapter, or any person not registered as a civil engineer, constitutes a ground for disciplinary action.

—Fraud generally 5583. The fact that, in the practice of architecture the holder of a certificate has been guilty of fraud or deceit constitutes a ground for disciplinary action.

—Negligence 5584. The fact that, in the practice of architecture, the holder of a certificate has been guilty of negligence or wilful misconduct constitutes a ground for disciplinary action.

—Incompetency 5585. The fact that the holder of a certificate has been guilty of incompetency or recklessness in the construction of, or structural design of a building, constitutes a ground for disciplinary action.

5586. The fact that the holder of a certificate has affixed his signature to plans, drawings, specifications or other instruments of service which have not been prepared by him or in his office, or under his immediate and responsible direction, or has permitted his name to be used for the purpose of assisting any person, not an architect, to evade the provisions of this chapter, constitutes a ground for disciplinary action. —Misuse of signature

5587. If the holder of a certificate has been adjudged mentally incompetent by a court, the board shall suspend his right to practice at its first meeting following the filing with it of a certified copy of the judgment and shall not reinstate him until a certified copy of the judgment restoring him to competency has been filed with it. —Mental incompetence

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CHAPTER 832

An act to amend Section 11005 of the Revenue and Taxation Code, and Section 11 of an act entitled "An act relating to licensing and taxing of vehicles, providing for license fees for the privilege of operating certain vehicles, providing for the exemption of such vehicles from all taxes according to value for State, county or municipal purposes, providing for the administration and enforcement of this act, creating a fund to be known as the Motor Vehicle License Fee Fund, and making an appropriation of the moneys therein," approved June 25, 1935, relating to the expenditure by cities and cities and counties of motor vehicle license fee money distributed to them. Stats 1939, p 1274 and Stats 1935, p 1312, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 11005 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 609

11005. The balance of the money in the Motor Vehicle License Fee Fund shall, on order of the Controller, be disbursed as follows: Motor Vehicle License Fee Fund

(a) Twenty per cent thereof shall be paid to the General Fund of the State. General Fund

(b) Forty per cent thereof shall be paid quarterly during each fiscal year to the cities and cities and counties of this State in the proportion that the total population of each city or city and county bears to the total population of all cities and cities and counties in this State, as certified by the department. For the purpose of this subdivision the population of each city or city and county is that determined by the last Federal census. In the case of a city incorporated subsequent to the last census, or in the case of an unincorporated territory being annexed to a city subsequent to the last census, the Payments to cities and counties

department shall ascertain the population of the city or the annexed territory by multiplying the number of registered electors therein by three. In the case of the consolidation of one city with another subsequent to the last census the population of the consolidated city for the purpose of this subdivision is the aggregate population of the respective cities as determined by the last Federal census.

The money so paid shall be expended by the cities and cities and counties for law enforcement, for the regulation and control and fire protection of highway traffic, and for any other State purpose.

(c) Forty per cent thereof shall be paid quarterly during each fiscal year to the counties and cities and counties of the State in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the State, as certified by the department. For the purpose of this subdivision the population of each county or city and county is that determined by the last Federal census.

Stats 1937, p 1780

SEC. 2. Section 11 of the act cited in the title hereof is hereby amended to read as follows:

Appropriation on and after July 1, 1939

Sec. 11. On and after July 1, 1939, the moneys in the Motor Vehicle License Fee Fund are hereby appropriated as follows:

For enforcement

(a) There shall be first appropriated from such fund for the use of the Department of Motor Vehicles such amount as the Department of Finance shall determine, and shall so certify to the State Controller, is necessary for the enforcement of the provisions of this act, the total of which amount shall in no event exceed 3 per cent of the moneys paid into said fund.

For principal and interest of highway bonds

(b) On order of the State Controller there shall be transferred to the General Fund and set apart sufficient moneys in the amount of the principal and interest paid or necessarily to be paid during each fiscal year on bonds of the State issued under:

(1) The "State Highways Act," approved by the Governor March 22, 1909, and by a majority of the electors at the general election held November 8, 1910;

(2) The "State Highways Act of 1915," approved by the Governor May 20, 1915, and by a majority of the electors at the general election held November 7, 1916;

(3) Section 2 of Article XVI of the Constitution as approved by a majority of the electors at a special election held July 1, 1919; and

(4) Section 3 of Article XVI of the Constitution, as approved by a majority of the electors at the general election held November 2, 1920.

(c) The balance of the moneys in said fund shall, on order of the Controller, be disbursed as follows:

To General Fund

(1) Twenty per cent thereof to the General Fund of the State of California.

(2) Forty per cent thereof shall be paid quarterly during each fiscal year to the cities and cities and counties of this State in the proportion that the total population of each such city or city and county bears to the total population of all cities and cities and counties in this State, as certified by the department. For the purpose of this subsection, the population of each city or city and county is that determined by the last Federal census. In the case of a city incorporated subsequent to the last census, or in the case of an unincorporated territory being annexed to a city subsequent to the last census, the department shall ascertain the population of the city or the annexed territory by multiplying the number of registered electors therein by three. In the case of the consolidation of one city with another subsequent to the last census the population of the consolidated city for the purpose of this subsection is the aggregate population of the respective cities as determined by the last Federal census. The moneys so paid shall be expended by the cities and cities and counties for law enforcement, for the regulation and control and fire protection of highway traffic, and for any other State purpose. Payments to cities

(3) Forty per cent thereof shall be paid quarterly during each fiscal year to the counties and cities and counties of the State in the proportion that the population of each such county or city and county bears to the total population of all the counties and cities and counties of the State, as certified by the department. For the purpose of this subsection, the population of each county or city and county is that determined by the last Federal census. Payments to counties

SEC. 3. Section 1 of this act takes effect only if Part 5 of Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fourth Session, and, in such case, at the same time as said Part 5 takes effect, at which time Section 11 of the act cited in the title hereof is hereby repealed. Effect See Stats 1941, p 605

CHAPTER 833

An act to amend Sections 6, 8, 11, 13, 17, 18 and 20 of the Inheritance Tax Act of 1935, relating to inheritance taxation, to take effect immediately. Stats 1935, p 1266, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 6 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2210

Sec. 6. The following exemptions from the tax are hereby allowed: Exemptions

(1) (a) All proceeds of any Federal war risk insurance policy of any veteran of the World War which is payable or

Exemptions which may become payable to the estate of such veteran shall be exempt.

(b) All property transferred to this State or to the United States or to societies, corporations and institutions now or hereafter exempted by law from taxation, or to any public corporation, or to any society, corporation, institution, or association of persons exclusively engaged in or devoted to any charitable, educational, public, or other like work (pecuniary profit not being its object or purpose); or to any person, society, corporation, institution, or association of persons in trust exclusively for or to be devoted exclusively to any charitable, educational, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled in possession or expectancy to any such property or to the income thereof, shall be exempt; provided, however, that such society, corporation, institution or association be organized solely for charitable, educational, public or other like work under the laws of this State or of the United States, or that the property transferred be limited for use within this State; provided further, that if such society, corporation, institution or association be organized or existing under the laws of a Territory or State of the United States (other than California) or of a foreign state or country, all property transferred to such society, corporation, institution or association shall be exempt if at the date of decedent's death the said State or Territory or foreign state or country under the laws of which such society, corporation, institution or association was organized or existing did not impose a legacy or succession tax or a death tax of any character in respect of property transferred to such a society, corporation, institution or association organized or existing under the laws of this State, or if at the date of decedent's death the laws of the State or Territory or foreign state or country under which such society, corporation, institution or association was organized or existing contained a reciprocal provision under which transfers to such a society, corporation, institution or association organized or existing under the laws of another State or Territory or foreign state or country were exempted from legacy or succession taxes or death taxes of every character; providing, said other State or Territory or foreign state or country allowed a similar exemption to such a society, corporation, institution or association organized or existing under the laws of another State or Territory or foreign state or country.

(2) Property of the clear value of twenty-four thousand dollars ($24,000) transferred to the wife, and of twelve thousand dollars ($12,000) transferred to a minor child of the decedent, and of five thousand dollars ($5,000) transferred to each of the other persons described in the first subdivision of Section 4 shall be exempt.

(3) "Previously taxed property" means property trans- Exemptions
ferred by a present decedent to any person described in Subdivision (1) of Section 4 where such property was transferred to the present decedent by a prior decedent in relation to whom the present decedent was in the class described in Subdivision (1) of Section 4 and an inheritance tax was paid to this State on the transfer from the prior decedent. In determining the net amount of previously taxed property being transferred in the present decedent's estate its value shall be taken as of the date of the prior decedent's death or as of the date of the present decedent's death, whichever is lower, and due allowance shall be made under rules prescribed by the Controller for the proportion of deductions and exemptions chargeable against such property in the prior decedent's estate and for the proportion of deductions chargeable against such property in the present decedent's estate.

"Proportionate exemption" means the amount which bears the same proportion to the exemption (other than the exemption allowed in this subdivision) allowed on all property transferred by the present decedent to the person to whom the previously taxed property is being transferred as the value of the net amount of previously taxed property bears to the value of the net amount of property transferred by the present decedent to the person to whom the previously taxed property is being transferred.

The net amount of previously taxed property, less the amount of the proportionate exemption, is exempt from the tax, except any tax levied under Subdivision (12) of Section 2.

(4) Property of the clear value of two thousand dollars ($2,000) transferred to each of the persons described in the second subdivision of Section 4 shall be exempt.

(5) Property of the clear value of five hundred dollars ($500), transferred to each of the persons described in the third subdivision of Section 4 shall be exempt.

(6) Property of the clear value of fifty dollars ($50), transferred to each of the persons and corporations described in the fourth subdivision of Section 4 shall be exempt.

(7) In computing the tax upon transfers subject to tax under the provisions of this act, the exemptions allowed in Subdivisions (2), (3), (4), (5) and (6) of this section shall be deducted from the aggregate amount of property transferred, and the transfer of the remainder of the property after making such deduction shall be taxed at the rates at which it would have been taxed had no exemption whatever been allowed.

(8) The tax imposed by this act in respect of intangible personal property shall not be payable if the decedent is a resident of a State or Territory of the United States or a foreign state or country which at the time of his death imposed a legacy, succession or death tax in respect of intangible personal property of residents of the State or Territory or foreign state or country, but did not impose a legacy or succession tax

or a death tax of any character in respect of intangible personal property of residents of this State, or if the laws of the State or Territory or foreign state or country of residence of the decedent at the time of his death contained a reciprocal provision under which nonresidents were exempted from legacy or succession taxes or death taxes of every character in respect of intangible personal property providing the State or Territory or foreign state or country of residence of such nonresidents allowed a similar exemption to residents of the State or Territory or foreign state or country of residence of such decedent.

For the purposes of this act, the District of Columbia is a Territory of the United States.

Stats 1937, p 651

SEC. 2. Section 8 of said act is hereby amended to read as follows:

Immediate appraisement and payment

Sec. 8. (1) When any grant, gift, legacy, devise or succession upon which a tax is imposed by Section 2 of this act shall be an estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder, reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the decedent, and the market value thereof determined, in the manner provided in Section 16 or 17 of this act, and the tax prescribed by this act shall be immediately due and payable to the treasurer of the proper county, and together with the interest thereon, shall be and remain a lien on said property until the same is paid.

Contingent incumbrance

(2) In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made on account of any contingent incumbrance thereon, nor on account of any contingency upon the happening of which the estate or property or some part thereof or interest therein might be abridged, defeated or diminished; provided, however, that in the event of such incumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgment, defeat or diminution of said estate or property or interest therein as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax on account of the incumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided by Subdivision 4 of Section 11 hereof upon order of the court having jurisdiction Said application for return of tax must be made within six months of the happening of said contingency.

Remainder

(3) When property is transferred in trust or otherwise, whereby any person becomes entitled to an estate or interest

for life or years therein and any other person to the remainder over, the executor or trustee shall pay the entire tax on all interests therein out of the corpus of the property transferred, and no part thereof shall be charged against the interest of or collected from the beneficiaries thereof.

Contingencies

(4) When property is transferred in trust or otherwise, and the rights, interest or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended, or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this act, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the corpus of the property transferred and shall not be charged against the interest of or collected from the beneficiaries thereof; provided, however, that on the happening of any contingency whereby the said property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this act, or to any person taxable at a rate less than the rate imposed and paid, the executors or trustees shall be entitled to a return of that part of the tax imposed and paid represented by the difference between the amount paid and the amount actually payable under the provisions of this act, and the amount returned shall go into and form a part of the corpus of the property transferred; such return of overpayment shall be made in the manner provided by Subdivision 4 of Section 11 of this act, upon motion made in the court having jurisdiction within six months after the happening of said contingency; provided, that the person or persons or body politic or corporate beneficially interested in the property chargeable with said tax or the trustees thereof may elect not to pay the same until such person or persons, or body politic or corporate beneficially interested in such property shall come into the actual possession or enjoyment thereof, and in that case such person or persons or body politic or corporate or trustees shall execute a bond to the people of the State of California in a penalty of the amount of said tax plus interest thereon for five years at the rate of 7 per cent per annum with such sureties as the said superior court may approve, conditioned for the payment of said tax or any lesser tax which may become payable on the happening of said contingency, and interest thereon at the rate of 7 per cent per annum commencing at the expiration of two years from the death of the decedent, at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, and conditioned further, that if said bond be not renewed and the returns made as herein provided, the amount of said tax and interest thereon shall immediately become due and payable. Said bond shall be filed in the office of the county clerk of the proper county and a certified copy thereof shall be immediately transmitted to the State Controller; provided further, that such person or persons or body

Refunds of overpayments

Bond

politic or corporate, or trustees, shall enter into such security within a period of 90 days after the entry of the order or the decree fixing the inheritance tax charged against such transfer, or within such period thereafter as the court may in its discretion permit, and shall make a full and verified return of such property to said court and file the same in the office of the county clerk within one year from the date of such order or decree fixing tax, and at such times thereafter as the court on the application of the State Controller may require, and renew such security every five years after the date of the approval thereof by filing a new bond with such sureties as said superior court may approve, and transmitting a certified copy of said renewal bond to the State Controller. The penalty of each renewal bond shall be increased by five years interest at the rate of 7 per cent per annum on the unpaid tax. Upon the approval of said bond as herein provided, said tax shall cease to be a lien upon the property so transferred. If such security shall not be renewed before the expiration of each five-year period, said bond shall immediately become due and payable and if the same be not paid forthwith, the State Controller may file an action on the bond to recover the amount of said inheritance taxes on high contingency and the penalties provided in said bond, and no demand for payment shall be necessary before the institution of such suit. Whenever it shall be made to appear to the satisfaction of the court that any surety on such bond or undertaking has for any reason become insufficient, the court may on motion of the State Controller, after such notice to such person or persons, body politic or corporate, or trustees as the court may require, order the giving of a new undertaking with sufficient sureties in lieu of such insufficient undertaking. In case such new undertaking so required shall not be given within the time required by such order, or in case the sureties thereon fail to justify thereon when required, all rights obtained by the filing of such original undertaking, or subsequent undertaking, shall cease and the amount of said tax and interest thereon shall immediately become due and payable.

Renewal of bond

Compromise settlements of taxes

(5) Notwithstanding any provisions hereof whereby final determination of taxability of the transfer of property, or interests therein or income therefrom, is or may be deferred until the happening of certain contingencies or conditions, the State Controller may compromise, adjust and settle with the administrator, executor or trustee having charge of the estate or property in question the taxability of the transfer of such property and of each and every interest therein, including the income therefrom, whether such interests be absolute or qualified, perpetual or limited, present or future, vested or contingent, or otherwise.

Report of settlement

The inheritance tax appraiser, determining the inheritance tax payable, shall prepare a report in accordance with such settlement and if and when said report is confirmed by an

order of the superior court having jurisdiction said order shall be a final determination of the matters covered thereby and the payment of said tax as fixed by said order shall be a complete discharge to such administrator, executor, or trustee with respect to such taxes.

Estates which can be divested

(7) Where an estate or interest can be divested by the act or omission of the legatee or devisee it shall be taxed as if there were no possibility of such divesting.

Future, contingent or limited estates

(8) The value of every future or contingent or limited estate, income or interest, shall, for the purposes of this act be determined by the rule, methods and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interests and contingencies shall be five (5) per cent per annum. For the purposes of this act, in determining the present value of such estate, income or interest, other than an annuity in a fixed amount, the yearly income or the annual value of the use or income of such estate or interest shall be 5 per cent of the appraised value of the property upon which said estate or interest is based. When an annuity or a life estate is terminated by the death of the annuitant or life tenant or by the happening of a contingency, and the tax upon such interest has not been fixed and determined, the value of said interest for the purpose of taxation under this act shall be the present value, at date of death of the decedent the transfer of whose estate is being taxed, of the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which such annuitant or life tenant was entitled to the annuity or was in possession of the life estate.

Compromise of taxes on claim decedent is domiciled elsewhere

(9) In all estates where a claim is made that the decedent was not domiciled in California at the time of his death the State Controller may, in his discretion, compromise the inheritance taxes payable in said estates, subject to the approval of the court.

The procedure shall conform to that set out in Subdivision (5) of this section.

Stats 1935, p 1280

SEC. 3. Section 11 of said act is hereby amended to read as follows:

Refund of debts proved after payments to distributee

SEC. 11. (1) If any debts shall be proved against the estate of a decedent after the payment of any legacy or distributive share thereof, from which any such tax has been deducted or upon which it has been paid by the person entitled to such legacy or distributive share, and such person is required by order of the superior court having jurisdiction on notice to the State Controller to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall be repaid to him by the executor, administrator or trustee, if the tax has not been paid to the county treasurer; or if such

tax has been paid to such county treasurer, such officer shall refund out of any inheritance tax moneys in his hands or custody such equitable proportion of the tax and credit himself with the same in the account required to be rendered by him under this act.

For the purposes of the inheritance tax, there is no limitation governing the time within which debts may be proved against the estate of a decedent after the payment of any legacy or distributive share thereof, but the application for refund shall be made within one year after such debt is allowed by the court.

Tax or deductions for debts erroneously allowed

(2) Where it shall be proved to the satisfaction of the superior court that deductions for debts were allowed upon the appraisal, since proved to have been erroneously allowed, it shall be lawful for such superior court to enter an order assessing the tax upon the amount wrongfully and erroneously deducted and if debts are established against the estate after the order fixing inheritance tax is made the order may on petition after notice to the State Controller be modified equitably.

For the purposes of the inheritance tax there is no limitation governing the time within which it may be proved that deductions for debts were erroneously allowed nor the time within which the order assessing the tax on the amount erroneously deducted may be made, nor the time within which debts may be established against the estate after the order fixing the inheritance tax is made, but the petition to have the order modified after establishment of such debts shall be made within a year after such debts are established.

If order is modified or reversed

(3) If, after the payment of any tax in pursuance of an order fixing such tax, made by the superior court having jurisdiction, such order be modified or reversed by the superior court having jurisdiction by any of the methods provided by law, or be modified or reversed on an appeal taken therefrom within the time allowed by law, on due notice to the State Controller, the county treasurer shall refund to the executor, administrator, trustee, person or persons by whom such tax was paid the amount of any moneys paid or deposited on account of such tax in excess of the amount of tax fixed by the order modified or reversed, out of any inheritance tax moneys in his hands or custody, and credit himself with the same in the account required to be rendered by him to the Controller on his settlement; but no application for such refund shall be made after one year from such reversal or modification, unless an appeal shall be taken therefrom, in which case no such application shall be made after one year from the final determination on such appeal, and the representatives of the estate, legatees, devisees, or distributees entitled to any refund under this section shall not be entitled to any interest upon such refund, and no judgment for such refund shall bear interest until said judgment shall have become final in the highest court to which the matter is carried

and until refund is refused upon demand after such final judgment and then only from the date of such refusal. The State Controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such overpayment, as if the amount refunded were the last payment made to the county treasurer in the year in which such overpayment was made.

Order to refund tax erroneously paid

(4) When any amount of said tax shall have been erroneously paid, the superior court having jurisdiction, on application after notice to the State Controller, and on satisfactory proof to it, shall by order, direct the county auditor to draw his warrant upon the county treasurer in favor of the executor, administrator, trustee, person or persons who have paid any such tax in error in the amount of such tax so erroneously paid; provided, that all applications for such repayment of such tax so erroneously paid shall be made within one year of the date of the entry of the order fixing tax or of the decree of final distribution of the estate. Such refund shall be made by said treasurer out of any inheritance tax moneys in his hands or custody and he shall credit himself with the same in the account required to be rendered by him to the Controller on settlement; and the State Controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such erroneous payment, as if the amount refunded were the last payment made to the county treasurer in the year in which such overpayment was made.

Stats. 1935, p 1283

SEC. 4. Section 13 of said act is hereby amended to read as follows:

Consent to transfer stock certificate

Sec. 13. (1) No corporation organized or existing under the laws of this State, shall transfer on its books or issue a new certificate for any share or shares of its capital stock belonging to or standing in the name of a decedent or in trust for a decedent or belonging to or standing in the joint names of a decedent and one or more persons, without the written consent of the State Controller or person by him in writing authorized to issue such consent.

Access to safe deposit boxes

(2) No safe deposit company, trust company, corporation, bank, or other institution, person or persons engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first requiring all persons given access thereto to agree in writing to notify such safe depositary, bailee, or lessor, from whom such box or receptacle is rented, of the death of any person having the right of access thereto, before seeking access to such box or receptacle after the death of such person; and all persons having the right of access to any such safe deposit box or receptacle upon the death of any other person having access thereto, before seeking access to such box or receptacle must notify such safe depositary, bailee, or lessor, from whom such box or receptacle is rented, of the death of such person; and it shall be unlawful for any safe deposit company, trust company, corporation, bank or other institution, person or

persons, having in possession or under control, custody or partial custody any safe deposit box or similar receptacle, to permit access thereto by any one after the death of any person who at the time of his death had the right or privilege of access thereto either as principal, deputy, agent or cotenant without the consent of the State Controller or such person by him in writing authorized to issue such consent.

Banks, etc., to retain amount to pay tax

(3) No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or partial custody securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or nonresident, or belonging to, or standing in the joint names of such a decedent and one or more persons, including the shares of the capital stock of, or other interest in, the safe deposit company, trust company, corporation, bank, or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators or legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent or to any other person or persons, or to the survivor or survivors when held in the joint names of a decedent and one or more persons, or upon their order or request, without retaining a sufficient portion or amount thereof to pay any tax and interest which may thereafter be assessed thereon under this act and unless notice of the time and place of such delivery or transfer be served upon the State Controller and county treasurer at least 10 days prior to said delivery or transfer; provided, that the State Controller, or person by him in writing authorized so to do, may consent in writing to said delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons from the obligation hereunder to give such notice or to retain any portion of said securities, deposits or other assets in their possession or control. And it shall be lawful for the State Controller or county treasurer, personally or by representatives, to examine said securities, deposits or assets at the time of said delivery or otherwise

Upon the payment to the county treasurer of a fee not to exceed the sum of one dollar ($1), the following persons and no others are entitled to receive from the county treasurer a copy prepared by the State Controller or county treasurer of any list of the contents of any safe deposit box to which the decedent had access:

(a) An executor of decedent's will.

(b) The administrator of the decedent's estate.

(c) The attorney for such executor or administrator

(d) A surviving joint tenant or cotenant of the safe deposit box.

(e) Any heir of the decedent or beneficiary under decedent's will.

(f) Any person whom the court by order directs should be allowed to obtain a copy of the list of contents.

(4) Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than twenty thousand dollars ($20,000), and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons shall be liable for the amount of the taxes, interest and penalties due under this act on said securities, deposits or other assets above mentioned, and said penalties and liabilities of said safe deposit company, corporation, bank or other institution, person or persons for the violation of this section may be enforced in an action brought by the State Controller in any court of competent jurisdiction. Failure to comply

SEC. 5. Section 17 of said act is hereby amended to read as follows: Stats. 1935, p. 1287

Sec. 17. (1) If it shall appear to the superior court upon petition of the State Controller that any transfer has been made within the meaning of this act, and the taxability thereof, and the liability for such tax and the amount thereof have not been determined, and that no proceedings are pending in any court in this State wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined, said court shall issue a citation ordering and directing the persons who may appear liable therefor or be known to own the property transferred or any part thereof or any interest therein to appear before said court or before an inheritance tax appraiser to be designated by said order at a time and place in said order named, not less than 10 days nor more than one year from the date of such order, to be examined, under oath by said court, or by said appraiser as the case may be, concerning said transfer and all facts connected therewith, and concerning the property transferred and the character and value thereof. If said person or persons shall be directed to appear before said appraiser said appraiser shall, at the time and place in said order named, or at such time and place to which said appraiser may adjourn said hearing, proceed to examine said person or persons and such witnesses as said appraiser may subpena before him, and for the purpose of said hearing, and for the purpose of ascertaining any facts concerning the taxability of said transfer or any taxes due on account of such transfer, said appraiser shall have the powers of a referee of said court, and is hereby authorized to issue subpenas compelling the attendance of witnesses before him, and to administer oaths, and to take the evidence of such witnesses under oath concerning such property and the value thereof and concerning such transfer. Said appraiser shall report to said court his findings and conclusions in relation to said transfer and said tax, and may return to said court any depositions, exhibits Determining taxability of transfer

Examination by appraiser

Report

or other testimony or information taken before him or exhibited to him. The procedure subsequent to the filing of said report shall conform to Subdivision (2) of Section 16 of this act.

Proceedings

Except as herein otherwise provided, the service of such citation and the time, manner and proof thereof, and the hearing and determination thereon, and the hearing and determination upon the facts returned in such report, and the enforcement of the determination or decree shall conform to the provisions of Chapter 22, Division 3 of the Probate Code, and the clerk of the court shall, upon the request of the State Controller, furnish, without fee, one or more transcripts of such decree, and the same shall be docketed and filed by the county clerk of any county in the State, without fee, in the same manner and with the same effect as provided by Section 674 of the Code of Civil Procedure for filing a transcript of an original docket.

The superior court may hear the said cause upon the relation of the parties and the testimony of witnesses, and evidence produced in open court, and, if the court shall find that said property is not subject to any tax, as herein provided, the court shall by order, so determine; but if it shall appear that said property, or any part thereof, is subject to any such tax the same shall be appraised and taxed as in other cases.

Petition to determine taxability

(2) Verified petitions may be filed by any interested party with the superior court alleging and admitting that a transfer within the meaning of this act has been made and the taxability thereof and the liability for such tax and the amount thereof have not been determined, and that no proceedings are pending in any court in this State wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined, and that the petitioner desires such determination and desires to pay said tax, if any be due. Upon the filing of such petition the superior court or a judge thereof shall by order designate and appoint an inheritance tax appraiser to ascertain and report to said court the amount of the inheritance tax, if any, due by said petitioner on account of such transfer, and shall fix a time and place, not less than 10 days thereafter, for the hearing of said matter before said inheritance tax appraiser, a copy of which petition and order shall be forthwith mailed to the State Controller, and shall refer said petition and said matter to said inheritance tax appraiser who shall have all the powers of a referee of said court, including the powers prescribed in Subdivision (1) of Section 16 of this act. The procedure subsequent to said reference to said appraiser shall conform to the provisions of Subdivisions (1) and (2) of Section 16 of this act.

Action to quiet title

(3) Actions may be brought against the State by an interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under

this act, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this act. No such action shall be maintained where any proceedings are pending in any court in this State wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the State in said action shall be served upon the State Controller.

Hearing by appraiser

At any time after issue is joined in such action the court, on its own motion, or upon the motion of any interested party, may by order appoint and designate an inheritance tax appraiser to hear said matter and report to the court thereon and shall in such order fix a time and place for the hearing of said matter before said inheritance tax appraiser, and direct notice of such time and place to be given in such manner as the court shall deem proper and shall refer said matter to said inheritance tax appraiser who shall have all of the power of a referee of said court, including the powers prescribed in Subdivision (1) of Section 16 of this act. The procedure subsequent to said reference to said appraiser shall conform to the provisions of Subdivisions (1) and (2) of Section 16 of this act.

Judgment in favor of State

Should the court determine that the property described in the complaint is subject to the lien of said tax and that said property has been transferred within the meaning of this act, the court shall award affirmative relief to the State in said action, and judgment shall be rendered therein in favor of the State, ascertaining and determining the amount of said tax, and the person or persons liable therefor, and the property chargeable therewith or subject to lien therefor.

Place of commencing action

(4) Actions under this section shall be commenced in the superior court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien, or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the superior court of the county which has or which had jurisdiction of the administration of the estate of the decedent mentioned herein.

No fee to be charged

(5) No fee shall be charged said State Controller by any public officer in this State for the filing or recording or certification of any petition, lis pendens, decree or order, or for the taking of oaths or acknowledgments in any proceeding taken under this act; nor shall any undertaking be required from or costs charged against the State Controller or the State of California in any such proceeding.

Appraisal fees

(6) In the appraisal of any property for which appraisal he receives no compensation or expenses under Section 609 of the Probate Code, the inheritance tax appraiser appointed in

any proceeding shall receive out of the property transferred or from the transferee the same commissions and expenses, to be allowed by the court, as provided under Section 609 of the Probate Code, in addition to any other fees allowed by this act and in lieu of any amounts allowed by Section 1174 of the Probate Code. The commissions and expenses paid under this subdivision shall be considered as ordinary expenses of administration for the purposes of Subdivision (11) of Section 2.

Stats 1937, p. 655

SEC. 6. Section 18 of said act is hereby amended to read as follows:

Effect of orders, etc

Sec. 18. The orders, decrees and judgments fixing tax or determining that no tax is due, mentioned in this act, shall have the force and effect of judgments in civil actions. Except as otherwise herein provided, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments and execution of judgments, so far as applicable, shall govern all proceedings taken under this act. Nothing in this section shall preclude the State from relief herein provided for which may be inconsistent with the provisions of the Code of Civil Procedure. The State Controller may, at any time after two years from the date of decedent's death, have a writ of execution issued for the enforcement of said judgment.

Writ of execution

The writ may be executed against any property of the decedent's estate, including any property transferred within the meaning of this act, and against any property belonging to a transferee liable for inheritance tax. The writ shall be levied and the property sold or otherwise subjected to execution in accordance with the provisions of the Code of Civil Procedure relating to execution and sales on execution For the purpose of computing discount or interest on the tax, the proceeds of the execution shall be deemed paid to the proper county treasurer as of the date such proceeds are received by the officer levying the writ. The proceeds of the execution shall be paid by the officer levying the writ to the proper county treasurer The enforcement of any judgment under this section against the property of decedent's estate shall not in any way affect the duties of the administrator or executor under Section 9 of this act. No fees shall be exacted from the State Controller for the issuance or execution of said writ, or for any sale pursuant to the writ.

Stats 1937, p 655

SEC. 7. Section 20 of the act cited in the title hereof is hereby amended to read as follows:

Percentage retained by county treasurer

Sec. 20. The treasurer of each county shall be allowed to retain, on all taxes paid and accounted for by him each year under this act, in addition to his salary or fees now allowed by law, 3 per centum of the first one hundred thousand dollars ($100,000) so paid and accounted for by him, 1½ per centum on the next fifty thousand dollars ($50,000) so paid and accounted for by him, and 1 per centum on all

additional sums so paid and accounted for by him; provided, that no county treasurer of a county of the first class, or a county of the second class, or a county of the third class shall be entitled to retain to his own use more than the sum of five hundred dollars ($500) out of the inheritance taxes paid on account of any transfer or transfers made by or resulting from the death of any one decedent; provided, that the county treasurer of a county of all other classes shall not be entitled to retain to his own use more than the sum of two hundred dollars ($200) out of the inheritance taxes paid on account of any transfer or transfers made by or resulting from the death of any one decedent; provided, that no portion of the moneys paid on account of inheritance taxes in any one case in excess of the sum entitling the treasurer of a county of the first class, of a county of the second class and a county of the third class to retain five hundred dollars ($500) and entitling the treasurer of a county of all other classes to retain two hundred dollars ($200) for his own use shall be considered in computing his commissions in succeeding cases; and provided further, that in counties of the first class the treasurer shall be entitled to retain as commissions not exceeding eighteen thousand dollars ($18,000) out of the total inheritance taxes accounted for by him in any one year; that in counties of the second class the treasurer shall be entitled to retain as commissions not exceeding fourteen thousand dollars ($14,000) out of the total inheritance taxes accounted for by him in any one year; that in counties of the third class the treasurer shall be entitled to retain as commissions not exceeding ten thousand dollars ($10,000) out of the total inheritance taxes accounted for by him in any one year; and that in counties of all other classes the treasurer shall be entitled to retain as commissions not exceeding five thousand dollars ($5,000) out of the total inheritance taxes accounted for by him in any one year.

SEC. 8. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Tax levy

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CHAPTER 834

An act to amend Sections 8705, 8726, 8727, 8728, 8729, 8730, 8742, 8746, 8748, 8762, 8764, 8765, 8769, 8772, 8781 and 8792, of the Business and Professions Code, relating to the regulation of persons engaged in land surveying. Stats 1937, p 1229, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 8705 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p 431

8705. A subordinate is any person directly supervised by a licensed land surveyor or registered civil engineer and who Subordinate

assists a licensed land surveyor or registered civil engineer in the practice of land surveying without assuming responsible charge of work.

Stats. 1939, p. 432

SEC. 1.5. Section 8726 of the Business and Professions Code is hereby amended to read as follows:

Land surveyor defined

8726. A person practices land surveying within the meaning of this chapter who, either in a public or private capacity, does or offers to do any one or more of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land or any road, right of way, easement, alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Chapter 7, Division 3 of this code.

(b) Makes any survey for the subdivision or resubdivision of any tract of land.

(c) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary or corner, or sets, resets or replaces any such monument or reference point.

(d) Determines the configuration or contour of the earth's surface or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry.

(e) Geodetic or cadastral surveying.

(f) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subsections (a), (b), (c), (d) and (e).

(g) Indicates, in any capacity or in any manner, by the use of the title "Land Surveyor" or by any other title or by any other representation that he practices or offers to practice land surveying in any of its branches.

(h) Procures or offers to procure land surveying work for himself or others.

(i) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed or practiced.

Stats. 1939, p. 432

SEC. 2. Section 8727 of said code is hereby amended to read as follows:

Exceptions

8727. Surveys, made exclusively for geological or landscaping purposes or aerial photography or photogrammetry and not involving the determination of any property line, do not constitute surveying within the meaning of this chapter.

Stats. 1939, p. 432

SEC. 3. Section 8728 of said code is hereby amended to read as follows:

Civil engineering

8728. Surveys authorized under this chapter do not include the design, either in whole or in part, of any structure or fixed works embraced within the practice of civil engineering.

SEC. 4. Section 8729 of said code is hereby amended to read as follows: Stats 1939, p 432

8729. This chapter prohibits the practice of land surveying by any partnership, firm, company, association or corporation. However, nothing contained herein shall prohibit one or more licensed land surveyors from practicing or offering to practice their profession through the medium of a partnership, firm, company, association or corporation; provided, all members or officers and directors are individually licensed as land surveyors pursuant to the provisions of this chapter or registered as civil engineers pursuant to the provision of Chapter 7 of Division 3 of this code. The firm or corporate name under which such individuals offer and do practice land surveying shall contain only the name or names of such licensed land surveyors and registered civil engineers. Partnerships

This chapter does not prevent or prohibit an individual, firm or corporation engaged in any line of business other than the practice of land surveying from employing a licensed land surveyor or registered civil engineer to perform land surveying services incidental to the business of said individual, firm or corporation.

The provisions of this section shall not prevent the use of the name of any partnership, firm, company, association or corporation in existence on June 1, 1941, provided all of the members or officers and directors thereof were on that date individually licensed as land surveyors pursuant to the provisions of this chapter or registered as civil engineers pursuant to the provisions of Chapter 7 of Division 3 of this code.

SEC. 5. Section 8730 of said code is hereby amended to read as follows: Stats 1939, p 432

8730. The following are not required to be licensed under this chapter: (a) Officers and employees of the United States of America, practicing solely as such officers or employees. Exemptions

(b) In so far as he acts in such capacity;

(1) Any State, county, city, or district employee directly responsible to a licensed land surveyor or registered civil engineer.

(2) Any subordinate to a land surveyor or civil engineer licensed or registered as required by the laws of this State in so far as he acts as a subordinate.

SEC. 6. Section 8742 of said code is hereby amended to read as follows: Stats 1939, p 433

8742. The educational qualifications and experience in land surveying, which an applicant shall possess, shall be not less than the following prescribed minima: Education and experience

(a) Actual experience in land surveying for at least five years.

(b) Graduation from a four-year course in civil or mining engineering in any school or college, approved by the board, is the equivalent of three years of actual experience.

Credits earned toward graduation from an approved school or college shall likewise be accepted as the equivalent of their proportionate part of three years of practice.

Stats 1939, p. 434

SEC. 7. Section 8746 of said code is hereby amended to read as follows:

Vote required

8746. In determining the qualifications of any applicant for license, a majority vote of the board is required.

An applicant failing on examination, upon the payment of another application fee may be examined again.

Stats 1939, p 434

SEC. 8. Section 8748 of said code is hereby amended to read as follows:

Reciprocity

8748. The board, upon application therefor, and the payment of the application and license fees fixed by this chapter, may issue a land surveyor's license, without written examination, to any person who holds a valid land surveyor's license issued to him by any State or country when the applicant's qualifications meet the requirements of this chapter and rules established by the board.

Stats 1939, p 1910

SEC. 9. Section 8762 of said code is hereby amended to read as follows:

Filing surveys

8762. After making a survey in conformity with the practice of land surveying, the surveyor or civil engineer may file with the county surveyor in the county in which the survey was made, a record of such survey.

Within 90 days after the establishment of points or lines the licensed land surveyor or registered civil engineer shall file with the county surveyor in the county in which the survey was made, a record of such survey relating to land boundaries or property lines, which discloses:

(a) Material evidence, which in whole or in part does not appear on any map or record previously recorded or filed in the office of the county recorder, county clerk, municipal or county surveying department or in the records of the General Land Office of the United States.

(b) A material discrepancy with such record.

(c) Evidence that, by reasonable analysis, might result in alternate positions of lines or points.

(d) The establishment of one or more lines not shown on any such map, the positions of which are not ascertainable from an inspection of such map without trigonometric calculations.

Any record of survey filed with the county surveyor shall after being examined by him be filed with the county recorder.

SEC. 10. Section 8764 of said code is hereby amended to read as follows: Stats 1939, p 435

8764. The record of survey shall show: Contents

(a) All monuments found, set, reset, replaced or removed, describing their kind, size and location, and giving other data relating thereto.

(b) Bearing or witness monuments, basis of bearings, bearing and length of lines, and scale of map.

(c) Name and legal designation of tract or grant in which the survey is located and ties to adjoining tracts.

(d) Memorandum of oaths.

(e) Signature of the surveyor.

(f) Date of survey.

(g) Name of person or persons for whom the survey was made.

(h) Any other data necessary for the intelligent interpretation of the various items and locations of the points, lines and areas shown.

SEC. 10.3. Section 8765 of said code is hereby amended to read as follows: Stats 1939, p 436

8765. A record of survey is not required of any survey: When not required

(a) When it has been made by a public officer in his official capacity, has been filed by him as a permanent record of his office and is available for public inspection.

(b) When it is of a preliminary nature.

(c) When a map is in preparation for recording or shall have been recorded under the provisions of the Subdivision Map Act.

SEC. 10.5. Section 8769 of said code is hereby amended to read as follows: Stats 1939, p 1910

8769. The charge for filing any record of survey, and for indexing the same, shall be one dollar ($1). Charge

SEC. 11. Section 8772 of said code is hereby amended to read as follows: Stats 1939, p 436

8772. Any monument set by a licensed land surveyor or registered civil engineer to mark or reference a point on a property or land line shall be permanently and visibly marked or tagged with the certificate number of the surveyor or civil engineer setting it, each number to be preceded by the letters "L. S." or "R. E.," respectively, as the case may be or, if the monument is set by a public officer, it shall be marked with his official title. Identification

This section does not apply to monuments set by the State Division of Highways to mark State highway boundaries.

Stats 1939, p 437

SEC. 12. Section 8781 of said code is hereby amended to read as follows:

Charges

8781. The board may initiate disciplinary proceedings upon its own motion or any person may initiate disciplinary proceedings by filing with the secretary of the board written charges against the accused.

The charges shall be in detail and shall be sworn to by the complainant.

Stats 1939, p 437

SEC. 13. Section 8792 of said code is hereby amended to read as follows:

Offenses

8792. Every person is guilty of a misdemeanor:

(a) Who, unless he is exempt from licensing under this chapter, practices land surveying in this State without legal authorization.

(b) Who presents as his own, the license of another.

(c) Who attempts to file as his own any record of survey under the license of another.

(d) Who gives false evidence of any kind to the board, or to any member, in obtaining a license.

(e) Who falsely impersonates or uses the seal of another practitioner, of like or different name.

(f) Who uses an expired or revoked license.

(g) Who violates any provision of this chapter.

CHAPTER 835

Stats 1939, p 482, amended

An act to amend Section 107 of the Health and Safety Code, relating to the Director of Public Health.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 485

SECTION 1. Section 107 of the Health and Safety Code is hereby amended to read as follows:

Appointment and salary

107. The director shall be appointed by and hold office at the pleasure of the Governor. He shall receive a salary of seven thousand two hundred dollars ($7,200) per annum and necessary expenses incurred in the performance of his duties.

CHAPTER 836

An act to add a new section, to be numbered 10a, to the Motor Vehicle Fuel License Tax Act and a new section, to be numbered 7406, to the Revenue and Taxation Code, relating to distributions of motor vehicle fuel to certain contractors, to defer assessment and determination of Motor Vehicle Fuel License Tax in certain instances, and providing that this act shall take effect immediately.

Stats 1923, p 571, and Stats 1939, p 1274, amended

[Approved by Governor June 24 1941 Filed with Secretary of State June 25, 1941.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. A new section, to be numbered 10a, is hereby added to the Motor Vehicle Fuel License Tax Act, to read as follows:

New section

Sec. 10a. The provisions of this act exempting motor vehicle fuel sold to the Government of the United States from the measure of the license tax imposed hereunder shall not apply to any motor vehicle fuel sold to contractors purchasing such fuel either for their own account or as the agents of the United States for use in the performance of contracts with the United States.

Fuel sold to contractors

SEC. 2. A new section, to be numbered 7406, is hereby added to the Revenue and Taxation Code, to read as follows:

New section

7406. The provisions of Section 7401 exempting motor vehicle fuel sold to the Government of the United States from the measure of the license tax imposed hereunder shall not apply to any motor vehicle fuel sold to contractors purchasing such fuel either for their own account or as the agents of the United States for use in the performance of contracts with the United States.

Fuel sold to contractors

SEC. 3. Except as otherwise provided in this act, pending a final decision in a court of last resort to the effect that the license tax imposed by the Motor Vehicle Fuel License Tax Act or by Part 2 of Division 2 of the Revenue and Taxation Code, as the case may be, is applicable with respect to sales of motor vehicle fuel used in the performance of contracts with the United States for the construction of National defense facilities on a cost-plus-a-fixed-fee basis, the State Board of Equalization shall exclude such sales in computing any assessment made pursuant to Section 6 of the Motor Vehicle Fuel License Tax Act and any determination made pursuant to Section 7654 of the Revenue and Taxation Code, regardless of whether such fuel is sold to the contractors so purchasing it directly by the distributor thereof, or by a consignee or vendee of such distributor.

Exclusion of certain sales

Determinations prohibited

SEC. 4. Except as otherwise provided in this act, the State Board of Equalization shall not make an assessment or determination of license tax arising out of transactions such as are described in Section 3 hereof when the distribution of the fuel is made prior to a decision such as is mentioned in said section, or when made within six months subsequent to such a decision at a price fixed by contract which became binding prior to such decision, if it is established that the person liable for the license tax has refrained from seeking reimbursement therefor only because of the insistence of those representing the United States with respect to such transactions and after reasonable effort to collect can not be reimbursed therefor as a part of the sales price of the fuel. As used in this section the term "reasonable effort to collect" shall not include nor require institution of litigation until after such decision, and then only if it shall have first been established in a comparable matter, following an assessment or determination made by the board pursuant to Section 6 of this act, that the person liable for the license tax is entitled to be reimbursed for the amount thereof by his vendee.

Record and report of transactions

SEC. 5. Unless a person liable for a license tax such as is described in Sections 3 and 4 of this act shall maintain accurate records with respect to all transactions of the type therein described and shall report the transactions to the State Board of Equalization as required by the Motor Vehicle Fuel License Tax Act or the Revenue and Taxation Code, as the case may be, said sections shall not apply to such person or to any license tax assessed against him.

Determinations permitted

SEC. 6 Nothing contained in this act shall prevent the State Board of Equalization from making such assessments or determinations of license tax with respect to transactions of the type described in Sections 3 and 4 of this act as it may deem necessary to establish the validity of assessments or determinations arising out of transactions of such kind, as well as to establish the right of the distributor liable for the license tax to be reimbursed for the amount thereof by his vendee, nor shall this act affect the power and duty of the board to make an assessment or determination if the board believes that the collection of any license tax imposed by or under the Motor Vehicle Fuel License Tax Act or Part 2 of Division 2 of the Revenue and Taxation Code will be jeopardized by delay.

Claims for refund

SEC. 7. Any claim for refund of the amount of license tax included in the sales price of fuel sold under circumstances such as are described in Section 3 hereof may be filed with the State Controller within 60 days after the filing with that official of the assessment roll showing the license tax to be due with respect to the distribution of such fuel, notwithstanding any other provisions to the contrary in Section 11

of the Motor Vehicle License Tax Act or Section 8105 of the Revenue and Taxation Code.

Construction

SEC. 8. Nothing contained in this act shall be construed as a legislative intent, interpretation, or concession to the effect that the license tax imposed under the Motor Vehicle Fuel License Tax Act or Part 2 of Division 2 of the Revenue and Taxation Code, as the case may be, is inapplicable with respect to sales of the kind mentioned herein, or that the motor vehicle fuel license tax is imposed otherwise than upon the distributor for the privilege of distributing motor vehicle fuel in this State.

Constitutionality

SEC. 9. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed the remaining portion of this act irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy

SEC. 10. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately; provided, however, that the provisions of the Motor Vehicle Fuel License Tax Act as they existed on January 1, 1941, are hereby continued in force until May 1, 1941, and that the provisions hereof adding a new section to the Revenue and Taxation Code shall become operative at the same time as Part 1, Division 2, of the Revenue and Taxation Code passed by the Legislature at its Fifty-fourth Session.

CHAPTER 837

An act to provide for the compilation, publication, and distribution by the Secretary of State of a Roster of public officials of California and to make an appropriation therefor.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Roster of public officials

SECTION 1. The Secretary of State is hereby authorized to compile, publish and distribute a Roster of the State and local public officials of California.

Distribution

SEC. 2. The Secretary of State shall cause the Roster to be printed and shall distribute copies thereof, free of charge, as follows: To the Governor, 50 copies; to the Lieutenant Governor, 30 copies; to each member of the Senate and to each

member of the Assembly, 30 copies; to each elective State officer, each head of a State department, each county clerk, each public library upon request, each Governor and each Secretary of State of a State of the United States, one copy. The remaining copies may be distributed, singly and free of charge, in the discretion of the Secretary of State, to any person requesting the same.

Appropriation

SEC. 3. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of one thousand five hundred dollars ($1,500) to be expended during the Ninety-third and Ninety-fourth Fiscal Years by the Secretary of State in carrying out the provisions of this act.

CHAPTER 838

Stats 1897, p 254, amended

An act to amend Section 48.2 of the California Irrigation District Act, relating to property sold or deeded to irrigation districts for delinquent assessments.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Stats. 1937, p. 1468

SECTION 1. Section 48.2 of the act cited in the title hereof is hereby amended to read as follows:

When Secs 47 1 and 48 1 do not apply

SEC. 48.2. The provisions of Sections 47.1 and 48.1 relating to the time for commencing or prosecuting an action, suit or proceeding or maintaining any defense, counterclaim or cross complaint or answer thereto do not apply in the following cases:

(a) Where the assessments or taxes for which the land was sold or the certificate issued were paid before the sale.

(b) Where the land was redeemed after the sale.

(c) Where the land was not subject to assessment or taxation at the time it was assessed.

(d) Where no taxes or assessments were due on the land at the time of sale.

(e) Where fraud is established.

(f) Where the deed is void on its face.

(g) Where the owner of the land is, at the time of the sale, a minor or insane person, in which case the statute of limitations begins to run when such disability is removed.

CHAPTER 839

An act making an appropriation out of the Motor Vehicle Support Fund for the support of the Department of Motor Vehicles, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. The sum of three hundred thousand dollars ($300,000), or so much thereof as may be necessary, is hereby appropriated out of the Motor Vehicle Support Fund for the support of the Department of Motor Vehicles during the Ninety-third and Ninety-fourth Fiscal Years, to enable the employment of additional members of the California Highway Patrol. Said amount shall be added to the appropriation made by Item 146 of the Budget Act of 1941 in augmentation thereof. Appropriation. Department of Motor Vehicles

SEC. 2. Inasmuch as this act makes an appropriation for the usual current expenses of the State, it shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Current expenses

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CHAPTER 840

An act to amend Section 2710 of the Penal Code, relating to the San Quentin Manufacturing Revolving Fund.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2710 of the Penal Code is hereby amended to read as follows: Stats 1941, p 1078

2710. There is hereby constituted a permanent revolving fund in the sum of not less than one hundred thousand dollars ($100,000) to be known as the San Quentin Manufacturing Revolving Fund to be used to meet the expenses necessary in the purchasing of material and equipment and for the maintenance of the manufacturing departments of the State Prison at San Quentin. Said fund shall at all times contain the amount of one hundred thousand dollars ($100,000), either in cash or assets, consisting of raw materials and finished or unfinished products inventory at cost, or both. Money received from the sale of manufactured products in San Quentin Prison shall be paid to the State Treasurer monthly and shall be credited to said revolving fund. At such time as the board or the Director of Finance decide that the balance in said revolving fund is greater than is Revolving fund

necessary to carry out the purposes of this section, it, or he, shall so inform the State Controller and request a transfer of the unneeded balance from the said revolving fund to the General Fund of the State of California. The Controller is authorized to transfer such balances upon the request of the Director of Finance.

CHAPTER 841

Stats. 1937, p. 1005, amended

An act to amend Section 124 of the Welfare and Institutions Code, relating to the Social Welfare Fund and the purposes for which the money therein may be used and making an appropriation, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

The people of the State of California do enact as follows:

Stats. 1939, p. 1438

SECTION 1. Section 124 of the Welfare and Institutions Code is hereby amended to read as follows:

Social Welfare Fund

124. There is a Social Welfare Fund established in the State Treasury, in which fund there shall be deposited:

(a) All grants of money received by this State from the United States, the expenditure of which is administered through or under the direction of the State Department of Social Welfare.

(b) All money appropriated by the State for the support of the State Department of Social Welfare. The department may use the money within this subdivision for the purposes for which the money in subdivision (a) is made available by the United States for expenditure by this State but all money so used by the department shall be returned to the support appropriation from the next subsequent grant or grants of the United States but in no event any later than one year from the time it was so used by the department. The money to be deposited in the Social Welfare Fund under this subdivision shall be transferred to the Social Welfare Fund monthly, in case of a biennial appropriation, in amounts of not more than one-twentieth of the appropriation or, in cases of appropriations for greater or lesser periods, in amounts of not more than 20 per cent more than an equal monthly rate determined by the number of complete calendar months within the period.

The State Department of Social Welfare shall keep a record of the classes and sources of income credited to the Social Welfare Fund and of the disbursements therefrom.

Unless otherwise expressly provided, all money deposited in the Social Welfare Fund under an appropriation by the State shall be available for all expenditures incurred for the purposes for which it was appropriated during the period thereof, and three years from the time the appropriation

became available, the unexpended amount thereof shall revert to the State fund from which the appropriation was made.

Appropriation State Department of Social Welfare

SEC. 2. There is hereby appropriated from any money in the State Treasury not otherwise appropriated, thirty-eight thousand six hundred ninety-six dollars and twenty-three cents ($38,696.23) to be expended by the State Department of Social Welfare during the Ninety-second Fiscal Year to cover a deficiency in the Federal grants administered by the department.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety and shall, therefore, under the provisions of Section 1 of Article IV of the Constitution take effect immediately.

The facts constituting such necessity are as follows:

The Federal Government made a deduction from the money otherwise available to this State, for interest received by this State upon money previously granted by the Federal Government. This appropriation is necessary to cover the deficiency without which the functions of the department will be impaired and it will not be able to function normally for the purposes for which it is established, to the consequent detriment of the State.

CHAPTER 842

Stats 1941, p 363, amended

An act to amend Section 1 of "An act making an appropriation for the reconstruction, replacement and repair of buildings and physical facilities of elementary and secondary schools damaged or destroyed by earthquakes, to take effect immediately," approved December 7, 1940, relative to reconstruction, replacement and repair of school buildings, making an appropriation, to take effect immediately.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 25, 1941.]

In effect immediately

The people of the State of California do enact as follows:

Stats 1941, p 363

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Appropriation Earthquake damage

Section 1. The sum of one hundred thousand dollars ($100,000), or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated, which sum shall be allocated by the Director of Education, with the approval of the Director of Finance, during the Ninety-second and Ninety-third Fiscal Years, in such amounts as he deems necessary, to elementary or secondary school districts, the amount so allocated to be used solely for the reconstruction, replacement, and repair of buildings and physical facilities of schools in such district that were damaged or destroyed by earthquakes which occurred in the month of May, 1940.

None of the money hereby appropriated shall be allocated to any district unless and until such district shall have provided through any lawful means for the raising of money equal to or in excess of the amount to be allocated from this appropriation for the purposes herein provided, to the end that any money expended from this appropriation shall be matched by like or greater amount from sources other than the State.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. The following is a statement of facts constituting such necessity:

Severe earthquakes occurring in the month of May, 1940, have damaged or destroyed school buildings and other physical facilities of elementary and secondary school districts in Imperial County. Unless these buildings and facilities are replaced without delay, the educational opportunities of the children in these districts will be curtailed, and the health of the residents of a large area of the State will be endangered by the use of temporary and makeshift structures. The responsibility of providing for the education of these children and for the protection of the health of the community is an obligation of the State which must be discharged immediately.

Certain school districts in need of the money appropriated by this act have not been, and will not be, able to raise the matching funds required within the Ninety-second Fiscal Year. By extending the period of time within which they may raise such funds, these districts will be enabled to obtain the benefit of this act.

CHAPTER 843

Stats 1939, p 1274, and Stats 1923, p 571, amended

An act to amend Sections 7305, 7402, 7481, 7482, 7483, 7506, 7651, 7678, 8302 and 8306 of, and to add Article 2.5, consisting of Sections 7491 to 7493, inclusive, to Chapter 4 of Part 2 of Division 2, and Sections 8254, 8307 and 8403 to the Revenue and Taxation Code, and to amend Sections 2, 5, 6, 7, 8, 9, 10, 12 and 14 of the Motor Vehicle Fuel License Tax Act, relating to the taxation of distributors of motor vehicle fuel and the administration of the tax and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor June 14, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 1693 See also Stats 1941, p 2680

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Distributors license

Sec. 2. Every person, firm, association or corporation before becoming a distributor shall make an application to

the State Board of Equalization for a license authorizing such distributor, person, firm, association or corporation to engage in business as a distributor. Applications for such licenses must be made to the State Board of Equalization on forms to be prescribed, prepared and furnished by said board. It shall be unlawful for any person, firm, association or corporation to be a distributor without first securing from the State Board of Equalization a license for which provision is made in this section. Before granting any license authorizing any person, firm, association or corporation to engage in business as a distributor, the State Board of Equalization must require such person, firm, association or corporation to file with said board, in such form as shall be prescribed by said board, a bond duly executed by such person, firm, association or corporation as principal and a corporation such as is mentioned in Section 1056 of the Code of Civil Procedure of this State, as surety, payable to the people of the State of California, conditioned upon faithful performance of all the requirements of this act and expressly providing for the payment of all license taxes, penalties and other obligations of such person, firm, association or corporation arising out of this act.

Application

Bond

The total amount of the bond or bonds required of any distributor shall be fixed by the State Board of Equalization and may be increased or reduced by said board at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds required of any distributor, the State Board of Equalization must require a bond or bonds equivalent in total amount to twice his estimated monthly license tax determined in such manner as said board may deem proper; provided, however, that, subject to such terms and conditions as the State Board of Equalization may prescribe, any distributor may undertake to pay on each Tuesday the license tax accruing on all of his distributions of motor vehicle fuel during the week ending the Saturday next preceding, and, if any distributor shall so bind himself, said board shall fix his bond or bonds in a total amount equivalent to twice the license tax accruing on account of his estimated weekly distributions determined in such manner as said board may deem proper; and further provided, that the total amount of the bond or bonds required of any distributor shall never be less than one thousand dollars ($1,000) nor more than one hundred thousand dollars ($100,000). No recoveries on any bond or any execution of any new bond shall invalidate any bond and no revocation of any license shall affect the validity of any bond.

Amount of bond

Weekly payments permitted

In lieu of any such bond or bonds in total amount as fixed hereunder, any distributor may deposit with the State Treasurer, under such terms and conditions as said board may prescribe, a like amount of lawful money of the United States, or bonds or other obligations of the United States, the State of California, or any county or city and county of this State, of an actual market value not less than the amount so fixed by said board. All licenses issued to distributors under this

Deposit in lieu of bond

section shall be valid until revoked by the State Board of Equalization.

Monthly statement

Nothing in this section shall be construed as relieving any distributor of the duty of filing the sworn monthly statement required by Section 6 of this act. The assessment of any distributor who makes weekly payments shall be shown on the assessment roll prepared under said Section 6 in the same manner as the assessments of other distributors are shown thereon, and the Controller shall apply such payments to the credit of such distributor on the assessment roll for the month during which the distributions covered by such payments were made.

Default in weekly payments

Whenever any distributor undertaking to pay his license tax in weekly installments, as provided in this section, shall fail to pay the full amount thereof in accordance with the terms and conditions prescribed by the State Board of Equalization, his license may be revoked forthwith, unless he complies immediately with the requirement of this section relating to the filing of a bond or bonds equivalent in total amount to twice the estimated monthly license tax. In the event of nonpayment of any weekly installment of the license tax, or any part thereof, pursuant to the undertaking of any distributor, the full amount of the license tax accrued against such distributor shall become immediately due and payable and the Controller and the Attorney General shall proceed forthwith to collect the license tax due from such distributor in the manner prescribed by Section 4 of this act with reference to delinquency in the payment of the monthly license tax. All provisions of said Section 4 shall apply with full force and effect to collections required to be made under this section; provided, however, that the 10 per cent penalty for delinquency for which provision is made under Section 4 hereof shall accrue only as provided in said section, and there shall be added to any weekly installment of license tax remaining unpaid at 5 o'clock in the afternoon of the Tuesday following the close of such week, a penalty of 5 per cent on account of such delinquency; the accrual of any such penalty of 5 per cent shall not in anywise affect the 10 per cent penalty for delinquency imposed under Section 4 hereof, but such 10 per cent penalty shall not be computed upon any amount added to such weekly license tax as a penalty under this section.

Penalty for delinquency

License not transferable

The license issued hereunder to any distributor shall not be transferable. Whenever a distributor ceases to engage in business as a distributor within the State of California by reason of the discontinuance, sale or transfer of such business, he shall give notice in writing thereof to the State Board of Equalization on or before the date of such discontinuance, sale or transfer. Such notice shall give the date of discontinuance and, in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee. All taxes and penalties under this act, not yet due and payable under other provisions hereof,

Sale or transfer of business

shall become due and payable concurrently with such discontinuance, sale or transfer, and the distributor shall forthwith make a report and pay all such taxes and penalties, and shall surrender to the State Board of Equalization the license theretofore issued. Unless such notice shall have been given as hereinbefore provided, such purchaser or transferee shall be liable for all taxes and penalties under this act accrued against the vendor or transferor to the date of such sale or transfer, but only to the extent of the value of the property and business thereby acquired.

Producer or broker's license

Every person, firm, association or corporation before becoming a producer or broker shall apply for a license on forms prescribed by the State Board of Equalization. Each such application shall be accompanied by a license fee of ten dollars ($10) payable to the State Board of Equalization.

Upon the receipt of such application, accompanied by such license fee, the State Board of Equalization shall issue to every such applicant, except as otherwise provided herein, a license to engage in such business from the date of the issuance thereof, until and including the following December 31st, unless sooner canceled or revoked. Before January 1st of each year an application shall be filed and a license obtained by each such producer or broker for the succeeding calendar year. If any producer or broker shall fail to apply for the license hereby required and to pay the fee hereby specified prior to January 1st of each year, then there shall be added to the amount of such fee a penalty of 25 per cent on account of such delinquency. Any license so issued shall not be transferable and may be revoked by the State Board of Equalization as hereinafter provided. All license fees collected under the provisions of this section shall be credited to the "Motor Vehicle Fuel Fund" hereinafter created.

Refusal of license

In the event that an application for a distributor's, producer's or broker's license shall be filed hereunder by an applicant formerly holding under this act any license which, prior to the time of filing such application, shall have been revoked for cause by said board, or in the event that said board shall determine that such application is not filed in good faith or not made by the real person in interest, then, and in any of said events, said board may refuse to issue a license to the applicant. Before such refusal, however, said board shall grant the applicant a hearing and shall give the applicant at least 10 days' written notice of the time and place thereof. Such notice may be served personally or by mail. If by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the applicant at his address as the same appears in the records of said board.

Stats 1933, p 1636

SEC. 2. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Distributor's record

Sec. 5. Every distributor must keep a true and accurate record in such form as the State Board of Equalization may prescribe, of all stocks of petroleum products on hand, of all raw gasoline, gasoline stock, kerosene distillates, casing-head gasoline and other petroleum products used in, or which may be used in, compounding, blending or manufacturing motor vehicle fuel; of the amount of crude oil refined, the gravity of the crude oil refined and the yield from said crude oil, as well as of such other matters relating to transactions in petroleum products as said board may direct. Every distributor must take a physical inventory of the petroleum products on hand at least once each month as prescribed by said board and must have the record of such inventory and of the other matters mentioned in this section, available at all times for the inspection of said board or its representatives. If said board or its representatives are dissatisfied with the accuracy of said physical inventory, they are hereby authorized and empowered to take a physical inventory of the petroleum products. Upon demand of said board or its representatives every distributor must furnish a statement under oath reflecting the contents of any records to be kept under this section.

Monthly inventory

Producer's record

Every producer must keep a true and accurate record in such form as the State Board of Equalization may prescribe of all manufacture and distribution of any petroleum product or products used in, or which may be used in, the blending, compounding or manufacturing of motor vehicle fuel, and every broker must likewise keep a true and accurate record of all purchases of motor vehicle fuel and such petroleum products in such manner as to disclose the vendor, the quantity purchased, the correct description of the commodity and the means of transportation to said broker, as well as all of the sales of motor vehicle fuel and such petroleum products in such manner as to disclose the vendee, the quantity sold, the correct description of the commodity and the means of transportation from said broker to the vendee. All such records required by this section must be available at all times for the inspection of said board or its representatives. On or before the fifteenth day of each month, each producer and each broker shall file on forms prescribed by the board a report showing such information with respect to the operations of the preceding calendar month as the board may require to carry out the provisions hereof.

Stats 1933, p 1637

SEC. 3. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

Distributor's monthly statement

Sec. 6. Each distributor shall on or before the fifteenth day of each and every month, file with the State Board of Equalization on forms prescribed by said board, a sworn statement showing the total number of gallons of motor vehicle

fuel produced, refined, manufactured or compounded by such distributor within this State and sold during the preceding calendar month, or monthly period ended during that calendar month as prescribed by said board, by such distributor within this State; the total number of gallons of motor vehicle fuel imported into this State by such distributor and sold or distributed within this State by such distributor during such month, or monthly period, when sold or distributed otherwise than in the original packages or containers in which imported into this State or used by such importer; also the number of gallons of such fuel acquired by him in the original package or container in which the same was imported into this State and thereafter sold, distributed or used by him; and such other information as the State Board of Equalization may require. If any distributor shall fail, neglect or refuse to file said report within the time prescribed by this section, the State Board of Equalization must note such failure, neglect, or refusal upon the tax roll hereinafter described, and must estimate the motor vehicle fuel distributions of said distributor, assessing the license tax thereon, adding to said license tax a penalty of 15 per cent thereof for failure, neglect or refusal to report, and said distributor shall be estopped from complaining of the amount of said estimate. Said penalty for failure to report shall not be in lieu of the penalty for delinquency prescribed by Section 4 of this act, but the penalty for delinquency shall not apply to or be charged against the penalty for failure to report. The State Board of Equalization shall on or before the twenty-second day of each calendar month assess the license tax due hereunder, and prepare and complete an assessment roll showing the amount of the license tax assessed against each distributor, and immediately deliver said assessment roll to the State Controller.

Estimate and penalty if statement not filed

Monthly assessment of tax

SEC. 4. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1937, p 2219

Sec. 7. For the purposes of this act all motor vehicle fuel sold, donated, consigned for sale, bartered or used shall be deemed to be distributed, and to insure the proper administration of this act and to prevent evasion of the license tax hereby imposed it shall be presumed that all motor vehicle fuel refined, manufactured, produced, blended or compounded in this State, or imported into this State, and no longer in the possession of the distributor, has been distributed unless the contrary is established; provided, however, that the exchange of motor vehicle fuel for motor vehicle fuel, gallon for gallon, with another duly licensed distributor of motor vehicle fuel shall not be considered a taxable distribution; and provided, that in lieu of the collection and refund of the tax on motor vehicle fuel used by a distributor in such a manner as would entitle a purchaser to claim refund under the provisions of Section 11 hereof, credit may be given such distributor upon his tax return and assessment; and provided further, that

What fuel deemed distributed

under such regulations as the State Board of Equalization may prescribe, sales and other deliveries of natural gasoline may be made to a duly licensed distributor free of tax.

Nothing in this act shall be construed as requiring the payment of the license tax herein specified upon more than one sale, distribution or transfer of the same motor vehicle fuel

Stats 1923, p 574

SEC. 5. Section 8 of the act cited in the title hereof is hereby amended to read as follows:

Penalties regarding statements

Sec. 8. It shall be unlawful for any distributor, producer or broker to fail, neglect or refuse to make and file any statement required by this act in the manner or within the time therein provided, or to make any such statement false in any particular.

Stats. 1931, p 113

SEC. 6. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Proceedings if tax not paid

Sec. 9. If the license tax and such penalties as may have been incurred thereon chargeable to any distributor are not fully paid by the delinquent date specified in Section 4 of this act, the Controller shall notify forthwith the State Board of Equalization, which may cite said distributor to appear before said board and show cause why his license should not be revoked, as prescribed by Section 14 hereof.

Stats 1935, p 1696

SEC. 7. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Exemptions

Sec. 10. The provisions of this act requiring the payment of license taxes shall not be held or construed to apply to motor vehicle fuel imported into this State in interstate or foreign commerce and intended to be sold in the original and unbroken tank cars or other original receptacles, containers or packages and so sold while the same are in interstate or foreign commerce, nor to any motor vehicle fuel exported from this State by the distributor or delivered by the distributor to any vessel clearing from a port of this State for a port outside of this State and actually exported from this State in such vessel, nor to any motor vehicle fuel sold to the Government of the United States or any department thereof for official use of said Government, but every distributor shall be required to report such exports and sales to the State Board of Equalization in such detail as that board may require, otherwise the exemption herein granted shall be null and void and all such fuel shall be considered distributed in this State subject fully to the provisions of this act.

Export certificate

In support of any exemption from license taxes claimed under this section on account of the exportation of motor vehicle fuel, every distributor must execute an export certificate in such form as shall be prescribed by the State Board of Equalization, containing a sworn statement, made by some

person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the State of California, and giving such details with reference to such shipment as said board may require. All export certificates must be completed and on file in the office of the State Board of Equalization within 60 days after the close of the calendar month in which the shipments to which they relate are made, and no certificate not completed and filed within such period shall be recognized for any purpose by the State of California or any agency thereof. The State Board of Equalization may demand of any distributor such additional data as are deemed necessary by said board in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate.

Sales to United States

Any claim for exemption based on a sale to the United States Government or any department thereof may be made by the distributor at any time within six months from the date of sale by filing such claim in the office of the State Board of Equalization, but no claim made after the expiration of said period of six months shall be recognized for any purpose by the State or any agency thereof.

Stats. 1931, p. 115

SEC. 8. Section 12 of the act cited in the title hereof is hereby amended to read as follows:

Examination of records, etc.

Sec. 12. The State Board of Equalization shall have the power, and it is hereby authorized to make any and all such examinations of the records of distributors and such other investigations as it may deem necessary in carrying out the provisions of this act. As this State is the source of petroleum products for other States, if such examination or investigation necessitates collaboration or conference with motor vehicle fuel tax officials of other States, at places either inside or outside this State, such collaboration or conference is hereby declared to be a necessary function in the administration of this act.

Changes in assessments to correct errors

If such examinations or investigations made by said board shall disclose that any reports of distributors of motor vehicle fuel theretofore filed with said board by said distributors pursuant to the requirements of this act, have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax accruing thereon, said board shall have the power, and is hereby authorized, to make such changes in subsequent assessments of said distributors under this act as it may deem necessary to correct the errors disclosed by its examination of the records of said distributors or its investigations as hereinbefore authorized.

Assistants

The State Board of Equalization may appoint attorneys, accountants, auditors, investigators and such other expert and clerical assistance as it may from time to time deem necessary to enforce its powers and perform its duties under this act.

Stats 1935, p 1697

SEC. 9. Section 14 of the act cited in the title hereof is hereby amended to read as follows:

Penalties

Sec. 14. Any person, firm, association or corporation or any officer or agent thereof failing to pay the license tax as herein provided, conducting any activities requiring a license hereunder without a license or after a license has been revoked, or violating any of the other provisions of this act, or unlawfully making any false statement, or concealing any material fact in any record, report, affidavit or claim provided for herein, shall be guilty of a misdemeanor, unless such act is by any other law of this State declared to be a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Revocation of license

The State Board of Equalization shall have power to revoke the license of any distributor, producer, or broker, refusing or neglecting to comply with any provision of this act or any rule or regulation of said board prescribed and adopted under this act.

Notice

Before revoking any license issued hereunder, said board shall send notice by registered mail directed to said licensee at his last known address ordering him to show cause, before said board at Sacramento or such other place in this State as may be designated by said board, at a time not less than 10 days after the mailing of such notice, why his license issued hereunder should not be revoked. Said board shall allow such distributor, producer or broker an opportunity to be heard in pursuance of such notice and thereafter shall have full power to revoke his license issued hereunder.

Expenses

The State Board of Equalization is hereby authorized to pay out of the "Motor Vehicle Fuel Fund" all expenses incurred in the prosecution before any court of this State of any person, firm, association or corporation charged with the violation of any of the provisions of this act.

Stats 1941, p 559

SEC. 10. Section 7305 of the Revenue and Taxation Code is hereby amended to read as follows:

"Distribution"

7305. "Distribution" includes any of the following:

(a) The refining, manufacturing, producing, blending, or compounding of motor vehicle fuel in this State, and the sale, donation, consignment for sale, barter, or use of the fuel in this State.

(b) The importing of motor vehicle fuel into this State, and the sale, donation, consignment for sale, barter, or use of the fuel in this State whether in the original package or container in which imported or otherwise.

(c) The acquiring of motor vehicle fuel in this State in the original package or container in which it was imported, and the sale, donation, consignment for sale, barter, or use of the

fuel in this State whether in the original package or container in which imported or otherwise.

"Distribution" does not include the exchange of motor vehicle fuel for motor vehicle fuel, gallon for gallon, with another duly licensed distributor of motor vehicle fuel.

SEC. 11. Section 7402 of said code is hereby amended to read as follows: Stats. 1941, p. 561

7402. In support of any exemption from license taxes claimed under this chapter on account of the exportation of motor vehicle fuel, every distributor shall execute an export certificate in such form as shall be prescribed by the board, containing a sworn statement made by some person having actual knowledge of the fact of the exportation that the motor vehicle fuel has been exported from the State and giving such details with reference to the shipment as the board may require. Export certificates

SEC. 12. Section 7481 of said code is hereby amended to read as follows: Stats 1941, p 562

7481. Every person before becoming a producer or broker shall apply for a license on forms prescribed by the board. Each application shall be accompanied by a license fee of ten dollars ($10) payable to the board. Producer or broker's license

SEC. 13. Section 7482 of said code is hereby amended to read as follows: Stats 1941, p 562

7482. Upon the receipt of the application, accompanied by the license fee, the board shall issue to the applicant, except as otherwise provided in this chapter, a license to engage in business as a producer or broker from the date of the issuance thereof to and including the following December 31st unless sooner canceled or revoked. Issuance

SEC. 14. Section 7483 of said code is hereby amended to read as follows: Stats 1941, p 563

7483. Before January 1st of each year every producer or broker shall file an application for and obtain a license for the succeeding calendar year. Time for filing

SEC. 15. Section 7506 of said code is hereby amended to read as follows: Stats 1941, p 563

7506. The board may revoke the license of any distributor, producer, or broker who refuses or neglects to comply with any provisions of this part or any rule or regulation of the board prescribed and adopted under this part. Revocation of license

New article SEC. 16. Article 2.5, comprising Sections 7491 to 7493, inclusive, is hereby added to Chapter 4 of Part 2 of Division 2 of said code, to read as follows:

Article 2.5 Denial of License

Refusal of license 7491. The board may refuse to issue a distributor's, producer's, or broker's license:

(a) If the application therefor is filed by an applicant who formerly held any license under this part which, prior to the time of filing the application, has been revoked for cause by the board; or

(b) If the board determines that the application therefor is not filed in good faith or made by the real person in interest.

Hearing before refusal 7492. Before such refusal, the board shall grant the applicant a hearing and shall give him at least 10 days' written notice of the time and place thereof.

Service of notice 7493. The notice may be served personally or by mail. If by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the applicant at his address as it appears in the records of the board.

Stats 1941, p 563 SEC. 17. Section 7651 of said code is hereby amended to read as follows:

Monthly return 7651. Each distributor shall on or before the fifteenth day of each month file with the board on forms prescribed by the board a sworn statement showing the total number of gallons of motor vehicle fuel distributed by him within this State during the preceding calendar month, or monthly period ended during that calendar month as prescribed by the board. The distributor need not report distributions not taxable under this part. The report shall also contain such other information as the board may require.

Stats 1941, p 564 SEC. 18. Section 7678 of said code is hereby amended to read as follows:

Citation if tax, etc., unpaid 7678. If the license tax and penalties incurred thereon are not fully paid by the delinquent date specified, the Controller shall forthwith notify the board which may cite the distributor to appear before the board and show cause why his license should not be revoked.

New section SEC. 19. Section 8254 is hereby added to said code, to read as follows:

Conferences outside State 8254. As this State is the source of petroleum products for other States, if such examination or investigation necessitates collaboration or conference with motor vehicle fuel tax officials

of other States, at places inside or outside this State, such collaboration or conference is declared to be a necessary function in the administration of this part.

SEC. 20. Section 8302 of said code is hereby amended to read as follows: Stats. 1941, p. 574

8302. Every distributor shall take a physical inventory of the petroleum products on hand at least once each month as prescribed by the board and keep a record of the inventory. If the board or its representatives are dissatisfied with the accuracy of the inventory, they may take a physical inventory of the petroleum products. Monthly inventory

SEC. 21 Section 8306 of said code is hereby amended to read as follows: Stats. 1941, p. 575

8306. Upon demand of the board or its representatives every distributor shall furnish a statement under oath reflecting the contents of any records kept by them under this chapter. Sworn statement

SEC. 22 Section 8307 is hereby added to said code, to read as follows: New section

8307. On or before the fifteenth day of each month, every producer and broker shall file on forms prescribed by the board a report showing such information with respect to the operations of the preceding calendar month as the board may require to carry out the provisions hereof. Report of operations

SEC. 23. Section 8403 is hereby added to said code, to read as follows: New section

8403. It is unlawful for any person, firm, association, or corporation, or any officer or agent thereof, to conduct any activities requiring a license under this part without a license or after a license has been revoked. Acting without license

Any violation of this section is subject to the same punishment as is prescribed in Section 8402.

SEC. 24. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately; provided, however, that the provisions of the act cited in the title hereof as they existed on January 1, 1941, are hereby continued in force until July 1, 1941, and that the provisions hereof shall become operative on July 1, 1941, and that the provisions of this act amending the Revenue and Taxation Code shall become operative at the same time as Part 2 of Division 2 of the Revenue and Taxation Code passed by the Legislature at its Fifty-fourth Session, at which time the provisions of the Motor Vehicle Fuel License Tax Act amended by this act are hereby repealed. Tax levy. Operative dates

CHAPTER 844

An act to amend Sections 3.761 and 3.762 of, and to add Section 6.261a to, the School Code, all relating to the teaching of civics in elementary schools.

In effect September 13, 941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 146

SECTION 1. Section 3.761 of the School Code is hereby amended to read as follows:

Elementary course of study

3.761. The course of study in the elementary schools of each city, county, and city and county, shall include instruction in the following prescribed branches in the several grades in which each may be required in the course of study adopted in pursuance of this article, viz: (1) reading, (2) writing, (3) spelling, (4) language study, (5) arithmetic, (6) geography, (7) history of the United States and of California, (8) civics including a study of the Declaration of Independence and of the Constitution of the United States, (9) music, (10) art, (11) training for healthful living, (12) morals and manners, and such other studies not to exceed three as may be prescribed by the board of education of the city, county, or city and county.

Sch. C., 1929, p. 146

SEC. 2. Section 3.762 of the School Code is hereby amended to read as follows:

Time allowed

3.762. A minimum of 50 per cent of each school week must be devoted to reading, writing, language study, spelling, arithmetic and civics in grades one to six, inclusive, and a minimum of 600 minutes of each school week must be devoted to such subjects in grades seven and eight.

New section

SEC. 3. Section 6.261a is hereby added to the School Code, to read as follows:

Elementary civics textbook

6.261a. The State Board of Education shall include in textbooks and teachers' manuals adopted for prescribed subjects a textbook for use in elementary schools for the teaching of civics, particularly the Declaration of Independence and the Constitution of the United States. This textbook shall be in simple form and suited to the comprehension of the pupils.

CHAPTER 845

An act to amend Section 16601 of the Business and Professions Code, relating to sales of the good will of a business. Stats 1937, p 1229, amended

[Approved by Governor June 24, 1941 Filed with Secretary of State June 26, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 16601 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 1864

16601. Any person who sells the good will of a business may agree with the buyer to refrain from carrying on a similar business within a specified county or counties, city or cities, or a part thereof, in which the business so sold has been carried on, so long as the buyer, or any person deriving title to the good will from him, carries on a like business therein. Covenant not to compete

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CHAPTER 846

An act to amend Section 5752 of the Welfare and Institutions Code, relating to the appointment of guardians of insane or incompetent persons. Stats 1937, p 1005, amended

[Approved by Governor June 24, 1941 Filed with Secretary of State June 26, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5752 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1937, p 1146

5752. No court proceedings shall be had in relation to the mental condition of a patient in a private institution, hospital, sanitarium, department or ward for the care or treatment of the mentally ill unless the patient is either present or represented by an attorney. The judge of the superior court before whom the proceedings are to be heard shall appoint two licensed medical examiners who are not connected with any private psychopathic institution to make a personal examination of the patient and to testify before the judge as to the results of such examination. The provisions of this section shall not be applicable to proceedings for the appointment of a guardian under the Probate Code of this State. Court proceedings

CHAPTER 847

Stats 1933, p. 60, amended

An act to amend Section 792 of the Agricultural Code, relating to avocados.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 711

SECTION 1. Section 792 of the Agricultural Code is hereby amended to read as follows:

Avocados-Standards

792. Avocados shall be free from all defects, including but not restricted to those hereinafter mentioned, which singly or in the aggregate cause a waste of 10 per cent or more, by weight, of the entire avocado, including the skin and seed. Not more than 5 per cent, by count, of the avocados in any one container or bulk lot may be below the foregoing requirement.

"Defect"

"Defect" includes damage due to insect injuries, freezing injury, decay, rancidity, or other causes.

Oil content

All avocados, at the time of picking, and at all times thereafter, shall contain not less than 8 per cent of oil, by weight of the avocado excluding the skin and seed.

CHAPTER 848

An act to amend Section 112 of the Code of Civil Procedure, relating to original jurisdiction of justices' courts.

In effect September 13, 1941

[Approved by Governor June 24, 1941 Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 409

SECTION 1. Section 112 of the Code of Civil Procedure is hereby amended to read as follows:

Original jurisdiction of Class A justices' courts

112. Justices' courts shall have original jurisdiction of civil cases and proceedings as follows:

1. Justices' courts of Class A shall have original jurisdiction:

(a) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to one thousand dollars ($1,000) or less, except cases at law which involve the title or possession of real estate or the legality of any tax, impost, assessment, toll or municipal fine;

(b) In all proceedings in forcible entry or forcible or unlawful detainer where the rental value is one hundred dollars ($100) or less per month, and where the whole amount of damages claimed is one thousand dollars ($1,000) or less, and in

such proceedings any competent evidence may be given, and any question properly involved therein may be determined;

(c) In all actions to enforce and foreclose liens on personal property where the amount of such liens is one thousand dollars ($1,000) or less;

(d) In cases in equity, when pleaded as defensive matter in any case at law of which they have jurisdiction;

(e) To charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by such court in the manner provided in Section 2422 of the Civil Code, or any amendment thereof, and in such cases to appoint a receiver and to make any order or perform any act mentioned or authorized in said section; in proceedings under Section 689 of this code, or any amendment thereof, to determine title to personal property, seized in an action pending in, or upon execution issued by, such court; to appoint receivers in the cases mentioned in Sections 547a and 564, Subdivision 4 of this code, or any amendment thereof, and to make all orders and perform all acts mentioned in said sections in connection with such cases.

2 Justices' courts of Class B shall have original jurisdiction: Original jurisdiction of Class B justices' courts

(a) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars ($300) or less, except cases at law which involve the title or possession of real estate or the legality of any tax, impost, assessment, toll or municipal fine;

(b) In all proceedings in forcible entry, or forcible or unlawful detainer where the rental value is seventy-five dollars ($75) or less per month, and where the whole amount of damages claimed is three hundred dollars ($300) or less, and in such proceedings any competent evidence may be given and any question properly involved therein may be determined;

(c) In all cases to enforce and foreclose liens on personal property where the amount of such liens is three hundred dollars ($300) or less;

(d) To charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by such court in the manner provided in Section 2422 of the Civil Code, or any amendment thereof, and in such cases to appoint a receiver and to make any order or perform any act mentioned or authorized in said section; in proceedings under Section 689 of this code, or any amendment thereof, to determine title to personal property, seized in an action pending in, or upon execution issued by, such court; to appoint receivers in the cases mentioned in Section 547a of this code, or any amendment thereof, and to make all orders and perform all acts mentioned in said sections in connection with such cases

CHAPTER 849

Stats 1933, p 60, amended

An act to amend Section 323 of the Agricultural Code, relating to foreign cold storage meat sales license fees.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 114

SECTION 1. Section 323 of the Agricultural Code is hereby amended to read as follows:

License fee

323. The director, upon application of any person selling, dealing or furnishing foreign cold storage meat, shall issue a license to such applicant upon the payment of an annual fee of twenty-five dollars ($25) for importers and for wholesalers, of ten dollars ($10) for retailers, and five dollars ($5) for hotels, restaurants, lunch rooms, dining cars, or boarding houses, selling, handling, furnishing, or serving such cold storage meat. All such licenses shall expire on June 30th of each year. No license shall be issued for a period of less than one year.

Expiration date

Use of moneys

All moneys collected under the provisions of this article shall be paid into the State Treasury to the credit of the Department of Agriculture Fund for use in carrying out the purposes of this article.

CHAPTER 850

An act to add Section 5.143 to the School Code, relating to the issuance of teachers' credentials to blind or partially blind persons.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 5.143 is hereby added to the School Code, to read as follows:

Credentials of blind persons

5.143. No person otherwise qualified shall be denied the right to receive credentials from the State Board of Education on the ground he is totally or partially blind.

CHAPTER 851

An act to add Section 4015a to the Political Code, relating to justices of the peace.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4015a is hereby added to the Political Code, to read as follows: New section

4015a. Boards of supervisors may designate by ordinance places in the various townships within the counties where sessions of the justice's courts shall be held, and may provide at such places suitable courtrooms and offices for the justices of the peace. Said courtrooms and offices shall at all times be provided with suitable office and courtroom furniture, heat, light and care for the same, dockets and other necessary records, equipment and supplies suitable for the official needs of such justices, and of a character and quality in keeping with the importance of said courts. Courtrooms of justices' courts

Nothing herein shall be construed as prohibiting the right of the supervisors to change the said places of holding said courts, or any of them, if the public interest or convenience requires such change.

CHAPTER 852

An act to amend Section 7057 and Section 7061 of the Welfare and Institutions Code, relating to the determination of the alleged defective or psychopathic delinquencies. Stats 1937, p. 1005, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7057 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1939 p. 2778

7057. The court shall inquire into the mental condition, record, character, and personality of the alleged defective or psychopathic delinquent. For this purpose it shall by subpena require the attendance before it of at least two persons who have made a special study of mental deficiency, psychopathic personality, or delinquency, each of whom shall be a clinical psychologist or psychiatrist, to examine the person and testify concerning his mentality, character, and personality. The court may also by subpena require the attendance of such other persons as it deems advisable, to give evidence. Court inquiry

Stats 939, p 2779

SEC. 2. Section 7061 of the Welfare and Institutions Code is hereby amended to read as follows:

Witness fees and expenses

7061. Each psychologist or psychiatrist shall receive for each attendance mentioned in Section 7057 the sum of five dollars ($5) for each person examined, together with his necessary actual expenses occasioned thereby, and other witnesses shall receive for such attendance such fees and expenses as the court in its discretion allows, if any, not exceeding the fees and expenses allowed by law in other cases in the superior court.

Any fees or traveling expenses payable to a psychologist, psychiatrist or witness as provided in this section and expenses connected with the execution of any process under this chapter which are not paid by the person committed or by the person charged with his support shall be paid by the county treasurer of the county in which the person resides, upon the presentation to the treasurer of a certificate of the court that the claimant is entitled thereto.

CHAPTER 853

Stats 1937, p 1005, amended

An act to amend Section 5258 of the Welfare and Institutions Code, relating to the order of commitment of feeble-minded persons.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1773

SECTION 1. Section 5258 of the Welfare and Institutions Code is hereby amended to read as follows:

Order of commitment

5258. If the court finds that the person is an epileptic or feeble-minded person, and that he has been a resident of the State for one year next preceding the presentation of the petition, or, if the person is under the age of one year, that he was born in the State and that the parent in whose custody he is has been a resident of the State for the period of one year next preceding the presentation of the petition, the court may make an order that the person be committed to the Department of Institutions for placement in the Sonoma State Home or to the Pacific Colony and that he be received, maintained, and educated therein. The court, however, may commit an epileptic or feeble-minded person who has been in the State less than one year for the purpose of transportation of such person to the State of his legal residence pursuant to Section 160. On the presentation of the order the superintendent of the institution to which the person is committed shall receive him therein, unless the institution is already full, or the fund available for its support is exhausted, or, in the opinion of the Department of Institutions, the epileptic or feeble-minded person is not a suitable subject for admission thereto.

CHAPTER 854

An act to amend Section 6664 of the Welfare and Institutions Code, relating to payment of expenses when person committed charged with crime.

Stats 1937, p 1005, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6664 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p 1776

6664. If any person charged with the commission of a public offense in any county of this State is committed as an insane person to the Department of Institutions, as a result of proceedings had pursuant to the provisions of Articles 1 to 7, inclusive, of Chapter 1, Part 1, Division 6 of this code, or is committed to any State institution as an inebriate, as a result of proceedings had under Article 2, Chapter 3, Part 1, Division 6 of this code, all expenses of such proceedings and the expense of maintaining such person in such State institution shall be a charge upon the county from which the person is committed; but the county may recover such expenses from the estate of the defendant, if he has any, or from any relative, town, city or county bound to provide for and maintain him. The district attorney shall, in the name of the county, commence proceedings for the collection of the same.

Payment of expenses when person committed charged with crime

CHAPTER 855

An act to amend Section 5701 of the Welfare and Institutions Code, providing for the license fee for private institutions.

Stats 1937, p 1005, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5701 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1144

5701. Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department requires. The application shall be accompanied by the proper license fee. The license fee is the sum of fifty dollars ($50) for each fiscal year, and in case of the issuance of a license on or after the first day of January next succeeding the beginning of the

Plan of premises

License fee

fiscal year, the license fee is twenty-five dollars ($25) for the remainder of the fiscal year, except that there is no license fee for any institution licensed to care for six or less persons. No additional fee will be required in the event of an application for transfer of a license to another person to operate the same institution. No additional license fee shall be required for the transfer of a license issued in the name of one person to operate an institution at a certain location where an application is received to transfer that license to the same person to operate an institution at a different location.

CHAPTER 856

Stats 1937, p 1005, amended

An act to add Section 6500.5 to the Welfare and Institutions Code, relating to care and management of institutions.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 6500.5 of the Welfare and Institutions Code is hereby added, to read as follows:

Rules governing institutions

6500.5. Except as otherwise specifically provided elsewhere in this code, all of the institutions under the jurisdiction of the Department of Institutions shall be governed by uniform rule and regulation of the Department of Institutions and all of the provisions of this chapter shall apply to the conduct and management of such institutions.

CHAPTER 857

Stats 1937, p 1005, amended

An act to amend Section 7052 and Section 7050 of the Welfare and Institutions Code, relating to the commitment of defective or psychopathic delinquents.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2777

SECTION 1. Section 7052 of the Welfare and Institutions Code is hereby amended to read as follows:

Commitment Petition

7052. A petition alleging that a person named therein is a defective or psychopathic delinquent and praying that the person be committed to a State institution for defective or

psychopathic delinquents may be filed in the county wherein such person resides by any of the following persons:

(a) The parent, guardian, or other person charged with the support of the person alleged to be a defective or psychopathic delinquent.

(b) Any probation officer or district attorney.

(c) The Department of Institutions.

The petition shall state the facts upon which the allegation that the person is a defective or psychopathic delinquent is based, and shall be verified by affidavit of the petitioner.

SEC. 2. Section 7050 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1939, p 2777

7050. As used in this chapter, "defective or psychopathic delinquent" means any minor who is mentally defective or psychopathic, and who is an habitual delinquent or has tendencies toward becoming an habitual delinquent, if his delinquency is such as to constitute him a menace to the health, person, or property of himself or of any other person, and the minor is not a proper subject for commitment to a State correctional school, to a State home for the feeble-minded as a feeble-minded person, or to a State hospital as an insane person or as a person addicted to the intemperate use of alcoholic beverages or narcotic or stimulant drugs. As used in this chapter "minor" means any person under 21 years of age. "Defective or psychopathic delinquent" "Minor"

CHAPTER 858

An act to amend Section 7066 of the Welfare and Institutions Code, relating to the parole of defective or psychopathic delinquents. Stats 1937, p. 1005, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7066 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1939, p 2780

7066. Any person committed under the provisions of this chapter, except persons committed pursuant to Section 7067 may be paroled by the superintendent of the institution wherein the person is confined under the same rules and conditions under which the insane are paroled. Any such paroled inmate may at any time during the parole period be recalled to the institution. The period of parole shall in no case be less than five years. When any person has been paroled for Parole

five years, if in the opinion of the superintendent and the Director of Institutions the person is no longer a menace to the health, person, or property of himself or of any other person, the superintendent, subject to the approval of the Director of Institutions, may discharge the person.

CHAPTER 859

Stats 1937, p 1005, amended

An act to amend Section 7508 of the Welfare and Institutions Code, relating to civil actions or claims arising out of the discharge of official duties relating to inmates of State institutions.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p. 1179

SECTION 1. Section 7508 of the Welfare and Institutions Code is hereby amended to read as follows:

Action against department, officer, etc

Payments of claim or damages

7508. No civil action shall be brought, without leave of the Controller, against the department or any institution or agency under the jurisdiction of the department because of any act done or failure to perform any act, while discharging official duties relating to the inmates of any institution. Any just claim for damages against the department, any institution or agency under the jurisdiction of the department, or any officer or employee, for which the State would be legally or equitably liable, may be paid out of any moneys appropriated for the care of such inmates.

Defense by Attorney General

Whenever any suit for damages is brought against any officer or employee of the department or of any institution or agency under the jurisdiction of the department on account of his official actions such officer or employee, whether employed by the State at the time of the action or otherwise, may, with the consent of the director, have such action referred to the Attorney General, and upon the determination of the Attorney General that such officer or employee performed his official duty in good faith and without malice, it shall then be the duty of the Attorney General to appear and defend such officer or employee in such action. The department or any institution or agency under the jurisdiction of the department may recover from such officer or employee the amount of any costs or expenses paid out by it under the provisions of this section if it should develop that the officer or employee acted in bad faith or with malice.

CHAPTER 860

An act to amend Section 1554 of the Probate Code, relating to accounts of guardians of insane persons.

Stats 1931, p 587, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1554 of the Probate Code is amended to read as follows:

Stats 1935, p 458

1554. No account of the guardian of an insane person who is or has been during the guardianship confined in a State hospital in this State shall be settled or allowed unless notice of the time and place of hearing and a copy of the account have been given to the Director of Institutions or the Attorney General at least eight days before the hearing. The statute of limitations shall not run against any claim of the Department of Institutions against the estate of the incompetent for board, care, maintenance or transportation if the account is settled without giving the notice prescribed above.

Notice to Attorney General, etc.

CHAPTER 861

An act to amend Section 12024.5 of the Business and Professions Code, relating to the sale of meat, fish and poultry by weight.

Stats 1937, p 1229, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 12024.5 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 2833

12024.5. It shall be unlawful for any person to sell or advertise for sale in retail stores for consumer use any dressed poultry or any other fowl or rabbits in dressed form, or smoked, fresh or pickled meats or fish other than by weight determined at time of sale on a scale or a beam properly sealed in accordance with the provisions of this division. The provisions of this section do not apply to the retail sale of any commodity sold in the wrapper or container in which it was received by the retailer from, and on which appears the net weight of the commodity therein as marked by, the manufacturer, packer, wholesaler, or jobber.

Sale by weight

Exception

CHAPTER 862

Stats 1933, p 60, amended

An act to amend Section 305 of the Agricultural Code, relative to meat inspection.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 2213

SECTION 1. Section 305 of the Agricultural Code is hereby amended to read as follows:

Inspection required

305. No establishment may be operated in the State for the purpose of slaughtering animals, or for the manufacture of meat food products unless such establishment is operated under Federal inspection, State inspection, or approved municipal inspection. No dressed carcasses of animals intended for food purposes, parts thereof, prepared meats or meat food products shall be sold, offered for sale, exposed for sale or having possession for sale within the State unless the same shall bear the "Inspected and passed" stamp of an establishment operating under Federal inspection, State inspection or approved municipal inspection.

Exception

This section shall be effective only in counties having a population of 28,000 or over.

CHAPTER 863

Stats 1933, p 60, amended

An act to amend Section 318 of the Agricultural Code, relating to artificial coloring of meat products and casings.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 839

SECTION 1. Section 318 of the Agricultural Code is hereby amended to read as follows:

Dyed or artificially colored meat

318. It is unlawful to sell any meat or products thereof, sausage casings or other casings that contain dye or artificial coloring. For the purpose of this article, any meat, products thereof, sausage casings, or other casings that contain any dye or artificial coloring shall be deemed adulterated and the director shall render the same unfit for human consumption with a suitable denaturing agent. Nothing in this section shall be construed to prevent the use of casings containing harmless dyes on meat products that are not comminuted; provided, such transparent or semitransparent casings shall not have an amber or smoked color of such shade, degree or intensity as to give a false impression with respect to smoking or degree of smoking of the meat or product.

Casings

CHAPTER 864

An act to amend Section 12700 of the Business and Professions Code, relating to public weighmasters.

Stats 1937, p 1229, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 12700 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 2770

12700. Any person engaged in the business of public weighing for hire, or who weighs or measures any commodity and issues therefor a signed statement containing any or all of the data required to be stated on a weight or measure certificate which is accepted as the accurate weight or measure or count upon which the purchase or sale of such commodity is based, is a public weighmaster.

Public weighmaster defined

CHAPTER 865

An act to amend Sections 6735, 6752, 6757, 6775, 6787 and 6799 of the Business and Professions Code, relating to persons practicing civil engineering.

Stats 1937, p 1229, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6735 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 376

6735. No person shall use the title, "Structural Engineer," unless he is a registered civil engineer in this State and, furthermore, unless he has been found qualified as a structural engineer according to the rules and regulations established therefor by the board.

"Structural engineer"

Application for authority to use the title, "Structural Engineer," shall be made to the board and shall be accompanied by the application fee fixed by this chapter, which fee shall be retained for the board.

An applicant who has passed the examination prescribed by the board, upon the payment of the certificate of authority fee fixed by the chapter, which fee shall be retained for the board, shall have a certificate of authority issued to him.

Anyone who violates the provisions of this section is guilty of a misdemeanor.

Stats 1939, p 377

SEC. 2. Section 6752 of said code is hereby amended to read as follows:

Experience

6752. The applicant shall have had civil engineering experience, under the direction of a civil engineer legally qualified to practice, for at least six years.

Graduation from an engineering school or college, approved by the board, shall count as four years of experience and each year of study completed without graduation, in an engineering school or college, approved by the board, shall count as one-half year of experience.

Stats. 1939, p 378

SEC. 3. Section 6757 of said code is hereby amended to read as follows:

Reciprocity registration

6757. The board, upon application therefor, on its prescribed form, and the payment of the application and registration fees fixed by this chapter, which fees shall be retained for the board, may issue a certificate of registration as a civil engineer, without written examination, to any person holding a certificate of registration issued to him by any State or country when the applicant's qualifications meet the requirements of this chapter, and rules established by the board.

Stats 1939, p 379

SEC. 4. Section 6775 of said code is hereby amended to read as follows:

Complaints

6775. The board may receive and investigate complaints against registered civil engineers, and make findings thereon.

By a two-thirds vote, the board may reprove, privately or publicly, or may suspend for a period not to exceed two years, or may revoke the certificate of any civil engineer registered hereunder:

(a) Who has been convicted of a felony.

(b) Who has not a good character.

(c) Who has been found guilty by the board of any deceit, misrepresentation, violation of contract, fraud or gross incompetency in his practice.

(d) Who has been found guilty of any fraud or deceit in obtaining his certificate or violation of any provision of Chapter 801 of the Statutes of 1929, relating to civil engineers, or of this chapter.

(e) Who aids or abets any person in the violation of any provision of this chapter.

(f) Who violates any provision of this chapter.

Stats 1939, p 380

SEC. 5. Section 6787 of said code is hereby amended to read as follows:

Penalties and offenses

6787. Every person is guilty of a misdemeanor and for each offense of which he is convicted is punishable by a fine

of not more than five hundred dollars ($500) or by imprisonment not to exceed three months, or by both fine and imprisonment:

(a) Who, unless he is exempt from registration under this chapter, practices or offers to practice civil engineering in this State according to the provisions of this chapter without legal authorization.

(b) Who presents or attempts to file as his own the certificate of registration of another.

(c) Who gives false evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration.

(d) Who falsely impersonates or uses the seal of any other practitioner, of like or different name.

(e) Who uses an expired or revoked certificate of registration.

(f) Who violates any provision of this chapter.

SEC. 6. Section 6799 of said code is hereby amended to read as follows: Stats 1939, p 381

6799. The amount of the fees prescribed by this chapter is that fixed by the following schedule: Fee schedule

(a) The application fee is fifteen dollars ($15).

(b) The registration fee is ten dollars ($10).

(c) The duplicate certificate fee is one dollar ($1).

(d) The temporary registration fee is ten dollars ($10).

(e) The structural engineer's certificate of authority fee is ten dollars ($10).

(f) The annual renewal fee is five dollars ($5).

(g) The penalty for delinquency is one dollar ($1) for each month after the date upon which the annual fee became due until the amount thereof aggregates five dollars ($5).

CHAPTER 866

An act to amend School Code Sections 2.85 and 2.112, relating to school districts.

[Approved by Governor June 24, 1941 Filed with Secretary of State June 26, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. School Code Section 2.85 is hereby amended to read as follows: Stats 1939, p 2002

2.85. Except as provided in this section, any action undertaken under the provisions of this code to form a new school district of any type or class, to annex or unite any territory Time in which to complete proceedings

or school district to or with another school district, to withdraw or exclude territory from any school district, to unionize or merge two or more school districts, to disestablish or disincorporate any school district, or to change the boundaries of any school district, shall be completed prior to the first day of February of the school year in which such action was begun and shall be effective on the first day of July next succeeding.

Order attaching territory: When effective

An order of a board of supervisors attaching the territory of any lapsed elementary school district to one or more adjoining districts under the provisions of this code shall be effective as of the date of such order for all purposes.

When other actions effective

In the case of every other action referred to hereinbefore, such action shall be effective on the date such action is completed for the following purposes:

1. The determination of the assessed valuation of any district or districts affected by such action;

2. The appointment or election of members of the governing boards of the school districts affected;

3. The preparation and submission of school district budgets;

4. The election or appointment of employees for the ensuing school year;

5. The calling and conducting of elections for and the issuance and sale of school district bonds;

6. The exercise by the governing boards of the school districts affected of other powers and duties vested by this code in governing boards of school districts of the same type or class, and not inconsistent with other provisions of this code;

7. The holding of an election to determine whether a newly formed elementary school district, or a district comprised within a newly formed union or joint union elementary school district shall become a part of a high school district, as provided elsewhere in this code.

Stats 1939, p 2309

SEC. 2. School Code Section 2 112 is hereby amended to read as follows:

Addition of territory

2.112. The board of supervisors either when the district is formed or subsequently may include more territory than the remainder of the district or districts from which the city or incorporated town was organized, whenever a petition for such purpose is presented to them, signed by a majority of the heads of families residing in such additional territory.

The territory annexed may be in either the same or a different county than that of the school district to which it is annexed. If the territory annexed lies in a county other than the county in which the school district to which the territory is annexed lies, such school district shall not become a joint school district by reason of the annexation of such territory thereto.

CHAPTER 867

An act to amend Section 374 of the Vehicle Code, relating to exemptions from registration fees on vehicles.

Stats. 1935, p. 93, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect December 31, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 374 of the Vehicle Code is hereby amended to read as follows:

Stats. 1941, p. 12

374. Exemptions from Registration Fees. (a) The registration fees specified in this code except fees for duplicate license plates, certificates or cards need not be paid for any vehicle of a type subject to registration hereunder owned by any foreign government or by a consul or other official representative thereof or by the United States or by any State or political subdivision thereof or by any municipality duly organized under the Constitution or laws of this State, nor for any like vehicle owned by a voluntary fire department organized under the laws of this State and used exclusively for fire fighting purposes, nor for any like vehicle owned by and used exclusively in the operative work of any persons taxed for State purposes and exempt from the payment of license fees under the Constitution of this State, nor for any vehicle operated by the State, or by any county, city, district or political subdivision of the State, as lessee under a lease, lease-sale or rental-purchase agreement which grants possession of the vehicle to the lessee for a period of 12 months or more.

Exemptions from fees

An official representative of a foreign government, within the meaning of this section, is a person holding an exequatur issued by the Department of State of the United States of America.

The exemption in this subsection pertaining to vehicles leased by the State, or by any county, city, district, or political subdivision of the State, under a lease, lease-sale, or rental-purchase agreement, is not applicable to any vehicle leased after the effective date of this section, as amended in 1940, which is used or maintained for the transportation of persons for hire, compensation, or profit.

(b) All such vehicles so exempt from the payment of registration fees shall be registered as otherwise required by this code by the person having custody thereof and such custodian shall display upon said vehicle a license plate or plates bearing distinguishing marks or symbols as hereinbefore specified which said plate or plates shall be furnished by the department free of charge.

SEC. 2. This act shall take effect at midnight on December 31, 1941.

Effective date

CHAPTER 868

Stats 1935, p 93, amended

An act to amend Section 375 of the Vehicle Code, relating to fees to be paid by manufacturers, transporters and dealers.

In effect December 31, 1941

[Approved by Governor June 24, 1941 Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p. 374

SECTION 1. Section 375 of the Vehicle Code is hereby amended to read as follows:

Fees of manufacturers, transporters and dealers

375. Fees to be Paid by Manufacturers, Transporters and Dealers. The following fees shall be paid to the department for special plates issued to manufacturers, transporters and dealers:

(a) For special plates for vehicles:

(1) For the first set of special plates obtained_____$55 00
But upon annual renewal for the first set of special plates_____ $5 00

(2) For each additional set of special plates_____ $3 00

Effective date

SEC. 2. This act shall take effect at midnight on December 31, 1941.

CHAPTER 869

Stats 1937, p 2085, amended

An act to amend Section 30 of the State Civil Service Act, relating to the compensation of the members of the State Personnel Board.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 2087

SECTION 1. Section 30 of the State Civil Service Act is hereby amended to read as follows:

Compensation

Sec. 30. Each member of the board shall receive the sum of three thousand six hundred dollars ($3,600) annually, payable monthly in the same manner as the salaries of other State officers are paid, as compensation for such time as may be required of him to perform his duties under the provisions of this act. The members of the board shall receive their actual and necessary traveling expenses incurred in the course of such duties.

CHAPTER 870

An act to amend Sections 8703, 8776, 8782, 8801, 8804, 8991, 8993, 8995, 9011, 9171 and 9351 of, and to add Section 8705 to, the Revenue and Taxation Code, and to amend Sections 5, 5.1, 10, 12, 14, 19, 20, 23, 27 and 29 of the Use Fuel Tax Act of 1937, relating to the taxation of the use of motor vehicle fuel in this State and providing that this act shall take effect immediately.

Stats 1939, p 1274, and Stats 1937, p 763, amended

[Approved by Governor June 24, 1941 Filed with Secretary of State June 26, 1941.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1937, p 764

Sec. 5. On receipt of an application as required by Section 4 hereof, and after the deposit of such security as the board may require pursuant to Section 13.1 hereof, the board shall issue to the applicant a use fuel tax permit authorizing such person to become a user of fuel taxable hereunder. Such permit shall be valid until revoked.

Issuance

SEC. 2. Section 5.1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1939, p 2190

Sec. 5.1. Whenever any person fails to comply with any provision of this act or any rule or regulation of the board prescribed and adopted under this act, the board, upon hearing, after giving to such person 10 days' notice in writing specifying the time and place of such hearing and requiring him to show cause why his permit should not be revoked, may revoke the permit held by such person. Such notice may be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 19 hereof. A new permit shall not be issued to a person whose permit has been revoked, unless it appears to the satisfaction of the board that such person will comply with the provisions of the act and rules and regulations. It shall be unlawful for any person whose permit has been revoked to operate as a user of fuel in this State until such person has fully complied with the provisions of this act and a new permit has been issued hereunder to such person.

Revocation

Notice

SEC. 3. Section 10 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1937, p 764

Sec. 10. The excise tax, interest and penalties imposed hereunder shall constitute a lien upon, and shall have the effect of an execution duly levied against any motor vehicle in which fuel taxable hereunder is used, attaching at the

Lien

time such vehicle is operated in this State through the use of such fuel. Said lien shall not be removed until the excise tax, interest and penalties are paid or the property subject to the lien is sold in payment thereof, and shall be paramount to all private liens or encumbrances of whatever character, and to the rights of any conditional vendor or any other holder of the legal title, in or to any such motor vehicle.

Stats 1937, p 765

SEC. 4. Section 12 of the act cited in the title hereof is hereby amended to read as follows:

Certificate of tax clearance

Sec. 12. Transfer by the Department of Motor Vehicles of the registered ownership of any motor vehicle using fuel taxable hereunder may be effected only after a certificate of excise tax clearance has been issued by the board. Such certificate may be issued after the payment of all amounts due hereunder or after the payment of such amounts is secured to the satisfaction of the board.

Stats 1937, p 765

SEC. 5. Section 14 of the act cited in the title hereof is hereby amended to read as follows:

Seizure and sale of property

Sec 14. Whenever any user shall be delinquent in the payment of the obligations imposed hereunder, the board or a duly authorized representative thereof may proceed to collect the amount due from such user in the following manner: The board may seize any motor vehicle, subject to the lien imposed hereunder, and thereafter sell at public auction the property so seized to pay the amount due hereunder and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent user and to all persons appearing of record to have an interest in such property, in writing at least 10 days before the date set for such sale by inclosing such notice in an envelope addressed to said user at his last known residence or place of business in this State if any, and, in the case of any person appearing of record to have an interest in such property, addressed to such person at his last known residence or place of business in this State if any, and depositing the same in the United States mail, postage prepaid, and by publication of at least 10 days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold. If there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said period of 10 days. Such notice shall contain a description of the property to be sold, together with a statement of the amount due hereunder, the name of the user and the further statement that, unless such amount is paid on or before the time fixed in said notice of sale, said property will be sold in accordance with law and said notice.

Notice of sale

SEC. 6. Section 19 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2191

Sec. 19. If the board is dissatisfied with the report filed or amount of excise tax paid to the State by any user, it is hereby authorized and empowered to compute and determine the amount to be paid based upon any information available to it. One or more additional determinations may be made hereunder of the amount of excise tax due for one or for more than one month. The amount of excise tax so determined shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the month for which the amount of such excise tax, or any portion thereof, should have been reported until the date of payment. In making a determination hereunder, the board may offset overpayments for a month or months against underpayments for another month or months and against the interest and penalties on such underpayments. If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of the act or rules and regulations thereunder, a penalty of 25 per cent of such amount shall be added, plus interest as above provided. If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade the act or the rules and regulations thereunder, a penalty of 50 per cent of such amount shall be added, plus interest as above provided. The board shall give to the user written notice of its determination. Such notice may be served personally or by mail; if by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the user at his address as the same appears in the records of the board.

Additional determination

Interest

Offsets

Penalty

Notice

SEC. 7. Section 20 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2192

Sec. 20. If any user fails to make a report required to be made by this act, the board shall make an estimate, based upon any information available to it, for the month or months in respect to which such user failed to make a report, of the amount of fuel used by such user subject to the excise tax imposed hereunder and upon the basis of said estimate, compute and determine the amount required to be paid to the State, adding to the sum thus fixed a penalty equal to 25 per cent thereof. One or more determinations may be made hereunder of the amount of excise tax due for one or for more than one month. The amount of excise tax so determined shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the fifteenth day after the close of the month for which the amount of such excise tax, or any portion

Arbitrary assessment

Penalty

Interest

thereof, should have been reported until the date of payment.

Offsets In making a determination hereunder the board may offset overpayments for a month or months against underpayments for another month or months and against interest and penal-

Additional penalty ties on such underpayments. If the failure of a user to file a report as required by this act was due to fraud or an intent to evade the excise tax, there shall be added to the excise tax a penalty equal to 50 per cent thereof in addition to the 25 per

Notice cent penalty as above provided. Thereupon the board shall give to such user written notice of such estimate and determination, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 19 hereof.

Stats 1939, p 2193 SEC. 8. Section 23 of the act cited in the title hereof is hereby amended to read as follows:

Notice Sec. 23. Except in the case of fraud, intent to evade the tax or failure to make a report, every notice of a determination of an additional amount due shall be given within three years after the date when such amount should have been reported.

Stats 1939, p 2194 SEC. 9 Section 27 of the act cited in the title hereof is hereby amended to read as follows:

Injunction against tax collection Sec. 27. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin under this act the collection of any excise tax or other amounts herein required to be collected or to prevent or enjoin the revocation of any permit issued hereunder or any other action whereby it is sought to enforce the payment of any excise tax or other amounts herein

Action required to be paid; but after payment of any such excise tax or any such amount, the user making the payment may bring an action against the board in a court of competent jurisdiction in the County of Sacramento for the recovery

Limitation of action of the amount paid. No such action may be instituted more than one year after the excise tax or the amount herein required to be paid to the State has been paid and failure

Waiver to bring suit within said one year shall constitute waiver of any and all demands against the State on account of alleged overpayments hereunder.

Judgment for plaintiff If in any such action judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any excise taxes or amounts due from the plaintiff under this act, and the balance of the judgment shall be refunded to the plaintiff. In any such judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount found to have been illegally collected from the date of payment of such amount to the date of allowance of credit on account of such judgment or to a date preceding the date of the

refund warrant by not more than 30 days, such date to be determined by the board.

In no case shall any judgment be rendered in favor of the plaintiff in any action brought against the board to recover any amount paid hereunder, when such action is brought by or in the name of an assignee of the user. Action in name of assignee

SEC. 10. Section 29 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p 769

Sec. 29. It shall be unlawful for any person to place or cause to be placed fuel into any receptacle on a motor vehicle from which receptacle fuel is supplied for the propulsion of such vehicle unless a valid use fuel tax permit is held by the operator of such vehicle. Using fuel without permit

SEC. 11. Section 8703 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 580

8703. On receipt of an application and after the deposit of such security as the board may require pursuant to Section 8951 of this code, the board shall issue to the applicant a use fuel tax permit authorizing him to become a user of fuel taxable under this part. The permit is valid until revoked. Issuance of permit

SEC. 12. Section 8705 is hereby added to said code to read as follows: New section

8705. It is unlawful for any person whose permit has been revoked to operate as a user of fuel in this State until he has fully complied with the provisions of this part and has been issued a new permit. Effect of revocation

SEC. 13. Section 8776 of said code is hereby amended to read as follows: Stats 1941, p 581

8776. If the board is dissatisfied with the report filed, it may compute and determine the amount to be paid upon the basis of any information available to it. One or more deficiency determinations may be made of the amount of tax due for one or for more than one month. Deficiency determinations

SEC. 14. Section 8782 of said code is hereby amended to read as follows: Stats 1941, p 581

8782. Except in the case of fraud, intent to evade the tax, or failure to make a report, every notice of a deficiency determination shall be given within three years after the date when the amount should have been reported. Time of notice

Stats 1941, p 581

SEC. 15. Section 8801 of said code is hereby amended to read as follows:

Determinations where no return is made

8801. If any user fails to make a report, the board shall make an estimate of the amount of fuel used by the user which is subject to the tax. The estimate shall be made for the month or months in respect to which the user failed to make a report and shall be based upon any information available to the board. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the State, adding to the sum thus fixed a penalty equal to 25 per cent thereof. One or more determinations may be made for one or for more than one month.

Stats 1941, p 582

SEC. 16. Section 8804 of said code is hereby amended to read as follows:

Penalty for fraud

8804. If the failure of a user to file a report is due to fraud or an intent to evade the tax, a penalty of 50 per cent of the amount required to be paid by the user, exclusive of penalties, shall be added thereto in addition to the 25 per cent penalty provided in Section 8801.

Stats 1941, p 584

SEC. 17. Section 8991 of said code is hereby amended to read as follows:

Lien

8991. The excise tax, interest, and penalties are a lien upon and have the effect of an execution duly levied against any motor vehicle in which fuel taxable under this part is used.

Stats 1941, p 585

SEC. 18. Section 8993 of said code is hereby amended to read as follows:

Removal of lien

8993. The lien shall not be removed until the excise tax, interest, and penalties are paid or the vehicle subject to the lien is sold in payment thereof.

Stats 1941, p 585

SEC. 19. Section 8995 of said code is hereby amended to read as follows:

Transfer of registered ownership

8995. The Department of Motor Vehicles may transfer the registered ownership of any motor vehicle using fuel taxable under this part only after a certificate of excise tax clearance has been issued by the board. The certificate may be issued after the payment of all amounts due under this part or after the payment of the amounts is secured to the satisfaction of the board.

Stats 1941, p 585

SEC. 20. Section 9011 of said code is hereby amended to read as follows:

Seizure of vehicle

9011. Whenever any user is delinquent in the payment of the obligations imposed under this part, the board or its

authorized representative may collect the amount due in the following manner: The board may seize any motor vehicle subject to the lien imposed under this part and sell the vehicle at public auction to pay the amount due and any costs incurred on account of the seizure and sale.

SEC. 21. Section 9171 of said code is hereby amended to read as follows: Stats 1941, p 586

9171. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this part of any excise tax or other amounts required to be collected or to prevent or enjoin the revocation of any permit issued under this part or any other action whereby it is sought to enforce the payment of any excise tax or other amounts required to be paid. Application to courts

SEC. 22. Section 9351 of said code is hereby amended to read as follows: Stats 1941, p 589

9351. Any person who places or causes to be placed fuel into any receptacle on a motor vehicle from which receptacle fuel is supplied for the propulsion of the vehicle is guilty of a misdemeanor unless a valid use fuel tax permit is held by the operator of the vehicle. Misdemeanor

SEC. 23. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately; provided, however, that the provisions of the Use Fuel Tax Act of 1937 as they existed on January 1, 1941, are hereby continued in force until July 1, 1941, and that the provisions hereof shall become operative on July 1, 1941, and that the provisions of this act amending the Revenue and Taxation Code shall become operative at the same time as Part 3 of Division 2 of the Revenue and Taxation Code passed by the Legislature at its Fifty-fourth Session, at which time the provisions of the Use Fuel Tax Act of 1937 amended by this act are hereby repealed. Tax levy Operative dates

CHAPTER 871

Stats 1935, p. 196, amended

An act to amend Section 1176 of the Insurance Code, relating to insurance and investments by insurers.

In effect September 13, 1941

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats. 1939, p. 1829

SECTION 1. Section 1176 of the Insurance Code is hereby amended to read as follows:

First lien obligations

1176. Such insurers may invest in notes or bonds secured by mortgage or other first lien upon unincumbered real property, if:

(a) There exists no condition or right of reentry or of forfeiture under which such lien can be cut off, subordinated, or otherwise disturbed.

(b) The principal so loaned or the entire note or bond issue so secured, plus the amount of the liens of any public bond, assessment, or tax assessed upon the property loaned upon, does not exceed 66⅔ per cent of the market value of such real property, or of such real property together with improvements which are taken as security at the date of investment.

(c) Where the loan is made or the notes or bonds are issued for a building loan on real property, the principal so loaned, or the entire outstanding notes or bonds so issued, plus the amount of the lien of any public bond, assessment, or tax assessed upon the property loaned upon, at no time exceeds 66⅔ per cent of the market value of the real property together with the actual cost of the improvements thereon taken as security.

Real property is not incumbered within the meaning of this section if subject only to one or more of the following: (a) The lien of taxes and assessments not delinquent at the time of investment, (b) The lien for delinquent taxes or assessments delinquent at the time of investment, which are being contested by any legal proceedings; provided, that indemnity has been given pursuant to the indenture under which the bonds and notes are issued, or otherwise, for the payment of any amount which may be found to be due upon the final adjudication of such contest, (c) The lien of taxes and assessments becoming delinquent subsequent to the time of investment, (d) Outstanding mineral, oil or timber rights, (e) Easements or rights of way, (f) Sewer rights, (g) Rights in walls, (h) Building restrictions or other restrictive covenants, or conditions or regulations of use, or leases under which rents or profits are reserved to the owner.

For the purposes of this section, delinquent taxes funded on any deferred payment plan shall be deemed delinquent.

CHAPTER 872

An act to amend Section 986 of the Insurance Code, relating to insurance.

Stats 1935, p 496, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 986 of the Insurance Code is hereby amended to read as follows:

Stats 1941, p 1411

986. A life insurer issuing policies on a reserve basis is insolvent whenever its assets are exceeded by the amount necessary to provide for its liabilities and for reinsurance of all its outstanding risks at the following rates:

Life insurer

(a) In the case of contracts issued in a foreign country, upon the lives of residents thereof, by a domestic insurer authorized to and doing business in that foreign country, the rates shall be in accordance with the standard of mortality approved by the commissioner, as provided by law.

(b) In the case of group insurance, at the rates required by law for valuation thereof.

(c) In the case of all other outstanding risks written prior to January 1, 1892, at the rates based upon the American Experience Table of Mortality with interest at the rate of 4½ per cent per annum.

(d) In the case of all its other outstanding risks written from and after December 31, 1891, up to and including December 31, 1907, at rates based upon the Combined Experience or Actuaries' Table of Mortality with interest at the rate of 4 per cent per annum.

(e) In the case of all its other outstanding risks written from and after December 31, 1907, at rates based upon the American Experience Table of Mortality with interest at the rate of 3½ per cent per annum, and, where applicable, in accordance with Section 10486.9.

CHAPTER 873

An act to amend Section 175 of the Vehicle Code, relating to the registration of vehicles.

Stats 1935, p 93, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 175 of the Vehicle Code is hereby amended to read as follows:

175. Indorsement of Certificate Upon a Transfer. (a) Upon a transfer of the title or any interest of the legal owner

Transfers

or owner in or to a vehicle registered hereunder, the person whose title or interest is to be transferred shall write his signature with pen and ink, and the transferee shall write his signature and address with pen and ink, in the appropriate space provided upon the reverse side of the certificate of ownership issued for such vehicle.

Lost certificate

(b) When the required certificate of ownership is lost, stolen, damaged, or mutilated, application for transfer may be made upon a form provided by the department for a duplicate certificate of ownership under the provisions of Section 165 hereof. The person whose title and interest is to be transferred shall write his signature with pen and ink and the transferee shall write his signature and address with pen and ink in the appropriate spaces provided upon the reverse side of such application and file same with the department, together with the proper fees for duplicate certificate of ownership and transfer. The department, when satisfied as to the correctness of such an application for duplicate certificate of ownership and transfer, shall issue a new certificate of ownership to the transferee entitled thereto. An application for duplicate certificate of ownership and transfer shall be subscribed and sworn to before a notary public or an authorized employee of the Department of Motor Vehicles.

CHAPTER 874

Stats 1935, p 1850, amended

An act to add Section 12.5 to the California Unemployment Relief Act of 1935, relating to the relief camps established by the State Relief Administration, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 12.5 is hereby added to the act cited in the title hereof, to read as follows:

County relief camps

Sec. 12.5. The Relief Commission and Relief Administrator may contract with any county and every county may contract with the Relief Commission and the Relief Administrator whereby the Relief Commission and the Relief Administrator may provide relief in relief camps under subdivisions (c) and (d) of Section 3 of this act for persons receiving relief under Chapter 2 of Division 4 of the Welfare and Institutions Code. The Relief Commission and Relief Administrator shall charge the county sending persons to such relief camps the actual costs of such relief and no more.

Urgency

SEC. 2. This act is hereby declared an urgency measure necessary for the immediate preservation of the public peace, health and safety and shall, therefore, under Section 1 of

Article IV of the Constitution, take effect immediately. The facts constituting such necessity are as follows:

The State Relief Administration has established and operated relief camps for persons receiving relief under California Unemployment Relief Act of 1935. For the counties to duplicate these facilities would be a wasteful expenditure of public money. This act by making existing facilities available to the counties, conserves public funds and makes possible adequate care for persons receiving relief from the county thereby removing causes of unrest and dangers to the public peace, health and safety.

CHAPTER 875

An act to add Section 2380.5 to the Business and Professions Code, relating to the advertising of medical business.

Stats. 1937, p. 1229, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2380.5 is hereby added to the Business and Professions Code, to read as follows:

New section

2380.5. All advertising of the medical business in connection with which the holder of any certificate fails to use his name constitutes unprofessional conduct within the meaning of this chapter.

Advertising Use of name

CHAPTER 876

An act to amend Section 555 of the Insurance Code, relating to proof by a third party under a policy of insurance.

Stats. 1935, p. 496, amended

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 555 of the Insurance Code is hereby amended to read as follows:

Stats. 1935, p. 511

555. If a policy requires, by way of preliminary proof of loss, the certificate or testimony of a person other than the insured or beneficiary, there is sufficient compliance with the requirement if the insured or the beneficiary (a) uses reasonable diligence to procure the certificate or testimony, and (b) in case of refusal to give it to him, furnishes reasonable evidence to the insurer that the refusal was not induced by just grounds of disbelief in the facts necessary to be certified or testified.

Proof by third party

CHAPTER 877

In effect September 13, 1941

An act to amend Section 117c of the Code of Civil Procedure, relating to small claims courts.

[Approved by Governor June 24, 1941. Filed with Secretary of State June 26, 1941.]

The people of the State of California do enact as follows:

Stats. 1933, p. 1819

SECTION 1. Section 117c of the Code of Civil Procedure is hereby amended to read as follows:

Execution of affidavit

117c. The claimant shall prepare such an affidavit as is set forth in Section 117b of this code, or, at his request, the clerk or deputy clerk of said court, or the justice if there be no clerk, shall draft the same for him. Such affidavit may be presented by the claimant in person or sent to the justice or clerk by mail. Upon the receipt of said affidavit, properly sworn to, the clerk or deputy clerk of said court, or the justice if there be no clerk, shall file the same and make a true and correct copy thereof.

Service of order

At the same time the justice, or clerk or deputy clerk shall fill in the blanks in the order printed on said copy, sign the order, and immediately thereafter inclose said copy and order in an envelope, address the said envelope to the said defendant at the address so stated in said affidavit, prepay the postage, and mail said envelope to said defendant by registered mail and request a return receipt from addressee only, or said justice, clerk, or deputy clerk may deliver personally, or cause to be delivered, said copy and order to the defendant in person. The justice, clerk or deputy clerk, shall then attach to the original affidavit the receipt for the registered letter and the return card thereon or other evidence of service of said affidavit and order.

CHAPTER 878

An act making an appropriation for the administrative expenses of the State Department of Social Welfare and establishing a revolving fund for the purposes of distributing goods and commodities in accordance with Federal goods and commodities distribution plans by the State Department of Social Welfare, declaring the urgency thereof, to take effect immediately.

In effect immediately

[Approved by Governor July 1, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Appropriation Department of Social Welfare

SECTION 1. There is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, two million two hundred ninety thousand dollars ($2,290,000) to be used and expended by the State Department of Social

Welfare for the operation of the Federal stamp and surplus commodity distribution plans, of which sum not more than one million forty thousand dollars ($1,040,000) shall be expended during the Ninety-third and Ninety-fourth Fiscal Years for the administrative expenses of the State Department of Social Welfare in connection exclusively with such plans.

Revolving fund Federal stamp plan

SEC. 2. A permanent revolving fund in the sum of one million two hundred fifty thousand dollars ($1,250,000) is hereby established for use by the State Department of Social Welfare as a permanent revolving fund where cash advances are necessary for the operation of any Federal stamp plan established for the distribution of food, commodities, goods, or other form of personal property.

Accounting

Withdrawals may be made from the revolving fund without at the time furnishing vouchers and itemized statements therefor, but the State Department of Social Welfare shall at any time on demand of the Controller account for any expenditures and substantiate them by vouchers and itemized statements.

Armored car service

The State Department of Social Welfare, with the approval of the Department of Finance, may secure armored car service and provide means to safeguard the money and assets in the revolving fund from losses. The State shall be responsible to the Federal Government for all stamps received by it from the Federal Government and not disposed of by the State for the purposes for which the Federal Government granted them.

Fund abolished Stats 1941, p 1462

SEC. 3. The revolving fund created by Section 2.5 of the California Unemployment Relief Act of 1935 is hereby abolished.

Transfer

SEC. 4. The Controller, the State Department of Social Welfare and the Relief Administrator may make the necessary transfers upon their books to accomplish the purposes of this act in order to avoid the unnecessary sale of registered General Fund warrants.

Urgency

SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and as such shall take effect immediately. The facts constituting such necessity are as follows:

The Federal Government has established plans for the distribution of food, goods, commodities and other forms of personal property to persons eligible for public assistance Unless the money appropriated therefor is made available immediately, it will not be possible for the State to continue the financing of the present Federal commodity distribution plans. This act, by taking effect immediately, will make money available for the continuance of complete, State-wide operations of the Federal plans, thereby reducing the causes of unrest throughout the State and removing the dangers to the public peace, health and safety.

CHAPTER 879

An act making an appropriation to the State Department of Social Welfare for administrative costs incurred by the department in connection with, and sponsorship contributions for, Federal public assistance programs, declaring the urgency thereof to take effect immediately.

In effect immediately [Approved by Governor July 1, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Appropriation WPA and CCC

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of one million five hundred thousand dollars ($1,500,000) to be expended during the Ninety-third and Ninety-fourth Fiscal Years for administrative costs and sponsorship contributions with respect to the Works Projects Authority and Civilian Conservation Corps recruitment and enrollment programs of the Federal Government.

Certification of persons eligible

SEC. 2. Any county may certify to the State Department of Social Welfare persons determined by the county to be eligible under Federal statutes and rules and regulations for public assistance under the Works Project Authority program and the Civilian Conservation Corps program of the Federal Government upon projects sponsored or supported in whole or in part by the State Department of Social Welfare and upon projects sponsored and supported entirely by the Federal Government.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and as such shall take effect immediately.

The facts constituting such necessity are as follows:

The Federal Government maintains and operates two programs of public assistance in connection with which this State by complying with the Federal requirements has been able to save large sums of money which otherwise would have had to have been expended for public assistance in this State. This act, by making an appropriation for the costs required to be borne by this State in connection with such Federal programs will thereby make available Federal public assistance for those residents of this State in need thereof without imposing too burdensome a load upon the public revenues of this State. Unless this act takes effect immediately such Federal programs of public assistance will not be available for the residents of this State and hardship and suffering will result and the public peace, health and safety will be endangered.

CHAPTER 880

An act to amend Section 694 of the Code of Civil Procedure, relating to sales of real and personal property under execution.

[Approved by Governor June 16, 1941 Filed with Secretary of State July 1, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 694 of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1931, p. 2499

694. All sales of property under execution or under power contained in any deed of trust hereafter executed must be held in the county where said property or some part thereof is situated, and must be made at auction, to the highest bidder, between the hours of 9 in the morning and 5 in the afternoon. After sufficient property has been sold to satisfy the execution, no more can be sold. Neither the officer holding the execution nor his deputy can become a purchaser or be interested in any purchase, at such sale. When the sale is under execution and is of personal property, capable of manual delivery, it must be within view of those who attend the sale, and be sold in such parcels as are likely to bring the highest price; and when the sale is under execution and is of real property, consisting of several known lots or parcels, they must be sold separately; or when a portion of said real property is claimed by a third person, and he requires it to be sold separately, such portion can be thus sold. The judgment debtor, or trustor, if present at the sale, may also, unless the deed of trust otherwise provides, direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels, or of articles which can be sold to advantage separately, and the sheriff, or trustees, must follow such direction. Sales, how conducted. Real and personal property, how sold. Judgment debtor may direct order of sale.

CHAPTER 881

An act to add Section 5502.5 to the Welfare and Institutions Code, relating to the parole and discharge of sexual psychopath. Stats. 1937, p. 1005, amended

[Approved by Governor June 16, 1941 Filed with Secretary of State July 1, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5502.5 is hereby added to the Welfare and Institutions Code, to read as follows: New section

5502.5. Whenever a person who is committed to a State hospital as a sexual psychopath recovers from his sexual psychopathy Recovery of sexual psychopath

to such an extent that in the opinion of the superintendent of the hospital he is no longer a menace to the health and safety of others, said superintendent may certify said opinion to the committing court. Unless, within 30 days after the receipt of such certification, said court shall order the return of said person to await the further action of the court with reference to the criminal charge against him, the superintendent of the hospital in which he is confined may parole the person under such terms and conditions as shall be specified by the superintendent, for a period of not less than five years. If at the end of the five-year period the person has not shown any tendency to revert to his sexual psychopathy, he may be discharged as recovered. The parole shall be on the same general terms and conditions as parole of the insane. When, in the opinion of the superintendent of the hospital, the sexual psychopath has not recovered from his sexual psychopathy and will not benefit by further care and treatment in the hospital, the superintendent may return him to the court for further disposition of his case.

Discharge

Return to court

CHAPTER 882

Stats 1937, p 1229, amended

An act to add Section 7071.5 to the Business and Professions Code, relating to contractors.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 7071.5 is hereby added to the Business and Professions Code, to read as follows:

Revoked or suspended license

Application for new license

Bond or deposit

7071.5. If application for a license is made by any person whose license has been suspended or revoked as a result of disciplinary action for violation of Sections 7108 or 7120, or is made by any copartnership, association or corporation whose license has been suspended or revoked as a result of disciplinary action for violation of Sections 7108, 7116 or 7120, or by any person who may have been associated with such copartnership, association or corporation, the board may require as a condition precedent to the issuance of a license to such applicant, or removal of suspension, that such applicant file or have on file with the Registrar a bond issued by an admitted surety insurer in a sum to be fixed by the board based upon the magnitude of the operations of the applicant, but which sum shall not be less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), running to the State of California and conditioned upon his compliance with all the provisions of this chapter, or in lieu thereof that such applicant or licensee post with the Registrar a cash deposit in an amount based upon the magnitude of the operations of

the applicant but of a sum of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

If the board shall by rule require the filing of such bond or the posting of such cash deposit, every person injured by the unlawful acts or omissions of such contractor may bring an action in a proper court on the bond or a claim against the cash deposit for the amount of the damage he suffered as a result thereof to the extent covered by the bond or the cash deposit.

Wage claim

The claim of any employee of the contractor for wages shall be a preferred claim against any bond or cash deposit required by rule of the board.

The determination of the validity and priority of any such claim for wages shall be based upon a finding of fact made by the Registrar in accordance with the provisions of Article 7, Section 7090 to 7120 of the chapter.

Insufficient bond or deposit

If any bond or cash deposit which may be required is insufficient to pay all claims for wages in full, the sum recovered shall be distributed among all claimants for wages in proportion to the amount of their respective claims. The partial payment of such claims shall not be considered as full payment and the claimants may file for the completion of payment of any unpaid balance as otherwise provided, and the Registrar may continue suspension or revocation of any license involved until such time as such claim or claims are satisfied in full. If the board shall by rule require the filing of such bond or the posting of such cash deposit by such applicant, the failure of such applicant to file the said required bond or post the said required deposit shall constitute grounds for denying him a license or the renewal of his license, and the failure of such applicant or contractor to file the required bond or post the required deposit, shall constitute grounds for denying or revoking his license.

Such bond or cash deposit shall remain in force and with the Registrar during the time for which such year's license is issued to such applicant or contractor, and during such additional time as there may be unsatisfied claims outstanding against the same.

CHAPTER 883

An act to repeal Section 3721 of the Political Code, relating to assessment and taxation of property affected by the annexation, incorporation, and inclusion of territory by municipal corporations.

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 3721 of the Political Code is hereby repealed.

Stats. 1939, p. 474

CHAPTER 884

Stats 1937, p 1005, amended

An act to amend Section 5502 of the Welfare and Institutions Code, relating to the dismissal of criminal proceedings and the affidavit for commitment of a sexual psychopath.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1783

SECTION 1. Section 5502 of the Welfare and Institutions Code is hereby amended to read as follows:

Finding against sexual psychopathy

5502. If, upon the hearing on the allegation of sexual psychopathy, the person before the court upon trial or under conviction, is found not to be a sexual psychopath, the court may proceed with the trial or impose sentence, as the case may be. If upon the hearing on the allegation of sexual psychopathy, the person is found to be a sexual psychopath, the court may suspend the proceedings and commitment to a State hospital shall proceed, according to the provisions of this chapter.

CHAPTER 885

Stats 1937, p 1229, amended

An act to amend Section 113 of, and to add Section 114 to, the Business and Professions Code, relating to the Department of Professional and Vocational Standards, the officers, employees and licensees of the department and the boards and commissions comprising the department or subject to its jurisdiction.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 1233

SECTION 1. Section 113 of the Business and Professions Code is hereby amended to read as follows:

Officers, employees, etc Absence from State

113. Upon recommendation of the director, officers and employees of the department, and officers, members, and employees of the boards and commissions comprising it or subject to its jurisdiction may confer, in this State or elsewhere, with officers or employees of this State, its political subdivisions, other States, or the United States, or with such other persons, associations or organizations as may be of assistance to the department, board or commission in the conduct of its work. The officers, members and employees shall be entitled to their actual traveling expenses incurred in pursuance hereof, but when such expenses are incurred with respect to travel outside of the State, they shall be subject to the approval of the Governor and the Director of Finance.

SEC. 2. Section 114 is hereby added to Chapter 1 of Division 1 of the Business and Professions Code, to read as follows: New section

114. Any board or commission in the department which licenses any professional or vocational occupation, shall upon the application for renewal of a license by a person who has, within the 60-day period immediately prior to his application, served in the armed forces of the United States, renew the license of such person without examination and without the payment of fees for delinquency. Renewal of license Duty with armed forces

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CHAPTER 886

An act to amend Sections 3520 and 3712 of, and to add Section 3695.3 to, the Revenue and Taxation Code, relating to property taxation and tax-deeded property, including the assessment of property, declaring the urgency thereof, to take effect immediately. Stats. 1939, p. 1274, amended

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 3520 of the Revenue and Taxation Code is hereby amended to read as follows: Stats. 1941, p. 407

3520. As used in this section, "lien" includes any lien for: "Lien"

(a) Interest and penalties or both on taxes or special assessments or both.

(b) Amounts payable to cities or for their account on redemption of property from sale for taxes, special assessments, or other amounts

The deed conveys to the State the absolute title to the property, free of all encumbrances, except:

(1) Liens for taxes levied for municipal, irrigation, reclamation, protection, flood control, public utility or other district purposes, not included among those taxes and assessments for delinquency in the payment of which the property is conveyed to the State.

(2) Liens for special assessments collected on tax rolls.

(3) Liens or assessments for other amounts which by law are collected on tax rolls by or for account of cities.

(4) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.

Where the tax collector executes a single deed conveying property to the State for the delinquent taxes and assessments of the county and of revenue districts, the tax and assessment liens of such revenue districts are extinguished by the conveyance to the State and are not included in the exceptions

enumerated in subparagraphs (1), (2) and (3) of this section. Each such revenue district, however, shall retain an equitable lien in the property and there shall be paid by the county to each such district its pro rata share of the proceeds of any resale by the State, or redemption from the State, and such lien and right shall be terminated in the manner and at the time that the county's rights in the property are terminated.

When the land is owned by the United States or this State, the deed is prima facie evidence of the right of possession accrued as of the date of the deed without prejudice to the taxes or assessments which are a lien upon the property.

New section SEC. 3. Section 3695.3 is hereby added to the Revenue and Taxation Code, to read as follows:

"Assessments" 3695.3. As used in Section 3695, "assessments" does not include assessments which were, at the time of the sale to the State or to the taxing agency, not included in the amount required to redeem from the sale to the State or to the taxing agency.

Stats 1939, p 1338 SEC. 4. Section 3712 of the Revenue and Taxation Code is hereby amended to read as follows:

Title conveyed 3712. The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:

(a) Any lien for installments of assessments, which installments will become due after the time of the sale;

(b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter;

(c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the property from the sale to the State, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to such taxing agency;

(d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.

Urgency SEC. 5. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore take effect immediately.

The facts constituting such necessity are as follows:

At the present time large amounts of property are tax-delinquent and are not bearing their share of the tax burden, thus placing a staggering burden upon those whose property

appears upon the tax rolls. One of the chief impediments to returning such delinquent property to the tax rolls is that great doubt exists as to the title obtained by the State on deed to the State of tax-delinquent property due to the uncertainty as to what encumbrances are extinguished by such deed. This act clearly expresses what encumbrances are extinguished upon the deed to the State of tax-delinquent property and the encumbrances such property is subject to on deed to private purchaser after sale by the State. Thus, it is imperative that this act go into effect immediately as it will enable large amounts of tax-delinquent property to be quickly returned to the tax rolls for the ensuing fiscal year.

CHAPTER 887

An act to add Section 37b to the Reclamation Board Act, relating to flood control and the advancement to the United States of funds to be used therefor, declaring the urgency of this act, to take effect immediately.

Stats First Ex Sess 1911, p 117 amended

[Approved by Governor June 28, 1941 Filed with Secretary of State July 1, 1941]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 37b is hereby added to the Reclamation Board Act, to read as follows: .

New section

Sec. 37b. The Reclamation Board in its discretion may advance funds in amounts that it determines to be necessary or advisable from the Joint Navigation and Flood Control Project Fund to the United States for receipt and expenditure by the Secretary of War in accordance with an act of the Seventy-sixth Congress, Third Session, approved October 15, 1940, Chapter 884, Public Law No. 857, in the immediate prosecution of the work of the plan referred to in Section 37a of this act for controlling the flood waters of the Sacramento and San Joaquin rivers and their tributaries and for the improvement and preservation of navigation and the reclamation and protection of lands that are susceptible to overflow from the Sacramento and San Joaquin rivers and their tributaries. Advances repaid pursuant to the act of Congress cited in this section shall be credited to the Joint Navigation and Flood Control Project Fund.

Advance of funds

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of this State, and as such shall take effect immediately. The following is a statement of the facts constituting such necessity:

Urgency

The high waters of the Winter of 1940-1941 caused great damage to the flood control works of the Sacramento and San

Joaquin River systems and necessitates the immediate prosecution of remedial and other construction in order to provide safety from devastating floods in the coming rainy season. It is necessary that this work be done during the current construction season. This act provides for the financing of such work in cooperation with the Federal Government and it is necessary that its provisions take immediate effect in order that the contemplated work may be commenced at once.

CHAPTER 888

Stats 1935, p 1123, amended

An act to add Section 4.2 to the Alcoholic Beverage Control Act, relating to the sale of alcoholic beverages in satisfaction of liens of warehousemen.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 4.2 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Sale by warehouseman

Sec. 4.2. In accordance with rules and regulations to be prescribed by the board, a warehouseman may sell alcoholic beverages to enforce the lien provided for by the Warehouse Receipts Act. Such sale may be made only to a licensee or licensees authorized to sell such alcoholic beverages. Notice of the time and place of such sale shall be given to the board prior to the sale.

CHAPTER 889

Stats 1935, p 1123, amended

An act to amend Section 27b and Section 67 of the Alcoholic Beverage Control Act, relating to sales of alcohol and alcoholic beverages for use in the trades, professions or industries and to penalties.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 1152

SECTION 1. Section 67 of said act is hereby amended to read as follows:

Application of act: Exemptions

Sec. 67. (a) It is hereby declared that this act shall not apply to the manufacture, sale or use of completely denatured ethyl alcohol or special denatured ethyl alcohol, as these substances are defined in the various statutes and regulations of the United States Government relating thereto.

(b) Nothing in this act shall be deemed to prevent or restrict the use of tax-free ethyl alcohol under regulation of the Treasury Department of the United States Government by

any governmental agency, State or Federal, or any scientific university or college of learning or any laboratory for use exclusively in scientific research or to any hospital or sanitarium.

(c) Nothing in this act shall be deemed to prevent or restrict the use of tax-free alcohol or of industrial alcohol or other distilled spirits or wine under regulation of the United States Government in the manufacture of medicinal, pharmaceutical, or antiseptic products, including prescriptions compounded by registered pharmacists; of toilet products, of flavoring extracts, sirups, of food products, of scientific, chemical, or industrial products; provided, such products are unfit for beverage use.

(d) Alcohol sold for the uses mentioned in paragraph (b) of this section may be sold tax-free in packages of not less than one-half pint capacity. Alcohol sold to a registered pharmacist for use in compounding prescriptions as provided in paragraph (c) of this section may be sold to such pharmacist in packages of not less than one-half pint capacity; provided, that distilled spirits excise tax as required by Section 24 of this act is reported and paid by the licensee selling the alcohol to the pharmacist.

(e) The sales of alcohol authorized to be made by paragraph (d) of this section may be made by those licensees who are authorized to sell alcohol for use in the trades, professions or industries.

SEC. 2. Section 27b of said act is hereby amended to read as follows: Stats 1941, p 1548

Sec. 27b. If the excise tax is not paid to the board within the time prescribed for the filing of the return and for the payment of the tax, a penalty of 5 per cent of the amount of the excise tax shall be added thereto on account of such delinquency. Delinquency penalty

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CHAPTER 890

An act to repeal and add Section 4101.5 of the Revenue and Taxation Code, relating to property taxation, and the redemption of property, to take effect immediately. Stats 1939, p 1274, amended

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 4101.5 of the Revenue and Taxation Code is hereby repealed. Stats 1939, p 1315

SEC. 1.5. Section 4101.5 is hereby added to the Revenue and Taxation Code, to read as follows: New section

4101.5. If tax-sold or tax-deeded property was sold to the State on or before July 6, 1940, and is redeemed on or before Redemption amount

90 days after this section becomes effective, the amount necessary to redeem the property is the amount of sold taxes, with interest on the amount of sold taxes at 5 per cent per year computed beginning the day the property was sold to the State to the time of redemption, but in no event computed beyond three years from the day the property was sold to the State.

No other interest, costs, delinquent penalties, or redemption penalties accruing before 90 days after this section takes effect need be paid under such redemption.

The amount necessary to redeem under this section shall not constitute the "redemption amount" within the meaning of Section 4216.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such necessity:

Due to the widespread depression, out of which we are just beginning to emerge, many taxpayers have been unable to pay their taxes, or to redeem their property from sale to the State for delinquency. By permitting redemption without penalties, many taxpayers will be able to redeem their property, restore the same to the tax rolls and thereby add needed revenue for the operation and maintenance of government.

CHAPTER 891

Stats 1917, p 831, amended

An act to amend Section 51, Statutes of 1917, Chapter 586, page 831, relating to workmen's compensation and payments to State Treasury by State Compensation Insurance Fund.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Stats 1927, p 1475

SECTION 1. Section 51, Statutes of 1917, Chapter 586, page 831, is hereby amended to read as follows:

Payments to State Treasury

Sec. 51. The State Compensation Insurance Fund annually shall pay into the State Treasury to the credit of the General Fund, on or before the fifteenth day of October, the sum of 2.6 per cent upon the amount of the gross premiums received by it upon its business done in this State during the preceding calendar year, less return premiums, which payment is intended to be the equivalent to the taxes imposed upon private insurance companies by the laws of this State relating to revenue and taxation.

CHAPTER 892

An act to validate bonds of school districts of every kind and class, and providing for the levy of a tax to pay the same, to take effect immediately.

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Where in any school district, of any kind or class, proceedings have been taken for the purpose of voting, issuing and selling bonds of such district for any purpose or purposes, all acts and proceedings of the officers of election and of the board of trustees, board of education, or other governing body of such district and all acts and proceedings of the board of supervisors of the county within which such district is situated, leading up to and including the issuance of such bonds if they have been heretofore sold, and all such acts and proceedings heretofore had, although the bonds are not sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district and of the board of supervisors of the county in which such district is situated to issue such bonds is hereby ratified, confirmed and declared, and bonds heretofore sold are declared to be, and shall be, in the form and manner in which such bonds have been actually issued and delivered, the legal and binding obligations of and against such district, and the full faith and credit of such district is hereby declared to be pledged for the prompt payment and redemption of the principal and interest of said bonds. Validation. School bonds

SEC. 2. For the purpose of paying interest on such bonds as it becomes due and the principal thereof at maturity, the assessors, treasurers, boards of supervisors and other officers of the respective counties shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds for the payment of principal and interest of bonds of school districts of every kind and class. Powers of officers

SEC. 3. This act shall not operate to legalize any bonds which have been sold for less than par, or legalize any bonds the issuance of which has not received the assent of two-thirds of the qualified electors of such district voting at an election held for the purpose of determining whether such indebtedness should be incurred, nor to legalize any bonds which mature more than 30 years from the time of their issuance. Exceptions

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. Urgency

The facts constituting the necessity are as follows: There exists in the State of California at the present time an emergency due to existing economic conditions, which economic conditions have resulted in a great increase in population in California, and in attendance upon schools, the housing and facilities of which have not, due to depression conditions in recent years, been expanded sufficiently to meet present demands. The increase in direct taxes due to National defense and other necessary measures have made it necessary for districts to resort to bond issues in order to obtain necessary funds for new buildings, for alterations and additions to and rebuilding of existing buildings, for the purchase of furniture and necessary apparatus of a permanent nature, and making other improvements This act constitutes a means whereby issuance and sale of such bonds may be facilitated.

CHAPTER 893

An act to amend sundry article and chapter headings, to amend Section 3062 of, and to amend and renumber Sections 3056 and 3057 of, to repeal Section 679a of, and to add Section 2876 to, the Penal Code, and to amend Section 6603 of the Welfare and Institutions Code, relating to prisons and prisoners.

Stats 1937, p 1095, amended

In effect September 13, 1941

[Approved by Governor June 28, 1941 Filed with Secretary of State July 1, 1941]

The people of the State of California do enact as follows:

Stats 1941, p 1095

SECTION 1. The chapter heading of Chapter 5 of Title 1 of Part 3 of the Penal Code is hereby amended to read as follows:

CHAPTER 5. EMPLOYMENT OF PRISONERS

Stats 1941, p 1095

SEC 1.5. The article heading of Article 1, Chapter 5, Title 1, Part 3 of the Penal Code is hereby amended to read as follows:

Article 1. Employment of Prisoners Generally

New section

SEC. 2. Section 2876 is hereby added to the Penal Code, to read as follows:

Sale of prison made articles

2876. It shall be unlawful for any person to sell, expose for sale, or offer for sale within this State, any article or articles manufactured wholly or in part by convict or other prison labor, except articles the sale of which is specifically sanctioned by law.

Every person selling, exposing for sale, or offering for sale any article manufactured in this State wholly or in part by

convict or other prison labor, the sale of which is not specifically sanctioned by law, is guilty of a misdemeanor.

SEC. 3. Section 679a of the Penal Code is hereby repealed. Stats. 1901, p. 326

SEC. 4. The chapter heading immediately preceding Section 2870 of the Penal Code is hereby amended to read as follows: Stats. 1941, p. 1102

CHAPTER 6. SALE OF PRISON-MADE GOODS

SEC. 5. The chapter heading of Chapter 6 of Title 1 of Part 3 of the Penal Code is hereby amended to read as follows: Stats. 1941, p. 1105

CHAPTER 7. EXECUTION OF SENTENCES OF IMPRISONMENT

SEC. 6. The chapter heading immediately preceding Section 3000 of the Penal Code is hereby amended to read as follows: Stats. 1941, p. 1109

CHAPTER 8. LENGTH OF TERM OF IMPRISONMENT AND PAROLES

SEC. 7. Section 3056 of the Penal Code is hereby amended and renumbered to read as follows: Stats. 1941, p. 1113

3057. The State Board of Prison Directors shall have the power and authority to provide for assisting paroled prisoners and to secure employment for the same and for that purpose it may employ necessary officers and employees, may purchase tools, and give any other assistance that, in its judgment, it deems proper for the purpose of carrying out the objects and spirit of this section. Assistance to paroled prisoners

SEC. 8. Section 3057 of the Penal Code is hereby amended and renumbered to read as follows: Stats. 1941, p. 1113

3056. Prisoners on parole shall remain under the legal custody of the State Board of Prison Directors and shall be subject at any time to be taken back within the inclosure of the prison. Legal custody

SEC. 9. Section 3062 of the Penal Code is hereby amended to read as follows: Stats. 1941, p. 1113

3062. The Governor of the State shall have like power to revoke the parole of any prisoner. The written authority of the Governor shall likewise be sufficient to authorize any peace officer to retake and return said prisoner to the State prison. His written order revoking the parole shall have the same force and effect and be executed in like manner as the order of the chairman of the board. Power of Governor

Stats 1937, p 154

SEC. 10. Section 6603 of the Welfare and Institutions Code is hereby amended to read as follows:

Insane convicts

6603. Insane prisoners in the State prisons shall be admitted to the State hospitals in accordance with the provisions of the Penal Code.

CHAPTER 894

Stats 1935, p 93, amended

An act to amend Section 771 of the Vehicle Code, relating to fines and forfeitures.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1984

SECTION 1. Section 771 of the Vehicle Code is hereby amended to read as follows:

Disposition of other fines and forfeitures

771. Disposition of Other Fines and Forfeitures.

(a) Except as otherwise provided in this section, all fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by a county shall be paid into the treasury of such county in which is located the court imposing such fine or forfeiture, and all such money shall be deposited in a special fund to be known as the "Special road fund."

(b) Of the fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by a county and the imposition of the fine or forfeiture by a court maintained by a city within the county, 50 per cent shall be paid into the treasury of such city and deposited in the street improvement fund, and the remaining 50 per cent shall be paid into the treasury of such county and deposited in the special road fund.

(c) All fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the State and the imposition of the fine or forfeiture by a court maintained by a county, shall be paid into the treasury of such county and deposited in the special road fund.

(d) All fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the State and the imposition of the fine or forfeiture by a court maintained by a city shall be paid into the treasury of such city and deposited in the street improvement fund.

(e) Notwithstanding any other provision of this section, of the fines and forfeitures collected from any person charged with a misdemeanor under this code committed within the incorporated limits of a city upon a State highway connecting

within the county in which the city is located with a publicly owned bridge or a publicly owned toll bridge, and following arrest by any officer employed by the State and the imposition of the fine or forfeiture by a court maintained by the city, 75 per cent shall be paid into the treasury of the city and deposited in the street improvement fund and 25 per cent shall be paid into the treasury of the county in which the city is located and deposited in the special road fund.

CHAPTER 895

An act to add Chapter 3, comprising Sections 259, 259.1 and 259.2 to Division 2 of the Probate Code, relating to inheritance rights of aliens and declaring that this act shall take effect immediately.

Stats. 1931, p. 587, amended

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Chapter 3, comprising Sections 259, 259.1 and 259.2, is hereby added to Division 2 of the Probate Code, to read as follows:

New chapter

CHAPTER 3. INHERITANCE RIGHTS OF ALIENS

259. The rights of aliens not residing within the United States or its territories to take either real or personal property or the proceeds thereof in this State by succession or testamentary disposition, upon the same terms and conditions as residents and citizens of the United States is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take real and personal property and the proceeds thereof upon the same terms and conditions as residents and citizens of the respective countries of which such aliens are inhabitants and citizens and upon the rights of citizens of the United States to receive by payment to them within the United States or its territories money originating from the estates of persons dying within such foreign countries.

Right of aliens to inherit, etc

259.1. The burden shall be upon such nonresident aliens to establish the fact of existence of the reciprocal rights set forth in Section 259.

Burden of proof

259.2. If such reciprocal rights are not found to exist and if no heirs other than such aliens are found eligible to take such property, the property shall be disposed of as escheated property.

When property escheats

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity:

A great number of foreign nations are either at war, preparing for war or under the control and domination of conquering nations with the result that money and property left to citizens of California is impounded in such foreign countries or taken by confiscatory taxes for war uses. Likewise money and property left to friends and relatives in such foreign countries by persons dying in California is often never received by such nonresident aliens but is seized by these foreign governments and used for war purposes. Because the foreign governments guilty of these practices constitute a direct threat to the Government of the United States, it is immediately necessary that the property and money of citizens dying in this country should remain in this country and not be sent to such foreign countries to be used for the purposes of waging a war that eventually may be directed against the Government of the United States.

CHAPTER 896

An act to add Chapter VII, consisting of Sections 4.40 to 4.44, inclusive, to Part 1 of Division 4 of the School Code, relating to giving the assent of the State to an Act of Congress of the United States entitled "An act to promote the mining of potash on the public domain," approved February 7, 1927, and providing for the disposition of moneys received by the State thereunder.

U S C, Title 30, Secs 281 to 287

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. Chapter VII, consisting of Sections 4.40 to 4.44, inclusive, is hereby added to Part 1 of Division 4 of the School Code, to read as follows:

CHAPTER VII. SPECIAL STATE SUPPORT

Assent given to U S C, Title 30, Secs 281 to 287

4.40. The assent of the State of California is hereby given to the provisions in the Act of Congress of the United States entitled "An act to promote the mining of potash on the public domain," and approved by the President of the United States, February 7, 1927.

Disposition of moneys

4.41. All moneys derived from bonuses, royalties, and rentals under the provisions of the Act of Congress and apportioned under the act to this State shall be received by the

State Treasurer and by him paid to the school districts of the State as provided in this chapter.

Method of apportionment

4.42. The moneys shall be apportioned among the school districts in which potash leases or deposits are situated in the proportion which the total amount of rents, royalties, and other payments made to the United States from potash leases or deposits in each district bears to the total amount paid to the United States from leases or deposits in all districts.

Potash deposits

4.43. If any potash deposit or lease or any part thereof is wholly located within the boundaries of two or more school districts, the districts shall share equally in the apportionments made under the preceding section which are attributable to the lease or deposit or part thereof situated within their boundaries.

Deposit of moneys

4.44. The payments made under this chapter shall be deposited in the general fund of the districts and shall be in addition to any other moneys paid or credited to the districts.

CHAPTER 897

An act making an appropriation to the Division of Forestry, Department of Natural Resources, for forest protection against the white pine blister rust.

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Appropriation State Division of Forestry

SECTION 1. In order to promote the stability of sugar pine forest using industries, employment, and communities of the State of California through the continuous supply of sugar pine timber, and to encourage Federal participation in the control of white pine blister rust on State and private lands in the State of California by contributing to such control under the provisions of Public No. 486—76 U. S. Congress, commonly known as the Lea Bill, the sum of fifty thousand dollars ($50,000) is hereby appropriated out of any money in the State Treasury not otherwise appropriated to the State Division of Forestry, Department of Natural Resources, for expenditure, in cooperation with the Bureau of Entomology and Plant Quarantine, U. S. Department of Agriculture, for the control of white pine blister rust on State and private lands in California, by preventing the spread to, and eliminating white pine blister rust from all forested lands of State and private ownership, when in the judgment of the State Forester the use of such funds on such lands is necessary in the control of white pine blister rust.

CHAPTER 898

Principal and Income Act

An act concerning the ascertainment of principal and income and the apportionment of receipts and expenses among tenants and remaindermen.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Definitions

SECTION 1. "Principal" as used in this act means any realty or personalty which has been so set aside or limited by the owner thereof or a person thereto legally empowered that it and any substitutions for it are eventually to be conveyed, delivered or paid to a person, while the return therefrom or use thereof or any part of such return or use is in the meantime to be taken or received by or held for accumulation for the same or another person;

"Income" as used in this act means the return derived from principal;

"Tenant" as used in this act means the person to whom income is presently or currently payable, or for whom it is accumulated or who is entitled to the beneficial use of the principal presently and for a time prior to its distribution;

"Remainderman" as used in this act means the person ultimately entitled to the principal, whether named or designated by the terms of the transaction by which the principal was established or determined by operation of law;

"Trustee" as used in this act includes the original trustee of any trust to which the principal may be subject and also any succeeding or added trustee.

Scope of act

SEC. 2. This act shall govern the ascertainment of income and principal, and the apportionment of receipts and expenses between tenants and remaindermen, in all cases where a principal has been established with or, unless otherwise stated hereinafter, without the interposition of a trust; except that in the establishment of the principal provision may be made touching all matters covered by this act, and the person establishing the principal may himself direct the manner of ascertainment of income and principal and the apportionment of receipts and expenses or grant discretion to the trustee or other person to do so, and such provision and direction, where not otherwise contrary to law, shall control notwithstanding this act. The exercise by the trustee or other designated person, of such discretionary power if in good faith and according to his best judgment, shall be conclusive, irrespective of whether it may be in accordance with the determination which the court having jurisdiction would have made.

Income

SEC. 3. (1) All receipts of money or other property paid or delivered as rent of realty or hire of personalty, or interest on money loaned, or interest on or the rental or use value of

property wrongfully withheld or tortiously damaged, or otherwise in return for the use of principal, shall be deemed income unless otherwise expressly provided in this act. Dividends on corporate shares, payable in stock or otherwise, shall be deemed income except as provided in Section 5.

Principal

(2) All receipts of money or other property paid or delivered as the consideration for the sale or other transfer, not a leasing or letting, of property forming a part of the principal, or as a repayment of loans, or in liquidation of the assets of a corporation, or as the proceeds of property taken on eminent domain proceedings where separate awards to tenant and remainderman are not made, or as proceeds of insurance upon property forming a part of the principal except where such insurance has been issued for the benefit of either tenant or remainderman alone, or otherwise as a refund or replacement or change in form of principal, shall be deemed principal unless otherwise expressly provided in this act. Any profit or loss resulting upon any change in form of principal shall inure to or fall upon principal, except in the case of property referred to and defined by Section 11A, in which case the provisions of Section 11A shall govern.

Disposition

(3) All income after payment of expenses properly chargeable to it shall be paid and delivered to the tenant or retained by him if already in his possession or held for accumulation where legally so directed by the terms of the transaction by which the principal was established; while the principal shall be held for ultimate distribution as determined by the terms of the transaction by which it was established or by law, except in the case of property referred to and defined by Section 11A, in which case the provisions of Section 11A shall govern.

Death of tenant

SEC. 4. Whenever a tenant's right to income shall cease by death, or in any other manner, all payments theretofore actually paid to the tenant or in the hands of the trustee for payment to the tenant shall belong to the tenant or to his personal representative; all income actually received by the trustee after such termination shall be paid to the person next entitled to income by the terms of the transaction by which the principal was established.

Dividends

SEC. 5. (1) All dividends on shares of a corporation forming a part of the principal which are payable in shares of the corporation of the same kind and rank as the stock on which such dividend is paid, and dividends payable in shares of whatever kind or rank, to the extent that they represent a capitalization of surplus not derived from earnings, shall be deemed principal. Subject to the provisions of this section, all dividends payable otherwise than in such shares, including ordinary and extraordinary dividends and dividends payable in shares or other securities or obligations of corporations other than the declaring corporation, shall be deemed income. Where the trustee shall have the option of receiving a dividend either in cash or in the shares of the declaring corporation, it shall be

considered as a cash dividend and deemed income, irrespective of the choice made by the trustee.

Subscription rights

(2) All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in such corporation, and the proceeds of any sale of such rights, shall be deemed principal. All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in another corporation, and the proceeds of any sale of such rights shall be deemed income.

Liquidation of corporation

(3) Where the assets of a corporation are liquidated, amounts paid upon corporate shares as cash dividends declared before such liquidation occurred or as arrears of preferred or guaranteed dividends shall be deemed income; all other amounts paid upon corporate shares on disbursement of the corporate assets to the stockholders shall be deemed principal. All disbursements of corporate assets to the stockholders, whenever made, which are designated by the corporation as a return of capital or division of corporate property shall be deemed principal.

Merger, etc

(4) Where a corporation succeeds another by merger, consolidation or reorganization or otherwise acquires its assets, and the corporate shares of the succeeding corporation are issued to the shareholders of the original corporation in like proportion to, or in substitution for, their shares of the original corporation, the two corporations shall be considered a single corporation in applying the provisions of this section. But two corporations shall not be considered a single corporation under this section merely because one owns corporate shares of or otherwise controls or directs the other.

Date of dividend

(5) In applying this section the date when a dividend accrues to the person who is entitled to it shall be held to be the date specified by the corporation as the one on which the stockholders entitled thereto are determined, or in default thereof the date of declaration of the dividend.

Reliance upon statements

(6) The trustee or tenant may rely upon the statement of the paying corporation as to whether dividends are paid from profits or earnings or are a return of capital or division of corporate property, and as to any other fact, relevant under any provision of this act, concerning the source or character of dividends or disbursements of corporate assets

Bonds

SEC. 6. Where any part of the principal consists of bonds or other obligations for the payment of money, they shall be deemed principal at their inventory value as fixed by the appraiser or appraisers regularly appointed by the court, or, in default thereof, at their market value at the time the principal was established, or at their cost where purchased later, regardless of their par or maturity value; and upon their respective maturities or upon their sale or other disposition any loss or gain realized thereon shall fall upon or inure to the principal, except in the case of property referred to and

defined by Section 11A, in which case the provisions of Section 11A shall govern. Where any part of the principal consists of a bond or other obligation for the payment of money, bearing no stated interest but redeemable at maturity or a future time at an amount in excess of the amount in consideration of which it was issued, such accretion, as when realized, shall inure to income.

Carrying on business

SEC. 7. (1) Whenever a trustee or a tenant is authorized by the terms of the transaction by which the principal was established or by law, to use any part of the principal in the continuance of a business which the original owner of the property comprising the principal had been carrying on, the net profits of such business attributable to such principal shall be deemed income.

(2) Where such business consists of buying and selling property, the net profits for any period shall be ascertained by deducting from the gross returns during and the inventory value of the property at the end of such period, the expenses during and the inventory value of the property at the beginning of such period.

(3) Where such business does not consist of buying and selling property, the net income shall be computed in accordance with the customary practice of such business, but not in such way as to decrease the principal.

(4) Any increase in the value of the principal used in such business shall be deemed principal, and all losses in any one calendar year, after the income from such business for that year has been exhausted, shall fall upon principal.

Animals employed in business

SEC. 8. Where any part of the principal consists of animals employed in business, the provisions of Section 7 shall apply; and in other cases where the animals are held as a part of the principal partly or wholly because of the offspring or increase which they are expected to produce, all offspring or increase shall be deemed principal to the extent necessary to maintain the original number of such animals and the remainder shall be deemed income; and in all other cases such offspring or increase shall be deemed income.

Natural products

SEC. 9. (1) Where any part of the principal consists of property in lands from which may be taken timber, minerals, oils, gas or other natural resources, and the trustee or tenant in possession is not under a duty to change the form of the investment of the principal, or (the duty to change the form of the investment being absent) is authorized by law or by the terms of the transaction by which the principal was established, to lease or otherwise develop such natural resources, and no provision is made for the disposition of the net proceeds thereof after the payment of expenses and carrying charges on such property, such proceeds shall be deemed income, whether received as rent or bonus on a lease or as a consideration, by way of royalties or otherwise for the permanent severance of such natural resources from the lands A duty to change the form of the investment shall be negatived, and authority to

develop such natural resources shall be deemed to exist (not excluding other cases where appropriate intent is manifested) where (a) the resources or the right to exploit them is specifically devised or granted, or (b) where development or exploitation of the resources had begun prior to the transaction by which the principal was established, or (c) where by the terms of that transaction a general authority to lease or otherwise develop is conferred, or (d) where the lands are directed to be retained. The fact that such property, where held in trust and received from the testator or settlor, does not fall within the category of investments which the trustee would be authorized to make under the law or the terms of the particular trust, nor the conferring of a mere authority, as distinguished from a direction, to sell such property, shall not be deemed to evidence an intent that the form of the investment shall be changed.

(2) Where any part of the principal consists of property in lands containing such natural resources, and the conditions under which the proceeds thereof become income shall not exist, then in the absence of the expression of contrary intent in the terms of the transaction by which the principal was established, all such proceeds from such resources, not in excess of 5 per centum per annum of the inventory value of such resources as fixed by the appraiser or appraisers regularly appointed by the court, or in default thereof their fair market value at the time the principal was established, or their cost if acquired later, shall be deemed income and the remainder principal.

(3) Nothing in this section shall be construed to abrogate or extend any right which may otherwise have accrued by law to a tenant to develop or work such natural resources for his own benefit.

Leaseholds, patents, etc

SEC. 10. Where any part of the principal consists of property subject to depletion, such as leaseholds, patents, copyrights and royalty rights, and the trustee or tenant in possession is not under a duty to change the form of the investment of the principal, the full amount of rents, royalties or income from the property shall be income to the tenant; but where the trustee or tenant is under a duty to change the form of the investment, either at once or as soon as a reasonable price, not representing an undue sacrifice of value, may be obtained, then the rents, royalties or income from such property not in excess of 5 per centum per annum of its inventory value as fixed by the appraiser or appraisers regularly appointed by the court, or in default thereof its market value at the time the principal was established, or at its cost where purchased later, shall be deemed income and the remainder principal.

Delayed income

SEC. 11. (1) Where any part of a principal in the possession of a trustee consists of realty or personalty which for more than a year and until disposed of as hereinafter stated has not produced an average net income of at least 1 per centum per

annum of its inventory value as fixed by the appraiser or appraisers regularly appointed by the court, or in default thereof its market value at the time the principal was established or of its cost where purchased or otherwise acquired later, and the trustee is under a duty to change the form of the investment as soon as a reasonable price, not representing an undue sacrifice of value, may be obtained and such change is delayed, but is made before the principal is finally distributed, then the tenant shall be entitled to share in the net proceeds received from the property as delayed income to the extent hereinafter stated.

(2) Such income shall be the difference between the net proceeds received from the property and the amount which, had it been placed at simple interest at the rate of 5 per centum per annum for the period during which the change was delayed, would have produced the net proceeds at the time of change, but in no event shall such income be more than the amount by which the net proceeds exceed the inventory value of the property as fixed by the appraiser or appraisers regularly appointed by the court, or in default thereof its market value at the time the principal was established or its cost where purchased later. The net proceeds shall consist of the gross proceeds received from the property less any expenses incurred in disposing of it and less all carrying charges which have been paid out of principal during the period while it has been unproductive.

(3) The change shall be taken to have been delayed from the time when the duty to make it first arose, which shall be presumed in the absence of evidence to the contrary, to be one year after the trustee first received the property if then unproductive, otherwise one year after it became unproductive.

(4) If the tenant has received any income from the property or has had any beneficial use thereof during the period while the change has been delayed, his share of the delayed income shall be reduced by the amount of such income received or the value of the use had.

(5) As between successive tenants, or a tenant and a remainderman, delayed income shall be apportioned in the same manner as provided for income by Section 4 of this act.

Mortgages, etc

SEC. 11A. (1) Where any part of the principal in possession of the trustee consists of an obligation for the payment of money secured by a mortgage or other hypothecation of real or personal property, and by reason of the enforcement of such obligation or by agreement in lieu of enforcement the trustee acquires any property, real or personal, of whatsoever kind, including a money judgment, said property shall be treated as a single substituted asset, and thereafter all income therefrom, expenses incident thereto and proceeds received upon sale, satisfaction or transfer thereof, not a leasing or letting, excepting gain or profit on such sale, satisfaction or transfer, shall be apportioned in the same manner as provided

by this act for property of like character acquired by purchase or held as a part of the trust estate at the time the principal was established.

Gain or profit realized on sale, satisfaction or transfer, not a leasing or a letting, of property referred to in this section shall be credited to the income in an amount up to but not exceeding the accrued unpaid interest on the original obligation secured by said property as of the date of its acquisition by enforcement of the obligation or agreement in lieu thereof and the balance shall be credited to principal. Said credit to income on account of accrued interest shall be in addition to any and all other credits due income by the terms of any other section of this act. Should any portion of said credit to income on account of accrued interest be in a form other than cash, then and in that event the full amount of such credit to income shall be paid first out of any sums received from the conversion of said asset into cash whether by payment, sale or transfer before any sums so received shall be paid to principal.

As between successive tenants or a tenant and a remainderman, all sums paid hereunder on account of accrued interest shall be apportioned in the same manner as provided for income by Section 4 of this act.

Cost price

The cost price of the property to the trust shall be the unpaid balance of the principal sum of the debt secured by said property, plus all sums whenever paid on any of the following items:

1. All costs, charges and expenses incident to the acquisition of said property;

2. All taxes, bonds and assessments, or any of them, which were payable at the date of the acquisition of said property by trustee, excepting, however, interest accruing thereon from the date of the acquisition of said property by trustee; and all said sums shall be a charge against principal.

(2) Upon the sale, surrender or other disposition of a bond, debenture, note or other evidence of an indebtedness, voluntarily created, or of a certificate of deposit evidencing the deposit of any such instrument with a protective or reorganization committee, or of stock or other security received through participation in the enforcement of such obligation or the foreclosure of the security therefor, upon which bond or other obligation there is overdue unpaid interest which accrued during the existence of the trust, the proceeds realized upon such sale, surrender or other disposition, after repayment (1) of expenses incurred in connection therewith and (2) of any sums paid to protect or preserve such security, shall be divided pro rata between income and principal, computing interest at the rate specified in such obligation. The amount allocable to income shall in no case exceed the interest accrued and unpaid on the original obligation up to the time of such sale or other disposition or, where another security has been received in lieu of the original obligation, the income which would have

accrued on the latter up to such time, less income received from the original or the substituted security. The terms sale, surrender or other disposition, as above used, shall include compromise, settlement, accord and satisfaction, and similar arrangements.

Expenses

SEC. 12. (1) All ordinary expenses incurred in connection with the trust estate or with its administration and management, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the estates of both tenant and remainderman, interest on mortgages on the principal, ordinary repairs, compensation of assistants and court costs on regular accountings, except attorneys' fees and trustees' compensation, shall be paid out of income. But such expenses where incurred in disposing of, or as carrying charges on, unproductive estate as defined in Section 11, shall be paid out of principal, subject to the provisions of Subsection (2) of Section 11. Attorneys' fees for ordinary or current services and trustees' compensation for both ordinary and extraordinary services, exclusive of compensation for acceptance or distribution, shall be paid one-half out of income, one-half out of principal, or in such other proportion as the court may direct; except that in the case of testamentary trusts where on any current trustees' accounting there are found to be insufficient principal moneys available for the payment of trustees' compensation, the court may direct that for such period the whole or any part of such compensation shall be paid out of any income available, subject to such conditions, if any, relative to reimbursement out of principal as the court may direct.

(2) The trustees' compensation upon or for acceptance or distribution of principal, attorneys' fees and other costs incurred in maintaining or defending any action to protect the trust or the property or assure the title thereof, unless due to the fault or cause of the tenant, costs of, or assessments for, improvements to property forming part of the principal, brokers' commissions, title charges and other costs (exclusive of trustees' compensation, if any) incurred in connection with purchasing, selling or leasing trust property, or investing or reinvesting principal, and all other expenses, except as specified in Subsection (1) of this section, shall be paid out of principal. Any tax levied by any authority, Federal, State or foreign, upon profit or gain defined under the terms of Subsection (2) of Section 3 shall be paid out of principal, notwithstanding said tax may be denominated a tax upon income by the taxing authority.

(3) The trustee may allocate expenses which are payable out of income throughout an entire year or part thereof, or throughout a series of years. Unless the trustee shall make such allocation over a period of time in accordance with the foregoing provisions, the expenses shall be considered to have accrued as of the date when they shall become due and payable. In cases where such allocation of expenses shall be

made over a period of time, and where the right of the tenant ends during the period, the expenses shall be apportioned between tenant and remainderman on the basis of such allocation.

Short title SEC. 13. This act may be cited as the Principal and Income Act.

Repeals SEC. 14. All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed; provided,
Effect of act however, that nothing in this act shall affect the provisions of The Personal Income Tax Act, the Bank and Corporation Franchise Tax Act, and The Corporation Income Tax Act.

Application SEC. 15. This act shall apply to all transactions by which a principal shall be established which become legally effective on or after the effective date of this act. It shall also apply to all revocable trusts existing on and prior to that date and to all other trusts to the extent to which they may be at that or any later time amendable by the settlor in respect to matters covered by this act; but provisions of such trusts inconsistent with the provisions of this act shall govern to the extent provided in Section 2.

CHAPTER 899

Stats 1935, p. 61, amended *An act relating to State School lands, declaring the rights of holders of certificates of purchase affected by "An act relating to and providing for a moratorium with respect to forfeitures of State school lands as provided for in Section 3513 of the Political Code, to take effect immediately," approved January 31, 1935 (Chapter 8, Statutes of 1935), repealing Section 2 of said act, providing for the protection from forfeiture of the interests of persons having a conveyance of all or part of the lands described in certificates of purchase, declaring the urgency of this act, and providing that this act shall take effect immediately.*

In effect immediately [Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Rights of State barred SECTION 1. In any case where the holder of a certificate of purchase of State school lands affected by the moratorium
Stats 1935, p. 61 declared by Chapter 8 of the Statutes of 1935, was not entitled to claim the benefit of said moratorium because of the provisions of Section 2 of said chapter, and if notice of the forfeiture of any such certificate of purchase has not heretofore been entered upon the records of the State Lands Commission and notice thereof forwarded to the recorder of the county in which the lands are situated, pursuant to Section 3513 of the Political Code, any right which the State had or may have to the forfeiture of said certificate of purchase or the rights of

the holder thereof or to declare any such certificate void because of the provisions of said Section 2 of Chapter 8 of the Statutes of 1935, is hereby forever barred. All such certificates of purchase and patents issued under any such certificates are hereby declared to have the same validity, force and effect as if said Section 2 of Chapter 8 of the Statutes of 1935 had not been enacted.

Stats 1935, p 62

SEC. 2. Section 2 of an act entitled "An act relating to and providing for a moratorium with respect to forfeiture of State school lands as provided for in Section 3513 of the Political Code, and declaring the urgency thereof, to take effect immediately, approved January 31, 1935" (Chapter 8 of the Statutes of 1935), is hereby repealed.

Protection from forfeiture

SEC. 3. Any person having a conveyance of the whole or any portion of the lands described in any certificate of purchase, but to whom the certificate has never been surrendered, may protect his lands from forfeiture by paying such proportion of the interest delinquent upon all the lands in such certificate described as the acreage claimed by him bears to the aggregate acreage embraced in such certificate. He shall first, however, file with the State Lands Commission satisfactory evidence of his possessory right to such land. Upon such payment being made within the time prescribed by law such land shall be, and hereby is, excepted from the forfeiture prescribed by law. Said certificate of purchase shall become null and void only as to the remaining lands therein described. Should due compliance be made with all other provisions of law governing the issuance of patents, a patent shall issue in the name of the original purchaser of such excepted land, but shall be delivered to the person by whom such payment was made, and the title thereby granted shall inure to the benefit of such person, his heirs or assigns.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. A statement of the facts constituting such necessity is as follows:

Persons who have a conveyance of the whole or any portion of lands described in any certificate of purchase who desire to protect their lands from forfeiture have only a short time within which to act under the existing provisions of law providing for a moratorium on forfeitures and prescribing procedure for payment of delinquent interest. Unless this act takes effect immediately it will not become operative until a day subsequent to the last date for action to protect such lands from forfeiture which would result in hardship and suffering and would remove lands from the tax rolls. It is therefore necessary that this act take effect immediately in order that its provisions will be effective to accomplish the desired purpose.

CHAPTER 900

Stats 935, p 248, amended

An act to amend Section 141 of the Streets and Highways Code, relating to the powers of the Department of Public Works.

In effect September 13, 1941

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 263

SECTION 1. Section 141 of the Streets and Highways Code is hereby amended to read as follows:

Miscellaneous powers of department

141. In addition to the other powers relating to State highways granted to it by laws, the department may:

(a) Make investigations to place at the service of the State the most approved methods of highway construction, improvement, and maintenance.

(b) Compile statistics relative to the highways of the various counties and cities and of the districts formed to construct, improve or maintain such highways.

(c) Determine the methods of highway construction, improvement, and maintenance best adapted to the various sections of the State, and the best methods of construction, improvement, and maintenance of highways, making experiments in relation thereto from time to time.

(d) Call upon any State, county, city or district official to furnish any information which such official has and which relates to, or is in any way necessary to the proper performance of, the highway work of the department. Any such official shall furnish such information without charge.

(e) The department may join associations of highway officials of other States and others which have been established for not less than 10 years, having as their purpose the interchange of information relating to highway construction, improvement, maintenance and administration and may send officers and employees at State expense, subject to the provisions of Section 352 of the Political Code, to meetings of such associations, and also may likewise send officers and employees out of the State for the purpose of securing information relative to improvements in methods of highway design, construction, maintenance and administration developed by other States; provided, however, that traveling expenses outside of the State for officers and employees of the department for travel outside of the State authorized under this subdivision shall not exceed two thousand dollars ($2,000) in any one year.

Officers and employees of the department may be sent out of the State, subject to the provisions of Section 352 of the Political Code to meet with officers or employees of the Federal Government in connection with Federal-State cooperative highway work, without reference to the limitations on amount specified in subdivision (e) hereof.

CHAPTER 901

An act to add Section 4056g to the Political Code, relating to officers, deputies, assistants and employees of the counties, and their rights and privileges in relation to their several county offices and employments during, and after termination of, their service in the armed forces or training and service in the land or naval forces of the United States.

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4056g is added to the Political Code, to read as follows: New section

4056g. In regulating the method of appointment and terms of office or employment of deputies, assistants and employees of the counties, the boards of supervisors in the respective counties have the power and are hereby granted the power and responsibility to provide that any person leaving any such county office or employment upon his enlistment, induction, commission, or drafting into the armed forces of the United States, or upon entering the land or naval forces of the United States for training and service therein under the provisions of the Selective Training and Service Act of 1940 (Chapter 720, 3d Session, 76th Congress), shall have the right to return to his said county office or employment within six months of his honorable discharge therefrom or release from active duty therein, but in no case later than six months after the date (1) of termination of any war in which the United States is engaged or (2) of a proclamation by the Governor finding and proclaiming that the emergency in the National defense no longer exists, and shall retain and reacquire the rights and privileges he had and would have had in the absence of any interruption in his service to the county. Return to county position after military etc., service

SEC. 2. The provisions of this act are intended to apply and do apply to all deputies, assistants and employees of the counties who subsequent to the effective date of said Selective Training and Service Act of 1940, and heretofore, entered said armed forces or said land or naval forces, as well as to those who hereafter do so. Scope of act

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable. Constitutionality

CHAPTER 902

An act to add Sections 2.170-1 and 4.720-1 to the School Code, relating to the public school system and elementary school districts, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately [Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

New section SECTION 1. Section 2.170-1 is hereby added to the School Code, to read as follows:

Average daily attendance Elementary 2.170-1. The average daily attendance of pupils residing in an elementary school district and attending the seventh and eighth grades of a junior high school, and credited to the elementary school district, constitutes average daily attendance in the elementary school district for all the purposes of this article.

SEC. 2. Section 4.720-1 is hereby added to the School Code, to read as follows:

Maintenance of chool 4.720-1. An elementary school district which during any school year provides for the education of pupils residing within the district under the provisions of this code, for not less than 170 days shall be deemed to have maintained school for not less than 170 days of actual teaching during such school year.

Urgency SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of California and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Certain elementary school districts are providing for the education of the pupils residing in such elementary school districts by other elementary school districts and high school districts in the manner provided for by certain provisions of the School Code. However, because of other provisions of the School Code, this following procedure results in the suspension or lapsing of the elementary school districts providing for the education of the pupils residing in the districts in such manner and the witholding of apportionments of State funds to such districts. In order that these results may not obtain, it is necessary that this act go into immediate effect.

CHAPTER 903

An act to amend Sections 5217, 5229, 5271, 5286 and 5312 of the Business and Professions Code, relating to outdoor advertising.

Stats 1937, p 1229, amended

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5217 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 334

5217. The director shall furnish requisite forms for applications, licenses and permits provided for in this chapter and may appoint a representative or agent in each of the counties throughout the State for the purpose of issuing the licenses and permits and collecting fees therefor as provided in this chapter. The agent or representative, in the discretion of the director, may be the county clerk in each county.

County representatives

In the event of the appointment of the county clerk in any county by the director, the county clerk shall so act. Upon the issuance of any such license or permit by the authorized agent of the director, the agent shall immediately forward a copy thereof to the director.

SEC. 2. Section 5229 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 3069

5229. With the exception of the provisions contained in Articles 4 and 6, nothing contained in this chapter applies to any advertising display used exclusively:

Private notices

(a) To advertise the sale or lease of the property upon which such advertising display is placed.

(b) To designate the name of the owner or occupant of the premises or to identify such premises.

(c) To advertise the business conducted or services rendered or the goods produced or sold upon the property upon which such advertising display is placed if the display is upon the same side of the highway and within 800 feet of the point on the property or within 800 feet of the entrance to the site at which the business is conducted or services are rendered or goods are produced or sold.

SEC. 3. Section 5271 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p 336

5271. No person shall place any advertising display unless there is securely fastened upon the front thereof a permit number plate of the character specified in Section 5272. The placing of any advertising display without having affixed

Violations

thereto a permit number plate is prima facie evidence that the advertising display has been placed and is being maintained in violation of the provisions of this chapter, and any such display shall be subject to removal as provided in Section 5312.

Stats 1939, p 337

SEC. 4. Section 5286 of the Business and Professions Code is hereby amended to read as follows:

Location of displays

5286. No advertising display shall be placed in any of the following locations or positions or under any of the following conditions or if the advertising structure or sign is of the following nature:

(a) If within the right of way of any highway.

(b) If visible from any highway and simulating or imitating any directional, warning, danger or information sign permitted under the provisions of this chapter, or if likely to be mistaken for any such permitted sign, or if intended or likely to be construed as giving warning to traffic, such as by the use of the words "stop" or "slow down."

(c) If within any stream or drainage channel or below the flood water level of any stream or drainage channel where the advertising display might be deluged by flood waters and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.

(d) If not maintained in safe condition.

(e) If visible from any highway and displaying any red or blinking or intermittent light likely to be mistaken for a warning or danger signal.

(f) If any illumination thereon shall be of such brilliance and so positioned as to blind or dazzle the vision of travelers on adjacent highways.

Stats 1939, p 3071

SEC. 5. Section 5312 of the Business and Professions Code is hereby amended to read as follows:

Revocations

5312. The director may revoke any license or permit for the failure to comply with the provisions of this chapter and may remove and destroy any advertising display placed or maintained in violation of this chapter after 10 days' written

Notice

notice posted on such structure or sign and a copy forwarded by mail to the display owner at his last known address, except that as to displays for which permits have been allowed to become delinquent, 10 days' written notice mailed to the last known address of the owner of the display named upon the application for such permit shall suffice, posting of the display shall not be required.

Penalty

In the event of issuance of a permit for a display cited for violation of any provision of this chapter, the original application for permit shall be filed with the permit fee required by Section 5325 and in addition a penalty of one dollar ($1)

shall also be paid before the permit is issued. The same penalty shall obtain with respect to renewal of permits in the event of renewal subsequent to service of delinquency notice.

Summary destruction

Notwithstanding any other provision of this chapter the director or any authorized employee may summarily and without notice remove and destroy any advertising display placed in violation of this chapter which is temporary in nature because of the materials of which it is constructed or because of the nature of the copy thereon.

Entry upon property

For the purpose of removing or destroying any advertising display placed in violation of the provisions of this chapter, the director or his authorized agent may enter upon private property without incurring any liability therefor.

CHAPTER 904

An act relating to the education of persons in connection with programs of National defense, declaring the urgency thereof and providing that this act shall take effect immediately.

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

In effect immediately

The people of the State of California do enact as follows:

Cooperation with U. S.

SECTION 1. Whenever by the provisions of any act of the Congress of the United States providing for the education of persons in connection with any program of National defense, such program is to be administered in the State of California by the Superintendent of Public Instruction, Director of Education, Department of Education, State Board of Education, State Board for Vocational Education, or any one or more of such officers, or agencies, the officers and agencies designated in the act of the Congress of the United States are hereby authorized to administer such program in the State of California. Such officers and agencies are vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof in the administration of such act of Congress and rules and regulations lawfully adopted thereunder.

Custody of funds

SEC. 2. The State Treasurer is hereby designated as the custodian of all funds received by the State of California from the Government of the United States or of any agency or agencies thereof and he is authorized to receive, and provide for the proper custody of, all moneys so received.

Expenditure of funds

SEC. 3. The funds received by the State of California under the provisions of this act shall be expended by the officers or agency administering the program to carry out the provisions of the act of the Congress of the United States and rules and regulations lawfully adopted thereunder. Such

funds are exempt from the provisions of Article 18 of Chapter 3 of Title 1 of Part 3 of the Political Code and shall be paid out by the Treasurer on warrants drawn by the State Controller on claims submitted by the Director of Education.

Urgency

SEC. 4. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution. A statement of the facts constituting such urgency is as follows:

The Government of the United States of America has in recent months made funds available to the public schools for the training of workers in industries essential to National defense. These funds and the programs of training for which they are made available are administered through the State educational authorities. It is expected that additional funds will be made available in the near future by the Government of the United States of America under similar conditions, for the same and similar purposes. In order to adequately provide for the efficient administration of such funds and programs it is necessary that this act take effect immediately.

CHAPTER 905

Stats 1921, p 1306, amended

An act to amend Section 11 of an act entitled "An act to restrict the running of dogs at large; to protect live stock from depredations of dogs; to provide for the issuance of dog license tags by counties, and the disposition of funds received as fees therefor; making the violation of the provisions of this act a misdemeanor and providing penalties therefor, and providing for the collection of damages by owners of live stock injured by dogs," approved June 3, 1921, relating to the enforcement of this act and the payment of fees, salaries, costs, and expenses therefor from live stock indemnity funds, declaring the urgency thereof and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2823

SECTION 1. Section 11 of the act cited in the title hereof is hereby amended to read as follows:

Live stock indemnity fund

Sec. 11. All fees for the issuance of dog license tags and all fines collected under the provisions of this act, shall be paid into the county treasury and shall constitute a fund to be known as the "live stock indemnity fund," which shall be used: First, to pay fees for the issuance of dog license tags; second, notwithstanding any other provision of this act or of any other law, to pay fees, salaries, costs, expenses, or any or

all of them (which the board of supervisors is hereby authorized to do) for the enforcement of this act and all ordinances made pursuant to this act; third, to pay damages to owners of live stock killed by dogs; provided, that each such claim shall be verified by the affidavits of two disinterested witnesses who shall fix the value of such live stock, such affidavits to be executed within four days after the finding of the carcasses of each animal and to establish the fact beyond reasonable doubt that such animal was killed by a dog or dogs. Such claims shall be paid from the fund herein provided in the same manner as other claims against the county are paid.

Urgency

SEC. 2. Any action heretofore taken by any county, its board of supervisors, or any county officers which action would hereafter be in conformity with the terms of Section 11 of the act cited in the title hereof is hereby validated.

SEC 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall therefore take effect immediately. A statement of the facts constituting such necessity is as follows:

Doubt has been thrown upon the ability of counties to provide for the compensation by salary of persons engaged in carrying out the provisions of the act cited in the title hereof.

It is immediately necessary for the public safety that counties be enabled to carry out the provisions of the act cited in the title hereof as extensively as possible and in order to do so that counties be able to compensate the persons engaged in enforcing the provisions of the act cited in the title hereof by salary rather than by occasional fees.

CHAPTER 906

An act to amend Section 4272 of the Political Code, relating to compensation for public services in counties of the forty-third class.

[Approved by Governor June 28, 1941 Filed with Secretary of State July 1, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4272 of the Political Code is hereby amended to read as follows:

Stats. 1941, p. 1629

4272. In counties of the forty-third class the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums:

Glenn County Salaries

1. The auditor, two thousand seven hundred dollars ($2,700) per annum.

Auditor

2. The district attorney, two thousand seven hundred dollars ($2,700) per annum.

District attorney

Supervisors 3 Supervisors, the sum of one hundred twenty-five dollars ($125) per month each; mileage at the rate of twenty cents ($0.20) per mile for each mile actually traveled by them in the discharge of their duties either as road commissioner or supervisor, not exceeding in the aggregate six hundred dollars ($600) per annum. Supervisors shall also receive their necessary expenses when the performance of duty as supervisor or road commissioner takes them out of the county.

Jurors 4. Jurors. In counties of this class grand jurors and trial jurors in the superior court shall receive for each day's attendance the sum of three dollars ($3), and for each mile actually and necessarily traveled from their residence to the county seat, the sum of fifteen cents ($0.15); such mileage to be allowed but once during each session such jurors are required to attend.

CHAPTER 907

An act to add Section 3466c to the Political Code, relating to the Sutter-Butte By-pass Assessment No. 6 of the Sacramento and San Joaquin Drainage District.

In effect September 13, 1941 [Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

New section SECTION 1. Section 3466c is hereby added to the Political Code, to read as follows:

Sutter-Butte By-pass Assessment No. 6 3466c. Any reclamation, levee, irrigation, drainage or other district whatever, or any city, county, or political subdivision may make any contract, expend any of its money, or do anything which its governing body determines will directly or indirectly retire, reduce or remove from any of the land owned by it or held in trust for it by any county treasurer or other public officer, the lien of the Sutter-Butte By-pass Assessment No. 6 of the Sacramento and San Joaquin Drainage District, or will make it possible for the Reclamation Board to order the release of the lien of and abandon any part of said assessment. The trustees of a reclamation district or a county treasurer or other public officer acting as trustee for a reclamation district or other district shall have the right to expend funds of the district, including rentals collected and moneys received by the trustees of the district from lease of or for use or occupation of any land referred to in Section 3466a of this code, in such amounts that may be necessary for any of the purposes mentioned in this section.

CHAPTER 908

An act to amend Sections 579 and 611 of the Agricultural Code, relating to substitutes for butter and cheese which are colored in imitation thereof.

Stats 1933, p 60, amended

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 579 of the Agricultural Code is hereby amended to read as follows:

Stats 1941, p 504

579. Except as otherwise provided in this section, it is unlawful to render, manufacture, sell, or have in possession with intent to sell, use, or to serve to patrons, guests, boarders, or inmates in any hotel, eating house, restaurant, public conveyance or boarding house or public or private hospital, asylum or eleemosynary or penal institution, any oleomargarine, or substitute for butter or imitation cheese which is colored in imitation of butter or cheese by whatever means the coloring is accomplished. Substitutes for butter or cheese not resembling butter or cheese may be sold under regulations of the director in such manner as will advise the purchaser of the real character of the product.

Oleomargarine —Use in restaurants, etc

Oleomargarine, substitutes or imitations of butter, and substitutes or imitations of cheese, which are colored in imitation of butter or cheese, may be manufactured, sold or possessed in this State only for export to points outside of all of the following:

—Export

(a) The United States.
(b) The Territories of the United States.
(c) The territorial possessions of the United States.

SEC. 2. Section 611 of the Agricultural Code is hereby amended to read as follows:

Stats 1941, p 510

611. It is unlawful to engage in the business or occupation of manufacturing, selling, dealing in or furnishing, or to have in possession for any purposes other than for consumption in his own family, or for transportation in case of a boat or railroad company, or for the purpose of storage in the case of a warehouse or cold storage company, (a) imitation milk, (b) oleomargarine, renovated butter or a substitute for butter, or (c) imitation cheese or substitute for cheese, (d) imitation ice cream or imitation ice milk, without first having applied for and obtained a license so to do. To engage in any such businesses or occupations, a person shall first apply each year to the department for a license, and upon payment of the license fee mentioned in Section 612 the department shall issue a license to engage in the business for which the license is issued. Separate licenses are required for each such business or occupation.

Imitation milk products License to handle

License proviso All licenses pertaining to oleomargarine, renovated butter or substitute for butter shall contain the following proviso:

Provided, that this license does not authorize the holder thereof to manufacture, sell, deal in or furnish any oleomargarine, or any substitute for butter, which contains any coloring matter or which resembles yellow butter in appearance, except oleomargarine or substitutes for butter containing coloring matter or resembling butter which are manufactured, dealt in, sold, or furnished for export to points outside of the United States and the Territories and territorial possessions of the United States.

CHAPTER 909

Stats 1911, p 1290, amended *An act to amend Sections 12 and 19 of the Municipal Water District Act of 1911, relating to the organization, government and powers of municipal water districts.*

In effect September 13, 1941 [Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 459 SECTION 1. Section 12 of the act cited in the title hereof is hereby amended to read as follows:

Powers Sec. 12. Any municipal water district incorporated as herein provided, shall have power:

1. To have perpetual succession;

2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;

3 To adopt a seal and alter it at pleasure;

4 To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers;

5. To acquire, or contract to acquire, waterworks or a waterworks system, waters, water rights, lands, rights and privileges and construct, maintain and operate conduits, pipelines, reservoirs, works, machinery and other property useful or necessary to store, convey, supply or otherwise make use of water for a waterworks plant or system for the benefit of the district, and to complete, extend, add to, repair, or otherwise improve any waterworks or waterworks system acquired by it as herein authorized;

6. To lease of and from any person, firm or public or private corporation, or public agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation or distribution facilities, existing waterworks or a waterworks system, and to carry on and conduct waterworks or a waterworks system; also to sell water under the control of the district to municipalities, and to other public corporations and public agencies within the district, and to

the inhabitants of such municipalities and of other territory within the district, and to persons, corporations, and other private agencies within the district for use within said district without any preference, and it may, whenever there is a surplus of water above that which may be required by such consumers within said district, sell or otherwise dispose of such surplus water to any persons, firms, public or private corporations or public agencies or other consumers;

7. To have and exercise the right of eminent domain and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to supply the district or any portion thereof with water, whether such property be already devoted to the same use or otherwise, and may condemn any existing waterworks or system, or any portion thereof, or any waters or water rights owned by any person, firm or private corporation. In proceedings relative to the exercise of such right, the district shall have the same rights, powers and privileges as a municipal corporation;

8. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof;

9. To cause taxes to be levied for the purpose of paying any obligation of the district in the manner hereinafter provided;

10. To make contracts, to employ labor, and do all acts necessary for the full exercise of the foregoing powers;

11. In case of condemnation proceedings the board shall proceed in the name of the district;

12. To provide by ordinance of its board of directors for the pensioning of officers or employees and the creation of a special fund for the purpose of paying such pensions, and the accumulation of contributions to said fund from the revenues of the district, the wages of officers or employees, voluntary contributions, gifts, donations or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of such officers or employees, and to provide in such ordinance for the terms and conditions under which such pensions shall be awarded, and for the time and extent of service of officers or employees before such pensions shall be available to them.

SEC. 2. Section 19 of the act cited in the title hereof is hereby amended to read as follows: Stats 1911, p 1300

Sec. 19. The board of directors shall have power to construct works along and across any stream of water, watercourse, street, avenue, highway, canal, ditch, or flume, or across any railway which the route of said works may intersect or cross; provided, such works are constructed in such manner as to afford security for life and property, and said board of directors shall restore the crossings and intersections to their former state as near as may be, or in a manner not to have Directors may construct works across streams, streets, etc

impaired unnecessarily their usefulness. Every company whose right of way shall be intersected or crossed by said works shall unite with said board of directors in forming said intersections and crossings and grant the rights therefor. The right of way is hereby given, dedicated and set apart to locate, construct and maintain such works along and across any street or public highway and over and through any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to municipalities within the State. Any use, under this section, of a public highway now or hereafter constituted a State highway shall be subject to the provisions of Chapter 3 of Division 1 of the Streets and Highways Code.

CHAPTER 910

Stats 1931, p 2263, amended

An act to add Section 12b to the California Districts Securities Commission Act, relating to notice and hearing of certain proceedings before the California District Securities Commission and relating to the change, modification or amendment of refunding plans and of the terms and conditions of refunding bonds of irrigation districts, to take effect immediately.

In effect immediately

[Approved by Governor June 28, 1941. Filed with Secretary of State July 1, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 12b is hereby added to the act cited in the title hereof, to read as follows:

Application to exchange securities

Sec. 12b. Pursuant to this act the commission has been and is authorized in the instance of any application for the issuance of securities in exchange for one or more bona fide outstanding securities, claims or property interests, or partly in such exchange and partly for cash, to approve the terms and conditions of such issuance and exchange and the fairness of such terms and conditions after a hearing upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear.

Approval of modification of refunding plan

Pursuant to law the commission has been, and is, authorized to approve the terms and conditions of any modification, alteration or amendment of any refunding plan of any irrigation district or of the terms and conditions of the refunding bonds issued thereunder and the fairness of all such terms and conditions, after a hearing upon the fairness of such terms and conditions at which all persons interested, including all persons owning or holding any refunding bonds issued under such refunding plan or plans shall have the right to appear. The commission has been, and is hereby, authorized to fix and determine the time and manner of giving notice and the place of hearing.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall take effect immediately. The facts constituting such urgency are as follows: Urgency

That existing economic conditions in general, and in particular with respect to the market for agricultural products, have created and there now exist conditions requiring immediate relief. That an acute condition of unemployment exists and irrigation districts because of such economic conditions have been unable to meet their bonded indebtedness as the same has matured and is maturing and the normal and necessary operations and improvements within such districts have been curtailed. Many districts have arranged with their creditors whereby funds may be obtained to carry on needed public works which are necessary for the protection of the health and safety of inhabitants within the district and which works must be commenced immediately to be effective, and can not be delayed without serious injury to public health and safety. That among such needed work is the matter of drainage. That legislation has heretofore been enacted authorizing such districts to enter into arrangements and compositions with their creditors and to amend and modify refunding plans and the terms and conditions of refunding bonds issued thereunder in order to make available funds for such needed work and to protect and preserve the public health and safety. That such legislation expressly contemplated that action would be taken only after due notice and hearing in accordance with the usual and customary procedure of the California Districts Securities Commission whose meetings are at all times open to the public, but it has been contended that the statute under which such commission operates does not, in so many words, state that the action of the commission with respect to the modification and amendment of plans and the issuance and exchange of securities shall be upon notice after a hearing upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities, or who by reason of their ownership of bonds are interested in such modifications or amendments, shall have the right to appear. While such claims are without foundation as all such persons have had the right to appear at all meetings of the California Districts Securities Commission, nevertheless in order to set at rest such contentions and thereby make possible the immediate carrying out of such modifications and changes in refunding plans and the terms and conditions of refunding bonds and thereby permit such districts affected thereby to obtain moneys for immediate needs, it is necessary that this act go into effect immediately whereby districts will be able to obtain funds for the preservation of the public health, peace and safety.

CHAPTER 911

An act relating to and providing for the completion of the preparation of a Water Code, and making an appropriation therefor.

In effect September 13, 941

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

The people of the State of California do enact as follows:

Appropriation California Code Commission

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, the sum of seven thousand three hundred fifty dollars ($7,350), in addition to other moneys available for the purpose, is hereby appropriated to be expended in accordance with law by the California Code Commission in the completion of the preparation of a Water Code.

CHAPTER 912

Stats 1937, p 1229, amended

An act to add Section 2175 to the Business and Professions Code, relating to persons authorized to practice medicine and surgery under the jurisdiction of the Department of Institutions.

In effect September 13, 1941

[Approved by Governor July 2, 1941 Filed with Secretary of State July 3, 1941]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2175 is hereby added to the Business and Professions Code, to read as follows:

Practice of medicine by employees of Department of Institutions

2175. Subject to the provisions of the State Civil Service Act, any person, who is licensed to practice medicine and surgery in any other State, and who is a graduate of a medical school approved by the Board of Medical Examiners in this State, and who has applied for a physician's and surgeon's certificate in this State, may be appointed to the medical staff of any State mental hospital or State feeble-minded home under the jurisdiction of the State Department of Institutions for a period of one year at the end of which period, he must have secured a physician's and surgeon's certificate in order to continue as a member of the staff. Until such person has secured his physician's and surgeon's certificate he must not engage in the practice of medicine in this State, except that he shall be entitled to treat only the inmates of the institution, on the staff of which he has been appointed under the provisions of this section.

CHAPTER 913

An act to amend Section 6651 of the Welfare and Institutions Code, relating to payment for the care, support and maintenance of persons in State institutions.

Stats 1937, p 1005, amended

[Approved by Governor July 2, 1941 Filed with Secretary of State July 3, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6651 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p 1776

6651. The monthly rate for the care, support, and maintenance of all insane persons and inebriates at the hospitals for the insane and inebriates where there is liability to pay for such care, support, and maintenance, shall be determined by the Director of Institutions, but it shall not exceed forty dollars ($40) per month and shall be payable in advance. The superintendent of a State institution for the insane or inebriates shall, however, on the order of the Director of Institutions, reduce, cancel or remit the amount to be paid by the estate or the relatives, as the case may be, liable for the care, support, and maintenance of any insane person or inebriate committed thereto and confined therein, on satisfactory proof that the estate or relatives, as the case may be, are unable to pay the cost of such care, support, and maintenance. In any case where there has been an advance payment under this section, and such advances or any part thereof should be refunded because of the death, parole, or discharge of any inmate of such institution, such amount shall be paid by the institution or the Department of Institutions to the person who made the payment upon demand, and in the statement to the Controller the amounts refunded shall be itemized and the aggregate deducted from the amount to be paid into the State Treasury, as provided by law. If any insane person or inebriate dies at any time while his estate is liable for his care, support, and maintenance and other expenses at a State hospital, the claim for the amount due may be presented to the executor or administrator of his estate, and paid as a preferred claim, with the same rank in order of preference, as claims for expenses of last illness.

Rate of payment

CHAPTER 914

Stats 1937, p 1005, amended

An act to amend Section 166 of the Welfare and Institutions Code, relating to the disposition of personal property unclaimed by the owner.

In effect September 13, 1941

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 1015

SECTION 1. Section 166 of the Welfare and Institutions Code is hereby amended to read as follows:

Disposition of property of former inmates

166. Whenever any person confined in any State institution subject to the jurisdiction of the Department of Institutions dies, escapes, or is discharged or paroled from such institution, and any personal funds or property of such person remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, the superintendent shall hold and dispose of such funds or property as follows: (a) Funds: The superintendent shall hold the funds in the patients' personal deposit fund for a period of three years. If, at the end of three years, no demand has been made for the funds, the superintendent shall turn the said funds over to the State Treasurer. The State Treasurer shall hold the funds for a period of five years and if, at the end of that five-year period, the funds have not been demanded by the owner or a legal representative, then the funds shall escheat to the State and shall become a part of the General Fund. (b) Miscellaneous Personal Property The superintendent shall hold all other miscellaneous personal property for a period of three years. At the end of that time if there has been no demand by the owner of the property or his legal representative, the superintendent shall file with the county recorder of the county of commitment of said owner, all deeds, wills, contracts or assignments. The balance of the personal property shall be sold at auction and the funds turned over to the State Treasurer to be disposed of in the same manner as cash funds under the provisions above. If some of the property is not of a type to be filed with the county recorder and is not saleable at public auction, then the superintendent of the hospital shall hold the same for a period of one more year and if at the expiration of that time no demand has been made by the owner or his legal representative, the property shall be destroyed. Before any funds are turned over to the State Treasurer, under subdivision (a), and before any papers are filed with the county recorder, and before any personal property is sold at auction or disposed of under subdivision (b) of this section, notice of said intended disposition shall be posted at least 10 days prior to the disposition, in a public place at

the institution where the disposition is to be made. A copy of such notice shall be mailed to the last known address of the owner of the property at least 10 days prior to the disposition of the property.

CHAPTER 915

An act to amend Section 5104 of the Welfare and Institutions Code, relating to the patients' personal deposit fund.

Stats 1937, p 1005, amended

[Approved by Governor July 2, 1941 Filed with Secretary of State July 3, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5104 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p 1563

5104. All moneys found on the person of a mentally ill person at the time of apprehension shall be certified to by the judge, and sent with the mentally ill person to the hospital, there to be delivered to the medical superintendent and by him deposited in a fund to be known as the patients' personal deposit fund, and to be disposed of in the same manner as other funds deposited in the patients' personal deposit fund.

Patients' personal deposit fund

CHAPTER 916

An act to amend Section 6650 of the Welfare and Institutions Code, relating to liability for care, support, and maintenance of patients in State hospitals.

Stats 1937, p. 1005, amended

[Approved by Governor July 2, 1941 Filed with Secretary of State July 3, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6650 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1155

6650. The husband, wife, father, mother, or children of an insane person or inebriate, the estates of such persons, and the guardian and administrator of the estate of such insane person or inebriate, shall cause him to be properly and suitably cared for and maintained, and shall pay the costs and charges of his transportation to a State institution for the insane or inebriates. The husband, wife, father, mother, or children of an insane person or inebriate, and the administrators of their estates, and the guardian and/or administrator of the estate of such insane person or inebriate, shall be liable for his care, support, and maintenance in a State institution

Liability for care, support and maintenance

to which he has been committed or transferred under an original commitment. The liability of such persons and estates shall be a joint and several liability except that where the insane person or inebriate has an estate such estate shall be exhausted before liability passes to the relatives.

CHAPTER 917

Stats 1937, p 1005, amended

An act to amend Section 6655 of the Welfare and Institutions Code, relating to the liability to the State of the estates of persons committed to State institutions for the care, support, and maintenance of such persons.

In effect September 13, 1941

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p. 1156

SECTION 1. Section 6655 of the Welfare and Institutions Code is hereby amended to read as follows:

Payment by guardian of estate

6655. If any person committed to a State mental hospital has sufficient estate for the purpose, the guardian of his estate shall pay for his care, support, maintenance, and necessary expenses at the mental hospital to the extent of the estate. Such payment may be enforced by the order of the judge of the superior court where the guardianship proceedings are pending. On the filing of a petition therein by the secretary of the department, showing that the guardian has failed, refused, or neglected to pay for such care, support, maintenance, and expenses, the court, by order, shall direct the payment by the guardian. Such order may be enforced in the same manner as are other orders of the court.

Sale of property

If at any time there is not sufficient money on hand in the estate of a committed person to pay the claim of a State mental hospital for his care, support, maintenance, and expenses therein, the court may, on petition of the guardian of the estate, or if the guardian fails, refuses, or neglects to apply, on the petition of the secretary of the department, make an order directing the guardian to sell so much of the other personal or real property or both, of the person as is necessary to pay for the care, support, maintenance, and expenses of the person at the mental hospital. From the proceeds of such sale, the guardian shall pay the amount due for the care, support, maintenance, and expenses at the mental hospital, and also such other charges as are allowed by law.

When payment not exacted

Payment for the care, support, maintenance, and expenses of a person at a State hospital shall not be exacted, however, if there is likelihood of the patient's recovery or release from the hospital and payment will reduce his estate to such an extent that he is likely to become a burden on the community in the event of his discharge from the hospital. If a certificate from the medical superintendent of the State hospital in

which the person is confined as a patient is filed in the office of the county clerk with the papers in the guardianship proceedings of the patient, in which certificate the medical superintendent states that the patient is suffering from a chronic form of insanity, and that in his opinion a recovery is beyond reasonable hope and that the patient will in all probability continue to be a charge in a State hospital until death, such certificate shall be prima facie evidence that the patient is not likely to recover or to be released from the hospital, and the guardian shall pay the amount due for his care, support, maintenance, and expenses at the hospital and such other charges as are allowed by law out of any moneys of the estate in his possession.

CHAPTER 918

An act to amend Section 6656 of the Welfare and Institutions Code, relating to the deposit of funds by the guardian in the patient's deposit fund.

Stats 1937, p 1005, amended

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6656 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1157

6656. The guardian of the estate of any person who is confined in a State mental hospital may, from time to time, pay to the State mental hospital moneys out of the estate to be used for the future personal needs of the insane person while in a State mental hospital and for burial expenses, such sums so paid to be credited to the patient's personal deposit account, subject to the provision relating to the deposit of funds in the patients' personal deposit fund.

Payment for future personal needs and burial expenses

CHAPTER 919

An act to add Section 6656.5 to the Welfare and Institutions Code, relating to funds belonging to patients in State institutions and patients' personal deposit fund.

Stats 1937, p 1005, amended

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6656.5 of the Welfare and Institutions Code is hereby added, to read as follows:

New section

6656.5. There is at each institution under the jurisdiction of the Department of Institutions, with the exception of the correctional schools and the home and workshops of the blind, a fund

Patients' personal deposit fund

known as the patients' personal deposit fund. Any funds coming into the possession of the superintendent, belonging to any inmate in that institution, shall be deposited in the name of that patient in the patients' personal deposit fund, except that if a guardian of the estate is appointed for the patient then he shall have the right to demand and receive such funds. Whenever the sum belonging to any one patient, deposited in the patients' personal deposit fund, exceeds the sum of one hundred fifty dollars ($150), the excess shall be applied to the payment of the maintenance and medical attendance of the patient while in the institution. Any of the sum of one hundred fifty dollars ($150) or under shall be used to purchase the personal necessities of the patient and such other things as he may desire and for burial expenses.

CHAPTER 920

Stats 1937, p 1005, amended

An act to amend Section 6660 of the Welfare and Institutions Code, relating to guardianship and administration of the inmates' estates.

In effect September 13, 1941

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 1158

SECTION 1. Section 6660 of the Welfare and Institutions Code is hereby amended to read as follows:

Department of Institutions; Appointment as guardian of estate

6660. If any incompetent person, who has no guardian and who has been committed to the Department of Institutions for placement in any designated State hospital or State home for the feeble-minded is the owner of any property, the Department of Institutions, acting through its secretary or other designated officer, may apply to a court of competent jurisdiction for its appointment as guardian of the estate of such incompetent person.

Appointment as executor, receiver, etc

For the purposes of this section, the Department of Institutions is hereby made a corporation and may act as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this State, and may transact business in such capacity in like manner as an individual, and for this purpose may sue and be sued in any of the courts of this State.

If a person under commitment to the Department of Institutions dies, leaving any estate, and having no relatives at the time residing within this State, the Department of Institutions shall be entitled to administer the estate and to have letters of administration on the estate issued to the department. The Department of Institutions shall be appointed as

guardian or administrator without bond. The secretary or other officer designated by the department shall be required to give a surety bond in such amount as may be deemed necessary from time to time by the director, but in no event shall the initial bond be less than one hundred thousand dollars ($100,000), which bond shall be for the joint benefit of the several estates and the State of California. The Department of Institutions shall receive such reasonable fees for its services as such guardian or administrator as the court allows. The fees paid to the Department of Institutions for its services as guardian or administrator of the various estates may be used as a trust account from which may be drawn expenses for filing fees, bond premiums and other court expenses required in the various estates. Whenever the balance remaining in such trust fund account shall exceed a sum deemed necessary by the department for the payment of filing fees, bond premiums or other court expenses of the various estates, such excess shall be paid quarterly by the department into the State Treasury to become a part of and to be added to the appropriation or special fund in the State Treasury, made available by law for the support or management of the department.

Bond

Fees

CHAPTER 921

An act to add Section 6660.5 to the Welfare and Institutions Code, relating to the care of patients' estates where the value of said estate does not warrant a guardianship.

Stats 1937, p 1005, amended

[Approved by Governor July 2, 1941 Filed with Secretary of State July 3, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6660.5 of the Welfare and Institutions Code is hereby added, to read as follows:

New section

6660.5. Whenever it appears that a patient confined in a State institution owns personal property of a value which would not warrant guardianship proceedings, and where such personal property is located on premises formerly leased or rented by the patient, the Secretary of the Department of Institutions may enter said premises for the purpose of removing the possessions of the patient and remove such possessions to a place of safekeeping for the benefit of the patient. Wherever it appears at any time after one year of the gathering of such possessions that the patient is incurably insane or is likely to remain in the State institution indefinitely, then any of those articles of personal property which can not be used by the patient at the institution, may be sold at public auction and the proceeds therefrom shall be deposited to the patient's credit in the patients' personal deposit fund.

Safekeeping of personal property

CHAPTER 922

Stats 1937, p 1005, amended

An act to amend Section 6661 of the Welfare and Institutions Code, relating to estates under three hundred dollars ($300) of persons committed to State institutions.

In effect September 13, 1941

[Approved by Governor July 2, 1941 Filed with Secretary of State July 3, 1941]

The people of the State of California do enact as follows:

Stats. 1937, p. 1158

SECTION 1. Section 6661 of the Welfare and Institutions Code is hereby amended to read as follows:

Affidavit for delivery of moneys under $300 to superintendent

6661. If (a) moneys are due to any person committed to the Department of Institutions from any person, firm, association, or corporation, and (b) no guardian has been appointed for such person and (c) the total amount of such sums, including moneys in banks or building and loan associations, money due to such person under any policy of insurance or from any fraternal benefit society, moneys due as wages or moneys due such person as an heir or a legatee of a person whose estate is in probate, does not exceed the sum of three hundred dollars ($300), the superintendent of the institution to which the person is committed, may file with the person, firm, association, or corporation in possession of any such sums, an affidavit signed and acknowledged by the superintendent of the institution to which such person is committed and the Secretary of the Department of Institutions. The affidavit shall contain the name of the institution to which the person is committed, and the statement that the total amount of such sums due to the person does not exceed the sum of three hundred dollars ($300). Upon filing of such affidavit, such sums shall be delivered to the superintendent of the institution to which the person is committed, and shall be deposited by him in the patient's personal deposit fund as provided in Section 5104 of this code.

The superintendent of each institution shall annually on the thirtieth day of June of each year render an account to the Secretary of the Department of Institutions, which account shall, in addition to such other matters as may be required by the Secretary of the Department of Institutions, contain a full, true, and accurate account, under oath, of all moneys received by him in accordance with the provisions of this section, of all disbursements thereof, and showing the balance at the date of the rendering thereof.

CHAPTER 923

An act to amend Section 6663 of the Welfare and Institutions Code, pertaining to payment of board bills.

Stats 1937, p 1005, amended

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6663 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1159

6663. The Department of Institutions may enter into a special agreement, secured by a properly executed bond, with the relatives, guardian, or friend of any patient therein, for his care, support, maintenance, or other expenses at the institution. Such agreement and bond shall be to the people of the State of California and action to enforce the same may be brought thereon by the department. All bills due under the provisions of this section shall be collected monthly. No patient, however, shall be permitted to occupy more than one room in any State institution, nor shall he or his guardian, friends, or relatives, be permitted to pay for his care and treatment therein, a sum greater than forty dollars ($40) per month.

Agreement and bond

Payment of bills

Maximum liability, etc

CHAPTER 924

An act to amend Section 7011 of the Welfare and Institutions Code, relating to payments of county officers.

Stats 1937, p 1005, amended

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7011 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1169

7011. Each county auditor shall include in his State settlement report, rendered to the Controller in the months of June and January, the amount due under the provisions of Section 7009, and the county treasurer, at the time of the settlement with the State in such months, shall pay to the State Treasurer, upon the order of the Controller, the amounts so due.

Reports and payments by county officers

CHAPTER 925

An act to add Section 5.534 to the School Code, relating to the service in the armed forces of the United States of America or of the State of California, or in the medical, nursing or ambulance service of the American Red Cross, of persons employed by school districts in positions requiring certification qualifications, declaring the urgency thereof and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 5.534 is hereby added to the School Code, to read as follows:

Leave of absence for military service

5.534. Every person employed by a school district in a position requiring certification qualifications who enters the service of the United States of America or of the State of California in the armed forces thereof, or in the medical, nursing or ambulance service of the American Red Cross, during any period of National emergency declared by the President of the United States of America or during any war in which the United States of America is involved shall be entitled to absent himself from his duties as an employee of the district.

Such absence shall not affect, in any way, the classification of such employee. In the case of a probationary employee the period of such absence shall not count as part of the service required as a condition precedent to the classification of such employee as a permanent employee of the district, but such absence shall not be construed as a break in the continuity of the service of such employee for any purpose.

Within 90 days after the honorable discharge of such employee from the armed forces of the United States of America or of the State of California, or after leaving such service of the American Red Cross, he shall be entitled to return to the position held by him at the time of his entrance into such military service, at the salary to which he would have been entitled had he continued in the service of the school district.

This section shall have no force and effect from and after the expiration of two years following its effective date.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and shall therefore take effect immediately.

A statement of the facts constituting such necessity is as follows:

Because of the measures adopted for the defense of the United States of America during the emergency now existing,

many employees of school districts will join those now serving in the armed forces of the United States of America and of the State of California. In order that employees of school districts serving in such armed forces shall not be unduly penalized by reason of such service, it is necessary that this act go into effect immediately.

CHAPTER 926

An act to amend Section 5 of an act entitled "An act providing for the regulation and supervision of companies, brokers, agents, and sales of securities as the same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a State Corporation Department and the office of 'Commissioner of Corporations'," approved May 18, 1917, as amended, relating to the division of corporations, the regulation and supervision of companies, brokers, agents, investment counsel and sales of securities, and the prevention of fraud in the sale of securities.

Stats 1917, p 673, amended

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p 2313

Sec. 5. The commissioner, whenever in his opinion the further sale of any securities by any company would be unfair, unjust or inequitable to the purchasers thereof, may order such company to desist and to refrain from the further sale of its securities. If, after such an order is made, a request for a hearing is filed in writing and no hearing is held within 60 days thereafter, such order shall be deemed to have been rescinded.

Stop order to company

He shall have the power to establish such rules and regulations as may be reasonable or necessary to carry out the purposes and provisions of this act.

Regulations

Every company, otherwise subject to the provisions of this act, conducting or carrying on in this State the business of accumulating savings of its security holders and of loaning and/or investing such accumulations in the manner similar to associations as defined in Chapter 269 of the Statutes of 1931 of the State of California, whether specifically incorporated under said act or not, shall be subject to the supervision and regulation of the commissioner whose duty it is to administer said Chapter 269 of the Statutes of 1931 and amendments thereto, and shall not be subject to the provisions of the Corporate Securities Act.

Building and Loan Associations, etc

Stats. 1931, p 483

CHAPTER 927

An act to add Sections 5.129 and 5.344 to the School Code, relating to the continuance of documents authorizing service in the public schools and held by persons serving in the military service of the United States or of the State of California, or in the medical, nursing or ambulance service of the American Red Cross, declaring the urgency thereof, and providing that this act shall take effect immediately.

In effect immediately [Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

The people of the State of California do enact as follows:

New section SECTION 1. Section 5.129 is hereby added to the School Code, to read as follows:

Credentials expiring during military service 5.129. Whenever the date of expiration of any credential occurs while the holder thereof is in the military service of the United States of America or of the State of California, or in the medical, nursing or ambulance service of the American Red Cross, during any National emergency declared by the President of the United States of America, or during a war with any foreign power, such credential is hereby continued in force until six months after the honorable discharge of such person from such military service following the cessation of such National emergency or war.

The holder of a credential so extended shall be entitled to a renewal of the credential prior to its date of expiration as herein fixed, subject to the provisions of this code relating to the renewal of credentials.

This section shall be of no force and effect from and after the expiration of two years from its effective date.

New section SEC. 2. Section 5.344 is hereby added to the School Code, to read as follows:

Certificates expiring during military service 5.344. Whenever the date of expiration of any certificate occurs while the holder thereof is in the military service of the United States of America or of the State of California, or in the medical, nursing or ambulance service of the American Red Cross, during any National emergency declared by the President of the United States of America, or during a war with any foreign power, such certificate is hereby continued in force until six months after the honorable discharge of such person from such military service following the cessation of such National emergency or war.

The holder of a certificate so extended shall be entitled to a renewal of the certificate prior to its date of expiration as herein fixed, subject to the provisions of this code relating to the renewal of certificates.

This section shall be of no force and effect from and after the expiration of two years from its effective date.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into effect immediately. Urgency

A statement of the facts constituting such necessity is as follows:

Many holders of credentials and certificates authorizing service in the public schools will, because of the present program of National defense, be in the military service of the United States of America or of the State of California at the time such credentials and certificates will expire and will be unable to take the steps necessary for the renewal thereof. In order to protect the rights of such holders of credentials and certificates it is necessary that this act take effect immediately.

CHAPTER 928

An act to amend Section 1 of an act entitled "An act to authorize the payment of certain claims recommended for payment by the State Board of Control and to ratify the payment of such claims heretofore made," approved July 1, 1939, relating to claims recommended for payment by the resolution of March 2, 1938, and not yet paid. Stats 1939, p 2227, amended

[Approved by Governor July 2, 1941 Filed with Secretary of State July 3, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2227

Section 1. The payment of all claims recommended for payment by the State Board of Control pursuant to resolutions adopted by said board March 2, 1938, and December 27, 1938, relating to minimum salaries of State employees, and for which funds have previously been appropriated, but concerning some of which the statute of limitations may have run, is hereby authorized. Salary claims

CHAPTER 929

An act to amend Section 737qq of the Political Code, relating to salaries of Superior Court Judges in Santa Clara County.

In effect September 13, 1941

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

The people of the State of California do enact as follows:

Stats 1927, p 563

SECTION 1. Section 737qq of the Political Code is hereby amended to read as follows:

Santa Clara County

737qq. The annual salary of each of the judges of the Superior Court in and for the County of Santa Clara is seven thousand five hundred dollars ($7,500).

CHAPTER 930

An act authorizing cities, cities and counties, and counties organized or governed by charters adopted pursuant to the Constitution of the State of California to exercise powers granted by any general law of the Legislature of the State of California by ordinance or ordinances passed and adopted pursuant to the provisions of such charter, in lieu of by resolution or resolutions provided for in such general law; ratifying and confirming all action heretofore taken by ordinance in lieu of such resolution; and declaring this act to be an urgency measure, to take effect immediately.

In effect immediately

[Approved by Governor July 2, 1941. Filed with Secretary of State July 3, 1941.]

The people of the State of California do enact as follows:

Charter cities, etc., acting by ordinance

SECTION 1. Whenever any city, city and county, or county organized or governed under the provisions of any charter or amendments thereof, adopted pursuant to the provisions of the Constitution of the State of California is required by the terms of such charter to take legislative action by ordinance, such city, city and county or county may avail itself of any general law of the State of California and of the rights, powers and privileges granted or conferred by such general law, by passing or adopting, in accordance with its charter requirements, an ordinance in lieu of and as a substitution for any resolution required by the terms of such general law, and whenever in any act of the Legislature of the State of California any such city, city and county or county is required to act by resolution, such action for the purposes of such general law shall be deemed to have been duly and legally taken if taken by ordinance passed and adopted in accordance with its charter requirements.

SEC. 2. This act shall be liberally construed to effect its purpose. It is the intent of the Legislature to permit by this act any city, city and county or county organized or governed by any freeholders' charter to follow the procedure prescribed in its charter for the adoption of ordinances or to follow the procedure prescribed in any general law by the adoption of a resolution or resolutions. Construction

SEC. 3. This act is hereby declared to be an urgency measure within the meaning of Section 1, Article IV of the Constitution of the State of California, and it is deemed necessary for the immediate preservation of the public peace, health and safety that this law shall go into effect, and therefore this act shall become effective immediately. The facts constituting such urgency are as follows: Urgency

Many essential projects necessary for the public peace, health and safety of the people of the State of California have been instituted by cities, cities and counties and counties organized or governed under charters adopted pursuant to the Constitution of the State of California Many general laws of the State of California require legislative action to be taken by resolution. Many freeholders' charters require that all legislative action be taken by ordinance. Many essential projects are now being delayed and impeded and obstructed by litigation due to the uncertainty of action heretofore taken by ordinance under such general laws providing that such action shall be taken by resolution. Unless these projects can be instituted immediately and completed many persons will be without homes, without adequate water supply or sanitary sewage disposal systems or adequate fire protection, to the great detriment of the peace of the State of California and the health and safety of its inhabitants.

CHAPTER 931

An act to add Section 30.1 to the Public Utility District Act, relating to the powers of public utility districts, empowering them to make contracts for the joint acquisition, construction, maintenance, or use of sewers and sewage works, plants, and disposal facilities and to make leases or contracts for the use of sewers, sewage works, plants, and disposal facilities constructed by public utility districts, to take effect immediately. Stats 1921, p 906, amended

[Approved by Governor July 2, 1941 Filed with Secretary of State July 3, 1941] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 30.1 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 30.1. Any public utility district incorporated under this act shall have power to contract with any county, city Contracts for joint use, etc., of works

and county, municipal corporation, district or other public corporation or with any person, firm or corporation for the joint acquisition or construction or use of any sewer or sewers or other works or facilities for the handling, treatment or disposal of sewage from the public utility district and such other area as may be designated in said contract, when in the judgment of the board of directors of said public utility district it is for the best interests of the district so to do. Any such contract may provide for the construction and maintenance of such sewer or sewers, or such other works or facilities, and for the payment by or for the parties thereto of such proportionate part of the cost of the acquisition, construction or maintenance of such sewer or sewers or other works or facilities as may be stated in said contract, the payments to be made at such times and in such amounts as may be provided by said contract. Any such contract may provide for the joint use of any sewer or sewers, works or facilities for the handling, treatment or disposal of sewage upon such terms and conditions as may be agreed upon by the parties thereto, and for the flowage, treatment or disposal of sewage from such area for each of the parties thereto as may be described in the contract.

Any public utility district which has acquired or constructed, or which proposes to acquire or construct, any sewer or sewers, or works or other facilities for the handling, treatment or disposal of sewage, may contract with any county, city and county, municipal corporation, district or other public corporation or with any person, firm or corporation for the use of any such sewer or sewers, works or facilities by any such county, city and county, municipal corporation, district or other public corporation, or for the flowage, treatment or disposal of sewage from any area designated by such person, firm or corporation so contracting, upon such terms and conditions as may be provided in said contract.

No agreement under this section shall run for a longer period than twenty-five (25) years.

This section shall be liberally construed to the end that sewer systems may be planned for areas requiring sewers, which may not all be in one district, and any sewer or sewers, or other works or facilities for the handling, treatment or disposal of sewage, acquired or constructed by any public utility district, may be used to the fullest capacity thereof, and any contract or agreement made hereunder shall not be subject to the limitations provided in Section 30, Subsection Fifth of this act.

Constitutionality

SEC. 2. This act shall be liberally construed to the end that the purposes hereof may be made effective. If any paragraph, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion or portions hereof. The Legislature hereby declares that it would have passed this

act irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases thereof be declared unconstitutional.

Urgency

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California, and shall take effect immediately. The following is a statement of the facts constituting such necessity:

Public utility districts have constructed, or are contemplating the construction of, sewers, works and other facilities for the collection, handling, treatment and disposal of sewage. In many instances the facilities constructed or to be constructed should be planned of such size as will exceed the present needs of the district. Some of the territory nearby requires the use of sewers, facilities and works for the handling, treatment and disposing of sewage, and in some of such territory plants engaged in the production of material and equipment vital to National defense are located, and in some of such territory airports and other facilities necessary for National defense have been or are being constructed. The public health demands that the territory surrounding these National defense projects, in which many residences must be constructed at once, be furnished with adequate sewer facilities, which can not be provided under the existing law. If public utility districts are empowered to make the contracts herein provided, sewers and facilities and works for the handling of sewage can thereby be provided for the territory aforementioned. The building of the National defense projects and the providing of residences nearby for the persons engaged therein are matters of great urgency and will not admit of delay. If this act should not take effect immediately, it will not be possible to provide facilities for the handling of sewage in these areas in sufficient time to permit the early building of housing and other projects therein. If this act takes effect immediately, contracts can be entered into at once and sewage facilities provided for said areas without delay.

CHAPTER 932

Stats. 1935, p. 93, amended

An act to amend Section 164 of the Vehicle Code, relating to license plates for vehicles.

In effect September 13, 1941

[Approved by Governor June 30, 1941. Filed with Secretary of State July 7, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p. 1967

SECTION 1. Section 164 of the Vehicle Code is hereby amended to read as follows:

Renewal of registration

164. Department to Renew Registration.

(a) The department, upon renewing a registration, shall issue a new registration card and license plate or plates to the owner as upon an original registration. In lieu of issuing a new registration card the department may indorse or authorize the indorsement of a receipt or validation upon payment of the required fees, such receipt or validation to be stamped upon the registration card last issued for such vehicle during the preceding registration year, which registration card so indorsed or validated shall constitute the registration card for the ensuing registration year, and the department may, in place of issuing a new license plate or plates for the ensuing year, issue in lieu thereof a symbol or other device indicating the year number for which issued, which symbol or device shall be attached to the license plate or plates issued for such vehicle for the preceding calendar year, and, when so attached, said license plates with such symbols or devices shall for the purposes of this code be deemed to be the license plate or plates for the ensuing registration year.

The foregoing is intended to provide alternative methods whereby the department may issue usual registration cards with usual license plates or symbols or devices, as above stated, or may issue such symbols or devices to be attached to the license plates for the preceding calendar year and issue usual registration cards or may indorse or authorize the indorsement of a receipt or validate the registration card for the preceding year.

(b) Where the department has issued a new registration card the department shall notify such legal owner by mail of the registration number assigned to such vehicle for the ensuing year.

CHAPTER 933

An act to amend Sections 8931, 8938, 8939 and 9100 and to repeal Section 9053 of, and to add Section 9055 to, the Health and Safety Code, and to repeal Chapter 106 of the Statutes of 1909, relating to cemetery districts.

Stats 1939, p 482, amended
Stats 1909, p 156, repealed

[Approved by Governor July 3, 1941 Filed with Secretary of State July 8, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 8931 of the Health and Safety Code is hereby amended to read as follows:

Stats 1939, p 720

8931. Before any new district is created, the board shall call a special election to determine whether or not the district shall be created.

Special election

SEC. 2 Section 8938 of said code is hereby amended to read as follows:

Stats 1939, p 720

8938. If two-thirds or more of the votes are cast in favor of the formation of the district, the board of supervisors shall proceed with the organization.

Favorable vote

SEC. 3. Section 8939 of said code is hereby amended to read as follows:

Stats 1939, p 720

8939. If more than one-third of the votes are cast against the formation of the district, all further action by the board under the petition shall cease, and no further or other petition for the organization of a cemetery district in the territory specified in the petition shall be received or acted upon within six months after the election.

Unfavorable vote

SEC. 4. Section 9053 of said code is hereby repealed.

Stats 1939, p 724

SEC. 5. Section 9055 is hereby added to said code, to read as follows:

New section

9055. No territory shall be annexed except upon an affirmative vote of two-thirds or more of the qualified electors of said territory at an election which shall be called, noticed, conducted, and the results determined as provided in this part for elections on formation of districts. If two-thirds or more of the votes at such election are in favor of annexation the board shall make an order declaring the territory annexed to the district and thereafter said territory shall be a part of the district, and, with the rest of the district, liable for all taxes to be levied for the operation and maintenance of the district.

Annexation election

Stats. 1939, p. 725

SEC. 6. Section 9100 of said code is hereby amended to read as follows:

Effect of repeal

9100. No right or obligation of a cemetery district formed and operating pursuant to the provisions of Chapter 106, Statutes of 1909, as amended, is affected by the repeal of that act, but any district so organized and operating may continue in existence only subject to this part.

Repeal

SEC. 7. Chapter 106 of the Statutes of 1909 is hereby repealed.

CHAPTER 934

Stats 1935, p 496, amended

An act to amend Section 10434 of the Insurance Code, relating to insurance.

In effect September 13, 1941

[Approved by Governor July 3, 1941. Filed with Secretary of State July 8, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p. 652

SECTION 1. Section 10434 of the Insurance Code is hereby amended to read as follows:

Restriction on compensation to officers:

10434. A domestic insurer shall not pay nor contract to pay, directly or indirectly, any compensation contingent upon the acts set forth in subdivision (a) to any of the parties specified in subdivision (b):

(a) It shall not pay to such party any commission or other compensation contingent upon any of the following acts:

Domestic insurers

(1) The writing or procuring of any policy of life, disability or both classes of insurance in such insurer.

(2) Procuring an application therefor by any person.

(3) The payment of any renewal premium or the assumption of any life, disability or both of these classes of insurance by such insurer.

(b) It shall not pay such compensation to:

(1) Its president.

(2) Its vice president.

(3) Its secretary.

(4) Its treasurer.

(5) Its actuary.

(6) Its medical director or other physician charged with the duty of examining risks or applications for any of these classes of insurance.

(7) Any member of its board of directors.

(8) Any officer of the insurer other than its agent or solicitor.

Foreign insurers

(c) This section shall apply to admitted foreign insurers as respects the transaction of life and disability insurance in this State, but not otherwise, except as provided in subdivision (d).

(d) Where the commissioner finds after hearing that an admitted foreign insurer is engaged in any other State or country in any of the acts prohibited to domestic insurers by this section and that the solvency of such an insurer is endangered by such acts, he shall notify the insurer to discontinue such acts. Upon receipt of such an order, the insurer shall discontinue such acts.

CHAPTER 935

An act to amend Section 8 of the Alcoholic Beverage Control Act, relating to renewal of alcoholic beverage licenses.

Stats 1935, p 1123, amended

[Approved by Governor July 3, 1941 Filed with Secretary of State July 8, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 8 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Stats 1937, p 2138

Sec. 8. All retailer's on-sale licenses, except on-sale distilled spirits licenses for seasonal businesses, shall be issued on a calendar year basis, except that the board may issue special licenses for the sale of beer or wine on a temporary basis for premises temporarily occupied by the licensee for a picnic, social gathering, or similar occasion at a fee of five dollars ($5) per day. All other licenses issued under this act shall be issued on the basis of a fiscal year, commencing July 1st and ending June 30th.

Period for which licenses issued

Every license issued under this act, effective on or after January 1, 1938, other than a temporary license, shall be renewable unless such license has been revoked; provided, that renewal application is made and the fee therefor is paid on or before the date on which payment thereof is due; and provided, that the board may refuse any license when the applicant is delinquent in the payment of any taxes owing under this act, the Retail Sales Tax Act of 1933, as amended, or the Use Tax Act of 1935, as amended. If the fee for any license is not so paid, such license is automatically suspended, but may be reinstated by the board within 31 days thereafter upon payment of the amount due. Unless such license is so reinstated, it is automatically revoked 31 days after the date upon which payment therefor is due, and no license shall be issued to the licensee thereunder except upon a new application.

Renewal

Suspension and reinstatement

Revocation

CHAPTER 936

An act to provide for the establishment and maintenance of a College of Veterinary Medicine in the University of California, and to make an appropriation therefor.

In effect September 13, 1941

[Approved by Governor July 9, 1941. Filed with Secretary of State July 10, 1941.]

The people of the State of California do enact as follows:

Appropriation: College of Veterinary Medicine

SECTION 1. Out of any money in the State Treasury not otherwise appropriated, there is hereby appropriated to The Regents of the University of California the sum of five hundred thousand dollars ($500,000) to be expended by The Regents of the University of California for the purpose of establishing, equipping and maintaining as a unit of the University of California a College of Veterinary Medicine.

CHAPTER 937

Stats 1937, p 1005, amended

An act to add Division 2.5, comprising Chapter 1, Sections 1700 to 1783, inclusive, to the Welfare and Institutions Code, creating a Youth Correction Authority, prescribing its powers and duties, providing for commitments thereto of convicted persons under 23 years of age at the time of their apprehension and making an appropriation therefor.

In effect September 13, 1941

[Approved by Governor July 9, 1941. Filed with Secretary of State July 10, 1941.]

The people of the State of California do enact as follows:

New division

SECTION 1. Division 2.5, comprising Chapter 1, Sections 1700 to 1783, inclusive, is hereby added to the Welfare and Institutions Code, to read as follows:

DIVISION 2.5. YOUTHS

CHAPTER 1. THE YOUTH CORRECTION AUTHORITY

Article 1. General Provisions and Definitions

Purpose

1700. The purpose of this chapter is to protect society more effectively by substituting for retributive punishment methods of training and treatment directed toward the correction and rehabilitation of young persons found guilty of public offenses. To this end it is the intent of the Legislature that the chapter be liberally interpreted in conformity with its declared purpose.

Short title

1701. This chapter may be cited as the Youth Correction Authority Act.

Application of chapter

1702. This chapter shall apply only to public offenses committed subsequently to the date upon which it becomes effective.

Definitions

1703. As used in this chapter

(a) "Public offenses" means public offenses as that term is defined in the Penal Code;

(b) "Court" includes any official authorized to impose sentence for a public offense;

(c) The masculine pronoun includes the feminine.

Construction

1704. Nothing in this chapter shall be deemed to interfere with or limit the jurisdiction of the juvenile court.

Article 2. Creation and Organization of a Youth Correction Authority

Youth Correction Authority

1710. There is hereby created a Youth Correction Authority for this State, hereinafter called "the Authority," whose function is to provide and administer preventive and corrective training and treatment for persons committed to it as hereinafter provided.

Membership

1711. The Authority shall consist of three members, who shall devote their entire time to its work. A majority shall constitute a quorum.

Appointment

1712. Of the three positions on the Authority, one position shall be filled by appointment by the Governor of a person who meets the requirements of this chapter.

The second and third positions on the Authority shall be filled by appointment by the Governor from the list of persons recommended by the Advisory Panel for that appointment.

Advisory Panel

1713. The following persons are hereby constituted the Advisory Panel: The President of the California Conference of Social Work, the President of the California Probation and Parole Officers Association, the President of the State Bar of California, the President of the California Medical Association and the President of the Prison Association of California.

Meetings, recommendations

1714. Within 30 days after the effective date of this act, the Secretary of State shall notify each member of the panel by registered mail to meet in the office of the Secretary of State at the State Capitol in Sacramento at 10 o'clock a.m. on the third Monday after the date of the notice. Upon such day the Advisory Panel shall meet, and shall recommend to the Governor at least six persons who meet the requirements of this chapter.

Thereafter the Secretary of State shall notify the members of the Advisory Panel at least 60 days prior to the expiration

of the term of any member of the Authority filling positions No. 2 or 3, to meet in the office of the Secretary of State at 10 o'clock a.m. on the third Monday following the date of such notice and upon such day the board shall meet and recommend to the Governor at least three persons who meet the requirements of this chapter.

In the case of a vacancy occurring in the second or third positions on the Authority by reason of a cause other than expiration of a term, the Secretary of State shall within 10 days thereof notify the members of the Advisory Panel to meet in the office of the Secretary of State in Sacramento on the third Monday thereafter and the panel shall meet on that day and recommend to the Governor at least three persons who meet the requirements of this chapter.

Expenses

1715. The members of the Advisory Panel shall receive their necessary expenses in connection with their duties under this act.

Quorum

1716. Three members of the Advisory Panel shall constitute a quorum of the Advisory Panel and may act for the panel. If on the day fixed by this chapter for a meeting of the Advisory Panel a quorum does not attend, a lesser number than a quorum may adjourn from time to time, but not beyond the thirtieth day after the date fixed by this chapter for the meeting of the Advisory Panel. If the Advisory Panel does not transmit its recommendations to the Governor within 40 days after the date fixed by this chapter for the meeting of the Advisory Panel the Governor may appoint any qualified person to the position for which the meeting was to recommend persons.

Appointments to vacancies

1717. All appointments to a vacancy occurring by reason of any cause other than the expiration of a term shall be for the unexpired term. Each member shall hold until the appointment and qualification of his successor.

Confirmation by Senate

1718. All appointments to membership on the Authority shall be subject to confirmation by the Senate, as provided in this article.

If the first appointments to the Authority, or any of the succeeding appointments to fill vacancies, are made while the Senate is not in session, the persons appointed shall immediately undertake the performance of their duties and their names shall be submitted to the Senate for confirmation at the session of the Legislature first occurring thereafter, whether regular or extraordinary. As used in this section, the Senate is in session when it has convened, has not adjourned sine die, and has not recessed for more than three days. Failure of the Senate to confirm or reject the appointments, unless it adopts the resolution provided for in the next succeeding section, is equivalent to confirmation.

Unconfirmed appointments

1719. If the Senate, in lieu of failing to confirm, finds that it can not consider all or any of the appointments to the Authority adequately because the amount of legislative business and the probable duration of the session do not permit, it may adopt a single house resolution by a majority vote of all members elected to the Senate to that effect and requesting the resubmission of the unconfirmed appointment or appointments at a succeeding session of the Legislature, whether regular or extraordinary, convening on or after a date fixed in the resolution. This resolution shall be filed immediately after its adoption in the office of the Secretary of State and the appointee or appointees affected shall serve subject to later confirmation or rejection by the Senate.

Term of office

1720. The term of office of members of the Authority shall be four years, except that the terms of the first members shall expire as follows: One member, October 1, 1943; one member, October 1, 1944; and one member, October 1, 1945. The first members of the Authority shall determine the assignment of the initial terms by lot. Members shall be eligible for reappointment.

Qualifications

1721. All persons appointed to the Authority shall, in so far as possible, have legal and administrative ability, educational experience, and experience in the study of youthful offenders and in planning corrective training and treatment for such offenders. A person peculiarly well qualified for such appointment may be appointed, even though such person is not, at the time of the appointment, a resident of this State.

Salary and expenses

1722. The members of the Authority shall receive a salary of ten thousand dollars ($10,000) a year and their actual necessary traveling expenses to the same extent as is provided for other State officers.

Chairman

1723. The members of the Authority shall annually elect one of their number chairman of the Authority. He shall continue to serve as such until another member is elected by the Authority to that position. No member shall be ruled ineligible to serve as chairman by reason of any previous service as chairman.

Removal

1724. The Governor may remove any member of the Authority for misconduct, incompetency and neglect of duty, after serving charges in writing upon such member and affording him an opportunity to be heard.

Article 3. Commitments to Youth Correction Authority

Prerequisites to commitments to Authority

1730. (a) No person may be committed to the Authority until the Authority has certified in writing to the Governor that it has approved or established places of preliminary

detention and places for examination and study of persons committed, and has other facilities and personnel sufficient for the proper discharge of its duties and functions.

(b) Before certification to the Governor as provided in subsection (a), a court shall, upon conviction of a person under 23 years of age at the time of his apprehension, deal with him without regard to the provisions of this chapter.

Determining age of offender

1731. When in any criminal proceeding in a court of this State a person has been convicted of a public offense for which the court has power under this chapter to commit to the Authority, the court shall determine whether the person was less than 23 years of age at the time of the apprehension from which the criminal proceeding resulted. Proceedings in a juvenile court in respect to a juvenile are not criminal proceedings as that phrase is used in this chapter.

Conditions for commitment to Authority

1731.5. After certification to the Governor as provided in this article and until January 1, 1944, a court shall commit to the Authority any person convicted of a public offense whom the Authority believes can be materially benefited by the procedure herein provided for, and for whose care and maintenance there exists, in the opinion of the Authority, proper and adequate facilities, and who

(a) Is found to be less than 23 years of age at the time of apprehension

(b) Is not sentenced to death, imprisonment for life, imprisonment for not more than 90 days, or the payment of a fine.

Same

1732. Except as otherwise provided in this chapter the court shall commit to the Authority every person convicted of a public offense after January 1, 1944, who

(a) Is found to be less than 23 years of age at the time of apprehension, and

(b) Is not sentenced to death, imprisonment for life, imprisonment for not more than 90 days, or the payment of a fine, and

(c) Is not granted probation.

Place of imprisonment

1732.4. A person who is convicted of a public offense, who is found to have been less than 23 years of age at the time of apprehension, and who is sentenced to not more than 90 days imprisonment, may be imprisoned only in a place which has been approved for that purpose by the Authority.

Commitment only where prior conviction, etc

1732.7. A person who is convicted of a public offense for which the maximum penalty provided by law is imprisonment for not more than 90 days, and who is found to be less than 23 years of age at the time of his apprehension, may be committed to the Authority only if it is brought to the court's knowledge that the person has been previously convicted of a public offense or has been a ward of the juvenile court by reason of a public offense and the court is satisfied that society will best be protected by commitment to the Authority.

Revocation or suspension of license

1733. Nothing in this chapter prevents a court from revoking or suspending any license issued to the defendant under any law of this State where such revocation or suspension is otherwise provided for.

When probation refused

1734. The court shall not grant probation to a person subject to commitment to the Authority if the order granting probation requires more than three months imprisonment.

Nonpayment of fine

1735. If the court sentences a person under 23 years of age at the time of his apprehension to the payment of a fine and the fine is not paid, the court may either remit the fine in whole or in part, or commit him to confinement for a length of time permitted by the statutes relating to imprisonment for failure to pay fines. But such confinement may be only in a place approved by the Authority.

Juvenile court commitments

1736. The juvenile court may in its discretion commit persons subject to its jurisdiction to the Authority, and the Authority may in its discretion accept such commitments.

Suspension of execution

1737. After a court has committed a person to the Authority such court has no power to suspend execution of the commitment.

Order to place of detention

1738. When the court commits a person to the Authority the court may order him conveyed forthwith to some place of detention approved or established by the Authority or may direct that he be left at liberty until otherwise ordered by the Authority under such conditions as in the court's opinion will insure his submission to any orders which the Authority may issue.

New trial or appeal

1739. (a) The right of a person who has been convicted of a public offense to a new trial or to an appeal from the judgment of conviction shall not be affected by anything in this chapter.

Stay of execution

(b) When a person who has been convicted and committed to the Authority appeals from the conviction, the execution of the commitment to the Authority shall not be stayed by the taking of the appeal except as provided in subsection (c). The person so committed shall remain subject to the control of the Authority, until final disposition of the appeal.

Bail

(c) A person convicted and committed to the Authority may be admitted to bail under the provisions of Section 1272 of the Penal Code, or in the discretion of the court, may be left at liberty, under such conditions as in the court's opinion will insure his cooperation in reasonable expedition of the appellate proceedings and his submission to the control of the Authority at the proper time.

Copy of order

1740. When a court commits a person to the Authority such court shall at once forward to the Authority a certified copy of the order of commitment.

Report on person committed

1741. The judge before whom the person was tried and committed, the district attorney or other official who conducted the prosecution, and the probation officer of the county, shall obtain and with the order of commitment furnish to the Authority, in writing, all information that can be given in regard to the career, habits, degree of education, age, nationality, parentage and previous occupations of such person, together with a statement to the best of their knowledge as to whether such person was industrious, and of good character, the nature of his associates and his disposition.

The reports required by this section shall be made upon forms furnished by the Authority or according to an outline furnished by it.

When a person has been committed to the Authority, the court and the prosecuting and police authorities and other public officials shall make available to the Authority all pertinent data in their possession in respect to the case.

Article 4. Powers and Duties of Youth Correction Authority

Expenditures

1750. The Authority is limited in its expenditures to funds specifically made available for its use.

Rules

1751. The Authority is authorized to make and enforce all rules appropriate to the proper accomplishment of its functions.

Powers

1752. To the extent that necessary funds are available for the purposes, the Authority may

(a) Establish and operate a treatment and training service and such other services as are proper for the discharge of its duties;

(b) Create administrative districts suitable to the performance of its duties;

(c) Employ and discharge all such persons as may be needed for the proper execution of its duties. Such employment and discharge shall be in accord with the civil service laws of this State.

Youth delinquency work

1752.5. The Authority may establish or assist in the establishment of any public council or committee, and may assist and cooperate with any existing agency, having as its object the prevention or decrease of delinquency among youths; and the Authority may cooperate with or participate in the work of any such councils, or any existing councils, including the improving of recreational, health and other conditions in the community affecting youths.

Utilization of facilities

1753. For the purpose of carrying out its duties, the Authority is authorized to make use of law enforcement, detention, probation, parole, medical, educational, correctional, segregative and other facilities, institutions and agencies, whether public or private, within the State. The Authority may enter into agreements with the appropriate public officials for separate care and special treatment in existing institutions of persons subject to the control of the Authority.

Limitations on Authority

1754. Nothing in this chapter shall be taken to give the Authority control over existing facilities, institutions or agencies; or to require them to serve the Authority inconsistently with their functions, or with the authority of their officers, or with the laws and regulations governing their activities; or to give the Authority power to make use of any private institution or agency without its consent; or to pay a private institution or agency for services which a public institution or agency is willing and able to perform.

Duty of public institutions and agencies

1755. Public institutions and agencies are hereby required to accept and care for persons sent to them by the Authority in the same manner as they would be required to do had such persons been committed by a court of criminal jurisdiction.

Transfers to State hospital, etc.

1756. No person under the control of the Authority shall be transferred to any State hospital or home for the insane or feeble-minded, except for observation and diagnosis, unless such person is committed to such hospital or home in accordance with the procedure prescribed in the Welfare and Institutions Code.

Inspection

1757. The Authority is hereby given the right to inspect all public institutions and agencies whose facilities it is authorized to utilize and all private institutions and agencies whose facilities it is using. Every institution or agency, whether public or private, is required to afford the Authority reasonable opportunity to examine or consult with persons committed to the Authority who are for the time being in the custody of the institution or agency.

Control of persons placed

1758. Placement of a person by the Authority in any institution or agency not operated by the Authority, or the discharge of such person by such an institution or agency, shall not terminate the control of the Authority over such person.

Release

1759. No person placed in such an institution or under such an agency may be released by the institution or agency until after approval of the release by the Authority, unless the institution or agency would have power under the law to release at its own discretion persons committed to it by order of a court. In the latter case, it may not release a person placed by the Authority until a reasonable time after it has notified the Authority of its intention to release him.

Establishment and operation of facilities

1760. The Authority is hereby authorized when necessary and when funds are available for such purposes to establish and operate

(a) Places for the detention, prior to examination and study, of all persons committed to it;

(b) Places for examination and study of persons committed to it;

(c) Places of confinement, educational institutions, hospitals and other correctional or segregative facilities, institutions and agencies, for the proper execution of its duties;

(d) Agencies and facilities for the supervision, training and control of persons who have not been placed in confinement or who have been released from confinement by the Authority upon conditions, and for aiding such persons to find employment and assistance;

(e) Agencies and facilities designed to aid persons who have been discharged by the Authority from its control in finding employment and in leading a law-abiding existence.

Examination of person committed

1761. When a person has been committed to the Authority it shall under rules established by it forthwith examine and study him and investigate all the pertinent circumstances of his life and the antecedents of the violation of law because of which he has been committed to it.

Re-examinations

1762. The Authority shall make periodic re-examinations of all persons within its control for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These examinations may be made as frequently as the Authority considers desirable and shall be made with respect to every person at intervals not exceeding one year.

Records

1763. The Authority shall keep written records of all examinations and of the conclusions predicated thereon and of all orders concerning the disposition or treatment of every person subject to its control.

Failure to examine or re-examine

1764. Failure of the Authority to examine a person committed to it, or to re-examine him within two years of a previous examination, shall not of itself entitle the person to discharge from the control of the Authority, but shall entitle him to petition the superior court of the county from which he was committed for an order of discharge, and the court shall discharge him unless the Authority satisfies the court of the need for further control.

Continued study

1765. (a) Except as otherwise provided in this chapter, the Authority shall keep under continued study a person in its control and shall retain him, subject to the limitations of this chapter, under supervision and control so long as in its judgment such control is necessary for the protection of the public.

(b) The Authority shall discharge such person as soon as in its opinion there is reasonable probability that he can be given full liberty without danger to the public. Discharge

1766. (a) When a person has been committed to the Authority it may Discretionary powers

(1) Permit him his liberty under supervision and upon such conditions as it believes conducive to law-abiding conduct;

(2) Order his confinement under such conditions as it believes best designed for the protection of the public;

(3) Order reconfinement or renewed release under supervision as often as conditions indicate to be desirable;

(4) Revoke or modify any order except an order of discharge as often as conditions indicate to be desirable;

(5) Discharge him from its control when it is satisfied that such discharge is consistent with the protection of the public.

1767. Every order granting probation to, committing to an institution, granting and revoking parole and issuing final discharges to any person under the control of the Authority shall be made by the Authority and the Authority may not delegate the making of such decisions to any other body or person. Orders; delegation of powers

All other powers conferred on the Authority may be exercised through subordinates under rules established by the Authority. Any person subjected to an order of such subordinates may petition the Authority for review. The Authority may review such orders under appropriate rules and regulations.

1768. As a means of correcting the socially harmful tendencies of a person committed to it, the Authority may Corrective powers

(a) Require participation by him in vocational, physical, educational and corrective training and activities;

(b) Require such conduct and modes of life as seem best adapted to fit him for return to full liberty without danger to the public welfare;

(c) Make use of other methods of treatment conducive to the correction of the person and to the prevention of future public offenses by him.

1769. Every person committed to the Authority by a juvenile court shall be discharged upon the expiration of a two-year period of control or when the person reaches his twenty-first birthday, whichever occurs later. Discharge Persons committed by juvenile court

1770. Every person convicted of a misdemeanor and committed to the Authority shall be discharged upon the expiration of a two-year period of control or when the person reaches his twenty-third birthday, whichever occurs later. Same Misdemeanants

Same: Felons

1771. Every person convicted of a felony and committed to the Authority shall be discharged when such person reaches his twenty-fifth birthday, unless a petition is filed under Article 5 of this chapter. In the event such a petition is filed, the Authority shall retain control until the final disposition of the proceeding under Article 5.

Release from penalties for offense for which committed

1772. Every person discharged from control by the Authority who has not, during the period of control by the Authority, been placed by the Authority in a State prison may petition the court which committed him, and the court may upon such petition set aside the verdict of guilty and dismiss the accusation or information against the petitioner who shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he was committed.

Every person discharged from control by the Authority shall be informed of this privilege in writing at the time of discharge.

Article 5. Commitment to State Prison After Expiration of Control

Petition

1780. If the date of discharge occurs before the expiration of a period of control equal to the maximum term prescribed by law for the offense of which he was convicted, and if the Authority believes that unrestrained freedom for said person would be dangerous to the public, the Authority shall petition the court by which the commitment was made.

The petition shall be accompanied by a written statement of the facts upon which the Authority bases its opinion that discharge from its control at the time stated would be dangerous to the public, but no such petition shall be dismissed merely because of its form or an asserted insufficiency of its allegations; every order shall be reviewed upon its merits.

Notice

1781. Upon the filing of a petition under this article, the court shall notify the person whose liberty is involved, and if he is a minor his parent or guardian if practicable, of the application and shall afford him an opportunity to appear in court with the aid of counsel and of process to compel attendance of witnesses and production of evidence. When he is unable to provide his own counsel, the court shall appoint counsel to represent him.

Order

1782. Such committing court may thereupon discharge the person, admit him to probation or may commit him to the State prison. The maximum term of imprisonment for a person committed to a State prison under this section shall be a period equal to the maximum term prescribed by law for the offense of which he was convicted less the period during which he was under the control of the Authority. The State Board of Prison Directors may, upon the recommendation of

the Authority allow any such person time credit reductions from his term of confinement according to the table set forth in Section 2920 of the Penal Code for the time during which such person was under the control of the Authority.

1783. An appeal may be taken from the order of the court committing a person to the State prison under this chapter in the same manner as appeals are taken from convictions in the criminal cases under the Penal Code. Appeal

SEC. 2. Out of any money in the State Treasury not otherwise appropriated there is hereby appropriated the sum of one hundred thousand dollars ($100,000) to the Youth Correction Authority during the Ninety-third and Ninety-fourth Fiscal Years for the purposes of this act. Appropriation

SEC. 3. If any article, section, subdivision, sentence, clause, or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portion of this act. The Legislature hereby declares that it would have passed this act in each article, section, subdivision, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional. Constitutionality

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CHAPTER 938

An act to add Section 7512.5 to the Business and Professions Code, relating to the regulation of detectives, investigators and detective agencies. Stats 1937, p 1229, amended

[Approved by Governor July 9, 1941 Filed with Secretary of State July 10, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7512 5 is hereby added to the Business and Professions Code, to read as follows: New section

7512.5. This chapter shall not apply to patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 21 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission. Application of chapter

CHAPTER 939

An act making an additional appropriation for construction, improvements, and equipment at the University of California.

In effect September 13, 1941

[Approved by Governor July 8, 1941. Filed with Secretary of State July 10, 1941.]

The people of the State of California do enact as follows:

Appropriation: University of California

SECTION 1. In addition to any money otherwise appropriated to The Regents of the University of California, the sum of two million dollars ($2,000,000) is hereby appropriated out of any money in the State Treasury not otherwise appropriated to be expended by The Regents of the University of California for construction, improvements and equipment at the University of California during the Ninety-third and Ninety-fourth Fiscal Years.

CHAPTER 940

Stats 1935, p 1226, amended

An act to amend Section 39 of, to repeal Section 42 of, and to add Sections 41.1, 41.2, 41.3 and 42 to, the Unemployment Insurance Act, relating to experience rating.

In effect September 13, 1941

[Approved by Governor July 11, 1941. Filed with Secretary of State July 12, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2147

SECTION 1. Section 39 of the act cited in the title hereof is hereby amended to read as follows:

Contribution rate

(a) The provisions of the first paragraph of subsection (c) of Section 38 of this act shall not apply in fixing contributions for any period subsequent to December 31, 1940. After December 31, 1940, employers shall pay into the Unemployment Fund contributions upon all wages with respect to which contributions become due and payable for employment subject to this act at rates as provided in this section. The contribution rate for an employer for any rating period shall be:

(1) If as of the computation date for such rating period the employer's net balance of reserve is less than 7½ per cent of his average base pay roll, 2.7 per cent, which rate is hereby defined as the "general rate."

(a) If as of such computation date the employer's net balance of reserve is 7½ per cent or more, but less than 9 per cent of his average base pay roll, 2.5 per cent.

(3) If as of such computation date for such rating period the employer's net balance of reserve is 9 per cent or more, but less than 10 per cent of his average base pay roll, 2 per cent.

(4) If as of such computation date the employer's net balance of reserve is 10 per cent or more, but less than 11 per cent of his average base pay roll, 1½ per cent.

(5) If as of such computation date the employer's net balance of reserve is 11 per cent or more of his average base pay roll, 1 per cent.

(b) The minimum contribution rate payable to the fund on behalf of any employer shall be 1 per cent.

(c) No employer shall be considered eligible for a contribution rate of less than 2.7 per cent for the rating period January 1, 1941, to June 30, 1941, unless such employer has had a pay roll subject to tax under this act in each of the five years preceding January 1, 1941, and unless the separate account of such employer shall have been subject to benefit charges during the period of 12 complete consecutive calendar quarters ending on the computation date for such rating period and he is qualified under subsection (a) of this section; no employer shall be considered eligible for a contribution rate of less than 2.7 per cent for any subsequent rating period unless the reserve account of such employer shall have been subject to benefit charges during the period of 12 complete consecutive calendar quarters ending on the computation date for such rating period and he is qualified under subsection (a) of this section.

New section

SEC. 2. Section 41.1 is hereby added to the act cited in the title hereof, to read as follows:

Statements to employers

Sec. 41.1. (a) The commission shall furnish each employer with itemized statements showing the charges to his account and with statements showing the credits to his account, the net balance of his reserve and his contribution rate for the next succeeding rating period. Such statements shall be furnished not less frequently than annually. Such statement or statements of account shall be mailed to each employer at his last known address as shown on the records of the commission.

Protest

(b) The employer shall have 60 days after the date of mailing of any statement within which to protest any of the items shown thereon. The commission may for good cause extend the time for the filing of any such protest. Unless such protest is filed within the period prescribed herein or within any extended period, such statement shall be conclusively presumed to be correct; provided, that the commission upon its own initiative after notice to the employer and opportunity for him to protest may amend any statement if it subsequently finds any entries thereon to be incorrect.

Refunds or credit

(c) In the event that a protest proceeding is pending with respect to any statement provided for above when any contribution becomes due, the employer shall pay the contribution at the rate indicated by the commission's computation. If a determination indicating that a lesser contribution rate should have been computed is subsequently made in favor of the employer, the commission immediately either shall

refund to the employer or credit to his account any amount so determined to have been paid in excess of the amount which he would have been required to pay had the computation been made correctly. Such refund or credit also shall be made to the employer if the commission on its own initiative finds that an excessive contribution rate was computed for the employer. An amendment by the commission on its own initiative shall not affect the contribution rate for any rating period preceding the rating period during which such amendment was made but if such amendment results in a determination that a different contribution rate should have been computed for the current rating period the commission shall compute the proper contribution rate which rate shall be effective for the current rating period. Any additional contributions thus required to be paid shall be deemed to be due as contributions for the quarter in which the employer is notified of such determination.

Action to recover overpayments

(d) In the event that the determination in any protest proceeding is rendered against the employer, the employer may bring an action against the commission with respect to such determination to recover any amount of contribution claimed as an overpayment as a result of such determination notwithstanding that no protest was filed at the time of the payment of the contribution, within 60 days after notice of the determination in such protest proceeding has been given except that the commission, in writing, at any time prior to the expiration of said 60-day period, may extend the time during which such action may be instituted for a period not exceeding two years from the giving of such notice.

New section

SEC. 3. Section 41.2 is hereby added to the act cited in the title hereof, to read as follows:

Contribution rate
Delinquent employers

SEC. 41.2. No employer's contribution rate for any rating period commencing on or after January 1, 1942, shall be less than 2.7 per cent if he has failed:

(a) To file with the commission on or before the close of the calendar month following the computation date for such rating period (unless the commission has granted a further extension for the filing thereof) such contribution reports and worker earning reports as may be required of employers generally by the commission for periods ending on or before such computation date, and

(b) To pay within two months or within such further time as the commission may fix after such computation date all contributions (excluding interest and penalties and unless the commission has granted a further extension for the payment thereof) shown to be due on such reports filed with the commission for periods ending on or before such computation date.

(c) The provisions of this section shall not apply in any case where the employer establishes to the satisfaction of the commission that his failure to file or pay was not due to any intention to evade or avoid the provisions of this act.

SEC. 4. Section 41 3 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 41.3. Whenever it appears that the funds on hand in the Unemployment Fund are less than one and one-half times the amount of benefits paid during the preceding calendar year, the commission, by appropriate notice, may invoke a contribution rate of 2.7 per cent from all employers, in lieu and regardless of any reduced or lower rate herein elsewhere prescribed; provided, however, that such rate shall be effective only until the expiration of the next quarter during which the fund again becomes equal to or in excess of one and one-half times the amount of benefits paid during the then preceding calendar year. Rate when fund low

SEC. 5. Section 42 of the act cited in the title hereof is hereby repealed. Stats 1935, p 1233

SEC. 6. Section 42 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 42. (a) The term "computation date" as used herein means: "Computation date"

(1) The close of business on December 31, 1940, for the purpose of establishing contribution rates for the period January 1, 1941, to and including June 30, 1941.

(2) The close of business on June 30, 1941, for the purpose of establishing contribution rates for the period July 1, 1941, to and including December 31, 1941.

(3) Also the close of business on June 30, 1941, for the purpose of establishing contribution rates for the calendar year 1942.

(4) Thereafter, the close of business on June 30th, of each calendar year for the purpose of establishing contribution rates for the next succeeding calendar year.

(b) The term "rating period" as used herein means: "Rating period"

(1) The period from January 1, 1941, to and including June 30, 1941, with respect to the computation date provided for in subsection (a) (1) of this section.

(2) The period from July 1, 1941, to and including December 31, 1941, with respect to the computation date provided for in subsection (a) (2) of this section.

(3) The calendar year 1942 with respect to the contribution date provided in subsection (a) (3) of this section.

(4) The full calendar year next succeeding any computation date provided for in subsection (a) (4) of this section.

(c) The term "net balance of reserve" means the excess, if any, of credits required to be made to any employer's account as of any computation date over and above charges against such employer's account as of that computation date. "Net balance of reserve"

(d) The term "average base pay roll" means the quotient obtained by dividing by three the total amount of taxable wages payable or paid as the case may require, by an employer during the most recent period of three consecutive calendar years immediately preceding or ending on the computation date. "Average base pay roll"

"Contributions paid on his own behalf"

(e) The term "contributions paid on his own behalf" as used herein, means all contributions paid to the Unemployment Fund on behalf of an employer with respect to taxable wages paid or payable (as the case may require) by him on or before the computation date for determining a reduced contribution rate for any rating period; provided, such contributions had been paid on or before the end of the calendar month next succeeding such computation date.

Charge of benefits to employer's account

(f) The charge of benefits to an employer's account required by Section 41 of this act shall be made in such manner as to include as of each computation date all benefit payments made on or before the end of the month succeeding the computation date with respect to compensable weeks of unemployment beginning on or before such computation date. Benefit payments made subsequent to the end of the month succeeding any computation date with respect to compensable weeks of unemployment beginning on or before such computation date shall be included in computing the contribution rate for the employer during rating periods following the computation date next succeeding the date of payment of such benefits.

Construction

SEC. 7. This act and the changes it makes to the Unemployment Insurance Act by amending Sections 39 and 42 of, and adding Sections 41.1, 41.2 and 41.3 to the Unemployment Insurance Act shall be construed and applied as though it were in operation on January 1, 1941.

CHAPTER 941

"Burns-Biggar Act"

An act to provide for the improvement and reconstruction of a road in the County of Mendocino, and making an appropriation therefor.

In effect September 13, 1941

[Approved by Governor July 11, 1941. Filed with Secretary of State July 14, 1941.]

The people of the State of California do enact as follows:

Appropriation Department of Public Works

SECTION 1. Out of any unexpended or unencumbered money heretofore or hereafter appropriated to the Emergency Fund specified in Item 212 of the Budget Act of 1939 by Chapter 1 of the Fourth Extraordinary Session of the Fifty-third Legislature the sum of forty thousand dollars ($40,000) or so much thereof as may be necessary, is hereby appropriated to the State Department of Public Works for expenditure during the Ninety-third and Ninety-fourth Fiscal Years for the improvement and reconstruction of that certain county road from Route 56 at Westport to Route 1 at Leggett Valley.

Conditions

SEC. 2. Not more than 50 per cent of the money hereby appropriated shall be available for expenditure during any one fiscal year, and none of the money hereby appropriated

shall be expended during any one fiscal year unless and until money equal to the amount expendable from this appropriation during that fiscal year shall have been made available by the County of Mendocino, for expenditure by the State for said work, to the end that any sums expended from this appropriation shall be matched by like amounts from the county.

SEC. 3. This act shall be known as the Burns-Biggar Act. Short title

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CHAPTER 942

An act making an appropriation for the acquisition, development and maintenance of ocean beaches for public use.

[Approved by Governor July 11, 1941 Filed with Secretary of State July 14, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The sum of five hundred thousand dollars ($500,000), or so much thereof as may be necessary is hereby appropriated to the Division of Parks in the Department of Natural Resources out of any money in the State Treasury not otherwise appropriated, to be expended for the acquisition, development and protection of ocean beaches for public recreational use by the Division of Parks, and for the development and protection of public beaches owned by counties or municipalities where the Division of Parks determines that such development and protection is a matter of general public and State interest and concern. Appropriation Division of Parks

SEC. 2. The appropriation made by this act, if expended, shall be expended for ocean beaches along the California shore line. No portion of this appropriation shall be expended in any county which has not adopted a master plan of beaches for that county, which plan shall provide for the acquisition, development, and control of ocean beaches in such county nor shall any portion of this appropriation be expended for the acquisition, development or protection of any ocean beach unless moneys equal to or in excess of the amount to be expended from this appropriation for that purpose shall have been made available (by any person, corporation, political subdivision, public district or public agency other than the State) for expenditure by the State for that purpose, to the end that any sums expended from this appropriation shall be matched by like or greater amounts from sources other than the State Conditions Master plan of beaches Matching funds

CHAPTER 943

Stats. 1933, p. 60, amended

An act to amend Section 72 of the Agricultural Code, relating to the Division of Exhibits in the Department of Finance.

In effect September 13, 1941

[Approved by Governor July 11, 1941. Filed with Secretary of State July 14, 1941.]

The people of the State of California do enact as follows:

Stats. 1933, p. 68

SECTION 1. Section 72 of the Agricultural Code is hereby amended to read as follows:

Division of Fairs and Expositions

72. There shall be a Division of Fairs and Expositions in the Department of Finance. The division shall be in charge of a chief who shall be appointed by the Director of Finance, in accordance with the provisions of the State Civil Service Act.

CHAPTER 944

An act making an appropriation for acquisition, maintenance and development of, and construction, improvements and equipment at State beaches, parks and monuments.

In effect September 13, 1941

[Approved by Governor July 11, 1941. Filed with Secretary of State July 14, 1941.]

The people of the State of California do enact as follows:

Appropriation: Department of Natural Resources

SECTION 1. In addition to any money otherwise appropriated, the sum of three hundred thousand dollars ($300,000) is hereby appropriated to the State Department of Natural Resources out of any money in the State Park Maintenance and Acquisition Fund not otherwise appropriated, for the acquisition, maintenance and development of, and construction, improvements and equipment at State parks, beaches and monuments during the Ninety-third and Ninety-fourth Fiscal Years, exempt from the provisions of Section 5014 of the Public Resources Code.

Limitations

Not more than one hundred thousand dollars ($100,000) of the money appropriated by this act may be expended for the acquisition of State beaches, not more than one hundred thousand dollars ($100,000) of the money appropriated by this act may be expended for the acquisition of State parks and monuments, and not more than one hundred thousand dollars ($100,000) of the money appropriated by this act may be expended for the maintenance, development of, and construction, improvements and equipment at State beaches, parks, and monuments.

CHAPTER 945

An act to amend Sections 2493 and 2494 of the Business and Professions Code, relating to license fees of the Board of Osteopathic Examiners.

Stats 1937, p 1229, amended

[Approved by Governor July 11, 1941 Filed with Secretary of State July 14, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2493 of the Business and Professions Code is hereby amended to read as follows:

Stats. 1937, p. 1283

2493. Each person holding a certificate issued by the Board of Osteopathic Examiners residing in or out of California shall pay to the secretary-treasurer of the Board of Osteopathic Examiners an annual tax and registration fee on or before the first day of January of each year, and each person must submit together with the annual tax and registration fee, satisfactory evidence showing that the applicant has completed during the preceding year a minimum of 30 hours of professional educational work as approved by the board.

Annual fee

Educational work

SEC. 2. Section 2494 of said code is hereby amended to read as follows:

Stats 1937, p 1283

2494. The failure of any person holding a certificate issued by the Board of Osteopathic Examiners to pay the annual tax and registration fee or to comply with the educational requirements of Section 2493, during the time his certificate remains in force, shall, ipso facto, work a forfeiture of his certificate after a period of 60 days from the first day of January of each year.

Failure to pay

It shall not be restored except upon written application and the payment to the Board of Osteopathic Examiners of the fee provided by this article. The applicant must show that he has complied with the provisions of Section 2493, but in lieu of showing a minimum of 30 hours of professional educational work each year during the period of forfeiture, he may show a total number of hours as will equal 30 hours each year for the entire period of forfeiture. But no examination shall be required for the reissuance of a certificate that was forfeited under the provisions of this section.

Restoration of certificate

CHAPTER 946

Stats 1933, p 60, amended

An act to amend Section 239 of the Agricultural Code, relating to bovine tuberculosis indemnities.

In effect September 13, 1941

[Approved by Governor July 11, 1941. Filed with Secretary of State July 14, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 2209

SECTION 1. Section 239 of the Agricultural Code is hereby amended to read as follows:

Payment for animals slaughtered

239. When any animal is slaughtered under the provisions of this article, the owner shall receive:

(a) The proceeds of the sale of the salvage of the animal.

(b) From the State, one-third of the difference between the appraised value and the proceeds of the sale of the salvage, but in no instance to exceed seven dollars and fifty cents ($7.50) for any grade animal or twelve dollars and fifty cents ($12 50) for any purebred animal.

(c) From the United States, any sum authorized to be paid to him from any appropriation made by the United States to assist in the eradication of tuberculosis in cattle in California.

CHAPTER 947

Stats 1937, p 185, amended

An act to add Section 63 to the Labor Code, relating to refunds.

In effect September 13, 1941

[Approved by Governor July 11, 1941. Filed with Secretary of State July 14, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 63 is hereby added to the Labor Code, to read as follows:

Refunds

63. The Director may authorize the refund of moneys received or collected by the department in payment of license fees or for other services in cases where the license can not lawfully be issued or the service rendered to the applicant.

CHAPTER 948

An act to amend Section 4275 of the Political Code, relating to compensation for public services in counties of the forty-sixth class.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4275 of the Political Code is hereby amended to read as follows:

Stats 1941, p 1630

Tuolumne

4275. In counties of the forty-sixth class the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums:

Salaries

1. The auditor, one thousand nine hundred twenty dollars ($1,920) per annum.

Auditor

2. The district attorney, two thousand two hundred dollars ($2,200) per annum.

District attorney

3. Supervisors, each the sum of one thousand five hundred dollars ($1,500) per annum for all services performed by them, as supervisors, and members of the board of equalization and road commissioners.

Supervisors

In lieu of mileage, supervisors shall be entitled to the use of automobiles provided and maintained by any county of this class in connection with the performance of their official duties.

4. In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in criminal cases in said court, before the grand jury, for preliminary examinations and for coroners' inquests, and for transcribing notes in justices' courts preliminary examinations, a monthly salary of one hundred thirty-five dollars ($135), payable out of the county treasury at the same time and in the same manner as the salaries of the county officers are paid, and shall receive as compensation for taking notes, when required, in civil cases, a per diem as is now or may be hereafter provided by law, to be paid by the litigants as the court may direct; and for transcription of said notes, in civil cases, and in criminal cases on appeal from the superior court, such fees as are now or may be hereafter provided by law; said compensation for transcriptions in criminal cases on appeal from the superior court to be audited and allowed upon a written order of the court, and paid out of the county treasury and in civil cases to be paid by the party ordering the same or when ordered by the judge, by either party, or by both or all parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside of the county seat.

Court reporter

5. In counties of this class, grand jurors and jurors in the superior court in criminal and civil cases shall be paid three dollars ($3) per day for each day's attendance, and for each mile

Jurors

actually traveled in attending court as such juror under summons or under order of court, in going only, twenty-five cents ($0.25); and in criminal cases, the county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each juror, and the auditor shall then draw his warrant for the fees and mileage due such juror, and the treasurer shall pay the same.

Witnesses

6. In counties of this class, witnesses, when legally required to attend upon the superior court, in criminal cases, and upon the juvenile court in juvenile court matters, shall be paid two dollars ($2) per day for each day's actual attendance, and twenty-five cents ($0.25) per mile for each mile actually traveled, in going only; and in criminal cases and in juvenile court matters the county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each such witness, and the auditor shall then draw his warrant for the fees and mileage due such witness, and the treasurer shall pay the same.

CHAPTER 949

An act to amend Section 6.36 of the School Code, relating to the powers and duties of the governing boards of school districts.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1931, p 2364

SECTION 1. Section 6.36 of the School Code is hereby amended to read as follows:

Repairs may be made by day labor

6.36. In each school district, the governing board may make repairs, alterations or additions to school buildings, repair or build apparatus or equipment, make improvements on the school grounds and erect new buildings by day's labor, whenever the total cost of labor on the job does not exceed one thousand dollars ($1,000).

CHAPTER 950

An act to amend School Code Sections 2.230, 2.231, 2.232, 2.250, 2.251 and 2.252, and to add Article 9, to Chapter 4, of Part 1, of Division 2, of the School Code, all relating to union and joint union elementary school districts.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. School Code Section 2.230 is hereby amended to read as follows: Sch. C., 1929, p. 35

2.230. When a majority of the heads of families who reside in two or more contiguous elementary school districts, or union elementary school districts, lying in the same county, and who have children attending school as shown by the teachers' registers in the schools of the said districts in the same county, for the current or next preceding term, shall unite in a petition to the county superintendent of schools having jurisdiction over such district for the formation of a union elementary school district, to comprise the districts so petitioning, he shall within 20 days after receiving said petition, call an election for the determination of the question, and shall appoint three qualified electors in each of the districts petitioning or, if such districts be union elementary school districts, in each of the districts comprising the union elementary school districts, to conduct the election therein. Petition

SEC. 2. School Code Section 2.231 is hereby amended to read as follows: Sch. C., 1929, p. 35

2.231. The election shall be called by posting notices thereof in three of the most public places in each district, one of which places shall be, if there be one, a public schoolhouse in each district, at least 10 days before said election. Notice of election

SEC. 3. School Code Section 2.232 is hereby amended to read as follows: Sch. C., 1929, p. 35

2.232. The election shall be held separately and simultaneously in each of the districts petitioning. The election shall be conducted by the officers appointed for that purpose in the manner provided by law for conducting elections for members of governing boards of elementary school districts. Election

SEC. 4. School Code Section 2.250 is hereby amended to read as follows: Sch. C., 1929, p. 36

2.250. For the purposes of teachers' reports and for the estimating of the number of teachers and the amount of Separate existence of schools

money to which each district is entitled, the several districts uniting to form a union or joint union elementary school district and the several districts of the union elementary school districts uniting to form a union elementary school district shall continue their separate existence, and may also continue their separate existence for high school connections as provided for in Article 7 of Chapter 9 of this part.

Stats 1935, p 840

SEC. 5. School Code Section 2.251 is hereby amended to read as follows:

Enrollment and attendance

2.251. The teacher or teachers shall keep the enrollment and attendance of each district separate from that of the other districts composing the union. At the close of the term, or year, a report shall be made of the attendance of each district composing the union or joint union elementary school district separately. These separate reports shall be combined in a principal's report. In case of a joint union school district, the teacher or teachers shall send a copy of such report to the county superintendent having jurisdiction over the district.

Sch C, 1929, p. 37

SEC. 6. School Code Section 2.252 is hereby amended to read as follows:

Retention of control

2.252. Elementary school districts uniting to form a union or joint union elementary school district and union elementary school districts uniting to form a union elementary school district under the provisions of this chapter shall remain under the control of their respective board of trustees until the first day of July next succeeding the formation of the union or joint union district and the location of the union or joint union school, or schools.

New article

SEC. 7. Article 9 is hereby added to Chapter 4, of Part 1, of Division 2, of the School Code, to read as follows:

Article 9. Cessation of Existence

Cessation of existence

2.305. Whenever the number of districts comprising a union or joint union elementary school district has been reduced to one, the union or joint union elementary school district shall cease to be a union or joint union elementary school district and the district comprising the union or joint union elementary school district shall revert to the status possessed by it prior to the time it became a part of the union or joint union elementary school district.

The governing board of the union or joint union elementary district shall cease to exist when the union or joint union elementary school district ceases to exist. The county superintendent of schools having jurisdiction over the district comprising the union or joint union elementary school district

prior to the cessation of the existence of the union or joint union elementary school district, shall appoint the governing board of such district to serve until the next succeeding first day of July.

CHAPTER 951

An act to amend Sections 92 and 146 of, and to add Section 108 to, the Civil Code, relating to divorce actions.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 92 of the Civil Code is hereby amended to read as follows: C. A. 1873-4, p. 189

92. Divorces may be granted for any of the following causes: Causes for divorce

One. Adultery.
Two. Extreme cruelty.
Three. Wilful desertion.
Four. Wilful neglect.
Five. Habitual intemperance.
Six. Conviction of a felony.
Seven. Incurable insanity.

SEC. 2. Section 108 is hereby added to Article 2 of Chapter 2 of Title 1 of Part 3 of Division 1 of the Civil Code, to read as follows: New section

108. A divorce may be granted on the grounds of incurable insanity only upon proof that the insane spouse has been confined to an institution under the provisions of Chapter 1, Part 1, Division 6 of the Welfare and Institutions Code or under the provisions of Section 1026 of the Penal Code or Chapter 6, Title 10, Part 2 of the Penal Code, for a period of at least three continuous years immediately preceding the filing of the action and upon the testimony of a member of the medical staff of said institution that such spouse is incurably insane. Proof of insanity

No decree granted on this ground shall relieve the spouse granted the divorce of any obligation imposed by law as a result of the marriage for the support of the spouse against whom the divorce is granted. It shall be alleged in the complaint and proved at the trial of the cause either that there is reasonable ability to support the insane spouse for the remainder of the life expectancy or that such insane spouse has property sufficient to provide support for the remainder of the life expectancy, and the court shall make such order Support of insane spouse

for support, or require a bond therefor, as the circumstances require.

Representation by guardian

If the insane spouse has a general guardian or guardian of his person, other than the spouse bringing the action, the complaint and summons shall be served upon such guardian and he shall defend and protect the interests of the insane spouse. If the insane spouse has no general guardian or no guardian of his person, or if the spouse bringing the action is the general guardian or guardian of his person, the court shall appoint a guardian ad litem, who may be the district attorney or the county counsel, if any, to defend and protect the interests of the insane spouse.

C. A., 1873-4, p. 191

SEC. 3. Section 146 of the Civil Code is hereby amended to read as follows:

Disposition of community property

146. In case of the dissolution of the marriage by the decree of a court of competent jurisdiction, the community property, and the homestead, shall be assigned as follows:

One. If the decree be rendered on the ground of adultery, incurable insanity or extreme cruelty, the community property shall be assigned to the respective parties in such proportions as the court, from all the facts of the case, and the condition of the parties, may deem just.

Two. If the decree be rendered on any other ground than that of adultery, incurable insanity or extreme cruelty, the community property shall be equally divided between the parties.

Three. If a homestead has been selected from the community property, it may be assigned to the party to whom the divorce is granted, or, in cases where a divorce is granted upon the ground of incurable insanity, to the party against whom the divorce is granted. The assignment may be either absolutely or for a limited period, subject, in the latter case, to the future disposition of the court, or it may, in the discretion of the court, be divided, or be sold and the proceeds divided.

Four. If a homestead has been selected from the separate property of either, in cases in which the decree is rendered upon any ground other than incurable insanity, it shall be assigned to the former owner of such property, subject to the power of the court to assign it for a limited period to the party to whom the divorce is granted, and in cases where the decree is rendered upon the ground of incurable insanity, it shall be assigned to the former owner of such property, subject to the power of the court to assign it to the party against whom the divorce is granted for a term of years not to exceed the life of such party.

CHAPTER 952

An act to amend Section 343 of the Agricultural Code, relating to fees for inspection of animals.

Stats 1933, p 60, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 343 of the Agricultural Code is hereby amended to read as follows:

Stats 1939, p 2281

343. The shipper or slaughterer shall notify the inspector, who shall make his inspection at point of shipment prior to shipment or at place of slaughter prior to slaughter as soon as practicable after being notified.

Place of inspection

The fees shall be paid by the person in charge of the animal, carcass, or hide, and the fee for such inspection shall be the sum of eight cents ($0.08) for each animal, carcass or hide inspected, except that, in the case of cattle shipped for feeding purposes or for purposes other than slaughter, the inspection fee shall be five cents ($0.05) for each animal.

Fees

The total of all fees collected by the department upon the same cattle moving from points within this State through one public stockyard which is posted by the Secretary of Agriculture of the United States or through one public sales yard, shall not exceed ten cents ($0 10) per head for all inspections including inspection at point of shipment, en route, or at first destination, inspection upon release from said public stockyard or said public sales yard, and inspection at place of slaughter.

CHAPTER 953

An act to amend Section 4242 of the Political Code, relating to salaries and compensation for public services in counties of the thirteenth class.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4242 of the Political Code is hereby amended to read as follows:

Stats 1941, p 1610

4242. In counties of the thirteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their office, the following sums:

Tulare Salaries

1. The county auditor, three thousand three hundred dollars ($3,300) per annum.

Auditor

2. The district attorney, three thousand seven hundred eighty dollars ($3,780) per annum.

District attorney

Supervisors 3. Each supervisor shall be paid a salary of two thousand four hundred dollars ($2,400) per annum for all personal services performed by him as supervisor, member of the board of equalization and road commissioner, and in addition thereto each supervisor shall receive his actual and necessary traveling expenses incurred in performing any of the duties of his office, the claim for which shall be allowed and paid out of the county general fund in the same manner as other claims are allowed and paid; provided, however, that the said traveling expenses exclusive of meals and hotel accommodations shall not exceed the sum of five cents ($0.05) per mile.

Jurors 4. Each member of the grand jury shall be allowed four dollars ($4) for each day in attendance upon the sessions of the grand jury or for each day's active and necessary service as a member of any committee of the grand jury. Each grand juror shall be allowed mileage at the rate of five cents ($0.05) per mile for each and every mile actually and necessarily traveled in attendance upon and returning from meetings of the grand jury or any actual or necessary session of a grand jury committee, duly called by the secretary, or committee chairman; provided, no mileage shall be allowed outside of the county; for attending as a trial juror in the superior court, for each day's attendance per day two dollars ($2); for attending as a trial juror in the justice's court for each juror sworn to try the cause, per day two dollars ($2); for each mile actually traveled in attending court as a juror, five cents ($0.05) per mile each way.

CHAPTER 954

An act to add Section 6.231 to the School Code, relating to the sale of textbooks by governing boards of school districts.

In effect September 13, 1941 [Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

New section SECTION 1. Section 6.231 is hereby added to the School Code, to read as follows:

Sale of textbooks 6.231. The governing board of a high school district may at the end of the annual school term sell to pupils of the district textbooks owned by the district which have been used by such pupils during such school term at prices which shall not exceed the actual value of such textbooks.

The proceeds of such sales shall be placed in the county treasury to the credit of the general fund of the school district.

CHAPTER 955

An act to amend Section 942 of the Code of Civil Procedure, relating to undertakings on appeal.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 942 of the Code of Civil Procedure is hereby amended to read as follows:

C. A., 1873-4, p. 336

942. If the appeal be from a judgment or order directing the payment of money, it does not stay the execution of the judgment or order unless a written undertaking be executed on the part of the appellant, by two or more sureties, to the effect that they are bound in double the amount named in the judgment or order; that if the judgment or order appealed from or any part thereof be affirmed, or the appeal be dismissed, the appellant will pay the amount directed to be paid by the judgment or order, or the part of such amount as to which the judgment or order is affirmed, if affirmed only in part, and all damages and costs which may be awarded against the appellant upon the appeal, and that if the appellant does not make such payment within 30 days after the filing of the remittitur from the Supreme Court in the court from which the appeal is taken, judgment may be entered on motion of the respondent in his favor against the sureties for such amount, together with the interest that may be due thereon, and the damages and costs which may be awarded against the appellant upon the appeal.

Undertaking on appeal

If the judgment or order appealed from be for a greater amount than two thousand dollars ($2,000), and the sureties do not state in their affidavits of justification accompanying the undertaking that they are each worth the sum specified in the undertaking, the stipulation may be that the judgment to be entered against the sureties shall be for such amounts only as in their affidavits they may state that they are severally worth, and judgment may be entered against the sureties by the court from which the appeal is taken, pursuant to the stipulations herein designated.

When the judgment or order appealed from is made payable in a specified kind of money or currency, the judgment entered against the sureties upon the undertaking must be made payable in the same kind of money or currency.

If the undertaking in this section first provided for be executed on the part of the appellant by a corporate surety authorized to execute the same by Section 1056 of this code, such undertaking shall be sufficient in amount if the surety be bound in one and one-half times the amount named in the judgment or order appealed from.

CHAPTER 956

Stats 1931, p 1442, amended

An act to amend Section 109 of the State Employees' Retirement Act, relating to a retirement system for employees and officers of the State of California, and making an appropriation therefor.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 357

SECTION 1. Section 109 of the State Employees' Retirement Act is hereby amended to read as follows:

Contributions to retirement fund for Highway Patrol

Sec. 109. In addition to such payments from the General Fund, there shall be paid monthly, from and after the date this act takes effect into the State Employees' Retirement Fund out of the Motor Vehicle Support Fund, or any other fund out of which the compensation of members who are also members of the California Highway Patrol is paid, a sum equal to $13\frac{40}{100}$ per centum of the total compensation paid from said fund to members of the retirement system who also are members of the California Highway Patrol, or which would have been so paid in the case of members electing to continue and continuing their contributions under Section 47 of this act and absent with the armed forces of the United States, and out of said Motor Vehicle Support Fund and every other fund directly controlled by the State, out of which the compensation of members is paid, a sum equal to $3\frac{75}{100}$ per centum of the total compensation paid members, other than members of the said highway patrol, of the retirement system from the said fund, or which would have been so paid in the case of members electing to continue and continuing their contributions under Section 47 of this act and absent with such armed forces. All such payments, whether heretofore or hereafter made are hereby validated and confirmed. The board of administration shall certify to the State Controller at the end of each month the total amount of compensation paid such members of the retirement system from each such fund, and the total amounts which would have been paid members absent with such armed forces and electing to continue and continuing their contributions under Section 47 of this act, if they had not been so absent, and the State Controller shall thereupon transfer the percentages as specified in this section, of said total amount from each such fund, respectively, to the State Employees' Retirement Fund.

CHAPTER 957

An act to amend Sections 9, 30, 34, 35, 46, 49, 76, 79, 85a, 90, 92 and 101 of the State Employees' Retirement Act, relating to a retirement system for employees and officers of the State of California, and of such cities, school districts, and counties as may elect to include their employees by contract.

Stats 1931, p 1442, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 9 of the State Employees Retirement Act is hereby amended to read as follows:

Stats 1939, p 2607

Sec. 9. "Prior service" shall mean all State service, other than service as an employee of the university, or of a contracting city, rendered before the first day of January, 1932; all State service rendered as an employee of the university before the twenty-seventh day of August, 1937; and all State service rendered as an employee of a contracting city before the day of his entrance as a member of the retirement system, and allowable as provided in Section 49 of this act. Notwithstanding the sentence next preceding, "prior service" as applied to a person, employed by the State, including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or as applied to a person who became a member prior to said amendments, because of a change in the employment status to a full-time basis, shall mean all State service rendered before the effective date of said membership. "Prior service" as applied to an employee of the State or an employee of a contracting city shall be limited to service rendered as an employee of the State or of the contracting city, as the case may be.

"Prior service"

SEC. 1.5. Section 30 of said act is hereby amended to read as follows:

Stats 1939, p 2607

Sec. 30. Elective officers, other than elective State officers who file with the Board of Administration an election in writing to become members; provided, that any person so excluded from membership, who later becomes a member hereof, shall have the option of making contributions to the retirement system in the amount which he would have contributed had he not been so excluded, and he shall then receive credit for prior service in the same manner as if he had not been so excluded. If he shall affirmatively exercise the option, the contributions of the State, or of the contracting city because of his membership, shall be the same as they would have been had he not been so excluded.

Elective officers

SEC. 2. Section 34 of said act is hereby amended to read as follows:

Stats 1939, p 2592

Sec. 34. Employees serving on a part-time basis unless such employees are members at July 1, 1941, or at any time

Part-time employees

of employment after that date on a part-time basis, or unless such employment is regular and continuous and in the opinion of the employing power will extend for more than one year, and requires service for at least one-half the time required of employees in the same group or class, serving on a full-time basis. Any employee who is a member at July 1, 1941, and who is serving on a part-time basis not requiring at least one-half the time required of employees in the same group or class serving on a full-time basis, may elect to terminate his membership in the system. Any employee so electing shall be considered as permanently separated from State service, solely for the purposes of Section 75 of this act.

Stats 1939, p 2640

SEC. 2.3. Section 35 of said act is hereby amended to read as follows:

Persons exempt

Sec. 35. Persons in State service on June 30, 1933, or prior thereto, whose compensation equals or exceeds four hundred sixteen dollars and sixty-six cents ($416.66) per month, and who file, or have filed, with the Board of Administration an election not to become members, providing, that any person so excluded from membership may at any subsequent time file with the Board of Administration an election to become a member, and shall become a member of the retirement system on the date of filing such election. Such persons shall receive credit for prior service regardless of the effective date of membership, and shall have the option of paying to the retirement system all or part of the amount which he would have contributed had he not been so excluded but had been a member to and including the date of filing such election to become a member, plus interest which would have accumulated thereon through such date. Upon the retirement of such person under Section 78 or Section 79, the pensions provided by contributions of the State under Sections 82 and 83 shall be the same as if such person affirmatively exercised the option to pay to the retirement system all of that amount with accumulated interest.

Exception

Stats 1931, p 1446

SEC. 2.5. Section 46 of said act is hereby amended to read as follows:

Service credits

Sec. 46. It shall fix and determine how much service rendered in any fiscal year shall be the equivalent of a year of service and parts thereof, but shall credit one year for 250 or more days of service rendered by employees on a per diem basis and one year for 10 months or more of service rendered by employees on a monthly basis, but not more than one year for all service in any fiscal year. In determining the credit to be granted for service rendered on a part-time basis, for purposes of calculating retirement allowances, the service shall be reduced to a full-time basis according to the service required, in the next preceding sentence, for credit for one year of service. In calculating benefits based on service so determined, compensation earnable shall be taken as the compensation which would be earnable if the employment had been on a full-time basis, and with a compensation derived by

Part-time services

multiplying the member's compensation by the ratio of full time to the time he was required by his employment to engage in his duties. In calculating the credit to be granted for service rendered on a part-time basis, for purposes of determining qualification for retirement, and of calculating benefits payable upon death before retirement, the service required in this paragraph for credit for a year of service shall not be used, but instead, a year of service shall be credited for each year during which the member was employed throughout the year on a part-time basis and was engaged in his duties the full amount of time he was required by his employment to be so engaged. Credit for fractional years will be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his duties within the year, by the time he was required by his employment to be so engaged.

SEC. 2.7. Section 49 of said act is hereby amended to read as follows: Stats 1939, p 2610

Sec. 49. Credit for prior service shall be granted to each person other than persons who are employees of the university or of a contracting city at the time of becoming members of the retirement system, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1932, or within three years after last rendering prior service, the prior service credited, however, to be one-half year less than the total prior service rendered by him. Credit for prior service shall be granted to each person who is employed by the university at the time of becoming a member of the retirement system regardless of whether he has been retired under the system prior to the effective date hereof, who has rendered such service as defined in this act and who has become a member of the retirement system on August 27, 1937, or within three years after last rendering prior service, the prior service credited, however, to be one-half year less than the total prior service rendered by him. Notwithstanding the two sentences next preceding, credit for prior service shall be granted to each person employed by the State including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or who became a member prior to said amendments, because of a change in status to a full-time basis, but the prior service credited shall be one-half year less than the total prior service rendered by him. The credit for prior service to be granted persons employed by a contracting city who are included under the retirement system shall be established by contract between the board and the legislative body of such city; and such credit as may be granted to a person shall be in the form of a percentage, for each year of prior service, of his final compensation or average compensation earnable during the three years immediately preceding the date upon which the group or class in which

Credit for prior service

said person was employed, is included in the system; and provided further, that said percentage shall be uniform for all city firemen and city policemen employed by any contracting city, according to age at entry into the service of the city, and uniform for all other employees of such city regardless of age at said entry. Prior service so credited shall be the basis for a retirement allowance or benefit as provided in this act only if the membership in the retirement system continues unbroken until retirement on retirement allowance or until the granting of such other benefit; provided, that termination of membership by withdrawal of accumulated contributions followed by the redeposit of such contributions upon reentrance into State service as herein provided shall not constitute a break in membership, but this section shall not be construed to entitle any person to credit as prior service for time during which he was not in State service as defined in this act.

Stats 1939, p 2595

SEC. 4. Section 76 of said act is hereby amended to read as follows:

Redeposit of refund

Sec. 76. Any member may redeposit in the retirement fund, in one sum or in not to exceed 12 monthly or 24 semimonthly payments, an amount equal to that which he withdrew therefrom at the last termination of his membership, subject to minimum monthly or semimonthly payments as fixed by the Board of Administration. If a member, upon reentering the retirement system after a termination of his membership, does not elect to make or, having so elected, subsequently does not make such redeposit, he shall reenter as a new member without credit for any service except the prior service credited to him before said termination, and the rate of his contribution for future years shall be the normal rate provided for in this act at his age of reentrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the last termination of his membership, and his membership shall be the same as if unbroken by such last termination. Regardless of whether such redeposit is made, the documents held by the retirement system as executed by said member prior to termination of membership shall be held by the system for the same purposes as prior to said termination, and beneficiaries nominated in such documents shall continue unchanged until changed as provided herein.

Stats 1941, p 1200

SEC. 4 5. Section 79 of said act is hereby amended to read as follows:

Retirement age, etc

Sec. 79. Upon attaining the age of 60 or more years and completing 20 years of continuous State service credited under this act, among which must be included one year of service after becoming a member of the retirement system, any member, who is not a member of the California Highway Patrol, city fireman or city policeman, shall be retired upon his written application to the board.

A member who is also a member of the California Highway Patrol and who has completed 20 years of continuous State

Highway Patrol service credited under this act and attained the age of 50 or more years shall be retired upon his written application to the board.

A city fireman or city policeman who has completed at least 20 years of continuous State service credited under this act, and who has attained at least the minimum optional retirement age, which shall be not less than 55 years or more than 60 years, specified in the contract provided by Section 38c, in lieu of 60 years required of other members, shall be retired upon his written application to the board. Any member, other than members employed by a contracting city and members of the California Highway Patrol, who is separated from State service because of a curtailment of such service or a change in the manner of performing such service, but not because of resignation or dismissal under charges, and who has attained the age of 50 years and is credited with 15 or more years of State service, shall be retired upon his written application to the board; provided, said board determines said separation to be of an extended and uncertain duration, and not the separation normally experienced by members in positions known at the time of employment to be of limited duration or employed on a seasonal or intermittent basis.

SEC. 5. Section 85a of said act is hereby amended to read as follows: Stats Ex Sess 1938, p 72

Sec. 85a. Subject to the requirements as to service and cause of disability stated in Section 85 and upon the application of a member or upon the application of the head of the office or department in which such member is or was last employed, or upon application of the university if such member is an employee of the university, or any other person on behalf of such member, while such member is in State service, within four months after such member's discontinuance of State service, or while such member continuously, from the date of discontinuance of State service to the time of the application or motion, is physically or mentally incapacitated to perform his duties, may apply for, or the board upon its own motion may order, a medical examination to determine the existence of such incapacity. Upon the receipt of such application, the board shall order such medical examination. If the medical examination and other available information show to the satisfaction of the board, that the member is incapacitated physically or mentally for the performance of his duties in the State service, the board shall forthwith retire the member for disability. The board shall secure such medical service and advice as is necessary to carry out the purpose of this section and of Sections 90 to 94, inclusive, of this act, and shall pay for such medical services and advice such compensation as the board deems reasonable. Physical examination

Medical assistance

Stats 1939, p 2620

SEC. 6. Section 90 of said act is hereby amended to read as follows:

Medical examination

Sec. 90. The Board of Administration, may, at its pleasure require any disability beneficiary, under the age of 60, to undergo medical examination Such examination shall be made by a physician or surgeon, appointed by the board, at the place of residence of said beneficiary or other place mutually agreed upon. Upon the basis of such examination and other available information, the board shall determine whether said disability beneficiary is still incapacitated, physically or mentally, for service in the office or department of the State or of the contracting city, where he was employed and in the position held by him when retired for disability. If the Board of Administration determines that said beneficiary is not so incapacitated, his retirement allowance shall be canceled forthwith. If he was an employee of the State he shall be reinstated to the position held by him when retired for disability. If he was an employee of a contracting city, the board shall notify the proper official of said city that said disability has been terminated and that said person is eligible for reinstatement to duty. The fact that said person was retired for disability shall not prejudice any right to reinstatement to duty which he may have or claim to have.

In the case of such a member who is an employee of a contracting city, and who for any reason is not so reinstated or is not reemployed by said city in a position subject to the retirement system, he shall be paid an amount which is the actuarial equivalent of his annuity at that time, as based on a disabled life, but said amount shall not exceed the amount of his accumulated contributions as such amount stood at the time of his retirement for disability.

Stats 1931, p 1455

SEC. 7. Section 92 of said act is hereby amended to read as follows:

Gainful occupation, etc.

Sec. 92. Should a disability beneficiary, prior to attaining age 60, engage in a gainful occupation not in the State service or should he reenter the State service in a capacity ineligible for membership in the retirement system, the Board of Administration shall reduce the amount of his retirement allowance to an amount which, when added to the compensation earned by him in such occupation, shall not exceed the amount of his compensation at the time of his retirement. Should the earning capacity of such beneficiary be further altered, the board may further alter his retirement allowance to an amount which shall not exceed the amount upon which he was originally retired, but which, subject to such limitation, shall equal, when added to the compensation earned by him, the amount of his final compensation on the basis of which his retirement allowance was determined. When such a disability beneficiary reaches age 60, his retirement allowance shall be made equal to the amount upon which he was originally retired, and shall not again be modified for any cause.

SEC. 8. Section 101 of said act is hereby amended to read as follows: Stats 1939, p 2621

Sec. 101. No modification of the benefits provided herein shall be made on account of any amounts payable to a beneficiary, as defined herein, under Division 4 of the Labor Code, except that the portion of any retirement allowance or death allowance which is provided by contributions of the State or of a contracting city and which is payable by the retirement system because of the death or retirement of any member of the California Highway Patrol or of any city policeman or city fireman, as a result of injury or illness arising out of and in the course of employment, shall be reduced in the manner hereinafter described, by the amount of any benefits, other than medical benefits, payable to or on account of such member under Division 4 of the Labor Code, because of his death or the disability resulting in his retirement. Effect of workmen's compensation laws

If said benefits under Division 4 of the Labor Code shall run concurrently with said allowance hereunder and shall be due the beneficiary in payments which are equal to or less than said portion of the retirement allowance or death allowance, then said portion shall be reduced each month by the amount of said benefits so due during said month, and the beneficiary shall have no more right to such reduction than if the retirement system had never existed.

If said benefits under Division 4 of the Labor Code shall run concurrently with the allowance hereunder and shall be due to the beneficiary in payments which are greater than said portion of the retirement allowance or death allowance, then payment of said portion shall be withheld until the total of the amounts so withheld shall equal the total of said benefits paid, and the beneficiary shall have no more right to such amounts withheld than if the retirement system had never existed.

It is the purpose of the preceding paragraphs of this section to reduce the portion of the retirement or death allowance payable from the retirement fund and which is provided by contributions of the State or by a contracting city, by the amount of benefits, other than medical benefits, due to the beneficiary concurrently with said portion, under Division 4 of the Labor Code, and the payment before due date by the commutation through compromise or otherwise of such benefits shall not prevent the reduction of said portion, as provided in this section, in the amounts which would have been payable concurrently with the retirement allowance in the absence of such commutation.

If any benefits, other than medical benefits, shall have been paid under Division 4 of the Labor Code because of a permanent disability concurrently with payments of wages or salary, to said beneficiary, then payment of said portion of the retirement allowance or death allowance shall be withheld until the total of the amounts so withheld shall equal the total of such benefits paid because of the permanent disability, and the

Effect of workmen's compensation laws

beneficiary shall have no more right to such amounts withheld than if the retirement system had never existed. Said benefits which are payable for time during which salary is not paid and prior to the effective date of the retirement or death allowance, shall not be considered hereunder.

If an injury, known to result in the retirement of and/or the death of a member of the California Highway Patrol or of a city policeman or city fireman, is the proximate consequence of the act of a person other than his employer, the retirement system shall have the right to recover from said person an amount which shall be the actuarial equivalent of the benefits for which it shall be liable because of said injury and/or death, and said right shall be determined under the provisions of Chapter 5 of Part 1, Division 4 of the Labor Code. Any claim in favor of the retirement system, now pending or which shall arise under this paragraph, may be settled and compromised, and the proceeds of such settlement and compromise shared between the retirement system and said retired employee, or person entitled to benefits under the retirement system because of the death of said employee, in such amounts as may be recommended by the President of the Board of Administration, and approved by the Attorney General. Said retirement system may join with the employer and/or its compensation insurance carrier in any proceeding under said section, and any amount recovered by any of the parties shall be applied first on the amounts which the employer or its insurance carrier shall have paid or become obligated to pay, and second, on the amounts which the retirement system shall have paid or become obligated to pay.

Amounts by which retirement and death allowances are reduced and amounts recovered from third persons under the provisions of this section shall be paid by the retirement system to the Motor Vehicle Support Fund, or any other fund out of which the compensation of members who are also members of the California Highway Patrol is paid, or to the contracting city in the case of a city policeman or city fireman.

CHAPTER 958

An act to amend Section 4267 of the Political Code, relating to compensation for public services in counties of the thirty-eighth class.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4267 of the Political Code is hereby amended to read as follows: Stats 1941, p 1626

4267. In counties of the thirty-eighth class, the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums: Sutter. Salaries

1. Auditor, two thousand eight hundred dollars ($2,800) per annum. Auditor

2. District attorney, two thousand four hundred dollars ($2,400) per annum. District attorney

3. Supervisors, each supervisor shall receive one hundred dollars ($100) per month, and his actual expenses while attending to the business of the county by the order of the board of supervisors and mileage at the rate of fifteen cents ($0.15) per mile, one way, for traveling from his residence to the county seat to attend regular, special and adjourned sessions of the board of supervisors, and mileage at the rate of fifteen cents ($0.15) per mile, one way, for all actual distances traveled by him in the performance of his duties as road commissioner. Supervisors

4. Grand jurors and jurors in the superior court shall receive for each day's attendance three dollars ($3); for each mile actually traveled in attending court as a juror, and for attending regularly called grand jury meetings and grand jury committee meetings, one way, fifteen cents ($0.15). Mileage shall be paid for each time a regularly empaneled jury or grand jury shall be called in separate session. Jurors

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CHAPTER 959

An act to repeal Chapter 5 of Part 1 of Division 2, and Chapter 3 of Part 2 of Division 2, of the School Code, relating to consolidated school districts.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Chapter 5 of Part 1 of Division 2 of the School Code is hereby repealed. Repeal

SEC. 2. Chapter 3 of Part 2 of Division 2 of the School Code is hereby repealed. Same

CHAPTER 960

Stats 1933, p 60, amended

An act to amend Section 1300.15 of the Agricultural Code, relating to the marketing of agricultural commodities, and providing for production adjustment payments.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2129

SECTION 1. Section 1300.15 of the Agricultural Code is hereby amended to read as follows:

Provisions in marketing order

1300.15. (a) (1) Any marketing order issued pursuant to this chapter shall provide for the establishment of an advisory board to assist the director in the administration of any marketing order. The members of the board shall be appointed by the director and may hold office at the pleasure of the director. If the marketing order affects directly only producers of a particular commodity the members of the board shall be producers. If the marketing order affects directly only handlers of a particular commodity the members of the board shall be handlers. If the marketing order affects directly both producers and handlers of a particular commodity, such board shall be composed of both producers and handlers. The number of producers or handlers upon any such board shall be such number of producers or handlers as the director finds is necessary to assist properly in the administration of such order.

Advisory board

(2) No member of any such board shall receive a salary but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized. The director may authorize such board to employ necessary personnel, including attorneys engaged in the private practice of the law, fix their compensation and terms of employment, and to incur such expenses, to be paid by the director from moneys collected as herein provided, as the director may deem necessary and proper to enable such board properly to perform such of its duties as are authorized herein. The duties of any such board shall be administrative only and may include only the following:

Duties

a. Subject to the approval of the director to administer such marketing order.

b. To recommend to the director administrative rules and regulations relating to the marketing order.

c. To receive and report to the director complaints of violations of the marketing order.

d. To recommend to the director amendments to the marketing order.

e. To assist the director in the assessment of members of the industry and in the collection of funds to cover expenses

incurred by the director in the administration of the marketing order.

f. To assist the director in the collection of such necessary information and data as the director may deem necessary to the proper administration of this chapter.

Handling, processing, etc

(b) Subject to the legislative restrictions and limitations set forth herein any marketing order issued by the director pursuant to this chapter may contain any or all of the following provisions for regulating producer marketing or the handling or any of the operations of processing or distributing by handlers of any agricultural commodity within this State, but no others:

Surplus control

(1) Provisions for determining the existence and extent of the surplus of any agricultural commodity, or of any grade, size or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers, processors, distributors or other handlers affected.

Limitation of quantity

(2) Provisions for limiting the total quantity of any agricultural commodity, or of any grade, size or quality thereof, which may be marketed by producers, processed, distributed or otherwise handled in intrastate commerce, during any specified period or periods, by any and all persons engaged in such producer marketing, processing, distributing or handling; provided, that any such limitation shall be applied under a uniform rule applicable to all such persons so regulated. The total quantity of any such commodity so regulated and permitted to be marketed by producers, processed, distributed or otherwise handled, shall not be less than the quantity which the director finds is reasonably necessary to supply the market demands of consumers of such commodity.

Allotment of quantity purchased

(3) Provisions for allotting the quantity of any agricultural commodity, or of any grade, size or quality thereof, which each handler may purchase or acquire from, or handle on behalf of, any and all producers thereof, in intrastate commerce, during any specified period or periods under a uniform rule, applicable to all handlers so regulated based upon the amounts produced or sold by such producers in a prior period which the director finds to be representative, or upon the current season's production or sales of such producers, or both, to the end that the total quantity of such commodity, or of any grade, size or quality thereof, so purchased or handled in intrastate commerce shall be apportioned equitably among the producers thereof.

Allotment of quantity processed, etc

(4) Provisions for allotting the quantity of any agricultural commodity, or of any grade, size or quality thereof, which each handler may process, distribute or handle in intrastate commerce under a uniform rule, applicable to all handlers so regulated, based upon the quantities of such commodity or of any grade, size or quality thereof of the current season's crop which each such handler has available for such processing, distribution or handling, or upon the quantities of such commodity or

of any grade, size or quality thereof so processed, distributed or handled by each such handler in a prior period which the director finds to be representative, or based upon both, to the end that the total quantity of such commodity or any grade, size or quality thereof, processed, distributed or handled in intrastate commerce during any specified period or periods shall be equitably apportioned among all such handlers thereof.

Periods of processing

(5) Provisions regulating the period, or periods, during which any agricultural commodity, or any grade, size or quality of such commodity, may be processed, distributed or otherwise marketed within this State by any and all persons engaged in such processing, distributing or marketing within this State; provided, that the total quantity of such commodity so regulated and permitted to be processed, distributed or otherwise marketed during such period or periods, shall not be less than the quantity which the director finds is necessary to reasonably supply the needs of consumers of such commodity.

Surplus or reserve pools

(6) Provisions for the establishment of surplus or reserve pools of any agricultural commodity, or of the representative value of such commodity, or of any grade, size or quality thereof, and providing for the sale of such surplus commodity, and the equitable distribution, among the persons interested therein, of the net returns derived from the sale of such commodity or such distribution of such representative value of such commodity.

Uniform grading and inspection

(7) Provisions for the establishment of uniform grading and inspection of any agricultural commodity delivered by producers to handlers or others engaging in the handling thereof and for the establishment of grading standards of quality, condition, size or pack for any agricultural commodity, and the inspection and grading of such commodity in accordance with such grading standards so established. Such grading standards for any such commodity shall not be established below any minimum standards now prescribed by law for such commodity.

Advertising and sales promotion

(8) Provisions for the establishment of plans for advertising and sales promotion to create new or larger markets for agricultural commodities grown in the State of California. The director is hereby authorized to prepare, issue, administer and enforce plans for promoting the sale of any agricultural commodity.

Provided, that any such plan shall be directed toward increasing the sale of such commodity without reference to a particular brand or trade name, and

Provided, further, that no advertising or sales promotion program shall be issued by the director which shall make use of false or unwarranted claims in behalf of any such product, or disparage the quality, value, sale or use of any other agricultural commodity.

(9) Provisions relating to the prohibition of unfair trade practices. In addition to the unfair trade practices, now prohibited by law, applicable to the processing, distribution or handling of agricultural commodities within this State, the director is hereby authorized to include in any marketing order issued hereunder provisions designed to correct any trade practice affecting the processing, distributing or handling of any agricultural commodity within this State which the director finds, after a hearing thereupon in which all interested persons are given an opportunity to be heard, is unfair and detrimental to the effectuation of the declared purposes of this act. Unfair trade practices

(10) Provisions for the application for, review, certification and equitable payment of, production adjustment benefits to growers from funds collected for such purpose on a uniform basis from all commercial growers of any agricultural commodity in the State, for which production adjustment payments are made. Such funds may be supplemented by funds, if any, received from Federal, State or other agencies for such purpose. Production adjustment benefits

No program of production adjustment adopted hereunder shall authorize payments for the removal of acreages of trees or vines of the species, variety or varieties specified in the program which have, during the three years immediately preceding the date of application, produced an annual yield per acre in excess of the comparably computed average yield from bearing trees or vines of the same species, variety or varieties for the State as a whole, such yields and averages to be determined by the director from statistical data compiled by State or Federal agencies or such other data as the director deems to be representative and reliable.

CHAPTER 961

An act to amend Sections 1300.12, 1300.14, 1300.16, 1300.17, 1300.20, 1300.23 and 1300.28 of, and to add Section 1300.12a to, the Agricultural Code, relating to the marketing of agricultural products, declaring the urgency of this act, to take effect immediately. Stats 1933, p. 60, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 1300.12 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p. 2124

1300.12. (a) "Cartwright Act" means the act passed by the Legislature of this State entitled "An act to define trust and to provide for criminal penalties and civil damages and punishment of corporations, persons, firms and associations, Definitions Stats 1907, p. 984

or persons connected with them, and to promote free competition in commerce and all classes of business in this State," approved March 23, 1907, as amended.

Stats 1913, p 508

(b) "*Unfair Practices Act*" means an act passed by the Legislature of this State entitled "An act relating to unfair competition and discrimination, making certain unfair and discriminatory practices unlawful, defining the duties of the Attorney General in regard thereto, declaring certain contracts illegal and forbidding recovery thereon, providing for actions to enjoin unfair competition and discrimination and to recover damages therefor, making the violation of the provisions of this act a misdemeanor and providing penalties," approved June 10, 1913, as amended.

(c) "Agricultural commodity" means any and all agricultural, horticultural, viticultural (including wine) and vegetable products produced in this State, either in their natural state or as processed by a producer for the purpose of marketing such product or by a processor as herein defined, and including bees and honey but not including timber or timber products.

(d) "Producer" means any person engaged within this State in the business of producing, or causing to be produced for market, any agricultural commodity as herein defined.

(e) "Handler" means any person engaged within this State as a distributor in the business of distributing an agricultural commodity in intrastate commerce, or any person engaged as a processor in the business of processing an agricultural commodity.

(f) "Processor" means any person engaged within this State, in the operation of receiving, grading, packing, canning, fermenting, distilling, extracting, preserving, grinding, crushing or changing the form of an agricultural commodity for the purpose of preparing such agricultural commodity for market or of marketing such commodity, or any other activities performed for the purpose of preparing such commodity for market or of marketing such commodity, but shall not include a person engaged in manufacturing from an agricultural commodity, so changed in form, another and different product.

(g) "Distributor" means any person who engages in the operation of selling, marketing or distributing, in intrastate commerce, an agricultural commodity which he has produced, or purchased or acquired from a producer or which he is marketing on behalf of a producer, whether as owner, agent, employee, broker or otherwise, but shall not include a retailer as herein defined except such retailer who purchases or acquires from, or handles on behalf of any producer, an agricultural commodity not theretofore subjected to regulation by the marketing order covering such commodity.

(h) "Retailer" means any person who purchases and/or acquires any agricultural commodity for resale at retail to the general public for consumption off the premises but such

person shall also be included within the definition of distributor, as herein set forth, to the extent that he engages in the business of a distributor as herein defined.

(i) "Person" means an individual, firm, corporation, association or any other business unit.

(j) "Director" means the Director of Agriculture.

(k) "Marketing order" means an order issued by the Director of Agriculture, pursuant to this act, prescribing rules and regulations governing the processing, distributing or handling in any manner of any agricultural commodity within this State during any specified period or periods.

(*l*) "To handle" means to engage in the business of a handler as herein defined.

(m) "To process" means to engage in the business of a processor as herein defined.

(n) "To distribute" means to engage in the business of a distributor as herein defined.

(o) "Producer marketing" or "marketed by producers" means any or all operations performed by any producer in preparing for market, and shall include selling, delivering or disposing of for commercial purposes, to any handler as herein defined any agricultural commodity which he has produced

SEC. 1.5. Section 1300.12a is hereby added to the Agricultural Code, to read as follows: New section

1300.12a. The Legislature hereby declares that the addition of the phrase "(including wine)" in subdivision (c) of Section 1300.12 is made for the purpose of clarification only and is in no wise to be construed or interpreted as an indication that wine is not an agricultural commodity as defined in that subdivision as originally enacted in Chapter 404, Statutes of 1937, and as heretofore amended. The Legislature hereby further declares that at the time of the original enactment of said subdivision (c) and at all times since, it intended that wine be, and wine was, included within the definition of the term "agricultural commodity." Declaration of legislative intent

Any and all marketing orders heretofore issued, signed, or declared effective and all acts of the director heretofore performed pursuant to the provisions of this chapter and consistent with the declarations contained in this section are hereby confirmed, ratified and validated. Ratification

SEC. 2. Section 1300.14 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 2128

1300.14. (a) After such notice and hearing the director shall issue a marketing order if he finds and sets forth in such marketing order that such order will, with respect to any or all of the following, tend to: Findings relative to marketing order

(1) Reestablish or maintain such level of prices for such agricultural commodity as will provide a purchasing power

for such agricultural commodity which is adequate to maintain in the business of producing such agricultural commodity such number of producers as is required to provide such supply of the quantities and qualities of such agricultural commodity as is necessary to fulfill the normal requirements of consumers thereof.

(2) Approach such equality of purchasing power at as rapid a rate as is feasible in view of the market demand for such commodity.

(3) Prevent the unreasonable or unnecessary waste of agricultural wealth because of improper preparation of such agricultural commodity for market, prevent lack of uniform grading and inspection, or prevent excessive shipments to markets.

(4) Protect the interests of consumers of such commodity, by exercising the powers of this chapter only to such extent as is necessary to establish the equality of purchasing power described in Subsection (1) of this section.

(b) In making the findings with respect to any or all of the objectives set forth in paragraph (a) of this section, the director shall, whenever any or all of the following economic factors are relevant, take into consideration any and all facts available to him with respect thereto:

(1) The quantity of such agricultural commodity available for distribution.

(2) The quantity of such agricultural commodity normally required by consumers.

(3) The cost of producing such agricultural commodity as determined by available statistics and surveys.

(4) The purchasing power of consumers as indicated by reports and indices.

(5) The level of prices of other commodities which compete with or are utilized as substitutes for such agricultural commodity.

(6) The level of prices of other commodities, services and articles which farmers commonly buy.

Existing orders

Any marketing order heretofore duly issued by the director pursuant to this chapter and now in effect shall continue in full force and effect; provided, that the director finds that such marketing order is in conformity with the provisions of this section as amended. Such finding may be made without the necessity of a hearing thereon and without the necessity of the re-execution or reissuance of a marketing agreement or marketing order and such finding need not be incorporated in a marketing agreement or marketing order.

Stats 1939, p 3132

SEC. 2½. Section 1300 16 of the Agricultural Code is hereby amended to read as follows:

Written assent to marketing orders: Handlers

1300.16. (a) (1) No marketing order or amendment thereto, directly affecting handlers, issued pursuant to this chapter, shall become effective unless and until the director finds that

such marketing order or amendment thereto has been assented to in writing by the handlers engaged in the marketing activity or activities regulated by such marketing order who handle not less than sixty-five per cent (65%) of the volume of the agricultural commodity regulated thereby which is processed or distributed within the area defined in such marketing order or amendment thereto, or that such marketing order or amendment thereto has been assented to in writing by not less than sixty-five per cent (65%) of the number of handlers engaged in the marketing activity or activities regulated by such marketing order; provided, however, that any marketing order or amendment thereto directly affecting processors engaged in the operation of canning of fresh fruits or vegetables or canning or packing of dried fruits shall not be made effective by the director unless and until the director finds that such marketing order or amendment thereto has been assented to in writing by such processors engaged in the marketing activity or activities regulated by such marketing order or amendment thereto who process not less than sixty-five per cent (65%) of the volume of such agricultural commodity which is processed within the area defined in such marketing order or amendment thereto and by sixty-five per cent (65%) of the number of such processors engaged in the marketing activity or activities regulated by such marketing order or amendment thereto. Processors

(2) No marketing order or amendment thereto, directly affecting producers or producer marketing, issued pursuant to this chapter, shall be made effective by the director unless and until the director finds that such marketing order or amendment thereto has been assented to in writing by not less than sixty-five per cent (65%) of the producers who are engaged, within the area specified in such marketing order or amendment thereto, in the production for market, or engaged in such producer marketing of not less than fifty-one per cent (51%) of the agricultural commodity specified therein in commercial quantities, or that such marketing order or amendment thereto has been assented to in writing by producers who produce not less than sixty-five per cent (65%) of the volume of such agricultural commodity and by fifty-one per cent (51%) of the total number of producers so engaged. Producers

(3) In finding whether such marketing order or amendment thereto is assented to in writing pursuant to the provisions of this chapter, the director shall consider the approval of any nonprofit agricultural cooperative marketing association, which is authorized by its members so to assent, as the approval of the producers who are members of, or stockholders in, such nonprofit agricultural cooperative marketing association. Marketing associations

(b) Subject to the provisions, restrictions and limitations imposed herein, the director may issue marketing orders regulating producer marketing, the processing, distributing or handling in any manner of agricultural commodities by

any and all persons engaged in such producer marketing, processing, distributing or handling of such agricultural commodities within this State.

Suspension or termination of marketing orders

(c) The director shall suspend or terminate any marketing order, whenever he finds, after a public hearing duly noticed and held in accordance with the provisions of Section 1300.13 of this chapter, that such marketing order is contrary to or does not tend to effectuate the declared purposes or provisions of this chapter within the standards and subject to the limitations and restrictions herein imposed; provided, that such suspension or termination shall not become effective until the expiration of the marketing season then current. If the director finds that the termination of any marketing order is requested in writing by more than forty per cent (40%) of the producers, who are engaged within the State of California in the production for market of the agricultural commodity specified in such marketing order, and who produce forty per cent (40%) of the volume of such agricultural commodity produced within the State of California for market, and finds that the termination of such marketing order is requested in writing by handlers who handle more than forty per cent (40%) of the volume of the agricultural commodity covered thereby and by more than forty per cent (40%) of the number of handlers of the agricultural commodity covered thereby, the director shall, if he finds such marketing order is contrary to or does not tend to carry out the declared policy of this chapter, terminate such marketing order; provided, that such termination shall be effective only if announced on or before such date (prior to the end of the marketing period then current) as may be specified in such marketing order.

Amendments

(d) The director may amend any marketing order if such amendment or amendments have been considered at a public hearing duly noticed and held in accordance with the provisions of Section 1300.13 of this chapter, and after appropriate findings have been made by the director pursuant to Section 1300.14 of this chapter; and provided, that no amendment shall be made effective unless the director finds that such amendment has been assented to in writing in accordance with the provisions of this section.

Posting and publication of notice

(e) Upon issuance of any order making effective a marketing order, or any suspension, amendment or termination thereof, a notice thereof shall be posted on a public bulletin board to be maintained by the director in his office and a copy of such notice shall be published in a newspaper of general circulation published in the capital of the State and in such other newspaper or newspapers as the director may prescribe. No marketing order or any suspension, amendment or termination thereof shall become effective until the termination of a period of five (5) days from the date of such posting and publication. It shall also be the duty of the director to mail a copy of the notice of said issuance to all persons, directly

affected by the terms of such marketing order, suspension, amendment or termination, whose names and addresses may be on file in the office of the director and to every person who files in the office of the director a written request for such notice.

SEC. 3. Section 1300.17 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 2134

1300.17. (a) For the purpose of providing funds to defray the necessary expenses incurred by the director in the formulation, issuance, administration and enforcement of any marketing order issued by the director hereunder, each and every person engaged in the production, processing, distributing or handling of any agricultural commodity within this State, and directly regulated by any marketing order issued pursuant to this chapter, for such commodity, shall pay to the director, at such times and in such installments as the director may prescribe, an assessment based upon the units in which such agricultural commodity is marketed, or upon any other uniform basis which the director determines to be reasonable and equitable, but in amounts which in the case of producers will not exceed two and one-half per cent ($2\frac{1}{2}\%$) of the gross dollar volume of sales, of the commodity affected, by all such producers, regulated by such marketing order or in amounts which in the case of processors, distributors or other handlers will not exceed two and one-half per cent ($2\frac{1}{2}\%$) of the gross dollar volume of purchases of the commodity affected by the marketing order from producers or of the gross dollar volume of sales of the commodity affected by the marketing order and handled by all such processors, distributors or other handlers regulated by such marketing order during the marketing season or seasons during which such marketing order is effective; provided, that assessments shall be required from producers alone if producers only are regulated, as to the commodity affected, by the marketing order; that assessments shall be required from producers and from processors, distributors or other handlers if both such groups are regulated, as to the commodity affected, by the marketing order; and that assessments shall be required from processors, distributors or other handlers alone if only processors or distributors or other handlers are regulated, as to the commodity affected, by such marketing order. Assessment. From whom required.

The director may require each and every producer, processor, distributor or handler directly regulated by any marketing order to deposit with him in advance, an amount based upon the estimated number of units to be marketed by such producer or handled by such processor, distributor or handler, or upon any other uniform basis which the director determines to be reasonable and equitable, such bases to be applicable during the marketing season or seasons during which such marketing order is effective. At the close of each Deposit in advance.

marketing season the sums so deposited shall be adjusted to the amount which is chargeable against such producer, processor, distributor or handler upon the basis of the actual number of units marketed by such producer or handled by such processor, distributor or handler, or upon the same uniform basis under which such funds were assessed by the director, during such marketing season.

The director shall prescribe the rules and regulations with respect to the assessment and collection of such funds for such purposes.

Additional assessment

(b) For the purpose of providing funds to cover the necessary costs of any advertising or sales promotion plan authorized in any marketing order issued by the director pursuant to this chapter, each and every person engaged in the production, processing, distributing or handling of any agricultural commodity within this State, and directly regulated by any such marketing order issued pursuant to this chapter for such commodity, shall pay to the director, at such times and in such installments as the director may prescribe, an additional assessment based upon the units in which such agricultural commodity is marketed, or upon any other uniform basis which the director determines to be reasonable and equitable, but in amounts which will not exceed four per cent (4%) of the gross dollar volume of sales by all producers, or by all processors, distributors or other handlers of such agricultural commodity, regulated by such marketing order during the marketing season or seasons during which such marketing order is effective; provided, that assessments shall be required from producers alone if producers only are regulated, as to the commodity affected, by the marketing order; that assessments shall be required from producers and from processors, distributors or other handlers if both such groups are regulated, as to the commodity affected, by the marketing order; and that assessments shall be required from processors, distributors or other handlers alone if only processors or distributors or other handlers are regulated, as to the commodity affected, by such marketing order. Whenever both producers and processors, distributors or other handlers are regulated by a marketing order, the assessment for advertising or sales promotion may in the case of producers be based upon the form in which the agricultural commodity is delivered by producers to processors, distributors or other handlers and in the case of processors, distributors and other handlers upon the processed form of such commodity as sold by processors, distributors or other handlers; provided, that no producer, processor, distributor or other handler shall be subject to such assessment for advertising or sales promotion covering the same agricultural commodity in more than one existing marketing order.

From whom required

Deposit in advance

For the purpose of providing funds to cover the costs of such advertising or sales promotion plans incurred prior to the receipt of sufficient funds from assessments as provided

herein, the director may require each person so assessed to deposit with him in advance an amount not exceeding twenty-five per cent (25%) of such assessment, based upon the estimated number of units of such commodity to be marketed or handled by such person, or upon any other uniform basis which the director determines to be reasonable and equitable, during such marketing season. At the close of such marketing season the sum so deposited by such person shall be adjusted to the amount which is properly chargeable against such person pursuant to the assessment authorized herein.

The director shall prescribe the rules and regulations with respect to the assessment and collection of such funds for such purposes.

Deposit of moneys

(c) Any moneys collected by the director pursuant to this act shall be deposited in a bank or banks, or other depository, approved by the Director of Finance, allocated to each marketing order under which they are collected, and disbursed by the director only for the necessary expenses incurred by the advisory board and the director and approved by the director with respect to each such separate marketing order. Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations prescribed by the director. The expenditure of such funds shall be exempt from the provisions of Section 669 of the Political Code. Any moneys now in the State Treasury to the credit of the "State Marketing Act Trust Fund" shall be withdrawn and deposited in accordance with the provisions of this subdivision.

Refund

Any moneys remaining in such fund, allocable to any particular agricultural commodity affected by a marketing order, at the discretion of the director, may be refunded at the close of any marketing season upon a pro rata basis, to all persons from whom such funds were collected; provided, that, upon termination by the director of any marketing order, any and all moneys remaining, and not required by the director to defray the expenses of such marketing order, shall be returned by the director upon a pro rata basis, to all persons from whom such funds were collected; provided further, however, that if the director finds that the amounts so returnable are so small as to make impractical the computation and remitting of such pro rata refund to such persons, the director may use such funds to defray the expenses incurred by him in the formulation, issuance, administration or enforcement of any subsequent marketing order for such commodity. At the expiration of a period of two years from the date of such finding by the director, any of such moneys remaining and not so used by the director shall become available for use by the director for marketing functions and said sums shall be transferred to the then current appropriation for support for the Department of Agriculture payable from the General Fund.

Stats 1939, p 2137

SEC. 4. Section 1300.20 of the Agricultural Code is hereby amended to read as follows:

Collection of assessment, etc

1300.20. Any assessment herein levied, in such specified amount as may be determined by the director pursuant to the provisions of this chapter, shall constitute a personal debt of every person so assessed and shall be due and payable to the director when payment is called for by the director. In the event of failure of such person or persons to pay any such assessment upon the date determined by the director, the director may file a complaint against such person or persons in a State court of competent jurisdiction for the collection thereof.

Failure to pay

In the event any producer or handler duly assessed pursuant to the provisions of this act fails to pay to the director the amount so assessed on or before the date specified by the director, the director is hereby authorized to add to such unpaid assessment an amount not exceeding ten per cent (10%) of such unpaid assessment to defray the cost of enforcing the collection of such unpaid assessment.

Stats 1939, p 2137

SEC. 5. Section 1300.23 of the Agricultural Code is hereby amended to read as follows:

Deposit for expense of marketing order

1300.23. (a) Prior to the issuance of any marketing order by the director, under this chapter, the director may require the applicants therefor to deposit with him such amount as the director may deem necessary to defray the expenses of preparing and making effective such marketing order. Such funds shall be received, deposited and disbursed by the director in accordance with the provisions set forth in Section 1300.17 hereof.

Reimbursement

The director may reimburse the applicant in the amount of any such deposit from any funds received by the director pursuant to the provisions of paragraph (a) of Section 1300.17.

The director may also reimburse the applicant from any funds received by the director pursuant to the provisions of paragraph (a) of Section 1300.17, for any necessary expenses incurred by the applicant in preparing and in obtaining approval upon such marketing order upon receipt of a verified statement of such expenses approved by the director

Stats 1937, p 1343

SEC. 6. Section 1300.28 of the Agricultural Code is hereby amended to read as follows:

Termination or amendment of order

1300.28. The director shall have power to terminate any such marketing agreement or license, or both, and to amend such marketing agreement or license, or both, as provided in Section 1300.16 hereof.

Ratification and validation

SEC. 7. Any marketing order issued by the director pursuant to Chapter 10, Division 6, of the Agricultural Code and

in effect upon the twenty-sixth day of June, 1939, which by its terms was to remain in effect until the first day of January, 1941, or later, and as to which the director prior to the effective date of this act did not make a finding that such order was in conformity with Section 1300.14 of the Agricultural Code as amended by Chapter 665 of the Statutes of 1939, is hereby validated, ratified, approved and confirmed.

Urgency

SEC. 8. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and therefore shall take effect immediately.

The following is a statement of facts constituting such necessity:

The orderly marketing of agricultural crops is essential to the welfare of the people of this State. The economic conditions of many agricultural producers throughout the State are such as to require immediate assistance, if their purchasing power and taxpaying ability are to continue and their morale and standard of living are not to be undermined. Seasonal and accumulated surpluses of agricultural commodities which have a seriously depressing effect upon marketing conditions must be directed into channels of trade and consumption through the aid of orderly marketing procedure, including sound advertising and sales promotion plans. To make the services rendered expeditious and responsive to needs, an improved means for depositing and disbursing funds collected by assessment must be provided. To be of maximum benefit, the provisions of this act must be made available for application during the current harvest season; hence, it is necessary that this act take effect immediately.

CHAPTER 962

An act to amend Section 356a of the Political Code, relating to contracts between different State agencies.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Stats 1933, p 591

SECTION 1. Section 356a of the Political Code is hereby amended to read as follows:

Contracts between State agencies

356a. Any State department, office, board, commission or bureau may, subject to the approval of the Department of Finance, contract with another such agency for the furnishing to it of necessary special or technical services or the performance of certain of its work or functions when the same will tend to eliminate duplication or expense. State departments, officers, boards, commissions or bureaus which are requested to

furnish such special or technical services, or to perform such work, are authorized to comply with such requests, and to employ the services of such employees, and to furnish such materials, supplies or equipment as may be necessary to efficiently carry on the work or services provided for in the contract. Said contract shall specify the amount to be paid for the furnishing of such services or the performance of such work or functions and such amount shall be paid to the agency entitled thereto under such contract in accordance with law from out of the funds, moneys or appropriations made available by law for the support of the agency to whom said services are furnished or for whom such work or functions are performed. All moneys received by any agency, other than The Regents of the University of California, under the provisions of this section shall be deposited in the State Treasury and shall be used in augmentation of the appropriation made for such agency; if received by The Regents of the University of California, such moneys shall be added to the other funds provided for or accruing to the use of the University of California, to be used in the same manner and for the same purposes as other funds made available to the university.

Deposit of moneys

CHAPTER 963

Stats 1937, p 1005, amended

An act to add Chapter 7, comprising Sections 7300 to 7310, inclusive, to Part 4 of Division 6 of the Welfare and Institutions Code, relating to the establishment and maintenance of an acute neuropsychiatric hospital, creating a board of trustees therefor, and providing for the powers and duties of the Department of Institutions and The Regents of the University of California in connection therewith.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. Chapter 7, comprising Sections 7300 to 7310, inclusive, is hereby added to Part 4 of Division 6 of the Welfare and Institutions Code, to read as follows:

CHAPTER 7. LANGLEY PORTER CLINIC

The Langley Porter Clinic

7300. There is an acute neuropsychiatric hospital located on grounds adjacent to the campus of the University of California Medical School which shall be The Langley Porter Clinic.

Jurisdiction

7301. The Langley Porter Clinic is under the jurisdiction of the Department of Institutions.

7302. The Langley Porter Clinic shall be conducted and maintained for the purpose of treating incipient and acute mental and nervous cases. All admissions shall be on a voluntary basis. There shall be conducted and maintained in conjunction with the hospital unit an out-patient clinic. Purpose

7303. The Regents of the University of California deeded unconditionally to the Department of Institutions the land upon which The Langley Porter Clinic is constructed. The purpose of the deed of gift was to provide for the State a suitable site whereon through the agency of the Department of Institutions there might be constructed, and thereafter maintained and operated, an acute neuropsychiatric hospital unit. There has been constructed upon that land The Langley Porter Clinic. It was the further purpose of the regents to enable the State, through the Department of Institutions, to develop as far as possible preventive work in the field of mental disorders, and to make full provision for the diagnosis of such disorders in their incipient and earliest stages with a view to instituting timely and more effective treatment. It was the further purpose of the regents to insure to the State through the proximity of The Langley Porter Clinic to the Medical Center of the University of California, full opportunity for consultation with the university's personnel at the Medical Center, and to provide opportunities for the State and the University of California to cooperate in prevention, diagnosis, treatment and promotion of research in the field of mental disorder, and advancement of the learning and knowledge of students of the university, and others whose work lies in the fields of surgery and medicine, and, in particular, in those branches of medical science which have to do with mental and nervous diseases and disorders. It is, therefore, the intent of the Legislature that all the facilities and services of the Department of Institutions at The Langley Porter Clinic be made available to The Regents of the University of California at the desire of the Department of Institutions to make such facilities and services available. It is further the intent of the Legislature that all the facilities and services of the University of California Medical School be made available to the Department of Institutions at The Langley Porter Clinic upon the desire of The Regents of the University of California to make such facilities and services available to the department. Grant of site Legislative intent

7304. The Regents of the University of California shall have the exclusive right and privilege of rendering professional and administrative consultant services to The Langley Porter Clinic. When the services rendered to The Langley Porter Clinic by The Regents of the University of California have been rendered at the request and initiation of the regents, then the regents shall be liable for any expense incurred in Consultant services

rendering such services. If, however, the services are rendered by the regents at the request of the Department of Institutions, then the regents may refuse to render such services unless the expense be borne by the Department of Institutions.

Teaching services

7305. The Regents of the University of California shall have the exclusive right and privilege, except as hereinafter mentioned, of providing for The Langley Porter Clinic and carrying on and conducting therein such teaching services as it may deem desirable and of determining the scope of such teaching services and supervising and administering the teaching services so provided or conducted by it. The regents shall have the exclusive right and privilege of supervising the clinical care of patients at said Langley Porter Clinic for the purpose of rendering such teaching services effective. The Regents of the University of California may make available to students of the University of California and to such other person or persons as the regents in its sole discretion may deem desirable, such teaching services. Nothing in this section shall be construed to prevent the Department of Institutions from providing for its employees such teaching services as in its sole discretion it shall or may deem desirable.

Availability of university facilities

7306. The Regents of the University shall have the right and privilege of making available to The Langley Porter Clinic, and using and employing therein in the exercising of its other privileges and rights, any or all of the professional and scientific services and facilities of the University of California.

Research

7307. The Regents of the University of California shall have the exclusive right and privilege of conducting at The Langley Porter Clinic such research or study projects as in its sole discretion it may desire to conduct, and of supervising the conducting thereof, and of publishing the results obtained from such projects, but nothing in this paragraph shall be construed to deny the Department of Institutions the right to conduct such research projects by its employees as it may deem desirable.

Board of trustees

7308. There is hereby created a Board of Trustees of The Langley Porter Clinic which shall be composed of five persons appointed by the Governor, two of whom shall be selected from the faculty or administrative staff of the University of California Medical School. Each member of said Board of Trustees shall hold office for the term of four years, and shall serve without compensation other than necessary expenses

Duties

incurred in the performance of duty. The Board of Trustees of The Langley Porter Clinic shall perform no duties other than the arbitration of any possible differences which might

arise between the Department of Institutions and The Regents of the University of California because of the close coordination, management, and control of The Langley Porter Clinic.

Medical superintendent

7309. The Medical Superintendent of The Langley Porter Clinic shall be a person with the same qualifications required for medical superintendents of other institutions under the jurisdiction of the Department of Institutions. The appointment of any person as medical superintendent shall not be effective for any purpose unless such person has passed an examination touching upon his qualifications in all branches of medicine and surgery, and especially in diseases affecting the mind and nervous system. To be eligible for such examination a candidate for the position of superintendent shall have demonstrated by past experiences his qualifications in the field of psychiatry and neurology. A certificate issued by the American Board of Psychiatry and Neurology to the effect that the holder thereof possesses such qualifications, or the equivalent of such a certificate, shall be considered as meeting the above mentioned requirements, but in addition a candidate shall be required to demonstrate by experience his qualifications in hospital administration, in the field of teaching, and in the organization and successful prosecution of meritorious research projects. The questions for such examination shall be prepared by the Personnel Board together with the Director of Institutions or any medical superintendent that he shall designate, and the dean of the University of California Medical School, or such member of the faculty of the Medical School as the dean shall designate in consultation with a representative of the State Personnel Board. The examination shall be conducted by the Personnel Board together with the Director of Institutions or such medical superintendent as he shall designate, the dean of the University of California Medical School, or any member of the faculty of the Medical School which he shall designate, and a representative of the State Personnel Board.

Nothing herein contained shall prevent the making of a temporary appointment pending the holding of an examination to qualify a list of persons eligible to be appointed medical superintendent of The Langley Porter Clinic.

CHAPTER 964

Stats 1897, p 254, amended

An act to amend Section 61 of the California Irrigation District Act, relating to indebtedness of irrigation districts, including the refinancing or retiring of outstanding contracts.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 1417

SECTION 1. Section 61 of the act cited in the title hereof is hereby amended to read as follows:

Power to incur indebtedness restricted

Sec. 61. The board of directors or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the levying of the first assessment, incur indebtedness in such sum or sums as shall amount to two thousand dollars ($2,000), or, if the district shall contain more than 4,000 acres, to one-half as many dollars as there are acres of land in the district, and may cause warrants of the district to be issued therefor, bearing interest at not more than 7 per centum per annum, said rate to be fixed by the board of directors. Each such warrant shall be made payable on a date not later than the first day of July next after the first assessment in the district shall be levied, and if not paid when presented on the due date or thereafter shall be registered and the amount due thereon shall draw interest as provided in Section 61a of this act. Nothing contained in this section shall be construed

Contracts or leases

as limiting the right of the board to enter into any contract or lease for any lands, waters, water rights or other property necessary in the judgment of the board for any of the uses or purposes of the district, and by such lease or contract to bind the district for the payment of the consideration specified in such lease or contract as may be provided therein, but if the largest payment to be made under any one such lease or contract in any year exceeds an amount equal to one-fourth of 1 per cent of the total valuation of the land in the district according to the assessment book thereof last equalized before the making of such lease or contract, such lease or contract shall not be valid unless approved by the California District Securities Commission, or unless an assessment sufficient to meet all the principal payments to become due under such lease or contract shall have been or shall be authorized for that purpose in accordance with Section 59 of this act.

Warrants

If any such contract shall provide for any future payment or payments, the board may cause warrants to be issued for such payment or payments, which warrants shall be made payable

at the time or times provided in said contract for such payment or payments. If a special assessment shall have been voted as provided in Section 59 of this act, the board may cause warrants, in an amount or amounts equal to the amount of said assessment, to be issued for the purpose or purposes thereof, which warrants shall be made payable at such time or times as the board may estimate that provision for their payment may be made from the proceeds of said assessment. In case any district shall have outstanding any warrants registered as provided in Section 61a of this act, such warrants or any thereof and the accrued interest thereon may be refunded by the issuance of warrants payable at stated times to be fixed by the board, and such warrants may be exchanged for such registered warrants or may be sold for not less than the par value thereof to provide funds for the payment of such registered warrants or any thereof and the accrued interest thereon. The board may also issue warrants payable at a future time or times in consideration of money loaned to the district for the purchase of any of its outstanding bonds or the refinancing or retiring of any outstanding contract; provided, that the annual interest payable on the warrants so issued shall be less than the annual interest on the bonds purchased or contract refinanced or retired with the proceeds of said warrants. Any warrant made payable as aforesaid at a future date shall draw interest at a rate to be fixed by the board, not to exceed 6 per cent per annum, payable annually or semiannually as the board may prescribe, and the board may cause coupons, payable to bearer and in such form and to be signed as the board may prescribe, to be attached to such warrant to evidence such interest. No warrants made payable more than five years from the date thereof shall be valid unless the issuance of such warrants shall have been authorized by a majority of the electors voting at a special election called within the district by the board for the purpose of determining whether such warrants shall be authorized. Notice of any such election shall be given and such election shall be held and the result thereof determined as provided in Section 30d of this act. In case any district shall issue warrants payable at specified future dates as herein provided and such district shall own any land or other property which it is authorized by law to lease or sell, the board may, in the contract providing for the issuance of such warrants, agree that the proceeds of the leasing or sale of such land or other property, not required by law to be used for other purposes, may be allocated to the payment of such warrant or warrants, and in such case the income or proceeds of said land or other property so allocated shall not be diverted to any other purpose until such warrant or warrants shall have been paid in full.

Interest

Allocation of proceeds

CHAPTER 965

"Sanitation and Sewer Revenue Bond Act of 1941"

An act authorizing municipalities as herein defined to acquire, construct, improve and extend within and without their limits sanitation and sewer revenue-producing enterprises as herein defined, and providing an additional and alternative method of financing such enterprises through the issuance of revenue bonds payable solely from the revenues of such enterprises, and in no respect secured by the taxing power; limiting the issuance of revenue bonds to the enterprises defined herein and excluding therefrom systems for the generation, production or distribution of electricity, gas or water; authorizing such municipalities to maintain and operate such enterprises and to prescribe, revise and collect fees, tolls, rates, rentals and other charges for the services and facilities furnished thereby; regulating the issuance of such revenue bonds; providing for their payment and the rights and remedies of the holders thereof.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Short title

SECTION 1. Short Title. This act may be cited as "The Sanitation and Sewer Revenue Bond Act of 1941."

Definitions

SEC. 2. Definitions. The following terms wherever used or referred to in this act shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) The term "municipality" shall mean any city, county, city and county, municipal utility district, public utility district, sanitary district, county sanitary district, sanitation district or any other municipal or public corporation or district howsoever named or designated, which under the laws of this State is now or may hereafter be authorized to acquire, construct, own or operate either a sanitation system or a sewer system or both;

(b) The term "governing body" shall mean the council, commission or other body, board, officer or officers by whatsoever names known, having charge of the government and affairs of a municipality;

(c) The term "law" shall mean any act or statute, general, special or local, of this State, including, without being limited to, the charter of any municipality;

"Enterprise"

(d) The term "enterprise" shall mean either of the following revenue-producing enterprises or a combination thereof, whether now existing in whole or in part or hereafter acquired or constructed, to wit: Systems, plants, works or undertakings (1) used or useful in connection with the collection, treatment and disposal of waste, refuse and garbage, or (2) used or useful in connection with the collection,

treatment and disposal of sewage, waste and storm water, together with all parts of any such enterprise and all appurtenances thereto, including lands easements, rights in land, contract rights, franchises, approaches, dams, garbage trucks, equipment and dumps and garbage disposal plants and incinerators or other disposal facilities, sewage treatment plants, sewage disposal plants, intercepting and collecting sewers, outfall sewers, trunk, connecting and other sewer and waste and storm water mains; provided, however, that the term "enterprise" as used in this act shall not include systems, plants, works or undertakings used or to be used in connection with (1) the generation, production, transmission and distribution of electric energy for lighting, heating and power for public or private uses, (2) the generation, production, transmission and distribution of gas for public or private uses, or (3) the production, transmission and distribution of water for public or private uses; provided, however, that in any resolution calling an election for the issuance of revenue bonds for the purpose of acquiring, constructing or improving any enterprise, the governing board may define the enterprise to be so acquired, constructed or improved, and the term "enterprise" with respect to the bonds authorized at such election shall then apply only to the enterprise so defined in such resolution by such governing board;

(e) The term "improving" or "to improve" shall mean reconstructing, replacing, extending, repairing, bettering, equipping, developing, embellishing or improving or any one or more or all of the foregoing;

(f) The term "bonds" or "revenue bonds" shall mean bonds issued by a municipality pursuant to this act, payable exclusively from revenues of any enterprise authorized by this act;

(g) The term "revenues" shall mean all fees, tolls, rates, rentals and other charges received or receivable in connection with and all other income and receipts of whatever kind or character derived by the municipality from the operation of the enterprise or arising from the enterprise, including any of such revenue as may have been or may be impounded or deposited in any sinking fund, redemption or reserve fund or other fund created for the security of revenue bonds or for the purpose of providing for the payment thereof or the interest thereon;

(h) The term "holder of bonds" or "bondholder" or any similar term shall mean any person who shall be the bearer of any outstanding revenue bond or bonds registered to bearer or not registered, or the registered owner of any such outstanding revenue bond or bonds which shall at the time be registered other than to bearer;

(i) Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Powers of municipalities

SEC. 3. Grant of Power. Any municipality shall have power and is hereby authorized:

(a) To acquire by gift, purchase, or the exercise of the right of eminent domain, any enterprise;

(b) To construct or to improve any enterprise wholly within or wholly without the municipality, or partially within and partially without the municipality and to acquire by gift, purchase, or the exercise of the right of eminent domain or otherwise, lands, easements, and rights in lands in connection therewith;

(c) To operate and maintain any enterprise wholly within or wholly without, or partially within and partially without the municipality, for its own use and for the use of public and private consumers and users within and without the municipality; provided, that no municipality shall operate any enterprise wholly without such municipality except in conjunction with and as a part of any such enterprise within such municipality;

Fees, tolls, rentals, etc

(d) To prescribe, revise and collect fees, tolls, rates, rentals, or other charges as hereinafter more fully provided for the services and facilities furnished by the enterprise; provided, that the municipality may provide that rates, tolls and charges for any sewer enterprise or service shall be collected with the rates, tolls and charges for any other utility service rendered by the municipality, and that all rates shall be billed upon the same bill and collected as one item, and that in the event of failure to pay the whole or any part thereof, the municipality may discontinue any and all service for which such bill is rendered; provided further, that the municipality may also provide for the collection of any such fees, tolls, rates, rentals or other charges in any lawful manner and may provide for the collection of the same by action at law or in any other lawful manner, and any and all such remedies for the collection and enforcement of all such fees, tolls, rates, rentals or other charges shall be cumulative and may be pursued alternatively or consecutively as the municipality may determine. In addition to such fees, tolls, rates, rentals or other charges, the municipality may provide for a penalty of not more than 10 per cent, in the event of nonpayment thereof within the time and in the manner as may be prescribed by the municipality, and may provide for collection of such penalty;

Revenue bonds

(e) To issue revenue bonds in order to raise funds for the purpose of acquiring, constructing or improving an enterprise, or for any combination of two such purposes, which bonds may be secured as hereinafter provided; provided, however, that nothing in this act shall be construed as authorizing any municipal corporation to borrow money and to issue revenue bonds for the purpose of acquiring, constructing or improving any systems, plants, works or undertakings used or to be used in connection with (1) the generation, production, transmission and distribution of electric energy for lighting, heating and power for public or private uses, (2) the

generation, production, transmission and distribution of gas for public or private uses, or (3) the production, transmission and distribution of water for public or private uses;

(f) To make and enforce all necessary rules and regulations to protect the public health in the municipality with respect to the operation and maintenance of any enterprise as herein defined, and to make and enforce such regulations each such municipality is hereby granted police power with respect to any enterprise acquired, constructed or improved hereunder. Without limiting the generality of the authority hereby conferred upon each municipality, each municipality may (i) in the event it shall acquire, construct or improve any sanitation or garbage removal or disposal system require the inhabitants of said municipality to use the facilities of such garbage removal or disposal system exclusively; and (ii) in the event any municipality shall acquire, construct or improve any sewer system hereunder, it may declare that the further maintenance or use of cesspools or other local means of sewage disposal shall constitute a public nuisance and may require all buildings inhabited or used by human beings to be connected with the sewer system acquired or constructed or improved hereunder within such period, not less than 90 days from the completion of the enterprise, as may be prescribed by the municipality; provided, that such buildings to be served thereby are within a reasonable distance from connection with said sewer system, not more than 100 feet; Rules and regulations, police power

(g) To execute all instruments, perform all acts, and do all things necessary or convenient in the exercise of the powers granted by this act or in the performance of its covenants or duties.

SEC. 4. Procedure for Authorization. (a) Any municipality may by resolution of its governing body, which resolution shall take effect immediately upon the adoption thereof, submit to its qualified voters at an election held for that purpose, the proposition of issuing revenue bonds under this act to provide funds for the acquisition, construction or improving of an enterprise or for any combination of two or more such purposes. Such resolution may be adopted at a regular or special meeting and at the same meeting at which it is introduced, by a majority of all members of the governing body then in office. Such resolution shall state the purpose or purposes for which the revenue bonds are proposed to be issued, the estimated cost of the acquisition, construction or improvement, the principal amount of the bonds to be issued therefor, the maximum rate of interest to be paid on such bonds, which shall not exceed 6 per centum per annum, payable annually or semiannually, and shall fix the date on which the aforesaid election will be held, the manner of holding such election, and the manner of voting for or against the issuance of said bonds, and shall state that in all particulars not recited in said resolution such election shall be held and the votes canvassed in the manner provided by law for Resolution

Contents

the holding of general municipal elections in such municipality. Such proposition may be submitted at the same election with other propositions authorized by law. Such resolution shall also state that said bonds are to be revenue bonds, payable exclusively from the revenue of the enterprise and are not to be secured by the taxing power of the municipality.

Publication or posting

(b) Such resolution shall be published once a day for at least seven days in some newspaper published at least six days a week in such municipality, or once a week for two weeks in some newspaper published less than six days a week in such municipality, and one insertion each week for two succeeding weeks shall be a sufficient publication in such newspaper published less than six days a week. In municipalities where no such newspaper is published, such resolution shall be posted in three public places therein for two succeeding weeks. No other notice of such election need be given. It shall require the votes of a majority of all the voters voting on any such proposition to authorize the issuance of the revenue bonds herein provided for.

Resolution of issuance and sale

(c) If the issuance of the revenue bonds is authorized by the votes of a majority of all the voters voting on the proposition, the governing body shall by resolution provide for their issuance and sale. Such resolution shall take effect immediately upon the adoption thereof.

Revenue bonds Terms and conditions

SEC. 5. Terms of Revenue Bonds. The revenue bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding 40 years from their respective dates (provided, that if any authorized issue of revenue bonds is divided into two or more series or divisions, the maximum maturity date of each of such series or divisions shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue), and any bonds or any series or division of any authorized issue may be in the form of serial bonds or sinking fund bonds with serial or term maturities, may bear interest at a rate or rates not exceeding 6 per centum per annum, payable annually or semiannually, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, and may be subject to such terms of redemption, with or without a premium (provided, that no such premium shall be in excess of 6 per centum of the par value of such revenue bonds; and provided further, that none of said revenue bonds shall be subject to call or redemption prior to their fixed maturity date unless the right to exercise such call is expressly stated on the face of the bonds), all as provided in said resolution. Such resolution may also provide the terms and conditions upon which all such revenue bonds issued thereunder may be declared or become due and payable in the event of

certain defaults, if any, as may be specified in said resolution, and may also provide for the replacement of mutilated, destroyed, stolen, or lost bonds. Said revenue bonds may be authenticated in such manner and upon compliance with such conditions, and may contain such other terms and covenants, as may be provided by resolution of the governing body of the municipality. Pending the preparation of the definitive bonds, interim receipts or temporary bonds, exchangeable for definitive bonds when such definitive bonds are ready for delivery, in such form and with provisions as the governing body may determine, may be issued to the purchaser of the bonds. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond, or interim receipt, is non-negotiable, the bonds and interim receipts therefor shall at all times be, and shall be treated as, negotiable instruments for all purposes. The governing body of the municipality in determining the amount of revenue bonds to be issued may include in such amount all costs and estimated costs of the issuance of said bonds, all engineering, inspection, fiscal agent's and legal expenses, working capital and interest which is estimated will accrue during the construction period and for not exceeding 12 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this act.

Validity

SEC. 6. Validity of the Revenue Bonds. Revenue bonds bearing the signature of officers of the municipality in office on the date of the signing thereof shall be valid and binding, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the municipality, the same as if such persons had continued to be officers of the municipality until after the delivery thereof. The validity of the authorization and issuance of the revenue bonds shall not be dependent on or affected in any way by proceedings taken for the acquisition, construction or improving of the enterprise, or by contracts made in connection with the acquisition, construction, or improving of any such enterprise. Any resolution authorizing revenue bonds may provide that any such bond may contain a recital that such bond is issued pursuant to this act, and any bond containing such recital under authority of any such resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of this act. Reference on the face of the bonds to such resolution by its date of adoption shall be sufficient to incorporate all of the provisions thereof and of this act into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds and coupons, whether the coupons are attached to or detached from the bonds, shall have recourse to all of the provisions of the resolution and of this act and shall be bound by all of the terms and conditions thereof.

Presumption

Sale

SEC. 7. Disposition of Revenue Bonds. The revenue bonds may be sold in installments at different times, or an entire issue or series may be sold at one time. Such bonds may be issued and sold by the governing body in such manner as said governing body may determine, and at a price below the par value thereof; provided, that the maximum net interest cost on bonds sold below par or face value shall not exceed an average of 6 per centum per annum, payable semiannually to the respective maturity dates of said bonds as determined by standard tables of bond values. The sale price of all bonds sold shall include the interest which has accrued thereon up to the date of delivery of and payment for said bonds.

Security for bonds

SEC. 8. Security of the Revenue Bonds. (a) The revenue bonds shall be special obligations of the municipality and shall be payable from and secured by a lien upon the gross revenues of the enterprise, as shall be more fully described in the resolution of the governing body authorizing the issuance of the bonds, and, any municipality shall have power by resolution of its governing body to pledge and assign for the security of the revenue bonds all or any part of the gross revenues of such enterprise, including the revenues of improvements and extensions thereto thereafter constructed or acquired, as well as the revenues of existing systems, plants, works, or undertakings to be improved or extended or for the improvement or extension of which such bonds are to be issued. The sums required to meet the payment of interest on and principal of the revenue bonds issued hereunder shall

Lien on revenues

be secured by a first, direct and exclusive charge and lien upon all of the revenues of the enterprise, and all of such revenues, together with any interest earned thereon and any sinking fund, reserve fund, redemption fund or other funds created therefrom for the payment of principal or interest or the better securing of the payment of principal of or interest on the revenue bonds, shall constitute a trust fund for the security and payment of such bonds and the interest thereon and shall not be used for any other purpose so long as such bonds or any of them or the interest thereon are outstanding or unpaid; except that out of such revenues there may be apportioned, so long as the interest on and principal of said revenue bonds is paid as the same become due and payable, together with all other charges required for the

Payment of maintenance and operation costs

protection of or better securing of said bonds, such sums as may be sufficient to pay the maintenance and operation costs of said enterprise and all such principal of and interest on said bonds and all sums required for sinking funds, redemption funds, reserve funds or other funds created for the better securing of said bonds shall be paid from said revenues prior to the application of any of said moneys to the payment of the cost of operation or maintenance of such enterprise, except only as may be otherwise provided in the resolution of the governing board calling the election at which such revenue bonds are authorized to be issued.

(b) All revenue bonds of the same issue shall be equally and ratably secured, without priority by reason of number, date of bonds, of sale, of execution or of delivery, by a lien upon the revenues of the enterprise in accordance with the provisions of this section and the resolution authorizing the issuance of such bonds. Bonds of same issue equally secured

(c) Nothing in this section or in any other section of this act shall be deemed in any way to authorize any municipality to do anything in any manner or for any purpose which would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a debt or indebtedness within the meaning of any provision, limitation, or restriction of the Constitution or any law relating to the creation or incurring of a debt or indebtedness. Construction

SEC. 9. Municipality Not Liable on Revenue Bonds. (a) No recourse shall be had for the payment of the revenue bonds, or interest thereon, or any part thereof, against the general fund of any municipality, nor shall the credit or taxing power of any municipality be deemed to be pledged thereto, and the holder of the revenue bonds, or the coupons thereto appertaining shall never have the right to compel the exercise of the taxing power by the municipality or the forfeiture of any property of the municipality. Municipality not liable on bonds

(b) The revenue bonds, and interest thereon, shall not be a debt of the municipality, nor a charge, lien or encumbrance, legal or equitable, upon any property of the municipality, or upon any income, receipts, or revenues of the municipality other than such of the revenues of the enterprise as shall have been pledged to the payment thereof, and every revenue bond shall recite in substance that said bond, including interest thereon, is payable solely from the revenues pledged to the payment thereof and that the municipality is under no obligation to pay the same, except from said revenues. Bonds payable solely from revenues pledged

SEC. 10 Revenue Bonds May Be Certified as Legal Investments. The bonds issued under this act shall be subject to investigation and certification by the California Districts Securities Commission pursuant to the provisions of the California Districts Securities Commission Act. If, in the opinion of said commission, said bonds are adequately secured and the revenues of the enterprise applicable to the payment thereof are, or upon the acquisition, construction or improvement of said enterprise probably will be, sufficient to pay the principal and interest of said bonds, said commission shall certify that said bonds are eligible as legal investments for both public and private funds and as security for the deposit of public funds in banks in the State of California in accordance with the provisions of Section 9 of the California Districts Securities Commission Act. Bonds as legal investments Stats 1931, p 2263

SEC. 11. Revenue Bonds Exempt From State Taxation. All bonds, and the interest or income therefrom, issued under the provisions of this act shall at all times be exempt from Exemption from taxation

all taxation in this State, except from gift, inheritance and estate taxes.

Validating suit

SEC. 12. Validating Suit. The governing body of any municipality may, at any time after the adoption of a resolution providing for the issuance of any revenue bonds under this act and prior to the actual delivery of said bonds, to any purchaser thereof, bring an action in the superior court of the county wherein the office of such governing body is located, to determine the validity of any such bonds. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some newspaper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within 10 days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said 10 days appear and by proper proceedings contest the validity of such revenue bonds. Such action shall be speedily tried and judgment rendered declaring the bonds either valid or invalid. Either party may have the right to appeal to the Supreme Court at any time within 30 days after the entry of such judgment, and such appeal shall be heard and determined by said court within three months from the time of filing thereof.

Publication of summons

Appeal

Fiscal agent

SEC. 13. Fiscal Agent. Any municipality shall have power in connection with the issuance of bonds to appoint a fiscal agent, to provide for the powers, duties and functions and compensations of such fiscal agent, to limit the liabilities of such fiscal agent, to prescribe a method for the resignation, removal, merger or consolidation of such fiscal agent, and the appointment of a successor fiscal agent, and the transfer of rights and properties to such successor fiscal agent. Any such fiscal agent or trustee may be given the right to receive, collect, hold or disburse any or all revenues collected from the enterprise for or on account of the municipality, and to apply the same to the payment of the principal of or interest on the bonds, and the balance thereof to the municipality to pay the cost of maintenance and operation of such enterprise.

Contributions or loans from U. S., contracts, etc

SEC. 14. Notwithstanding any provision of this act to the contrary or in conflict herewith, the governing body of any municipality is hereby authorized and empowered to accept contributions or loans from the United States of America, or any department, instrumentality or agency thereof, for the purpose of financing the construction, maintenance and operation of any enterprise, and to enter into contracts and cooperate with, and accept cooperation from, the United States of America, or any department, instrumentality or agency thereof, in the construction, maintenance and operation, and in financing the construction, maintenance and operation, of

any enterprise in accordance with any legislation which Congress may have heretofore adopted or may hereafter adopt, under which aid, assistance and cooperation may be furnished by the United States of America in the construction, maintenance and operation or in financing the construction, maintenance and operation of any enterprise; and the governing body of any municipality shall have full power to do any and all things necessary in order to avail itself of such aid, assistance and cooperation under Federal legislation now or hereafter enacted by Congress.

Contributions from this State, etc

SEC. 15. The governing body of any municipality is further authorized and empowered to accept contributions of money, right of ways, labor, materials and any other property for the construction, maintenance and operation of any enterprise from, and to enter into any contracts and cooperate with, and accept cooperation from, the State of California, or any department, instrumentality or agency thereof, or with any municipal corporation or public corporation or district of this State in the construction, maintenance and operation of, and in financing the construction, maintenance and operation of, any enterprise and for the use of any enterprise and the services furnished thereby for public or private purposes.

Duties of municipality and officers

SEC. 16. Duties of Municipality and Officers. (a) In order that the payment of the revenue bonds, and interest thereon, shall be adequately secured, any municipality issuing bonds pursuant to this act and the proper officers, agents and employees thereof, are hereby authorized and directed, and it shall be the mandatory duty of such municipality and such officers, agents and employees under this act, and it shall further be of the essence of the contract of such municipality with the bondholders, at all times:

(1) To pay or cause to be paid punctually, the principal of every bond, and the interest thereon, on the date or dates and at the place or places and in the manner mentioned in such bonds and in the coupons thereto appertaining and in accordance with the resolution authorizing their issuance;

Operation, fixing fees, tolls, etc

(2) To operate the enterprise in an efficient and economical manner and to prescribe, revise and collect such fees, tolls, rentals, rates and other charges in connection therewith that the services and facilities of the enterprise may be furnished to inhabitants of the municipality and other users at the lowest possible cost consistent with sound economy and prudent management, but which said fees, tolls, rates, rentals and other charges shall be at least sufficient after making due and reasonable allowances for contingencies and for a margin of error in the estimates, to pay each and all of the following charges in the respective priority and order below set forth, to wit:

(i) The interest on and principal of the revenue bonds as the same shall become due and payable;

(ii) All payments required to comply in all respects with the terms of the resolution or resolutions authorizing the issuance of the revenue bonds or any other contract or agreement with the holders of such bonds, including the setting up of sinking and reserve funds;

(iii) All payments to meet any other obligations of the municipality which are charges, liens, or incumbrances upon or payable from, the revenues of such enterprise; and

(iv) All current expenses of operation, maintenance and repair of such enterprise.

Maintenance (3) To operate, maintain, preserve and keep, or cause to be operated, maintained, preserved and kept, the enterprise and every part and parcel thereof, in good repair, working order and condition;

(4) To preserve and protect the security of the revenue bonds and the rights of the holders thereof, and to warrant and defend such rights against all claims and demands of all persons whomsoever;

Payment of labor claims, etc (5) To pay and discharge, or cause to be paid or discharged any and all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or any part thereof, prior or superior to the lien of the bonds, or which might impair the security of the bonds, to the end that the priority and security of the revenue bonds shall be fully preserved and protected;

(6) To hold in trust the revenues pledged to the payment of the bonds for the benefit of the holders of the bonds and to apply such revenues only as provided by the resolution or resolutions authorizing the issuance of the bonds, or, if such resolution or resolutions shall thereafter be modified in the manner provided therein or herein, only as provided in such resolution or resolutions as modified;

Records (7) To keep proper books of record and accounts of the enterprise (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the enterprise or any part thereof, and which, together with all other books and papers of the municipality, shall at all times be subject to the inspection of the holder or holders of not less than 10 per cent of the revenue bonds then outstanding or his or their representatives duly authorized in writing, and to cause to be published annually, not more than 120 days after the close of each fiscal year, a

Annual statement summary statement showing the amount of gross revenue collected, the disbursements therefrom in reasonable detail, and a general statement with respect to the financial and physical condition of the enterprise, and to furnish a copy thereof to the holder of any revenue bond upon request; provided, that any municipality may, in the resolution authorizing the issuance of revenue bonds, agree that such statement shall be prepared or audited by an independent certified public

accountant or firm of independent certified public accountants and shall be in such form and contain such detail as may be specified in such resolution.

(b) None of the foregoing duties shall be construed to require the expenditure in any manner or for any purpose by the municipality of any funds other than revenues received or receivable from the enterprise.

Additional powers to secure bonds

SEC. 17. Additional Powers to Secure Revenue Bonds. (a) The governing body of any municipality shall have power and is hereby authorized to insert provisions in any resolution authorizing the issuance of revenue bonds, which shall be a part of the contract with the holders of the bonds, as to:

(1) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued for the purpose of acquiring, constructing or improving the enterprise, or for two or more of such purposes, may be applied;

(2) Limitations on the issuance of additional bonds, for the purpose of acquiring, constructing or improving the enterprise, or any combination of two or more of such purposes, and on the lien of such additional bonds;

(3) Limitations on the right of the municipality or its governing body to restrict and regulate the use of the use of the enterprise;

Insurance

(4) The amount and kind of insurance to be maintained on the enterprise, and the use and disposition of insurance moneys;

Any such insurance may include insurance against accident to or destruction of any enterprise or part thereof from any or all risks, or against loss of revenues from any such enterprise, and in addition thereto the municipality may provide for insurance against public liability or property damage, workmen's compensation and other insurance carried by private companies on property or risks in connection with the same or similar enterprises. With respect to the use and disposition of insurance moneys, the municipality, without limiting the authority hereby granted, may specifically provide that moneys collected on any insurance against accident to or destruction of the physical enterprise shall be used for the purpose of repairing or rebuilding the enterprise so damaged or destroyed and that if not so applied within any period which may be specified by the municipality, that the same shall be applied to the retirement of any bonds issued in connection with the enterprise which may be then outstanding and unredeemed, and with respect to insurance against loss of revenue, the municipality may specifically provide that the proceeds of such insurance shall be used solely for the payment and retirement of the bonds issued for the acquisition, construction or improvement of the enterprise.

Application of proceeds

(5) Covenants against the mortgaging or otherwise encumbering, sale, lease or disposal of the enterprise, or any of the

revenues thereof, for the acquisition, construction or improvement of which such revenue bonds were issued, or the entering into any lease or agreement which impairs or impedes the operation of such enterprise or any part thereof necessary to secure adequate revenues for the payment of the principal and interest of said bonds or which otherwise would impair or impede the rights of the holders of said bonds with respect to such revenues or the operation of such enterprise;

(6) Events of default and terms and conditions upon which any or all of the revenue bonds shall become and may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(7) The rights, liabilities, powers and duties arising upon the breach by the municipality of any covenants, conditions or obligations;

(8) The vesting in a trustee or trustees of the right to enforce any covenants made to secure payment of or in relation to the bonds, as to the powers and duties of such trustee or trustees, and the limitation of liabilities thereof, and as to the terms and conditions upon which the holders of the bonds or any proportion or percentage of them may enforce any covenants made under this act or duties imposed hereby;

Amendment of resolution authorizing bonds

(9) A procedure by which the terms of any resolution authorizing revenue bonds may be amended or abrogated and as to the amount of bonds the holders of which may consent thereto and the manner in which such consent may be given;

The resolution providing for such procedure may provide for meetings of bondholders or for the written assent of bondholders without a meeting, and may provide for the manner in which the consent of bondholders may be given, either with or without a meeting. Such resolution shall specifically state the effect of such amendment or modification upon the rights of the holders of all of the bonds and interest coupons appertaining thereto, whether attached thereto or detached therefrom, and shall be binding upon the holders of all of the bonds and coupons issued thereunder.

(10) The purchase out of any funds available therefor any outstanding notes, bonds or other obligations, and the price or prices at which, and the manner in which such purchases may be made;

(11) Any other acts and things as may be necessary or convenient or desirable in order to secure the bonds, or as may tend to make the bonds more marketable.

(b) Nothing in this section or in any other section of this act shall be construed to authorize any municipality to make any covenants, to perform any act or to do anything which shall require the expenditure in any manner by the municipality of any funds other than revenues received or receivable from the enterprise which are available for such purpose and may be used by the municipality for such purpose without creating or incurring a debt or indebtedness.

Remedies of bondholders

SEC. 18. Remedies of Bondholders. (a) Subject to any contractual limitations binding upon the holders of any issues of revenue bonds, or a trustee therefor (including, but not limited to, any limitation upon the exercise of any remedy to bondholders or a trustee therefor holding a specific proportion or percentage of such bonds), any holder of bonds or trustee therefor shall have the right and is hereby authorized for the equal benefit and protection of all holders of bonds similarly situated:

(1) By mandamus or other suit, action or proceeding at law or in equity to enforce his rights against the municipality and its governing body and any of its officers, agents and employees and to require and compel such municipality or such governing body or any such officers, agents or employees to perform and carry out its and their duties and obligations under this act and its and their covenants and agreements with bondholders;

(2) By action or suit in equity to require the municipality and the governing body thereof to account as if they were the trustee of an express trust;

(3) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders.

Remedies cumulative

(b) No remedy conferred by this act upon any holder of bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by this act or by any other law. No waiver of any default or breach of duty or contract, whether by any bondholders or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder, or any trustee therefor, to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the bondholders or any trustee therefor, may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the bondholders, or any trustee therefor, then, and in every such case, the municipality and such bondholder, or such trustee, shall be restored to their former positions and rights and remedies as if no such suit, action or proceeding had been brought or taken.

Refunding bonds

SEC. 19. Refunding Bonds. Any municipality may provide for the issuance, sale or exchange of refunding bonds for the purposes of redeeming or retiring any revenue bonds issued by such municipality upon such terms and conditions,

and at such times and in such manner as the governing body of such municipality may determine. All provisions of this act applicable to the issuance of revenue bonds shall be applicable to such funding or refunding bonds and to the issuance, sale or exchange thereof. Funding or refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be funded or refunded thereby and, in addition, for the payment of all expenses incident to the calling, retiring or paying of such outstanding bonds and the issuance of such funding or refunding bonds, including (among other things) the difference in amount between the par value of said funding or refunding bonds and any amount less than that for which such funding or refunding bonds may be sold and also any amount necessary to be made available for the payment of interest upon such funding or refunding bonds from the date of sale thereof to the date of payment of the bonds to be funded or refunded out of the proceeds of the sale thereof or the date upon which the bonds to be funded or refunded will be paid pursuant to the call thereof or agreement with the holders thereof, and also the premium, if any, necessary to be paid in order to call or retire such outstanding bonds, and the interest accruing thereon to the date of such call or retirement.

Construction of act

SEC. 20. Construction of Act. This act constitutes full and complete authority for the issuance of bonds. No procedure or proceedings, publications, notices, consents, approvals, orders, acts or things by any governing body of any municipality, or any board, officer, commission, department, agency, or instrumentality of the State, or of any municipality shall be required to acquire, construct or improve any enterprise or to issue any bonds for any one or combination of two or more such purposes or to do any act or perform any thing under this act, except as may be prescribed in this act. The powers conferred by this act shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this act shall not affect, the powers conferred by any other law. Any enterprise as herein defined may be acquired, constructed or improved and bonds may be issued under this act for said purposes, notwithstanding that any law may provide for the acquisition, construction or improvement of a like enterprise or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, debt or other limitations or other provisions contained in any other law. In so far as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling. This act shall be liberally construed to promote the objects hereof. No error, defect, irregularity, informality, and no neglect or omission of any officer or any municipality in any proceedings taken hereunder, which does not affect the jurisdiction of the governing body to order the doing of the things proposed to be done, shall void or invalidate such proceedings or any bonds issued hereunder.

SEC. 21. Excision of Unconstitutional or Ineffective Parts of Act. It is hereby declared that the sections, clauses, sentences and parts of this act are severable, are not matters of mutual essential inducement, and any of them may be exscinded by any court of competent jurisdiction if this act would otherwise be unconstitutional or ineffective; it is the intention hereof to confer upon every municipality the whole or any part of the powers in this act provided for, and if any one or more sections, clauses, sentences and parts of this act shall for any reason be questioned in any court of competent jurisdiction, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this act in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance. Constitutionality

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CHAPTER 966

An act to amend Section 820 of the Agricultural Code, relating to tomatoes. Stats 1933, p 60, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

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wide cleats on each end extending one-half inch or more over the inside edge of the end piece, and such cleats interfere with the packing of the top layer, the top layer may consist of one row less in length than the bottom layer or layers. However, in no case may the count of the bottom layer or layers be less than the top layer.

In the case of wrapped and packed tomatoes a "bridge" of a number of tomatoes consisting of less than a complete layer packed between any two layers in any container shall be permitted providing the container is marked as hereinafter provided.

Containers

All containers of tomatoes shall bear upon them in plain sight and in plain letters on one outside end: The name of the person who authorized the packing of the tomatoes together with a sufficiently explicit address to permit ready location of such person; when wrapped and packed, numerical description of the pack in the top layer. If a bridge pack is used the designation "Bridge Pack" shall be imprinted in plain letters one inch in height and in plain sight on the lid of the container.

CHAPTER 967

An act to amend Section 4258 of the Political Code, relating to compensation for public services in counties of the twenty-ninth class.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p. 1621

SECTION 1. Section 4258 of the Political Code is hereby amended to read as follows:

San Luis Obispo Salaries

4258. In counties of the twenty-ninth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums:

Auditor

(a) The auditor shall receive as compensation three thousand dollars ($3,000) per annum.

District attorney

(b) The district attorney, three thousand six hundred dollars ($3,600) per annum.

Supervisors

(c) Each member of the board of supervisors, for all services required of each of them as supervisor and as road commissioner, one thousand eight hundred dollars ($1,800) per annum; also each shall be allowed and paid his actual expenses necessarily incurred in the performance of county business within the county not to exceed five cents ($0.05) per mile and actual expenses incurred doing county business outside of the county on order of the board of supervisors; and that each shall be allowed the sum of five cents ($0.05) per mile going to and from his residence to the courthouse and to attend regular and special meetings of the board.

(d) Grand and trial jurors in the superior court shall receive for each day's attendance per day the sum of three dollars ($3). In justices' courts in civil cases the jurors sworn to try the cases shall receive for each day's attendance per day the sum of two dollars ($2). All jurors shall receive for each mile actually and necessarily traveled from their residence to the place of service the sum of fifteen cents ($0.15) per mile; provided, that in the justices' courts mileage shall be allowed only to those sworn to try the case. Jurors

SEC. 2. It is hereby found as a fact that the amendments made by this act in Subdivision 3 of Section 4258 of the Political Code do not constitute an increase in the compensation that the members of the board of supervisors were receiving under provisions of law applicable to them prior to the effective date of this act and the Legislature hereby declares that the provisions of Subdivision 3 of Section 4258 of the Political Code as contained in this act shall apply to present incumbents. Legislative declaration

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CHAPTER 968

An act to add Section 3.5 to an act entitled "An act creating a State Bureau of Criminal Identification and Investigation, providing for its organization and defining its powers and duties and making an appropriation to carry out the provisions hereof, and repealing an act entitled 'An act to create a State Bureau of Criminal Identification, and providing for the appointment of a director of said bureau, defining his duties and qualifications and powers; providing for the appointment of a clerk of said bureau and fixing his qualifications, fixing compensation of said director and clerk, providing for the manner of paying the same and providing for the expense of conducting the office,' approved March 20, 1905," approved May 31, 1917, relating to the organization of said bureau and defining its powers and duties and making appropriation. Stats 1917, p 1391, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 3.5 is hereby added to the act cited in the title hereof, to read as follows: New section

Sec. 3.5. From and after the effective date of this act and thereafter until the Governor finds and proclaims that an emergency no longer exists in preparing for the National defense, or whenever the United States is engaged in war, or whenever a war emergency has been declared to exist by the President of the United States, said board may appoint for the duration of the war or emergency, as the case may be, such additional special criminal investigators not to exceed nine in Special investigators during national emergency

number as it may deem necessary to carry out the provisions of this act; provided, that there shall not be more than fifteen such investigators employed at any one time; and provided, further, that the employment of such investigators shall terminate not later than 90 days after the conclusion of peace or the official termination of the emergency by the President or the Governor.

App oprlation

Out of any money in the State Treasury not otherwise appropriated the sum of one hundred thousand dollars ($100,000) is hereby appropriated, to be expended in accordance with law for the purpose of carrying out the provisions of this act.

CHAPTER 969

Stats 1931, p 587, amended

An act to amend Section 842 of the Probate Code, relating to the leasing of real property belonging to the estate of a deceased person.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 1894

SECTION 1. Section 842 of the Probate Code is hereby amended to read as follows:

Lease by executor or administrator

842. At the time appointed, the court shall hear the petition and any objection thereto that may have been presented; and if the court is satisfied that it will be to the advantage of the estate, it shall make an order authorizing and directing the executor or administrator to make such lease. The period of the lease must not be longer than 10 years except that for the purpose of production of minerals, oil, gas or other hydrocarbon substances, the lease may be for a fixed period not to exceed 20 years and so long thereafter as minerals, oil, gas or other hydrocarbon substances are produced in paying quantities from the property leased. The order shall prescribe the minimum rental or royalty and the period of the lease, and may prescribe other terms and conditions, including, with respect to a lease for the purpose of production of minerals, oil, gas or other hydrocarbon substances, a provision for the payment of rental and royalty to a depositary, and for the appointment of a common agent to represent the interests of all the lessors. If the lease covers additional property owned by other persons or an undivided interest of the decedent, or other interest of the decedent less than the entire ownership in the property, it may provide for division of rental and royalty in the proportion that the land or interest of each owner bears to the total area of the land or total interests covered by such lease. A certified copy of the order shall be recorded in the office of the recorder of every county in which the leased land or any portion thereof lies.

Terms of oil, gas, etc., leases

CHAPTER 970

An act to amend Section 960 of, and to add Sections 960.1, 960.2, 960.3 and 960.4 to, the Streets and Highways Code, relating to the abandonment and vacation of county highways.

Stats 1935, p 248, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 960 of the Streets and Highways Code is hereby amended to read as follows:

Stats 1935, p 306

960. Upon the making of such order of abandonment, the public easement, if the county owns only an easement, in the highway or part abandoned, ceases, and the title to the land previously subject thereto reverts to the respective owners thereof free from the public easement. The clerk shall cause a certified copy of such order attested by the clerk under the seal of the board of supervisors to be recorded in the office of the county recorder. Where the county owns the property on which the abandoned highway was located in fee, the board of supervisors may dispose of the property as provided in Section 960.4.

Abandonment order

SEC. 2. Section 960.1 is hereby added to the Streets and Highways Code, to read as follows:

New section

960.1. The board of supervisors of any county may retain or may summarily vacate and abandon any portion of a county highway which portion has been superseded by relocation, except in case such abandonment would cut off all access to the property of any person which, prior to such relocation, adjoined the highway.

Summary abandonment

SEC. 3. Section 960.2 is hereby added to the Streets and Highways Code, to read as follows:

New section

960.2. The board of supervisors may act to abandon any easement or to vacate any highway, mentioned in Section 960.1, by resolution. A certified copy of such resolution shall be recorded in the office of the county recorder. No fee shall be charged for such recordation. On such recordation the abandonment or vacation is complete.

Resolution

SEC. 4. Section 960.3 is hereby added to the Streets and Highways Code, to read as follows:

New section

960.3. On abandonment of an easement, title thereto reverts to the owner of the underlying fee. On vacation of a highway, where the county owns only an easement, title likewise so reverts. Where the county owns the property on which

Title to land

the vacated highway was located in fee, the board of supervisors may dispose of the property as provided in Section 960.4.

New section SEC. 5. Section 960.4 is hereby added to the Streets and Highways Code, to read as follows:

Sale of land no longer required 960.4. Whenever the board of supervisors determines that any real property or interest therein, heretofore or hereafter acquired by the county for highway purposes, is no longer necessary for such purposes, the county may sell or exchange such real property or interest therein in the manner and upon the terms and conditions approved by the board of supervisors. Any such conveyance shall be executed on behalf of the county by the chairman of the board of supervisors, and the purchase price shall be paid into the county treasury to the credit of any fund, available for highway purposes, which the board of supervisors designates.

CHAPTER 971

Stats 1937, p 1229, amended *An act to add Sections 7028.5, 7065.5, 7074, 7106.5, 7121 and 7137, and Article 9, consisting of Sections 7140 to 7145, inclusive, to Chapter 9 of Division 3 of, and to amend Sections 7002, 7026, 7059, 7068, 7069 and 7090 of, and to repeal Sections 7055, 7056, 7057, 7058, 7074, 7137, 7138 and 7139 of, the Business and Professions Code, relating to the regulation of contractors.*

In effect September 13, 1941 [Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 382 SECTION 1. Section 7002 of the Business and Professions Code is hereby amended to read as follows:

Contractors' State License Board: Membership 7002. One member of the board shall be a general engineering contractor, three members shall be general building contractors and three members shall be specialty contractors.

Construction of article For the purposes of construing this article, a general engineering contractor is a contractor whose principal contracting business is in connection with fixed works for any or all of the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and airways, sewerage and bridges; a general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter and inclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or

superintend the whole or any part thereof; a specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

This does not include anyone who merely furnishes materials or supplies under Section 7045 without fabricating them into, or consuming them in the performance of the work of the general building contractor.

Each member of the board shall be of recognized standing in his branch of the contracting business, shall be at least 30 years of age and of good character.

Each member of the board shall have been a citizen and resident of the State of California for at least five years next preceding his appointment.

SEC. 2. Section 7026 of the Business and Professions Code is hereby amended to read as follows: Stats 1939, p. 3020

7026. The term contractor for the purposes of this chapter is synonymous with the term "builder" and, within the meaning of this chapter, a contractor is any person, except an owner who contracts for a project with a licensed contractor or contractors or a licensed architect or a registered civil engineer acting solely in his professional capacity, who in any capacity other than as the employee of another with wages as the sole compensation, undertakes to or offers to undertake to or purports to have the capacity to undertake to or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. "Contractor"

SEC. 3. Section 7028.5 is hereby added to the Business and Professions Code, to read as follows: New section

7028.5. It is unlawful for any person who is or has been a member, officer, director or responsible managing officer of a licensed copartnership, corporation, firm, association or other organization to individually engage in the business or individually act in the capacity of a contractor within this State without having a license in good standing to so engage or act. Individual capacity

SEC. 5. Section 7055 of the Business and Professions Code is hereby repealed. Stats 1939, p 386

SEC. 6. Section 7056 of the Business and Professions Code is hereby repealed. Stats 1939, p 386

Stats 1939, p 386

SEC. 7. Section 7057 of the Business and Professions Code is hereby repealed.

Stats 1939, p 386

SEC. 8. Section 7058 of the Business and Professions Code is hereby repealed.

Stats 1939, p 386

SEC. 9. Section 7059 of the Business and Professions Code is hereby amended to read as follows:

Further classes

7059. The registrar, with the approval of the board, may adopt rules and regulations necessary to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage. A licensee may make application for classification and be classified in more than one classification if the licensee meets the qualifications prescribed by the board for such additional classification or classifications. No additional application or license fee shall be charged for qualifying or classifying a licensee in additional classifications.

Incidental craft

Nothing contained in this section shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

New section

SEC. 10. Section 7065.5 is hereby added to the Business and Professions Code, to read as follows:

Minors

7065.5. No license shall be issued to a minor, nor to any copartnership a member of which is a minor, nor to any corporation any officer, director or responsible managing employee of which is a minor, nor to any other kind of business organization in which a minor holds a responsible official position, unless such minor shall first have had a guardian appointed by a court of competent jurisdiction.

Stats 1939, p 387

SEC. 11. Section 7068 of the Business and Professions Code is hereby amended to read as follows:

Knowledge of applicants

7068. The board shall require an applicant to show such degree of experience, and such general knowledge of the building, safety, health and lien laws of the State and of the rudimentary administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

An applicant may qualify in regard to his experience and knowledge in the following ways:

(a) If an individual, he may qualify by personal appearance or by the appearance of his responsible managing employee.

(b) If a copartnership, a corporation, or any other combination or organization, it may qualify by the appearance of the responsible managing officer or member of the personnel of such applicant firm.

Notice of cessation

If the individual qualifying by the examination of his experience and knowledge ceases for any reason whatsoever, to be connected with the licensee to whom the license is issued, or if any individual who has been denied a license, or who has had a license revoked, or whose license is under suspension, or who has failed to renew his license while it was under suspension, or has been a member, officer, director, associate or responsible managing employee of any partnership, corporation, firm or association whose application for a license has been denied, or whose license has been revoked, or whose license is under suspension, or who has failed to renew its license while it was under suspension, shall in any way become associated with or be employed by a licensee, the licensee shall notify the registrar in writing within 10 days from such cessation, association or employment If a notice is given the license shall remain in force for a reasonable length of time to be determined by rules of the board.

Failure to notify

If the licensee fails to notify the registrar within the 10-day period, at the end of the period his license shall be ipso facto suspended. The license shall be reinstated upon the filing of an affidavit, executed by the licensee or a member of the licentiate firm and filed with the registrar, to the effect that the person originally appearing for examination on behalf of the licensee has been replaced by another individual and that this individual has been qualified by examination and that he has not had his license suspended or revoked or that he has not been connected with a licensee who has had his license suspended or revoked for reasons that would preclude this individual from personally qualifying as to the good character required of an applicant.

Stats. 1939, p 387

SEC. 12. Section 7069 of the Business and Professions Code is hereby amended to read as follows:

Good character required

7069. An applicant, and each officer, director, partner, associate and responsible managing employee thereof, shall possess good character. Lack of character may be established by showing any of the following:

(a) That the applicant, or any officer, director, partner, associate or responsible managing employee of which has committed or done any act which, if committed or done by any licensed contractor, would be grounds for the suspension or revocation of a contractor's license.

(b) That the applicant, or any officer, director, partner, associate or responsible managing employee of which has committed or done any act involving dishonesty, fraud or deceit whereby the applicant has been benefited or whereby some injury has been sustained by another.

(c) That the applicant, or any officer, director, partner, associate or responsible managing employee of which bears a bad reputation for honesty and integrity.

(d) That the applicant, or any officer, director, partner, associate or responsible managing employee of which has been convicted of a felony.

Stats 1939, p 388

SEC. 13. Section 7074 of the Business and Professions Code is hereby repealed.

New section

SEC. 14. Section 7074 is hereby added to the Business and Professions Code, to read as follows:

Forfeiture of fee

7074. Should an application for an original license be denied for any of the reasons provided in this article, the fees paid by the applicant in connection with the filing of such application shall be forfeited and shall be credited to the Contractors' License Fund as an earned fee. Any reapplication for a license shall be accompanied by the fee fixed by this chapter.

Stats 1939, p 389

SEC 15. Section 7090 of the Business and Professions Code is hereby amended to read as follows:

Investigations

7090. The registrar may upon his own motion and shall upon the verified complaint in writing of any person, investigate the actions of any contractor within the State and may temporarily suspend or permanently revoke any license if the holder, while a licensee or applicant hereunder, is guilty of or commits any one or more of the acts or omissions constituting causes for disciplinary action.

The registrar may proceed to take disciplinary action as in this article provided against a person licensed under the provisions of this chapter even though the grounds or cause for such disciplinary action arose upon projects or while the licensee was acting in a capacity or under circumstances or facts which, under the provisions of Sections 7044, 7045, 7046 and 7048 of this article, would otherwise exempt him or his operations from the provisions of this chapter.

New section

SEC. 16. Section 7106.5 is hereby added to the Business and Professions Code, to read as follows:

Jurisdiction

7106.5. The lapsing or suspension of a license by operation of law or by order or decision of the registrar or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the registrar of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.

SEC. 18. Section 7121 is hereby added to the Business and Professions Code, to read as follows: New section

7121. Any person who has been denied a license, or who has had his license revoked, or whose license is under suspension, or who has failed to renew his license while it was under suspension, or who has been a member, officer, director, associate or responsible managing employee of any partnership, corporation, firm or association whose application for a license has been denied, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as such member, officer, director, associate or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner or responsible managing employee of a licensee, and the employment, election or association of such person by a licensee shall constitute grounds for disciplinary action. Employment of disqualified officer

SEC. 19. Sections 7137, 7138 and 7139 of the Business and Professions Code are hereby repealed. Repeals

SEC. 19.5. Section 7137 is hereby added to the Business and Professions Code, to read as follows: New section

7137. The amount of the fees prescribed by this chapter is that fixed by the following schedule: Fees

(a) The application fee for an original license is ten dollars ($10).

(b) The fee for reapplication by or reexamination of an applicant for an original license who has previously applied for a license but has failed to qualify therefor is ten dollars ($10).

(c) The annual renewal fee is five dollars ($5).

(d) The penalty for failure to apply for a renewal of a license is five dollars ($5).

SEC. 20. Article 9, consisting of Sections 7140 to 7145, inclusive, is hereby added to Chapter 9 of Division 3 of the Business and Professions Code, to read as follows: New article

Article 9. Renewal of Licenses

7140. All licenses issued under the provisions of this chapter shall expire on June 30th of each year. Expiration of licenses

A license may be renewed without penalty by the filing of a renewal application with the registrar not later than June 30th of each fiscal year. To be effective such renewal application must be made upon forms prescribed by the board and must be accompanied by the annual renewal fee prescribed by this chapter or fixed by the board. Otherwise a Application for renewal

license, application for renewal of which has not been so filed on or before June 30th of each fiscal year, shall be ipso facto suspended until a renewal application is properly filed, and shall be renewable only if the application for the renewal thereof is filed with the registrar not later than September 30th of each year on a form prescribed by the board and is accompanied by the penalty fee prescribed by this chapter, or fixed by the board, in addition to the current renewal fee.

Time of filing

No license shall be renewed under any conditions unless the prescribed renewal application, together with all prescribed fees, is filed with the registrar on or before September 30th of each year.

Effect of filing

7141. The filing of a renewal application within the time, in the form and with the fees prescribed in this article, authorizes operation as a contractor by the licensee until the actual issuance of the renewal license for the ensuing fiscal year; provided, that the license of said applicant is not otherwise under suspension by reason of the decision of the registrar in a disciplinary proceeding.

Examinations

7142. A licensee who meets all the requirements for the filing of his renewal application as prescribed herein, and who is otherwise entitled to the issuance of a renewal license, shall not be required to take or pass an examination as a condition to the issuance of such renewal license; provided, however, that a requirement by a rule of the board that the licensee shall answer questions in the renewal application form shall not be deemed to be an examination.

Licenses suspended for more than one year

7143. No license which has been under suspension by order of the registrar or by operation of law for more than a year immediately preceding the filing of an application for renewal shall be renewed, and, if an application for the renewal thereof is filed, the registrar shall refuse to issue such renewal license and shall return the renewal fees tendered by the applicant with notice of refusal to renew and the grounds therefor.

Licenses suspended for less than one year

7144. A license which is under suspension by order of the registrar, or by operation of law, during the time within which a renewal application may be filed, but which has been under suspension for less than a year prior to the time application for renewal is made, may be renewed upon compliance with all the provisions of this article; provided, however, that such renewal license shall not be issued unless and until the prior suspension has been lifted and the license otherwise reinstated; and provided, further, that in such a case the filing of a renewal application form does not authorize the operation as a contractor until the actual issuance of the renewal license. Should a license otherwise entitled to be renewed be under suspension during the time within which a renewal application may be filed, and such application for renewal is filed, but

the suspension is not lifted or the license reinstated within a year from the date it was imposed, said application for renewal shall be denied and the fees tendered returned to the applicant with notice thereof and grounds therefor.

Failure to comply with rules

7145. The registrar may refuse the issuance of a renewal license to a licensee, otherwise entitled to the issuance of such license, for the failure or refusal on the part of such licensee to complete the renewal application form prescribed by the board, or to otherwise comply with rules and regulations adopted by the board relative to the issuance of renewal licenses, and which are not inconsistent with the provisions of this chapter.

CHAPTER 972

An act to amend School Code Sections 3.712 and 5.152, relating to the study of the Constitution of the United States.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Sch. C., 1929, p. 143

SECTION 1. School Code Section 3.712 is hereby amended to read as follows:

Examination on U. S. Constitution

3.712. No pupil shall receive a certificate of graduation from any such school unless he has satisfactorily passed an examination on the provisions and principles of the United States Constitution.

A student of a college or university who after having completed a course of instruction prescribed by this article and successfully passed an examination on the provisions and principles of the United States Constitution, transfers to another college or university shall not be required to complete another such course or pass such an examination as a condition precedent to his graduation from such college or university.

Sch. C., 1929, p. 225

SEC. 2. School Code Section 5.152 is hereby amended to read as follows:

Teachers' requirements

5.152. All persons granted regular certificates authorizing them to teach in the public schools of this State, shall, in addition to existing requirements, be required to pass a satisfactory examination upon the provisions and principles of the Constitution of the United States or complete a course therein in a junior college, college or university, in the State of California.

A limited certificate, not exceeding one year in term, may be granted without the passing of such examination or the completion of such course.

CHAPTER 973

Stats. 933, p. 60, amended

An act to amend Section 86 of the Agricultural Code, relating to the powers of district agricultural associations.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats. 1939, p. 1759

SECTION 1. Section 86 of the Agricultural Code is hereby amended to read as follows:

Powers of association

86. Each district agricultural association is a State institution. Each association by its name has perpetual succession, may have a seal, be sued and, with the approval of the Department of Finance, may:

(a) Contract, and sue.

(b) Purchase, acquire, hold, sell, exchange or convey any interest in real or personal property and beautify or improve such property.

(c) Lease, let or grant licenses for the use of its real estate or personal property or any portion thereof for any agricultural, horticultural, viticultural or live stock fairs or expositions, floral displays, exhibitions of industries and industrial products, or Federal or State armories; to school organizations or associations thereof for the purpose of conducting athletic events participated in by such schools or associations; or to civic, patriotic, benevolent, or fraternal corporations or associations, for the purpose of holding conventions, assemblies, or public meetings on subjects of public or community interest; or for the sale of tangible personal property, or for concessions and services incidental to any of such purposes; or to nonprofit athletic organizations for athletic activities or to municipal corporations for use or reletting for any or all of the foregoing purposes.

(d) Rent or permit the use of any of its facilities for the holding of sales or auctions of cattle or other live stock.

(e) Contract with any county or county fair association for holding a fair jointly with the same. Such joint fair shall constitute a district fair of the association.

(f) Do any and all things necessary to carry out the above powers and the objects and purposes for which the association is formed.

CHAPTER 974

An act to amend Section 3070 of the Labor Code, relating to compensation of members of the Apprenticeship Council.

Stats 1937, p. 185, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 3070 of the Labor Code is hereby amended to read as follows:

Stats 1939, p. 1472

3070. The Governor shall appoint an Apprenticeship Council, composed of four representatives each from employer and employee organizations, respectively, geographically selected, and of one representative of the general public. The Director of Industrial Relations and the State official who is in charge of trade and industrial education under authority of the State Board of Education shall also be members of the Apprenticeship Council. The chairman shall be elected by vote of the Apprenticeship Council. The terms of office of the members of the Apprenticeship Council first appointed shall expire as designated by the Governor at the time of making the appointment: Two representatives each of employers, employees, and the public representative shall serve until January 15, 1941. Two representatives each of the employers and employees shall serve until January 15, 1942. Thereafter each member shall serve for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of said term. Each member of the council shall receive his actual and necessary expenses incurred in attendance at the meetings of the Apprenticeship Council, and reimbursement for the loss, if any, of compensation caused by that attendance, the reimbursement not to exceed fifteen dollars ($15) a day.

Apprenticeship Council

CHAPTER 975

An act to amend Section 204c, 204e and 261a of the Code of Civil Procedure, relating to jury commissioners and employees of the superior court.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 204c of the Code of Civil Procedure is hereby amended to read as follows:

Stats 1917, p. 1169

204c. It shall be the duty of the jury commissioner diligently to inquire and inform himself in respect to the qualifications of persons resident in his county or city and county

Duties of jury commissioner

who may be liable under the provisions of the laws of this State to be summoned for jury duty. He may require any person to answer, under oath to be administered by him, all such questions as he may address to such person, touching his name, age, residence, occupation and qualifications as a juror, and also all questions as to similar matters concerning other persons of whose qualifications for jury duty he has knowledge. The commissioner and his assistants as provided under Section 204e shall have power to administer oaths. He and his assistants as provided for in Section 204e shall be allowed actual traveling expenses incurred in the performance of their duties while visiting the respective townships in the county, such traveling expenses to be audited, allowed and paid out of the general fund of the county.

Stats 1931, p 2271

SEC. 2. Section 204e of the Code of Civil Procedure is hereby amended to read as follows:

Secretary of superior court judges as jury commissioner

204e. In any county or city and county where there is a secretary of the judges of the superior court in said county, or city and county, a majority of the said judges may in their discretion require such secretary to perform the duties of jury commissioner in addition to his regular duties as secretary. In such case the salary of the secretary of the said judges shall be six hundred dollars ($600) per month, except in counties, or cities and counties, having a population of less than 600,000, as ascertained and determined in the manner provided by Section 4005c of the Political Code, in which counties, or cities and counties, the salary of the secretary shall be five hundred dollars ($500) per month.

On the authorization of the judges in such a case, the secretary shall have three assistant secretaries, who shall assist also in the performance of the duties of jury commissioner and one whose salary shall be three hundred dollars ($300) per month and the others two hundred fifty dollars ($250) per month each. The salaries herein authorized shall be paid out of the same fund that salaries of county officers are paid.

Stats 1931, p 1860

SEC. 3. Section 261a of the Code of Civil Procedure is hereby amended to read as follows:

Employees of the superior court

261a. In each county, or city and county, having a population of 900,000 inhabitants and over, the judges of the superior court in and for such county, or city and county, a majority thereof concurring therein, to assist the court in the transaction of the judicial business of said court, may appoint the following employees: Three stenographic secretaries at a salary of one thousand nine hundred twenty dollars ($1,920) per annum; 15 stenographers, each at a salary of one thousand six hundred eighty dollars ($1,680) per annum; two assistant stenographers, each at a salary of one thousand

five hundred dollars ($1,500) per annum; two investigators of domestic relations cases, each at a salary of two thousand four hundred dollars ($2,400) per annum; two messengers, one at a salary of one thousand two hundred dollars ($1,200) per annum, and the other at a salary of one thousand twenty dollars ($1,020) per annum. All of the employees provided in this section shall be allowed actual traveling and necessary expenses incurred while engaged in the discharge of the duties of their office.

The salaries in this section provided for shall be paid in monthly installments out of the salary fund of the county, or city and county, or if there be no salary fund, then out of such fund as other salary demands against the county, or city and county, are paid, and expenses in this section provided for shall be paid in monthly installments out of the general fund, and both salaries and expenses shall be allowed and audited in the same manner as other demands against the county, or city and county, are required by law to be allowed and audited.

CHAPTER 976

An act to amend Section 5287 of the Business and Professions Code, relating to outdoor advertising.

Stats 1937, p. 1229, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5287 of the Business and Professions Code is hereby amended to read as follows:

Stats 1939, p. 3070

5287. No advertising display shall be placed outside of any business district as defined in the Vehicle Code or outside of any unincorporated city, town or village, or outside of any area that is subdivided into parcels of not more than 20,000 square feet each in area in any of the following locations or positions, or under any of the following conditions, or if the advertising display is of the following nature:

Displays outside business districts, etc

(a) If within a distance of 300 feet from the point of intersection of highway or of highway and railroad right of way lines, except that this does not prevent the placing of advertising display on that side of an intercepted highway that is opposite the point of interception. But in case any permanent building, structure or other object prevents any traveler on any such highway from obtaining a clear view of approaching vehicles for a distance of 300 feet, then advertising displays may be placed on such buildings, structure or other object if such displays will not further obstruct the vision of those approaching the intersection or interception,

or if any such display does not project more than one foot therefrom.

(b) If placed in such a manner as to prevent any traveler on any highway from obtaining a clear view of approaching vehicles for a distance of 500 feet along the highway.

CHAPTER 977

An act to amend Section 4249 of the Political Code, relating to compensation for public services in counties of the twentieth class.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 1615

SECTION 1. Section 4249 of the Political Code is hereby amended to read as follows:

Sonoma County Salaries

4249. In counties of the twentieth class the following shall receive as compensation for services required of them by law, or by virtue of their office, the following sums:

Auditor

1. The auditor, three thousand six hundred dollars ($3,600) per annum.

District attorney

2. The district attorney, five thousand dollars ($5,000) per annum. The district attorney shall devote his entire time to the duties of his office, and shall not engage in private practice of law.

Supervisors

3. Each member of the board of supervisors for all services required of them by law, or by virtue of their office, two hundred dollars ($200) per month as a salary, and seven cents ($0.07) per mile in traveling to and from his place of residence to the courthouse on each day of a board meeting.

Any member of the board of supervisors when required to travel within or without the county on official business of the county, may use or travel in any vehicle owned and maintained by such counties for official purposes. When traveling on official business the expense of maintenance and upkeep of such automobiles and of all necessary supplies therefor shall be borne by the county.

Jurors

4. The fees for jurors in counties of this class shall be as follows: For attending as a grand juror or juror in the superior court, or as a member of any committee of the grand jury duly called by the secretary or committee chairman, for each day's attendance, while serving as such juror, or on such committee per day, three dollars ($3); for each day's attendance when not selected to serve, two dollars ($2), but in no case shall there be charged for more than one per diem on any one calendar day. For attending justice's court, for each juror sworn to try the cause, per day, in civil cases, only, one dollar and fifty cents ($1.50). For attending justice's court, for

each juror sworn to try the cause, per day, in criminal cases, only, three dollars ($3). A juror excused at his own request shall not be entitled to a per diem fee but shall be entitled to mileage for each mile actually and necessarily traveled in attending court as a juror, or in attending the regular sessions of the grand jury, or any committee meeting of the grand jury duly called, except in criminal cases in justice's courts, for which no allowance shall be made, per mile, ten cents ($0.10).

CHAPTER 978

An act to amend School Code Section 2.1428, relating to the courses of study and projects in the public school system.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. School Code Section 2.1428 is hereby amended to read as follows: Stats 1939, p 2326

2.1428. The Superintendent of Public Instruction may enter into an agreement with the Government of the United States or any agency thereof relative to the establishment of courses of study in aeronautics in the junior college, State colleges and technical schools of the public school system. Aeronautics courses

The State Superintendent of Public Instruction is hereby authorized, with the approval of the State Board of Education, to establish rules and regulations governing agreements affecting courses of study in the schools of the public school system or cooperative arrangements entered into between any agency, officer or employee of any part of the public school system and the Government of the United States or any agency thereof; provided, however, that the Government of the United States may not be empowered to establish or conduct separate or competing schools.

CHAPTER 979

An act to repeal Sections 424, 425 and 426 of, and to add Sections 407, 408 and 409 to, the Fish and Game Code, relating to license agents, compensation for sale and bonding of agents. Stats 1933, p 394, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Sections 424, 425 and 426 of the Fish and Game Code are hereby repealed. Repeals

New section SEC. 2. Section 407 is hereby added to said code, to read as follows:

Commission on sale of licenses 407. Any person, except a fish and game commissioner or a person employed in the Division of Fish and Game, shall be allowed as compensation for each license sold, registered or accounted for by him, out of the Fish and Game Preservation Fund, 5 per cent of the amount accounted for, except as provided in Section 408.

New section SEC. 3. Section 408 is hereby added to said code, to read as follows:

License agents 408. The commission may issue and deliver licenses, for distribution, to any person except a fish and game commissioner or a person employed in the Division of Fish and Game without receiving full payment therefor, upon application of such person, and upon the giving of a bond as provided in this article, in which event such person shall be allowed as compensation out of the Fish and Game Preservation Fund 3½ per cent of the amount accounted for.

New section SEC. 4. Section 409 is hereby added to said code, to read as follows:

Bond required 409. Every person authorized to issue and sell licenses under the provisions of this article shall, when required by the commission, execute to the commission a bond in a sum equal to the value of the licenses delivered to such person. Said bond shall secure the faithful accounting and payment to the commission of the funds collected from the sale of the licenses and the faithful performance of the duties imposed upon him by this article. The commission may pay the premium on said bond out of the Fish and Game Preservation Fund.

CHAPTER 980

An act making an appropriation to the Department of Finance for the purpose of paying refunds of taxes, licenses, and fees.

In effect September 13, 1941 [Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Appropriation: Refunds of taxes, etc SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of seventy-five thousand dollars ($75,000) to be expended during the Ninety-third and Ninety-fourth Fiscal Years by the Department of Finance for the purpose of making refunds of payments of taxes and license and other fees, which payments have been made erroneously into the General Fund to

the credit of the General Fund and for the refund of which no other provision is made by law.

Expenditures from this appropriation shall be approved by the Board of Control.

The Department of Finance shall report to the Legislature the expenditure of money under this act at the next succeeding regular session of the Legislature.

CHAPTER 981

An act to amend Section 8151 of the Revenue and Taxation Code and Section 16 of the Motor Vehicle Fuel License Tax Act, relating to actions to recover license taxes paid under protest under said act.

Stats 1939, p 1274, and Stats 1923, p 571, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 16 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p 1643

Sec. 16. No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against this State or against any officer thereof, to prevent or enjoin the collection under this act of any license tax assessed by the State Board of Equalization; but after payment of any such license tax under protest duly verified and setting forth the grounds of objection to the legality of such license tax, the distributor paying such license tax may bring an action against the State Treasurer in the Superior Court of the County of Sacramento for the recovery of the license tax so paid under protest. No such action may be instituted more than 90 days after the last day prescribed for the payment of such license tax without penalty, and failure to bring suit within said 90 days shall constitute waiver of any and all demands against this State on account of alleged overpayment of license taxes hereunder. No grounds of illegality of the license tax shall be considered by the court other than those set forth in the protest filed at the time of the payment of the license tax.

Action for tax paid under protest

If in any such action judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any license taxes due from the plaintiff under this act, and the balance of the judgment shall be refunded to the plaintiff. In any such judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount of the license tax found to have been illegally collected from the date of payment thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund

Judgment

warrant by not more than 30 days, such date to be determined by the State Board of Equalization.

Assignee may not sue

In no case shall any judgment be rendered in favor of the plaintiff in any action brought against the State Treasurer to recover any license tax paid hereunder, when such action is brought by or in the name of any assignee of the distributor paying said license tax, or by any person, company or corporation other than the person, company or corporation that has paid such license tax.

All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Stats 1941, p 573

SEC. 2. Section 8151 of the Revenue and Taxation Code is hereby amended to read as follows:

Interest on judgment

8151. In any judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount of the license tax found to have been illegally collected from the date of payment thereof to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

Effect Stats 1941, p 558

SEC. 3. The provisions of this act amending the Revenue and Taxation Code take effect only if Part 2 of Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fourth Session, and, in such case, at the same time as said Part 2 takes effect; at which time the provisions of the Motor Vehicle Fuel License Tax Act amended by this act are hereby repealed.

CHAPTER 982

An act to add a new section, to be numbered 688.1, to the Political Code, relating to claims and actions against the State of California.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is added to the Political Code, to be numbered 688.1, and to read as follows:

Claims against State for taking private property

688.1. Any person who now has or shall hereafter have a claim against the State for the taking or damaging of private property for public use within the meaning of Section 14 of Article I of the Constitution of California must present the claim to the State Board of Control in accordance with the provisions of Section 667 of this code. Should the claim be rejected in whole or in part by the State Board of Control, the person having the claim is hereby authorized, subject to

the conditions contained in this section, to bring suit against the State on such claim and to prosecute such suit to final judgment.

Except as herein otherwise provided, all of the provisions of Section 688 of this code relating to claims other than claims arising out of the operation of Section 400 of the Vehicle Code, and relating to actions brought on claims other than those arising out of the operation of Section 400 of the Vehicle Code, shall apply to actions brought under this section. The proper court for the trial of any action brought under this section shall be a court of competent jurisdiction in the county in which the property claimed to have been taken or damaged for public use is situate. In the case of actions brought on claims arising out of work done by the Department of Public Works, service of summons shall be made on the Director of Public Works. It shall be the duty of the attorney for the Department of Public Works to defend all such actions in which summons is served on the Director of Public Works.

Pending litigation

SEC. 2 Nothing in this act contained shall apply to pending litigation.

CHAPTER 983

An act to amend Section 52.2 of, and to add Section 57.7 to, the Unemployment Insurance Act, relating to unemployment benefits for persons who have served in the armed forces.

Stats 1935, p 1226, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Purpose of act

SECTION 1. The purpose of this act is to provide for unemployment benefits to unemployed persons who have served in the armed forces, and who are unemployed, to the same extent that such benefits are available to unemployed persons who have not served in the armed forces.

Stats 1939, p 2148

SEC. 2. Section 52.2 of the act cited in the title hereof is hereby amended to read as follows:

"Base period"

Sec. 52.2. The term "base period" means the first four out of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that in any case where the first of such quarters has already been included in a prior base period of the same individual, the term "base period" shall mean the first three out of the last four completed calendar quarters immediately preceding the first day of that benefit year.

New section

Benefit rights of persons who have served in armed forces

SEC. 3. Section 57.7 is hereby added to said act, to read as follows:

Sec. 57.7. Notwithstanding any inconsistent provisions of this act the benefit rights of trainees shall be determined in

accordance with the following provisions of this section for the periods and with respect to the matters specified herein. Except as herein otherwise provided, all other provisions of this act shall continue to be applicable in connection with such benefits.

(1) The term "military service" as used in this section means active service in the land or naval forces of the United States, but the service of an individual in any reserve component of the land or naval forces of the United States who is ordered to active duty in any such force for a period of 30 days or less shall not be deemed to be active service in such force during such period.

(2) The term "trainee" as used in this section means an individual who entered military service after April 1, 1940, who continued such service for not less than 90 consecutive days and whose military service was terminated on or before October 1, 1943.

(3) (a) With respect to any trainee who has an unexpired benefit year at the time of induction into the armed forces, the unexpended balance of benefits remaining to his account shall be reestablished beginning with the first day of the first week succeeding the date of his termination of service. Whenever this balance is exhausted the trainee may file a claim and his base period shall be determined in accordance with the provisions of Subsection (4) hereof, except that all reestablished balances shall lapse 65 weeks after termination of such military service.

(b) The benefit year of all other trainees shall be 52 weeks from the first day of the first week following the date of termination of military service.

(4) With respect to the determination of the benefit rights of any trainee, the base period shall consist of the first four out of the last five completed calendar quarters, excluding those quarters during which the trainee was in military service 60 days or more. For all quarters so excluded there shall be substituted an equal number of quarters immediately preceding his entry into military service, except that the quarter of entry into military service shall be counted as a completed quarter if the commission finds that the inclusion thereof would be more equitable to the trainee.

(5) No disqualification shall be applied to any trainee after the termination of his military service, by reason of any act or course of action on his part prior to the date of his entry into such service.

(6) If, under an act of Congress, payments with respect to the unemployment of individuals who have completed a period of military service are payable by the United States, a trainee shall be disqualified for benefits with respect to any week for which he receives such benefits and no benefits shall be paid under this act until he has exhausted all his rights to such payments from the United States.

CHAPTER 984

An act to amend Section 5505 of the Labor Code, relating to proceedings before the Industrial Accident Commission.

Stats. 1937, p 185, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5505 of the Labor Code is hereby amended to read as follows:

Stats 1937, p 297

5505. If any defendant desires to disclaim any interest in the subject matter of the claim in controversy, or considers that the application is in any respect inaccurate or incomplete, or desires to bring any fact, paper, or document to the attention of the commission as a defense to the claim or otherwise, he may, within five days after the service of the application upon him, file with or mail to the commission his answer setting forth the particulars in which the application is inaccurate or incomplete, and the facts upon which he intends to rely. A copy of the answer shall be forthwith served upon all adverse parties. Evidence upon matters not pleaded by answer shall be allowed only upon the terms and conditions imposed by the commission, or by the commissioner or referee holding the hearing.

Answer

CHAPTER 985

An act to add Section 2.1365 to the School Code, relating to the powers and duties of the Director of Education.

[Approved by Governor July 12, 1941 Filed with Secretary of State July 15, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2.1365 is hereby added to the School Code, to read as follows:

New section

2.1365. The Director of Education is authorized to develop audial and visual curriculum materials, and to evolve means and methods, and to prescribe standards, for the use of such materials in the public elementary and secondary schools.

Audial and visual curriculum materials

CHAPTER 986

An act to amend Section 5.546 of the School Code, relating to teachers reports.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats. 1939, p 2114

SECTION 1. Section 5.546 of the School Code is hereby amended to read as follows:

Teacher's annual report

5 546. Except in districts exempted by the State Department of Education and in which regular periodic reports of pupil and employee personnel data are submitted by the principal of each school to the city or district superintendent of schools, or, if no such superintendent is employed in the district, to the county superintendent of schools on forms approved by the State Department of Education, every teacher in the public elementary schools must at the close of school during each school year make an annual report to the principal of the school in which he or she is employed; or, in the case of one-teacher schools, to the city or district superintendent of schools, or, if no such superintendent is employed, to the county superintendent of schools on forms furnished by the Superintendent of Public Instruction.

Any teacher who may be teaching in any school at the close of school shall, in his or her annual report, include all statistics for the entire school year.

Where one teacher is in charge of a class and keeps the records thereof, assistant teachers or other teachers of such class or any of the pupils thereof who are required to keep no records shall not be required to render reports.

The city, district or county superintendent of schools shall in no case draw a requisition for the salary of any teacher for the last month of a school term, until the report required by this section has been filed by him and approved.

CHAPTER 987

An act to add Chapter 7 to Part 3 of Division 13 of the Health and Safety Code, including the addition of Section 19800 to said code, relating to refrigerants, refrigerators, and refrigerating plants and regulations governing the same.

Stats 1939, p 482, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Chapter 7 is hereby added to Part 3 of Division 13 of the Health and Safety Code, to read as follows:

New chapter

CHAPTER 7. REFRIGERANTS AND REFRIGERATION PLANTS

19800. Refrigeration manufacturers shall hereafter on each mechanical refrigerator and refrigeration plant which they manufacture and installation companies shall on each refrigeration plant which they install place a label designating the type of refrigerant the unit uses and, if the refrigerator has a refrigerating unit which contains more than 20 pounds of refrigerant and is of a type which can not readily be transported without disconnecting the piping or other part thereof containing refrigerant, shall label the control and diffusion valves of the unit, if any, so that any person in case of emergency will be able to turn off or shut down the plant or refrigerator quickly and expeditiously. Each violation of this section is a misdemeanor.

Labels on refrigerators

CHAPTER 988

An act to amend Sections 3, 4 and 6 of an act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, relating to credit unions, including their powers and loans by and between credit unions.

Stats 1927, p 51, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 3 of the act cited in the title is hereby amended to read as follows:

Stats 1939, p 1387

Sec. 3. Every credit union shall have power:

Powers

1. To issue shares to those persons qualified for membership and to issue shares in joint tenancy with any person to be designated by any credit union member.

2. To charge an entrance fee to subscribers for such shares.

3. To charge a reasonable fee for the transfer of its shares.

4. To receive money and accumulate funds to be loaned and to loan the same to members and to execute certificates for the money received, which shall specify the date, amount, rate of interest, and when the principal and interest are payable.

5. To lend money to its members upon such terms and conditions as by-laws provide and as the credit committee shall approve, at rates not exceeding 1 per centum per month, inclusive of all charges incident to the making of such loan; provided, however, that the cost of any insurance and any cost of acknowledgment, certification, registration, or recordation actually paid by the credit union used in connection with such loan shall not be deemed to be a charge incident to the making of such loan.

6. To deposit any moneys received by it and not lent to members, as provided in Section 6 of this act.

7. To borrow money from any source in an aggregate amount not to exceed 50 per centum of the paid in and unimpaired capital and surplus of such corporation.

8. To fine members for failure to meet punctually obligations to such credit union.

9. To expel members, as provided in Section 12 of this act.

10. To impress a lien upon the shares and dividends of any member to the extent of any loans made to him and for any dues or fines payable by him.

11. To cancel the shares of any member who withdraws or is expelled, and apply value thereof to the liquidation of such member's indebtedness to the corporation.

12. To invest any moneys received by it not lent to its members in the securities which are authorized as an investment for savings banks as set forth by statute.

13. In addition to the powers herein enumerated, every credit union shall have the general powers conferred upon corporations by Chapter 10, Title 1, Part 4, Division 1 of the Civil Code, except as herein otherwise provided.

Stats 1939, p 1388

SEC. 2. Section 4 of said act is hereby amended to read as follows:

Prohibited acts

Sec. 4. No credit union shall:

1. Pay any commission or compensation for securing members or for the sale of its shares.

2. Make any loan in excess of three hundred dollars ($300) unless security therefor is taken, nor in any event make a loan to any member in excess of three thousand dollars ($3,000). The term "security" within the meaning of this subdivision shall include, but is not limited to, a note which is indorsed by any member or members of the said credit union or by any other person or persons who is a nonmember and any obligation, the payment of interest and principal of which is guaranteed by any municipal, or State Government, by the Government of the United States or by any instrumentality of the United States. Comaker or comakers, other than the borrower or borrowers, shall be deemed to be an indorser within the provisions of this section.

In the event a credit union shall make a loan or loans to any of its members and the said member or members shall have invested therein, either in the form of shares or in funds received, an amount equal to the said loan or loans, said investment shall be deemed as security within the provisions of this section and said borrower or borrowers shall not be required to give further or additional security. Subject to the limitations as in this section provided, nothing contained herein shall prohibit a credit union from simultaneously making different classes of loans, either secured or unsecured to any member.

3. Impose a fine, in case of failure of a member to make payment on shares, exceeding 1 per centum per month or fraction of a month on accounts due, except that a minimum fine of five cents ($0.05) per month or fraction thereof may be imposed.

4. Permit any director, officer or member of the credit committee or supervisory committee to borrow directly or indirectly an amount greater than the amount invested by him in the credit union, or become surety for any loan or advance made by the corporation.

5. Issue shares or accept funds in trust, except in the name of the trustee, as such, for a specified beneficiary whose residence shall be disclosed to the credit union by such trustee.

6. Issue any shares except to those qualified for membership under its by-laws; provided, however, that said credit union shall have the right to issue shares to any person designated by those eligible to membership in the credit union in joint tenancy and further provided that upon any shares issued by any credit union to those qualified for membership under its by-laws and to any person designated by those eligible to membership in the credit union in joint tenancy, there shall be printed upon the certificate or other evidence of such shares the words "transferable only to qualified members" as herein set forth.

SEC. 3. Section 6 of said act is hereby amended to read as follows: Stats. 1941, p. 1965

Sec. 6. The capital funds, undivided profits, and guaranty fund of any credit union may be deposited in one or more savings banks, State banks or trust companies, incorporated under the laws of the State of California, or in National banks located in the State and in the Postal Savings System of the United States, or in the securities which are authorized as an investment for savings banks and set forth by statutes, or in accounts with any building and loan association, which accounts are guaranteed or insured by the United States Government or instrumentality thereof created for such purpose, or in shares or certificates for funds received or in any form of evidence of interest or indebtedness issued by any credit union in California, organized either under the provisions of the Credit Union Law of the State of California or the statutes of the United States relating to credit unions. Deposits and investments authorized

CHAPTER 989

Stats 1937, p 1929, amended

An act to add Section 19626.5 to the Business and Professions Code, relating to the disposition of moneys in the Fair and Exposition Fund.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 19626.5 is hereby added to the Business and Professions Code, to read as follows:

Appropriation Agricultural District No 1A (San Francisco-San Mateo)

19626.5. Out of any money otherwise appropriated under this chapter for permanent improvements upon the property of the State, citrus, county, or district agricultural associations for fair purposes, there is hereby annually allocated one hundred thousand dollars ($100,000) to Agricultural District No. 1A, of which not less than fifty-five thousand dollars ($55,000) shall be expended only for premiums.

CHAPTER 990

Stats 1939, p 482, amended

An act to repeal Section 6406 of, and to add Part 2 to Division 6 of, the Health and Safety Code, relating to sanitary districts, including the collection of district taxes by county officers and the use of county assessment rolls for sanitary district taxes.

[Approved by Governor July 12, 1941 Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p. 640

SECTION 1. Section 6406 of the Health and Safety Code, as added by Chapter 1124 of the Statutes of 1939, is hereby repealed.

New part

SEC. 2. Part 2 is hereby added to Division 6 of the Health and Safety Code, to read as follows:

PART 2. OTHER SANITARY DISTRICT ACTS

CHAPTER 1. GENERAL

Effect of repeal Stats 1891, p 223 Stats 1919, p 942

6935. No right or obligation accrued by the formation, organization, reorganization or operation of a sanitary district pursuant to the provisions of Chapter 161 of the Statutes of 1891 or the provisions of the Sanitary District Act of 1919 is affected by the repeal of those acts and any district so

organized or reorganized may continue in existence and subject to the act under which it was organized or reorganized or may reorganize pursuant to this part.

CHAPTER 2. USE OF COUNTY ASSESSOR'S ROLL

Election to use county assessment roll

6940. Notwithstanding the provisions of Chapter 161 of the Statutes of 1891, or the provisions of the Sanitary District Act of 1919, as the provisions of these acts existed at the time of their repeal, the board of any sanitary district organized or reorganized under and continuing in existence and subject to these acts may elect to avail itself of the assessment roll of the properties within the district, used by the county in which the district is situated, and may take that assessment as the basis for district taxation.

Resolution of election

6940.3. The board shall declare its election by resolution and shall file a certified copy with the auditor and the assessor of the county on or before the first Monday in February of the year in which the district proposes to use the county assessment roll.

Thereafter, until the board by resolution elects otherwise all taxes shall be collected by the county assessor and tax collector of the county.

Statement of county auditor

6940.6. Following the board's election, the county auditor shall on or before the fourth Monday in August of each year transmit to the board a written statement showing the total value of all property in the district, which value shall be ascertained from the assessment roll used by the county for that year.

Rate of taxation

6940.9. Not later than the first day of September the district board shall fix the rate of taxation for district purposes and for the payment of the principal and interest of that year upon outstanding bonds and the payment of the principal and interest that the board believes will become due during the year on bonds authorized but not sold.

Tax rate levy

6941.3. The board shall designate the number of cents on each one hundred dollars ($100) to be levied for each fund and the fund into which the proceeds shall be paid, using as a basis the value of property as assessed on the county roll.

The district board shall immediately transmit to the auditor of the county in which the district is situated a statement of the tax rate fixed.

Computation of tax

6941.6 The auditor shall then compute and enter in a separate column in the county assessment roll the respective sums to be paid as a district tax on the property in the district, using the rate of levy as fixed by the board and the assessed value as found on the assessment roll.

The taxes so levied shall be collected at the same time and in the same manner as county taxes are collected, and when collected shall be at once paid to the treasurer.

Lien

6941.9. The taxes are a lien on all the property in the district, and the taxes, whether for the payment of a bonded indebtedness, or for other purposes, shall be of the same force and effect as other liens for taxes, and their collection shall be enforced by the same means as provided for the enforcement of liens for county taxes.

CHAPTER 991

Stats 1907, p 346, amended

An act to amend Section 4 of "An act to create a fund to be known as the United States Forest Reserve Fund and to provide for the payment out of such fund to the treasuries of the several counties entitled thereto of certain moneys received from the Government of the United States, and also to regulate the manner of expenditure by the counties of the moneys so paid," approved March 18, 1907, as amended, relating to the apportionment of moneys received by counties from the United States Forest Reserve Fund, to take effect immediately.

In effect immediately

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1931, p 1961

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

County auditor to apportion money

Sec. 4. It shall be the duty of the county auditor of any county receiving a payment of money under the provisions of this act, immediately to apportion such money by placing 50 per cent thereof to the credit of the unapportioned county elementary school fund of such county, and 50 per cent to the credit of the general road fund. The money thus added to the unapportioned county elementary school fund shall be apportioned by the county superintendent of schools in the same manner as other county school fund moneys, and the moneys so added to the county general road fund shall be used for the same purposes as other general road fund moneys; provided, however, that all or any portion of the money thus apportioned to the credit of the unapportioned county elementary school fund shall upon the request of the county superintendent of schools be transferred to a fund to be known as the forest reserve school fund; which shall be used by the county superintendent of schools for the benefit of school districts of such county lying within or adjacent to the United States Forest Reserve, such fund being available for any purpose for which county funds may be spent.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and as such shall take effect immediately. The facts constituting such necessity are as follows: Urgency

The present apportionment of money to the forest reserve school fund is inadequate to meet the needs of school districts lying in or adjacent to forest reserves. More money is required in the fund to care for the needs of school construction and support and through this to give pupils in those districts the quality of education which is demanded by the policy of the State. Equal educational facilities are imperative in the maintenance of the general welfare of the State. Added funds must be provided now to be of benefit in the coming school year commencing in the fall.

CHAPTER 992

An act to add Section 2713 to the Penal Code, relating to the Tobacco Manufacturing Revolving Fund.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2713 is hereby added to the Penal Code, to read as follows: New section

2713. Out of any funds in the State Treasury not otherwise appropriated, there is hereby appropriated to the board the sum of fifty-five thousand dollars ($55,000) for expenditure in accordance with law for the manufacture of tobacco products in the State prisons, of which Appropriation Manufacture of tobacco products

(1) Not more than thirty thousand dollars ($30,000) shall be expended in the purchase and installation of facilities and equipment for the manufacture of such tobacco products, and

(2) The balance of twenty-five thousand dollars ($25,000) to be deposited in the San Quentin Manufacturing Revolving Fund, out of which fund shall be paid any expenditures necessary in the purchase of raw materials, meeting the cost of manufacture, and sale of tobacco products. All proceeds from such sales shall be deposited in the San Quentin Manufacturing Revolving Fund.

CHAPTER 993

An act to amend Sections 218 and 219 of the Penal Code, relating to the wrecking of trains.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1905, p 654

SECTION 1. Section 218 of the Penal Code is hereby amended to read as follows:

Train wrecking, intention of, punishment for

218. Every person who unlawfully throws out a switch, removes a rail, or places any obstruction on any railroad with the intention of derailing any passenger, freight or other train, car or engine, or who unlawfully places any dynamite or other explosive material or any other obstruction upon or near the track of any railroad with the intention of blowing up or derailing any such train, car or engine, or who unlawfully sets fire to any railroad bridge or trestle, over which any such train, car or engine must pass with the intention of wrecking such train, car or engine, is guilty of a felony, and shall be punished by imprisonment in the State prison for life without possibility of parole.

Stats 1905, p 655

SEC. 2. Section 219 of the Penal Code is hereby amended to read as follows:

Railroad trains, when wrecked, punishment

219. Every person who unlawfully throws out a switch, removes a rail, or places any obstruction on any railroad with the intention of derailing any passenger, freight or other train, car or engine and thus derails the same, or who unlawfully places any dynamite or other explosive material or any other obstruction upon or near the track of any railroad with the intention of blowing up or derailing any such train, car or engine and thus blows up or derails the same, or who unlawfully sets fire to any railroad bridge or trestle over which any such train, car or engine must pass with the intention of wrecking such train, car or engine, and thus wrecks the same, is guilty of a felony and punishable with death or imprisonment in the State prison for life, without possibility of parole, at the option of the jury trying the case, in cases where no person suffers bodily harm; and shall be punished with death in cases where any person suffers bodily harm.

CHAPTER 994

An act making an appropriation from the unexpended moneys appropriated by the act entitled "An act making an appropriation to the Emergency Fund specified in Item 212 of the Budget Act of 1939, for the cost of repair and restoration of property damaged or destroyed by storms and floods; prescribing conditions, restrictions and limitations as to the expenditure thereof; declaring the urgency of the act and that it take effect immediately," approved May 29, 1940, for flood control works in or along the Eel River, declaring the urgency of this act, to take effect immediately.

Stats. 1941, p. 327

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated from the unexpended balance of the money appropriated by the act cited in the title hereof the sum of fifteen thousand dollars ($15,000) to the Department of Public Works to be expended by the department for flood control works, levees, bank protection and channel rectification of the Eel River, including but not limited to the repair or restoration of works and other property damaged or destroyed by floods. Appropriation Flood control, Eel River

None of the money hereby appropriated shall be expended, allotted, encumbered or become available for expenditure for any work unless and until the county in which the work is to be done has made available for expenditure by the State for said work money equal to or in excess of the amount to be expended for said work from this appropriation.

Not more than 5 per cent of the money expended from this appropriation for any work shall be expended for surveys or plans.

The department may acquire necessary lands and right of ways for any such work but none of the money appropriated by this act shall be expended for lands or right of ways.

The appropriation for the work specified in this act does not give such work any preference over any type of repair or restoration work specified in the act cited in the title hereof. An expenditure may be made out of the money appropriated by the act cited in the title hereof for any type of work specified therein ahead of any expenditure specified in this act, if there is a greater necessity for an expenditure for the former.

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of this State and shall therefore Urgency

take effect immediately. The following is a statement of the facts constituting such necessity:

Unusual floods and rainfall have caused serious damage to existing flood control works on the Eel River and necessitate the immediate repair and restoration of damaged and destroyed works as well as new construction and work in order to protect life and property. Therefore it is necessary that money be made available immediately for the purposes specified in this act.

CHAPTER 995

An act to amend Section 133 of the Civil Code, relating to entry of final judgment in divorce cases.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 1459

SECTION 1. Section 133 of the Civil Code is hereby amended to read as follows:

Filing final judgment of divorce

133. Whenever either of the parties in a divorce action is, under the law, entitled to a final judgment, but by mistake, negligence or inadvertence the same has not been signed, filed or entered, if no appeal has been taken from the interlocutory judgment or motion for a new trial made, the court, on the motion of either party thereto or upon its own motion, may cause a final judgment to be signed, dated, filed and entered therein granting the divorce as of the date when the same could have been given or made by the court if applied for. The court may cause such final judgment to be signed, dated, filed and entered nunc pro tunc as aforesaid, even though a final judgment may have been previously entered where by mistake, negligence or inadvertence the same has not been signed, filed or entered as soon as it could have been entered under the law if applied for. Upon the filing of such final judgment, the parties to such action shall be deemed to have been restored to the status of single persons as of the date affixed to such judgment, and any marriage of either of such parties subsequent to one year after the granting of the interlocutory judgment as shown by the minutes of the court, and after the final judgment could have been entered under the law if applied for, shall be valid for all purposes as of the date affixed to such final judgment, upon the filing thereof.

CHAPTER 996

An act to amend Sections 737xx and 4245 of the Political Code, relating to compensation of public officers.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 737xx of the Political Code is hereby amended to read as follows: Stats 1933, p 1727

737xx. The annual salary of each of the judges of the Superior Court in and for the County of Stanislaus is six thousand dollars ($6,000). Superior judges Stanislaus County

SEC. 2. Section 4245 of the Political Code is hereby amended to read as follows: Stats 1911, p 1013

4245. In counties of the sixteenth class, the following shall receive as compensation for the services required of them by law or by virtue of their offices, the following sums: Stanislaus County Salaries

1. The auditor, three thousand dollars ($3,000) per annum. Auditor

2. The district attorney, four thousand dollars ($4,000) per annum. District attorney

3. Each supervisor, two thousand one hundred dollars ($2,100) per annum and, except as otherwise provided, mileage at the rate of ten cents ($0.10) per mile for each mile traveled in coming to and from the meetings of the board; provided, that only one mileage at any one session of the board shall be allowed. Counties of this class may furnish automobiles to the supervisors thereof for use on any trips taken in performance of their official duties for which mileage would otherwise be allowed. All expense for fuel, oil, supplies, upkeep, and maintenance of such automobiles shall be paid from county funds. Such use of automobiles shall be in lieu of any mileage elsewhere provided. The supervisors shall act as road commissioners in their respective districts. Supervisors

4. Grand and trial jurors in the superior court, shall each receive for each day's attendance, per day, the sum of three dollars ($3), and for each mile from their residence to the county seat the sum of ten cents ($0.10) per mile, such mileage to be allowed for each day such jurors are required to and do attend. For attending as a member of a committee of the grand jury, for each day's attendance on such committee, three dollars ($3) and mileage at the rate of five cents ($0.05) per mile. The court shall make an order directing the auditor to draw his warrant on the county treasury for the amount due, and the auditor, unless otherwise specifically ordered, shall draw said warrants on the first and fifteenth days of each and every month, and the treasurer shall pay the same. Jurors

CHAPTER 997

Stats 1937, p 792, amended

An act amending Sections 6036, 6041, 6050 and 6051 of the Harbors and Navigation Code, relating to boards of harbor commissioners.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 15, 1941]

The people of the State of California do enact as follows:

Stats 1937, p 952

SECTION 1. Section 6036 of the Harbors and Navigation Code is hereby amended to read as follows:

Ballots at first election

6036. The official ballot at the first election in the proposed district shall provide voting squares after the words "For the harbor district" and after the words "Against the harbor district" and shall also have printed thereon the names of all candidates for harbor commissioner, together with five blank spaces for the purpose of permitting an elector to write in the name of a candidate, with voting squares after the name of each candidate and the five blank spaces.

Ballots at subsequent elections

All official ballots used at any subsequent election in the district shall conform, as near as practicable, to the above ballot, excepting that all reference to voting for or against the formation of the district shall be eliminated; and any question or proposition authorized to be submitted to the voters of the district may be placed on the ballot in addition to the names of any candidate or candidates for harbor commissioner.

Stats 1937, p 953

SEC. 1.5. Section 6041 of the Harbors and Navigation Code is hereby amended to read as follows:

Favorable majority

6041. If from the canvass it appears and the board of supervisors finds that a majority of the votes were cast in favor of the formation of the district, it shall enter that fact upon its minutes, together with a description of the boundaries of the district, its name, the official name or names by which the district is commonly known and enter its order declaring the district duly formed and existing in the county in which the proceedings were had. The board of supervisors shall also make an order declaring the five candidates for harbor commissioner receiving the highest number of votes to have been elected to such office and cause a certificate of election to be issued to the successful candidates.

Stats 1937, p. 953

SEC. 1.7. Section 6050 of the Harbors and Navigation Code is hereby amended to read as follows:

Governing board

6050. Each district formed pursuant to this part shall be governed by a board of five harbor commissioners, who shall hold office for the term of four years from 12 o'clock noon on the first Monday after the first day of January succeeding

their election, and until their successors are elected and qualified.

SEC. 2. Section 6051 of the Harbors and Navigation Code is hereby amended to read as follows: Stats. 1937, p. 955

6051. The first board shall be elected at the election for the formation of the district, and the two candidates for commissioner receiving the highest number of votes shall hold office until the expiration of four years from 12 o'clock noon of the first Monday after the first day of January of the odd-numbered year next succeeding the formation of the district, and until their successors are elected and qualified, and the candidates for commissioner receiving the third, fourth and fifth highest number of votes shall hold office until the expiration of two years from 12 o'clock noon of the first Monday after the first day of January of the odd-numbered year next succeeding the formation of the district, and until their successors are elected and qualified. Staggered terms

SEC. 3. Upon the effective date of this act, the Governor shall appoint two additional harbor commissioners to the board of harbor commissioners of each existing harbor district formed pursuant to Part 3 of Division 8 of the Harbors and Navigation Code, or to any law superseded by such part. Each such commissioner shall hold office until 12 o'clock noon of the first Monday after the first day of January following the next regular election in 1942 of commissioners for the district, and until their successors are elected and qualified. Their successors, as well as the successor or successors of the commissioner or commissioners now in office whose term or terms expire at 12 o'clock noon of the first Monday after the first day of January next following such election, shall be elected at such election. Additional commissioners Appointment, etc

If the total number of commissioners to be elected at the election is three, each of the three candidates receiving the highest number of votes shall hold office for a term of four years from 12 o'clock noon on the first Monday after the first day of January next succeeding his election, and until his successor is elected and qualified. If the total number of commissioners to be elected is four, each of the three candidates receiving the highest number of votes shall hold office for a term of four years from 12 o'clock noon on the first Monday after the first day of January next succeeding his election, and until his successor is elected and qualified; and the candidate receiving the next highest number of votes shall hold office for a term of two years from 12 o'clock noon on the first Monday after the first day of January next succeeding his election, and until his successor is elected and qualified.

The term of office of each successor of every harbor commissioner elected pursuant to this section shall be governed by the provisions of Section 6050 of the Harbors and Navigation Code.

CHAPTER 998

An act to amend Section 4014a of the Political Code, relating to township officers.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 2444

SECTION 1. Section 4014a of the Political Code is hereby amended to read as follows:

Township officers. Santa Barbara, Sonoma and Kings counties

4014a. In counties of the eighteenth, twentieth, and twenty-eighth classes, the officers of the township are, one justice of the peace, one constable, and such subordinate officers as are provided by law. Subject to the above limitations, in counties of these classes where in the opinion of the board of supervisors the public convenience hereafter requires it, the said board may hereafter by order provide that two justices' courts may be established in any township, designating the same in such order; and in such case a justice of the peace and constable for said additional justice court shall be appointed by the board of supervisors to fill said additional offices until the next succeeding gubernatorial election, following the creation of said additional offices; and provided, further, that in such case, one justice of the peace and one constable must be elected at the next succeeding gubernatorial election following the creation of such additional offices for each of said courts.

CHAPTER 999

Stats 1933, p 394, amended

An act to amend Section 271 of the Fish and Game Code, relating to Silver Lake Game Refuge.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 430

SECTION 1. Section 271 of the Fish and Game Code is hereby amended to read as follows:

Mt Tamalpais and General Grant. Predatory birds and mammals

271. In Mt. Tamalpais and General Grant National Park game refuges, the lawful occupant of privately owned land, or the employees of such occupant may take on such lands, predatory or destructive birds and mammals which are not protected or fostered by any of the laws of this State, and are not required to obtain permits for such taking.

CHAPTER 1000

An act to amend Section 51 of the Fish and Game Code, relating to game management.

Stats 1933, p 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 51 of the Fish and Game Code is hereby amended to read as follows:

Stats 1939, p 2425

51. If the commission is satisfied, after investigation, that the tract is suitable for the purpose of a game management area and that the establishment of such an area thereon will not conflict with the public interest, the commission may issue a game management area license upon the payment of a license fee of ten dollars ($10). Such license shall be issued for a term of one year from January 1st to December 31st, or, if issued after the beginning of such term, for the remainder thereof.

Game management license

Fee

Duration

The license shall authorize the licensee to shoot, or permit to be shot, legally propagated birds of the species mentioned in the application, upon the premises for which the license is issued.

Authority conferred

The licensee shall propagate and rear, or otherwise acquire, and release upon the premises birds of the species referred to in the license in such numbers as the commission shall determine. Such birds at the time of release, shall be full winged and otherwise in condition to go wild.

Propagation of birds

CHAPTER 1001

An act to amend Section 1200 of the Fish and Game Code, relating to doves.

Stats 1933, p 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1200 of the Fish and Game Code is hereby amended to read as follows:

Stats 1937, p 1405

1200. Doves may be taken in all districts between August 14th and January 15th. The bag limit is 15 per day, 30 per week. Not more than one daily bag limit of doves may be possessed by any person during one day.

Doves

CHAPTER 1002

Stats 1933, p. 394, amended

An act to amend Section 622 of the Fish and Game Code, relating to goldfish and non-native minnows.

In effect September 13, 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 453

SECTION 1. Section 622 of the Fish and Game Code is hereby amended to read as follows:

Goldfish

622. It is unlawful to use for bait or to release or to plant any freshwater or anadromous fish other than trout in any inland or tidal waters or portion thereof in which trout have been planted by the commission or which have been designated and posted as trout waters by the commission; provided, however, that fish other than trout may be used for bait or released in the same waters wherein taken, and they may be planted under a written permit issued by the commission when in its discretion the productivity of trout waters will not be reduced thereby.

CHAPTER 1003

Stats 1933, p 394, amended

An act to repeal Section 171 of the Fish and Game Code, relating to Fish and Game District 1U.

In effect September 13, 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 1763

SECTION 1. Section 171 of the Fish and Game Code is hereby repealed.

CHAPTER 1004

Stats 1933, p 394, amended

An act to amend Section 493 of the Fish and Game Code, relating to fishing hours.

In effect September 13, 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 15, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 442

SECTION 1. Section 493 of the Fish and Game Code is hereby amended to read as follows:

Fishing hours in certain districts

493. In Districts 1, 1½, 1¾, 2, 2½, 2¾, 3, 4, 4½, 4¾, 5, 12A, 23, 25, Klamath River District, and Trinity and Klamath River District, it is unlawful to take fish for which a sporting fishing license is required, between one hour after sunset of any one day, and one hour before sunrise of the following day.

CHAPTER 1005

An act to amend Section 1230 of the Fish and Game Code, relating to predatory mammals.

Stats 1933, p 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1230 of the Fish and Game Code is hereby amended to read as follows:

Stats 1933, p 499

1230. The following mammals are predatory mammals:

Predatory mammals

(a) The order Insectivora (moles, shrews).

(b) The order Marsupialia (opossums).

(c) The order Rodentia (rats, mice and gophers), excluding the genus Sciurus (tree squirrels), the genus Glaucomys (flying squirrels) and the genus Castor (beavers).

(d) The family Canidae (wolves, coyotes, foxes).

(e) The family Procyonidae (ringtail cats, coons).

(f) The family Mustelidae (martens, fishers, wolverines, weasels, minks, skunks, badgers).

(g) The family Felidae (cougars, wildcats).

CHAPTER 1006

An act to amend Section 458 of the Fish and Game Code, relating to export of deer or game birds.

Stats 1933, p 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 15, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 458 of the Fish and Game Code is hereby amended to read as follows:

Stats 1933, p. 440

458. It is unlawful to transport or carry out of this State any deer or game bird, or parts thereof, except by the holder of a nonresident hunting license or under a written permit issued by the commission.

Transportation out of State

CHAPTER 1007

An act to add Section 305 to the Political Code, relating to disqualification for State compensation and employment.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 305 is hereby added to the Political Code, to read as follows:

Disqualification of public employee: Witness before legislative committee

305. Every State department, office, board, commission or bureau, including The Regents of the University of California, shall discharge any person who, when legally required to do so, refuses to attend upon, to answer questions of, or to produce books, papers and documents in his possession or under his control before any legislative committee. Such person shall receive no compensation from this State or any agency thereof for services rendered after the date of such refusal.

No State department, office, board, commission or bureau, including The Regents of the University of California, shall ever employ or compensate for services any person who, when legally required to do so, has at any time prior to such proposed employment or compensation refused to attend upon, to answer questions of, or to produce books, papers and documents before any legislative committee.

The legislative committee shall read this section to the person so refusing, and shall certify the refusal to the State Personnel Board and to the State Controller. Upon receipt of such certificate, the State Personnel Board shall immediately notify every State department, office, board, commission or bureau, including The Regents of the University of California, by whom such person is or has at any time been employed.

CHAPTER 1008

Stats 1933, p 394, amended

An act to amend Section 11 of the Fish and Game Code, relating to the compensation of the members of the Fish and Game Commission.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p. 395

SECTION 1. Section 11 of the Fish and Game Code is hereby amended to read as follows:

Compensation and expenses of commission

11. Each of the commissioners shall receive ten dollars ($10) for each day of actual service performed in carrying

out his official duties pursuant to the directions of the commission but the amount of such compensation shall not exceed for any one commissioner the sum of fifty dollars ($50) for any one calendar month. In addition to such compensation the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties. The compensation and expenses provided in this section shall be paid out of the Fish and Game Preservation Fund.

CHAPTER 1009

An act to amend Section 4986 of the Revenue and Taxation Code, relating to the cancellation of taxes.

Stats 1939, p 1274, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4986 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1941, p 1739

4986. All or any portion of any uncollected tax, penalty, or costs, heretofore or hereafter levied, may, on satisfactory proof, be canceled by the auditor on order of the board of supervisors with the written consent of the district attorney if it was levied or charged:

Procedure for cancellation

(a) More than once.

(b) Erroneously or illegally.

(c) On a portion of an assessment in excess of the cash value of the property by reason of the assessor's clerical error.

(d) On improvements when the improvements did not exist on the lien date.

(e) On property acquired after the lien date by the United States of America, the State or by any county, city, school district or other political subdivision and because of this public ownership not subject to sale for delinquent taxes. "Property acquired" as used in this section shall include street easements and shall also include other easements for public use where the residual estate remaining in private ownership has a nominal value only.

No cancellation under subparagraphs (b) and (e) of this section shall be made in respect of all or any portion of any tax, or penalties or costs attached thereto, collectible by county officers on behalf of a municipal corporation without the written consent of the city attorney thereof.

CHAPTER 1010

Stats 1937, p 185, amended

An act to add Article 3, consisting of Section 3800, to Chapter 4 of Part 1 of Division 4 of the Labor Code, relating to workmen's compensation insurance and applicants for construction, improvement, alteration, or demolition permits.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

New article

SECTION 1. Article 3, consisting of Section 3800, is hereby added to Chapter 4 of Part 1 of Division 4 of the Labor Code, to read as follows:

Article 3. Construction Permit

Certificate of insurance by applicant for building permit

3800. Every county or city which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition or repair of any building or structure shall require that each applicant for such permit have on file or file

(1) A certificate of consent to self-insure issued by the Industrial Accident Commission, or

(2) A certificate of workmen's compensation insurance issued by an admitted insurer, or

(3) An exact copy or duplicate thereof certified by the commission or the insurer.

The certificate of insurance shall state that there is in existence a valid policy of workmen's compensation insurance in a form approved by the Insurance Commissioner. The certificate shall show the expiration date of the policy. No insurer shall issue such certificate unless the full deposit premium on the policy has been paid, and the insurer shall give the county or city at least 10 days advance notice of the cancellation of the policy.

CHAPTER 1011

Stats 1933, p 394, amended

An act to amend Section 919 of the Fish and Game Code, relating to bait nets.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Stats 1937, p 1387

SECTION 1. Section 919 of the Fish and Game Code is hereby amended to read as follows:

"Bait net"

919. As used in this chapter the term "bait net" means a lampara or round haul type net with cotton twine mesh

not exceeding in size standard No. 6 medium cotton seine twine, except that the selvedge webbing for a distance of three feet from the cork line, measured stretched, mesh shall not exceed in size standard No. 9 cotton twine. The net shall not have rings along the lead line or any method of pursing the bottom of the net.

Bait nets may be used to take fish for bait in any ocean district except District 20.

CHAPTER 1012

An act to amend Section 1538.5 of the Probate Code, relating to leases of wards' property.

Stats 1931, p 587, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1538.5 of the Probate Code is hereby amended to read as follows:

Stats 1939, p 1691

1538.5. An order authorizing the execution of a lease shall prescribe the minimum rental or royalty and the period of the lease, and may prescribe other terms and conditions, including, with respect to a lease for the purpose of production of minerals, oil, gas or other hydrocarbon substances, a provision for the payment of rental and royalty to a depositary, and for the appointment of a common agent to represent the interests of all the lessors. If the lease covers additional property owned by other persons or an undivided interest of the ward or other interest of the ward less than the entire ownership in the property, it may provide for division of rental and royalty in the proportion that the land or interest of each owner bears to the total area of the land or total interests covered by such lease. The period of the lease must not be longer than 10 years, except that for the purpose of production of minerals, oil, gas or other hydrocarbon substances the lease may be for a fixed period not to exceed 20 years, and so long thereafter as minerals, oil, gas or other hydrocarbon substances are produced in paying quantities from the property leased.

Order authorizing lease

Maximum term

CHAPTER 1013

An act to amend Section 1032a of the Code of Civil Procedure, relating to the cost of depositions as costs.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1817

SECTION 1. Section 1032a of the Code of Civil Procedure is hereby amended to read as follows:

Cost of deposition

1032a. Any person allowed his costs under the provisions of this chapter shall, in addition to other costs, be entitled to the reasonable cost of taking and transcribing depositions, together with the reasonable cost of one copy of each such deposition, unless it shall appear to the court that the taking of such deposition was unnecessary, and in addition the reasonable cost of one copy of all depositions taken by the party or parties against whom such costs are allowed.

CHAPTER 1014

Stats. 1933, p 394, amended

An act to repeal Sections 484.5, 611.5, 612, 613, 615.2, 617, 618, 619, 651.5, 655, 656, 710, 791.6, 843, 844, 886, 957, 1208, 1213 and 1344 of, and to add Sections 484.5, 611.5, 612, 613, 615.2, 617, 618, 651.5, 655, 656, 710, 791.6, 843, 886, 957, 1208, 1213 and 1344 to, the Fish and Game Code, relating to the provisions of the code applicable to areas and portions of districts.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Repeals

SECTION 1. Sections 484.5, 611.5, 612, 613, 615.2, 617, 618, 619, 651.5, 655, 656, 710, 791.6, 843, 844, 886, 957, 1208, 1213 and 1344 of the Fish and Game Code are hereby repealed.

New section

SEC. 2. Section 484.5 is hereby added to said code, to read as follows:

Sale of fish taken in Klamath and Smith rivers

484.5. It is unlawful to sell or purchase any fresh, canned, or cured fish taken in the Klamath River District or in the waters of the Smith River.

New section

SEC. 3. Section 611.5 is hereby added to said code, to read as follows:

Golden trout

611.5. In Districts 1 and 4½, golden trout may be taken from May 1st to October 31st, except that in the Cottonwood

Lakes group, including the South Fork Cottonwood Lakes group and also including one-half mile of stream below the lower lake in each of said groups, golden trout may be taken from July 1st to October 31st.

SEC. 4. Section 612 is hereby added to said code, to read as follows: New section

612. In the Russian, Napa and Navarro rivers and in those portions of Eel River in Districts 2 and 2¾, and in tidewater in Districts 2, 3, 4 in the Santa Ynez River as far as the Buellton Bridge, and 15 and 16, steelhead trout may be taken from May 1st to February 28th. The bag limit is three fish per day, irrespective of size, between November 1st and February 28th. Steelhead

SEC. 5. Section 613 is hereby added to said code, to read as follows: New section

613. In Districts 1½ and 5 and in the Klamath River and Trinity River excluding their tributaries, steelhead trout may be taken from May 1st to February 28th. In the tributaries of the Klamath River in District 1½, steelhead trout may be taken between May 1st and December 31st. The bag limit is five per day, irrespective of size, between November 1st and February 28th. Not more than one daily bag limit may be possessed by one person during one day. Same

SEC. 6. Section 615.2 is hereby added to said code, to read as follows: New section

615.2. It is unlawful to use or possess within 100 yards of the San Lorenzo River or its tributaries any landing gear, gaffs, nets or spears. Landing gear: Prohibitions

SEC. 7. Section 617 is hereby added to said code, to read as follows: New section

617. In Lake Almanor all varieties of trout may be taken from May 1st to October 31st. Lake Almanor

SEC. 8. Section 618 is hereby added to said code, to read as follows: New section

618. Except as otherwise provided in this section, in any stream in District 23 flowing into the State of Nevada, not including its tributaries, nor any lake from which said stream may flow, all varieties of trout and whitefish may be taken from May 15th to October 31st. In the Truckee River, its tributaries, and in Lake Tahoe and in Donner Lake, trout and whitefish may be taken between May 1st and October 15th. District 23

New section SEC. 10. Section 651.5 is hereby added to said code, to read as follows:

Salmon Portion of Feather River 651.5. In that portion of the Feather River, between the mouth of the Yuba River and the Feather River Thermalito Bridge at Oroville, salmon may be taken with hook and line between May 1st and December 31st. The bag limit is two per day.

New section SEC. 11. Section 655 is hereby added to said code, to read as follows:

Klamath River Above tidewater 655. In Klamath River District, above tidewater, salmon may be taken with hook and line, between May 29th and December 31st. The bag limit is two per day.

New section SEC. 12. Section 656 is hereby added to said code, to read as follows:

Klamath River: Tidewater 656. In the Klamath River District, in tidewater, salmon may be taken with hook and line, between May 29th and December 31st. The bag limit is five per day. Not more than one daily bag limit may be possessed by any person during one day.

New section SEC. 13. Section 710 is hereby added to said code, to read as follows:

Crappie 710. In District 2, crappie may be taken at any time in any lake exceeding 75 square miles in area. The bag limit on crappie taken from such a lake is 10 per day.

New section SEC. 14. Section 791.6 is hereby added to said code, to read as follows:

Crab Bodega Lagoon 791.6. It is unlawful to sell any crab taken in Bodega Lagoon, in District 2.

New section SEC. 16. Section 843 is hereby added to said code, to read as follows:

Possession of nets 843. Any net found in a boat, or within 500 feet of tidewater in the Klamath River District is prima facie evidence that the owner or person in possession of said net is or has been using the same in the district where found.

New section SEC. 17. Section 886 is hereby added to said code, to read as follows:

Gill nets in District 20 886. In District 20 gill nets may be used subject to the following restrictions:

(a) They may be used only in State waters in District 20 between Southeast Rock (also known as Church Rock) and Twin Rocks.

(b) They may be used only to take flying fish for bait.

(c) They must not exceed 50 fathoms in length and two fathoms four feet in depth. The length of the meshes must be between one and seven-eighths and two and one-eighth inches.

SEC. 18. Section 957 is hereby added to said code, to read as follows: New section

957. In District 18, trawl nets may not be used in any bay, or in State waters surrounding any island, but may be used elsewhere in the district. Trawl nets in District 18

SEC. 19. Section 1208 is hereby added to said code, to read as follows: New section

1208. It is unlawful to take ducks from a scull boat which is in open waters in District 12, or, in that portion of District 2 composed of the Napa River southerly from the southerly end of Edgerly Island, and the Mare Island Strait from the Napa River to Carquinez Strait. Ducks

SEC. 20. Section 1213 is hereby added to said code, to read as follows: New section

1213. It is unlawful to take geese from a scull boat which is in open waters in District 12, or in that portion of District 2 composed of the Napa River southerly from the southerly end of Edgerly Island, and the Mare Island Strait from the Napa River to Carquinez Strait. Geese

SEC. 21. Section 1344 is hereby added to said code, to read as follows: New section

1344. It is unlawful to take any seal or sea lion within one mile of the mean high tide line at Point Lobos, or within one mile of the mean high tide line extending five miles eastward and five miles westward from the City of Santa Cruz. Seals and sea lions

SEC. 22. The provisions added by this act relating to parts of districts are new enactments and are not intended to be continuations of any existing law. Declaration of intent

CHAPTER 1015

Stats 1937, p 185, amended

An act to amend Section 1593 of the Labor Code, relating to employment agency licenses.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 234

SECTION 1. Section 1593 of the Labor Code is hereby amended to read as follows:

Person and place protected

1593. No license shall protect any other than the person to whom it is issued nor any places other than those designated in the license. No license shall be transferred or assigned to any person unless written consent is obtained from the Labor Commissioner.

CHAPTER 1016

Stats 1937, p 185, amended

An act to repeal Section 1588.5 of the Labor Code, relating to labor contractor's license fees.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2112

SECTION 1. Section 1588.5 of the Labor Code is hereby repealed.

CHAPTER 1017

Stats 1935, p. 93, amended

An act to amend Section 374.5 of the Vehicle Code, relating to license plates for exempt vehicles.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 26

SECTION 1. Section 374.5 of the Vehicle Code is hereby amended to read as follows:

Plates Law enforcement vehicles

374.5. Exceptions as to Type of License Plates for Exempt Vehicles. The department may issue for any exempt vehicle license plates in the series of plates issued for nonexempt vehicles. Such plates may be issued for a period not extending beyond the then current calendar year and only upon the certification of the Attorney General that the issuance of such plates has been requested by the head of a law enforcement agency of a city, city and county, county, State, or Federal

department, that the vehicle is assigned to the duty of investigating actual or suspected violations of the law or the supervision of persons liberated from a State prison by parole, and is intended for the use in line of duty of regularly employed law enforcement officers of a city, city and county, county, State or Federal department. The department shall maintain a record of any such registration, which record shall not be open to public inspection. Such record shall be disclosed in the event of any accident involving such vehicle on demand of the Attorney General or upon an order of court.

CHAPTER 1018

An act to amend Section 1161 of the Civil Code, relating to the recordation of instruments.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1161 of the Civil Code is hereby amended to read as follows: Stats. 1905, p. 602

1161. Before an instruction can be recorded, unless it belongs to the class provided for in either Section 1159, 1160, 1202 or 1203, its execution must be acknowledged by the person executing it, or if executed by a corporation, by its president or secretary, or other person executing the same on behalf of the corporation, or proved by a subscribing witness, or as provided in Sections 1198 and 1199, and the acknowledgment or proof certified in the manner prescribed by Article 3 of this chapter. If such instrument is an agreement for sale, option agreement, deposit receipt, commission receipt, or affidavit which affidavit quotes or refers to an agreement for sale, lease, option agreement, deposit receipt, commission receipt or lease and such instrument claims to, or affects any interest in real property, it shall be executed and acknowledged or proved as above provided by the party thereto who appears by such instrument to be the party whose real property is affected or alienated thereby. Acknowledgment of instruments. Agreements for sale, etc

CHAPTER 1019

Stats 1933, p 394, amended

An act to add Section 170.1 of the Fish and Game Code, relating to fish and game refuges and preserves.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 170.1 is hereby added to the Fish and Game Code, to read as follows:

Sea otter game refuge

170.1. The California sea otter game refuge shall consist of and include the following properties: All that portion of Monterey County lying between Malpaso Creek and the Swiss Canyon Arroyo, and west of the Monterey-San Simeon highway, and that property between Castro Canyon and Dolan Creek, west of the Monterey-San Simeon highway.

CHAPTER 1020

Stats 1935, p 93, amended

An act to amend Sections 379 and 428 of the Vehicle Code, relating to the seizure and sale of vehicles by the Department of Motor Vehicles.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p. 1944

SECTION 1. Section 379 of the Vehicle Code is hereby amended to read as follows:

Lien

379. Seizure and Sale of Vehicle. (a) Every registration or transfer fee and any penalty added thereto, from the date the same become due, constitute a lien upon the vehicle for which due.

Seizure and sale

(b) The department shall collect such fee and any penalty by seizure of such vehicle from the person or persons in possession thereof, if any, and by the sale of such vehicle.

Procedure of sale

When a vehicle that has been seized to satisfy a lien of the department for fees and penalties is appraised at a value not exceeding twenty-five dollars ($25), by an officer or employee of the department, the sale shall be conducted in the manner set forth in this section.

The department, when conducting the sale of such vehicle through an officer or employee of the department, may bid for such vehicle through the officer or employee conducting the sale, an amount not to exceed the amount of the lien held by the department.

In all cases where there are no bids offered for the vehicle, or if the highest bid offered does not exceed ten dollars ($10), the vehicle shall become the property of the department as compensation for costs to the department in conducting the sale. In such cases, and in the cases where the department has bid in the vehicle at the sale, such vehicles shall not be registered for the current year or any other year by the department, but shall be reduced to junk and sold by the department as such. The proceeds, if any, of such sale shall be deposited in the Motor Vehicle Support Fund.

The seizure and sale herein authorized shall be conducted and carried out by the department in the same manner as is provided by law for the seizure and sale of personal property by the assessor for the collection of taxes due on personal property.

Notice of the sale shall be given by the department to the legal owner, if there is both a legal and a registered owner, of the vehicle at least 10 days prior to the date of the sale by registered mail addressed to such owner at his last known address appearing on the records of the department. At any time before the sale any legal owner so notified may pay the department the full amount of the delinquent fee and penalty, plus any costs incurred by the department in arranging for the sale, in which event the sale shall not be held and the vehicle seized shall be returned by the department to the person entitled to its possession.

Notice to legal owner

Payment

(c) Every lien and every cause of action for any delinquent fee or penalty under this code shall expire at the expiration of three years from the date any such fee became due.

Statute of limitations

SEC. 2. Section 428 of the Vehicle Code is hereby amended to read as follows:

Stats 1935, p 161

428. Notice of Sale; Disposition of Proceeds. Prior to any such sale said lien holder shall give at least 10 days' notice of such sale by advertising in some newspaper published in the county in which said property is situated; or if there is no newspaper printed in such county, then by posting notice of sale in three of the most public places in the town or place where such property is to be sold, for 10 days previous to the date of the sale. Prior to the sale of any vehicle to satisfy any such lien, 20 days' notice by registered mail shall be given to the legal owner and to the registered owner of said vehicle, if registered in this State, as the same appear in the registration certificate, and also to the department by registered letter. The department shall in like manner immediately notify the legal owner and the registered owner of the proposed sale, but failure on the part of said department to give such notice shall not affect the validity of any such sale The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping and selling the property. The remainder, if any, shall be paid to the legal owner, if any, or to the owner if there is no legal owner.

Notice of sale

CHAPTER 1021

Stats 937, p 185, amended

An act to amend Section 1589 of the Labor Code, relating to surety bonds of employment agencies.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Stats 1939, p. 2112

SECTION 1. Section 1589 of the Labor Code is hereby amended to read as follows:

Bond

1589. An employment agency shall also deposit with the Labor Commissioner, prior to the issuance or renewal of a license, a surety bond in the penal sum of one thousand dollars ($1,000).

CHAPTER 1022

Stats 1937, p 1005, amended

An act to amend Section 745 of the Welfare and Institutions Code, relating to the modification of commitment orders of juvenile delinquents.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Stats 1937, p. 1040

SECTION 1. Section 745 of the Welfare and Institutions Code is hereby amended to read as follows:

Changing or setting aside orders

745. Any order made by the court in the case of any person subject to its jurisdiction under the provisions of Section 700 may at any time be changed, modified, or set aside, as the judge deems meet and proper.

Notice of hearing

The court committing a ward to any State school may thereafter change, modify, or set aside the order of commitment. Ten days' notice of the hearing of the application therefor shall be served by United States mail upon the superintendent of the school to which such person has been committed. In changing, modifying, or setting aside such order of commitment, the court shall give due consideration to the effect thereof upon the discipline and parole system of the school. Except as in this section provided, nothing in this chapter shall be deemed to interfere with the system of parole and discharge now or hereafter established by law, or by rule of the State Department of Institutions, for the parole and discharge of wards of the juvenile court committed to such State schools or similar institutions, or with the management of any such school. Except as in this section provided, nothing in this chapter shall be deemed to interfere with the system of transfer between institutions under

the jurisdiction of the State Department of Institutions, as provided by law, pertaining to transfer of inmates of all such institutions.

However, before any inmate of a correctional school may be transferred to a State hospital for the insane, he shall first be returned to a court of competent jurisdiction, and, after hearing, may be committed to a State hospital for the insane in accordance with law. Transfer of insane inmate of correctional school

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CHAPTER 1023

An act to amend Section 6700 of the Welfare and Institutions Code, relating to the transfer of inmates of State institutions. Stats 1937, p 1005, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6700 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1937, p 1160

6700. It shall be the policy of the department to make available to all persons committed to its jurisdiction all of the facilities under the control of the department. Whenever, in the opinion of the Director of Institutions, it appears that a person committed to the Department of Institutions for placement in a designated institution would be benefited by a transfer from that designated institution to another institution in the department, the director may cause the transfer of the patient or inmate from that institution to another institution under the jurisdiction of the department. Preference shall be given in any such transfer to an institution in an adjoining rather than a remote district. Transfer of patients Preference

However, before any inmate of a correctional school may be transferred to a State hospital for the insane, he shall first be returned to a court of competent jurisdiction, and, after hearing, may be committed to a State hospital for the insane in accordance with law. Insane inmate of correctional school

The expense of such transfers is chargeable to the State, and the bills for the same, when approved by the Director of Institutions, shall be paid by the Treasurer on the warrant of the Controller, out of any moneys provided for the care or support of the inmates or out of the moneys provided for the support of the department, in the discretion of the department. Expense

CHAPTER 1024

An act to amend Section 231 of the Code of Civil Procedure, relating to the manner of summoning jurors for courts not of record.

In effect September 13 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Stats 1933, p 1834

SECTION 1. Section 231 of the Code of Civil Procedure is hereby amended to read as follows:

Summoning jurors in justices' and police courts

231. Such jurors must be summoned from the list of persons prepared, as hereinafter stated, by notifying each orally that he is summoned and of the time and place at which his attendance is required, or by leaving a written notice to that effect at his place of residence with some person of proper age, or by mailing such notices by registered mail.

In the month of January in each year it shall be the duty of each justices' court, and of each police or other inferior court in this State, to make an order designating the estimated number of trial jurors that will, in the opinion of the court, be required for the transaction of the business of the court, and the trial of causes therein during the ensuing year. Any such court may make additional orders during the year designating the estimated number of trial jurors that will, in the opinion of the court, be required for the transaction of the business of the court, and the trial of causes therein during the balance of the year, or a portion thereof. Immediately after said order is made, the county clerk of the county in which said court is held shall select a list of men and women to serve as trial jurors in such court during the ensuing year, or until a new list of trial jurors shall be provided.

Additional orders

The selections and lists shall be made of persons suitable and competent to serve as jurors resident respectively in the township, city or town in which the court is established, and in making such selections the county clerk shall take the names of such only as are not exempt from serving, who are in the possession of their natural faculties, are not infirm or decrepit, of fair character and approved integrity, and of sound judgment. A list of the persons selected to serve as trial jurors in each such court, certified by the county clerk, shall at once be placed in the possession of and filed with such court. The persons whose names are so returned shall be known as regular jurors and shall serve for one year and until other persons are selected and returned.

Whenever the business of such court shall require the attendance of a trial jury, the justice or judge of the court, or any one of the justices or judges, when there is more than one, may make an order directing the sheriff, constable,

marshal, or policeman of the jurisdiction to summon trial jurors, as hereinabove provided.

Whenever, after all the persons whose names appear upon the list of jurors of such a court, have been summoned, and there is not a sufficient number of competent jurors present, the court, or a justice or judge thereof, may direct the sheriff, constable, marshal, or policeman of the jurisdiction, to summon a sufficient number of persons having the qualifications of jurors from the body of the township, town or city in which such court is established.

CHAPTER 1025

An act to add a new section to the Civil Code, to be numbered 955, relating to the assignment of conditional contracts of sale.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Civil Code, to be numbered 955, and to read as follows: New section

955. The transfer of a contract of conditional sale shall be deemed perfected against third persons when such contract has been indorsed or assigned in writing and delivered to the transferee, whether or not notice of such assignment has been given to the obligor; but such indorsement, assignment or delivery shall not be, of itself, notice to the obligor so as to invalidate any payments made by him to the transferor. Transfer of conditional sale contract

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CHAPTER 1026

An act to amend Section 576 of the Vehicle Code, relating to special stops required of vehicles. Stats 1935, p. 93, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 576 of the Vehicle Code is hereby amended to read as follows: Stats 1937, p. 619

576. Certain Vehicles Must Stop at All Railway Grade Crossings. (a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any motor truck carrying explosive substances or Certain vehicles to stop at grade crossings.

inflammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a steam railway, interurban or suburban electric railway, shall stop such vehicle not less than 10 nor more than 50 feet from the nearest rail of such track and while so stopped shall listen, and look in both directions along such track, for any approaching railway train, interurban car or other vehicle using such rails before traversing such crossing, except as hereinafter provided.

Controlled crossings

(b) No stop need be made at any such crossing where an officer is on duty and directs traffic to proceed nor where a stop and go signal is in operation and indicates that traffic may proceed.

Business or residence districts

(c) No stop need be made at street railway tracks within a business or residence district.

Spur and industrial tracks

(d) The driver of any motor vehicle carrying passengers for hire need not stop, unless a railway train is approaching at any spur track or industrial track, where, with the approval of the Railroad Commission, distinctive signs are displayed indicating that no stop need be made.

Imputation of negligence to passenger

(e) Failure of the driver of a motor vehicle carrying any passenger for hire to stop as required in this section shall not be imputed to any bona fide passenger for hire in such vehicle.

(f) The violation of any of the provisions of this section is a misdemeanor.

CHAPTER 1027

Stats 1937, p 1229, amended

An act to amend Section 12200 of the Business and Professions Code, relating to terms of county sealers.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 448

SECTION 1. Section 12200 of the Business and Professions Code is hereby amended to read as follows:

County sealer

12200. There is in each county the office of county sealer of weights and measures. The county sealer shall be appointed by the board of supervisors. The term of office of such sealer is four years from and after his appointment and until his successor is appointed but he may be removed at the will of the appointing power, or as hereinafter provided.

In addition to his salary each county sealer and deputy county sealer is entitled to his necessary traveling and other expenses incurred in the performance of his duties.

A county sealer may, with the consent of the board of supervisors of the county appointing him, appoint a deputy or deputies when necessary or expedient to carry out the duties of his office. Such deputies shall be subject to removal by the county sealer.

CHAPTER 1028

An act to add Chapter 9 (consisting of Sections 240, 241, 242, 243, 243.5, 244, 245, 245.5, 246, 246.5, 247 and 248) to Division 3 of the Vehicle Code, and to repeal Sections 235 and 235.5 thereof, relating to the wrecking and dismantling of vehicles, including the business of automobile wreckers.

Stats 1935, p. 93, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Chapter 9 (consisting of Sections 240, 241, 242, 243, 243.5, 244, 245, 245.5, 246, 246.5, 247 and 248) is hereby added to Division 3 of the Vehicle Code, to read as follows:

New chapter

CHAPTER 9. AUTOMOBILE WRECKERS

240. Automobile Wrecker. "Automobile wrecker" means a person engaged in the business of buying, selling or dealing in vehicles of a type required to be registered under this code, for the purpose of dismantling or wrecking the same, and who buys or sells the integral parts and component materials thereof, in whole or in part, and deals in used motor vehicle parts. This section shall not apply to the occasional and incidental dismantling or wrecking of vehicles, by dealers who have secured dealers plates from the department for the current year whose principal business is buying and selling new and used or used vehicles, or by those owners who desire to wreck their own vehicles, or by garages or repair shops.

"Automobile wrecker"

241. Established Place of Business of Automobile Wrecker. Every automobile wrecker, before or after applying for an automobile wrecker's license, shall acquire or have an established place of business which he occupies either continuously or at regular periods, and where his books and records are kept and a large share of his business transacted.

Established place of business

242. Issuance of Duplicate Certificates, Cards or Plates on Application for Certificate of Dismantling. The provisions of Section 165 shall not apply when a certificate of dismantling is applied for. However, any person applying for such certificate of dismantling shall, in accordance with Section 246, surrender to the department the certificate of ownership, registration card, and license plate or plates last issued for such vehicle. In the event the applicant for a certificate of dismantling is unable to furnish the certificate of ownership, registration card, and license plate or plates last issued for the vehicle, or any of them, the department may receive such application, examine into the circumstances of the case; and

Application for certificate of dismantling

may require the filing of suitable affidavits or other information or documents. When satisfied that applicant is entitled to a certificate of dismantling, the department may issue such certificate. No duplicate certificate of ownership nor any duplicate registration card, license plate or plates will be issued when a certificate of dismantling is applied for and no fees shall be required for the aforesaid affidavit or any stolen, lost or damaged certificate, card, plate or plates, or duplicates thereof, unless the vehicle is subsequently registered in accordance with Section 246.5.

Transfer of vehicle

243. Transfer of Vehicle on Application for Certificate of Dismantling. When any person acquires a vehicle as transferee for the purpose of dismantling or wrecking the same, the title to the vehicle shall be transferred to such person without payment of any transfer fee, if application for the issuance of a certificate of dismantling is made in accordance with the provisions of Section 246.

Exception

243.5. Automobile Wrecker Need Not Apply for Transfer. The provisions of Section 179 shall not apply when the transferee of a vehicle is an automobile wrecker who holds the same for wrecking or dismantling purposes and is licensed by the department as an automobile wrecker, but such automobile wrecker, upon transferring his title or interest to another, shall indorse his signature upon the certificate of ownership, deliver such certificate and registration card to such other person, and give notice of such transfer to the department upon the appropriate form provided by it.

Operation of vehicle

244. Operation of Vehicles by Automobile Wreckers Under Special Plates.

(a) An automobile wrecker owning or controlling any vehicle of a type otherwise required to be registered or transferred hereunder, may operate or move the same upon the highways without subjecting the vehicle to registration or transfer, or both, solely for the purpose of moving the same from its then location to the established place of business of such automobile wrecker, if there is displayed on the vehicle, in the manner prescribed in Section 158, a special plate or plates issued to such automobile wrecker as provided in this chapter.

(b) The provisions of this chapter do not apply to work or service vehicles owned by an automobile wrecker.

Special plates

245. Application for and Issuance of License or Certificate and Special Plates to Automobile Wreckers.

(a) Every automobile wrecker shall make application to the department upon an appropriate form for a license or certificate containing a general distinguishing number and for one or more pair of special plates. The applicant shall

submit proof of his status as a bona fide automobile wrecker as may reasonably be required by the department.

(b) The department shall approve or reject any such application and may issue to the applicant a certificate or license containing the applicant's name and address, the name under which the business is to be conducted, and its address, and the general distinguishing number assigned to the applicant.

(c) The department shall issue special plates as applied for, which shall have displayed thereon the general distinguishing number assigned to the applicant.

(d) Every special plate issued hereunder shall expire at midnight on the thirty-first day of December of each year and a new plate or plates for the ensuing year may be obtained by the person to whom any such expired plate or plates was issued, upon application to the department and payment of the fee provided in this chapter.

Revocation

245.5. Suspending or Revoking Certificate, License or Special Plates Issued to Automobile Wrecker. The department may suspend or revoke a certificate or license, or the special plates issued to an automobile wrecker, upon determining that any such automobile wrecker is not lawfully entitled thereto or has made, or knowingly or negligently permitted, any illegal use of such plates, license or certificate, or has committed fraud in the registration of vehicles, or failed to give notices of transfers when and as required of him by this code.

Evidence of title

246. Person Dismantling or Wrecking Vehicle to Return Evidences of Registration. Any person desiring to dismantle or wreck any vehicle registered hereunder shall immediately forward to the department the certificate of ownership, registration card, and the license plate or plates last issued for such vehicle. The department shall issue without charge to such person a certificate of dismantling, containing a brief description of the vehicle, including in so far as the hereinafter specified data may exist with respect to the vehicle, the make, type, serial number and motor number, if available; otherwise any other number of the vehicle. The certificate, when issued, shall be considered as and shall constitute a transfer of title in the vehicle in accordance with Section 243 hereof, and no fee for any such transfer shall be paid. Any person dismantling or wrecking any vehicle shall maintain a record of all vehicles so dismantled or wrecked, which shall contain the name and address of the person from whom such vehicle was purchased or acquired and the date thereof, the registration number last assigned to the vehicle and a brief description of the vehicle, including in so far as the hereinafter specified data may exist with respect to a given vehicle, the make, type, serial number and motor number, if available; otherwise any other number of the vehicle. Said record shall be open to inspection during business hours by any peace officer or investigator of the Department of Motor Vehicles.

Subsequent registration of vehicle

246.5. Registration of Vehicle for Which Certificate of Dismantling Issue. No vehicle for which a certificate of dismantling has been issued may subsequently be registered until it has been inspected by the department and found to be in a safe mechanical condition and equipped with safety glass.

Failure to surrender documents

247. Fees Payable Upon Failure to Surrender Required Documents and License Plates. Any person acquiring a vehicle subject to registration hereunder, for the purpose of wrecking or dismantling the same, who fails to forward to the department the documents required by Section 246, within ninety (90) days after taking possession of the vehicle, and before dismantling and wrecking such vehicle, shall pay in addition to any other penalties an investigation service fee in the amount of five dollars ($5).

Fees

248. Fees to Be Paid by Automobile Wreckers: When Payable.

(a) All fees required to be paid by an automobile wrecker, in accordance with this code, for any certificate or license, or special set of plates, shall be paid at the time application is made to the department therefor.

(b) The fees for a license or certificate and special plates issued to automobile wreckers shall be:

(1) For the certificate or license and the first set of special plates hereafter obtained $55.00

(2) Upon annual renewal, for the first set of special plates 5.00

(3) For each additional set of special plates 3.00

(c) Should an automobile wrecker make application for registration or special plates as a dealer, then in that event he shall pay such additional fees as are set forth under Section 375.

(d) Any automobile wrecker who shall at the time of the effective date of this chapter be registered as and have issued to him any special plates as a dealer, shall upon application made by him for a certificate or license, and for the issuance to him of special plates, as an automobile wrecker, pay only such fees as are set forth in paragraphs (2) and (3) of subdivision (b).

Repeals

SEC. 2. Sections 235 and 235.5 of the Vehicle Code are hereby repealed.

CHAPTER 1029

An act to add Sections 1266 and 1266.1 to Part 3, Title 7, of the Code of Civil Procedure, relating to eminent domain, including the taking of land by cities and counties for streets and highways.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1266 is hereby added to the Code of Civil Procedure, to read as follows: New section

1266. Whenever land is to be condemned by a county or city for the establishment of any street or highway, including express highways and freeways, and the taking of a part of a parcel of land by such condemning authority would leave the remainder thereof in such size or shape or condition as to require such condemnor to pay in compensation for the taking of such part an amount equal to the fair and reasonable value of the whole parcel, the resolution of the governing body of the city or county may provide for the taking of the whole of such parcel and upon the adoption of any such resolution it shall be deemed necessary for the public use, benefit, safety, economy, and general welfare that such condemning authority acquire the whole of such parcel. Condemnation of complete parcel

SEC. 2. Section 1266.1 is hereby added to the Code of Civil Procedure, to read as follows: New section

1266.1. A county or a city may acquire land by gift or purchase from the owner thereof for any of the purposes enumerated in Section 1266 of this code. Acquisition by gift or purchase

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CHAPTER 1030

An act to amend Section 531 of the Vehicle Code, and to add Section 531.5 thereto, relating to following other vehicles too closely, and to vehicles being operated in caravan. Stats 1935, p 93, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 531 of the Vehicle Code is hereby amended to read as follows: Stats 1935, p 183

531. Following Too Closely. (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of Distance between vehicles

such vehicle and the traffic upon, and the condition of, the roadway.

Trucks and towing vehicles

(b) The driver of any motor truck, or the driver of any motor vehicle which is drawing or towing another vehicle, upon a roadway outside of a business or residence district shall keep the vehicle he is driving at a distance of not less than 300 feet to the rear of any vehicle immediately preceding it being driven in the same direction. The provisions of this subdivision shall not prevent overtaking and passing nor shall the same apply upon any lane especially designated for use by motor trucks. This subdivision shall not apply to motor vehicles drawing highway construction or maintenance equipment while being used in highway construction or maintenance work.

New section

SEC. 2. Section 531.5 is hereby added to the Vehicle Code, to read as follows:

Caravans

531.5. Operation of Vehicles in Caravan. Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, but not in tow, shall be so operated as to allow sufficient space between each such vehicle to enable any other vehicle to overtake or pass.

CHAPTER 1031

Stats 1933, p 60, amended

An act to amend Sections 1299, 1299.1 and 1299.2 and to repeal Sections 1299.3, 1299.4 and 1299.5 of the Agricultural Code, relating to marketing of milk and other dairy products.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1935 p 1448

SECTION 1. Section 1299 of the Agricultural Code is hereby amended to read as follows:

Definitions

1299. As used in this chapter the terms "milk," "cream," "market milk" and "market cream" shall be the meaning of those terms as defined in Division 4 of this code.

"Dairy products"

"Dairy products" means buttermilk; flavored milk drinks; bottled milk drinks sold under a trade name; modified milk; acidophilus milk; skim milk for human consumption; milk and cream in combination which does not come within the statutory definitions of milk or cream; ice cream, ice milk, and sherbet, separately, or in combination; ice cream mix; ice milk mix, and cottage cheese.

"Distributor"

"Distributor" means any person, whether or not such person is a producer or an association of producers, who purchases or handles market milk, market cream, or dairy products for resale, including brokers, agents, copartnerships,

cooperative corporations, and incorporated and unincorporated associations. The definition of "distributor" shall not include any of the following: (1) any retail store which is not engaged in manufacturing, processing, or bottling milk, cream or dairy products; (2) any establishment where milk, cream, or dairy products are sold only for consumption on the premises and which is not engaged in manufacturing, processing, or bottling of milk, cream or dairy products; and (3) any producer who delivers milk or cream only to a distributor or manufacturer.

"Manufacturer" means any person engaged in the business of manufacturing dairy products as said products are herein defined. "Manufacturer"

"Producer" means any person who operates a dairy herd or herds producing milk or cream commercially and whose milk or cream is received or handled by any distributor or manufacturer. "Producer" includes any association of producers. "Producer"

"Producer-distributor" means any person who is both a producer of milk or cream and a distributor of milk, cream or dairy products. For the purpose of this chapter a "producer-distributor" shall be deemed to be a producer in any transaction involving the delivering of milk or cream produced by him to a distributor or manufacturer, and shall be deemed to be a distributor in any transaction involving the sale of milk, cream, or dairy products to a person who is not a distributor as defined in this section. "Producer-distributor"

"Retail store" means any person or persons owning or operating a retail grocery store, restaurant, confectionery, or other similar business where milk, cream, or dairy products are sold to the general public. "Retail store"

"Wholesale customer" means any person who buys milk, cream or dairy products from a distributor or manufacturer for resale to consumers. "Wholesale customer"

"Consumer" means any person who buys milk, cream or dairy products for consumption and not for resale. "Consumer"

SEC. 2. Section 1299.1 of the Agricultural Code is hereby amended to read as follows: Stats. 1935, p. 1448

1299.1. In the marketing of market milk, cream and dairy products the following methods of doing business or trade practices are hereby declared unfair and unlawful: Unlawful practices

(a) The payment, allowance, or acceptance of secret rebates, secret refunds, or unearned discounts, whether in the form of money or otherwise.

(b) The giving of any milk, cream, dairy products, services, or articles of any kind except to bona fide charities for the purpose of securing or retaining the milk, cream, or dairy products business of any wholesale customer or consumer; provided, however, that nothing herein shall be construed to prohibit a distributor of frozen dairy products for reasonable compensation, from furnishing a wholesale customer with, and maintaining such refrigeration facilities as shall be reasonably

Unlawful practices

necessary for the storage and preservation of the frozen dairy products distributed by such distributor to such wholesale customer; provided further, that the use of said refrigeration facilities by any person for the storage or preservation of any product other than the frozen dairy products distributed to said wholesale customer by the distributor furnishing such facilities shall be an unfair and unlawful business practice.

(c) The extension to any wholesale customer or consumer of special prices or services not made available to all customers who purchase milk, cream, or dairy products of like quantity under like terms and conditions.

(d) Any false or misleading advertising of milk, cream or dairy products as defined in Section 654a of the Penal Code.

(e) Discriminations in price between wholesale customers, or between consumers, who purchase milk, cream, or dairy products of like grade and quality under like conditions of service where the effect of such discrimination may be substantially to lessen competition or to injure or destroy or prevent competition with the person who either grants or knowingly receives the benefit of such discrimination; provided, that nothing herein shall prevent differentials which make only due allowance for differences in the cost of the raw product used in such milk, cream, or dairy products, or the cost of manufacture, processing, sale, or delivery resulting from the different methods or quantities in which said commodities are manufactured, processed, sold or delivered.

(f) The sale or offer to sell or giving of any article in any transaction involving the sale or disposal of milk, cream or dairy products, for less than the invoice or replacement cost thereof, whichever is lower, to secure or retain the milk, cream, or dairy products business of any wholesale customer or any person who buys as a consumer.

(g) The sale of milk, cream, and dairy products at less than cost which, as used herein, shall mean the cost of raw product, plus all costs of manufacturing, processing, handling, sale and delivery, including overhead costs. Evidence of cost, based on impartial audits or surveys, made within a reasonable time prior to an alleged violation of this subparagraph shall constitute prima facie proof of such cost at the time of the commission of such violation.

(h) False statements or representations, knowingly made, by any wholesale customer or consumer, or anyone acting on the behalf of either, to any distributor or manufacturer, or any representative thereof, that a competitor of such distributor or manufacturer has offered or is offering to sell, or is selling milk, cream, or dairy products to said wholesale customer or consumer at a lower price or prices than said manufacturer or distributor has offered or is offering to sell, or is selling the same, or that said competitor has offered or is offering to do, or is doing any of the business practices heretofore declared to be unfair and unlawful.

(i) The buying by any distributor of any market milk, excluding cream, from producers unless a written contract is executed by buyer and seller specifying the price and terms upon which said milk is purchased by the distributor and sold by the producer, and unless said contracts or any amendments thereof are recorded with the director within five days of their execution.

Nothing in the aforesaid unfair trade practice provisions shall be construed to prohibit the meeting, in good faith, of a lawful, competitive price or a lawful, competitive condition.

Solicitation by, or collusion or joint participation between or among, any manufacturer, distributor, wholesale customer, consumer, or any representative thereof, to commit any of the aforesaid unfair trade practices, or the use of any misrepresentation, threat, intimidation, or boycott to effectuate the commission of said unfair trade practices, shall make all persons participating therein subject to the penalties of this act.

SEC. 2. Section 1299.2 of said code is hereby amended to read as follows: Stats. 1935, p. 1450

1299.2. The provisions of this chapter shall be liberally construed as being complementary of and supplemental to the provisions of Chapter 10 of Division 4 of this code. Whenever a provision of this chapter and a similar provision of said Chapter 10 is applicable to the same person and subject matter the provisions of said Chapter 10 shall control; and whenever a provision of this chapter is applicable to any person and subject matter as to which said Chapter 10 makes no express provision the provision of this chapter shall control. Construction of chapter

Any person and subject matter to which this chapter is applicable shall not be subject to the provisions of the "Unfair Practices Act" of the State of California. Stats. 1913, p. 508

SEC. 3. Sections 1299.3, 1299.4 and 1299.5 of the Agricultural Code are hereby repealed. Repeals

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CHAPTER 1032

An act authorizing the Director of the State Department of Agriculture to use certain funds in the Department of Agriculture Fund, derived under the provisions of Chapter 241, Statutes of 1935, and Chapter 401, Statutes of 1935, and making an appropriation thereof.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The Director of the California State Department of Agriculture is hereby authorized to use, and there is hereby appropriated the sum of six thousand seven hundred Appropriation Enforcement of milk laws

ninety-seven dollars and forty cents ($6,797.40), which sum may be expended for the purposes of administering and enforcing the provisions of Chapter 10, Division 4, of the Agricultural Code, which funds have been deposited in said Department of Agriculture Fund. Of this sum four thousand one hundred sixty-four dollars and seventy-two cents ($4,164.72) was deposited under the provisions of Chapter 401, Statutes of 1935, and two thousand six hundred thirty-two dollars and sixty-eight cents ($2,632.68) under the provisions of Chapter 241, Statutes of 1935. Of the latter sum three hundred seventy-four dollars and forty-seven cents ($374.47) was derived from assessments made in the Sacramento Marketing Area, six dollars and twenty-five cents ($6.25) in the San Joaquin County Marketing Area, two thousand two hundred sixteen dollars and ninety-five cents ($2,216.95) in the Alameda County Marketing Area, twenty-eight dollars and sixty-five cents ($28.65) in the Los Angeles County Marketing Area, five dollars and forty-four cents ($5.44) in the San Bernardino County Marketing Area, and ninety-six cents ($0.96) in the Santa Barbara County Marketing Area.

CHAPTER 1033

An act to amend School Code Sections 5.822, 5.854, 5.872 and 5.876, and to add Section 5.872-1 to the School Code, all relating to the California State Teachers' Retirement System.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2853

SECTION 1. School Code Section 5.822 is hereby amended to read as follows:

Computation of service

5.822. The following time shall be included, subject to subsection (j) of this section, in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement under Sections 5.870 and 5.872 hereof, and of determining the amount of permanent fund contributions to be required of such member under Section 5.850 hereof:

(a) Time served, as a member or prior to becoming a member, in a status fixed in Section 5.840 hereof or in Part 4 repealed hereby, as requisite for membership in the retirement system or its predecessor;

(b) Time served in a status prior to the date said status is made requisite to membership herein, whether under the California Public School Teachers' Retirement Salary Fund now existing, or this retirement system;

(c) Time during which a member is prevented from rendering service in a status requisite for membership herein, by act of God, or by reason of the closing of a school by any duly authorized officer or body because of epidemic or any other reason;

(d) Time spent by a member on leave of absence for which he receives compensation from a school district or other employing agency, or from any insurance carrier of any such school district or other employing agency, but time after termination of membership as provided in Section 5.844 hereof, shall not be credited, regardless of whether compensation from an insurance carrier continued thereafter;

(e) Time during which a member served or shall serve in the armed forces of the United States of America or of the State of California, or in the medical, nursing, or ambulance service of the American Red Cross, during war with any foreign power or during other National emergency; provided, said member was employed in a status requisite for membership herein, or a status, time served in which is included in this section, within one year prior to entering such forces, but time during which a member, for other cause, is absent without compensation, on leave or otherwise, shall not be included except as provided in subsection (c) immediately preceding; and provided, further, that time included under this paragraph shall be considered as served in the State in which the member was last so employed before entering such forces;

(f) Time served in a night school in exactly the same manner as time served in a day school;

(g) Time during which a member is a member of the State Employees' Retirement System, established by Chapter 700 of the Statutes of 1931, and during which he was serving in a status requisite for membership in the California State Teachers' Retirement System or its predecessors; provided, said member subsequently ceases to be a member of the State Employees' Retirement System and becomes a member hereof;

(h) Time served in a status which in this State is requisite for membership herein, in other States of the United States of America, and its Territories and its possessions and in Canada, and time served as an exchange teacher in any location;

(i) Time served in publicly supported residential schools for the deaf and blind outside of California, by members who are employed in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this State, for the instruction of the deaf, the hard of hearing, the blind or the semisighted;

(j) Service shall be computed by school years and not by calendar years, portions of years served in completed months being accumulated and counted as service, but all of the service rendered in any one school year shall not count for more than one year, and the total service credited shall be taken to the next lower completed quarter year of total time served as computed hereunder. No time shall be included under this

Computation of service

section, for which, or on the basis of which, a member is entitled to receive a pension for other than naval or military service from any source other than this system or a local fund;

(k) Time served in teaching positions in publicly supported universities or colleges in the United States and its Territories and possessions and in Canada; provided, that retirement salaries hereafter payable to persons retired after July 1, 1937, and prior to the effective date hereof, shall be adjusted upon the request of said persons, to the provisions of this paragraph, effective on the first day of the month in which said requests are received at the office of the Retirement System in Sacramento, California;

(*l*) Time served in teaching positions in schools supported by the United States Government;

(m) Time served in a position in which, without a change in duties attached thereto, the occupant thereof subsequently qualifies as being in a status requisite to membership herein.

Stats 1939, p 2862

SEC. 2. School Code Section 5.854 is hereby amended to read as follows:

Contributions of school districts and other employing agencies

Certificate of members on pay rolls

5.854. Each school district or other employing agency employing one or more members of the system shall contribute semiannually to the permanent fund, six dollars ($6) for each member so employed. The county superintendent of schools of each county shall certify to the retirement board, on or before the fifteenth of each April and November the number of persons who are members of the system and who appear on the last pay roll in the current school year of the respective school districts in said county, preceding said respective dates or who, and to the end of the respective periods covered by said pay rolls, were on leave of absence, serving in the armed forces of the United States of America, or of the State of California, and as provided in Section 5.822 hereof. At the option of the county superintendent of schools, a member employed in more than one district in any county may be counted in each of such districts as a fraction of one determined by dividing one by the number of such districts or may be counted as one in one of such districts and the pro rata portions of said six dollars ($6) transferred by the county superintendent of schools to said district from the funds of the respective other districts; otherwise each of said districts shall contribute six dollars ($6). The county superintendent of schools shall certify likewise the number of his deputies and certificated employees who are members of the system and appear on the last pay roll in the current school year, preceding said respective dates, and shall include himself in said number.

Deductions by Controller

The board shall transmit immediately said certificate to the State Controller with a statement of the amount due from each school district to the permanent fund and the amount due to said fund on account of the county superintendent of

schools and his deputies and certificated employees. The said Controller shall deduct from the apportionment of State funds payable to said county for the school districts therein in installments next following said April and November, respectively, a sum equal to six dollars ($6) for each of such members as calculated by the retirement board for each school district, and shall deduct from the apportionment of said funds payable to said county for the unapportioned county elementary school fund a sum similarly calculated by the retirement board for the county superintendent of schools and his deputies and certificated employees, and no payment of apportioned funds of said county shall be made until said deductions are made. If the apportionment installment to any district or to the unapportioned county elementary school fund be less than the contributions required in this section of said district or fund, said contributions shall be deducted from the total amount of the apportionment payable to said county and the county superintendent of schools shall transfer to the county treasurer from the funds of said district and/or from the unapportioned county elementary school fund such amounts as may be necessary to complete the crediting of the apportionment to the various districts and funds by the county treasurer as required in the School Code. The amounts so deducted shall be transferred forthwith to the permanent fund, and for accounting purposes shall be included by the county superintendent of schools in his records and reports of the income and disbursements of the school districts in the same manner as if actually received and disbursed by said districts.

Transfer of county funds

Transfer to permanent fund

If such members are employed by any agency of the State, remittances to the retirement board of six dollars ($6) for each such member must be made in April and November of each year by the disbursing officer of the agency by which such members are employed, and such remittances shall be made out of funds provided for the support of such agency. Amounts due the permanent fund under this paragraph shall be calculated on the basis of the number of members on the last pay rolls in the current school year, prior to April 15th and November 15th respectively, or who, at the end of the respective periods covered by said pay rolls, were on leave of absence, serving in the armed forces of the United States of America, or of the State of California, as provided in Section 5.822 hereof.

Remittances by State officials

If more or less than the correct amount of contribution required by this section, or of the similar contribution required by Part 4 repealed hereby is or has been paid for any period, then, under rules of the retirement board, proper adjustments shall be made, without interest, in connection with subsequent deductions by the Controller or remittances to the retirement board, or by direct cash payments between the employer and the said board.

Adjustments

Stats. 1939, p. 2366

SEC. 3. School Code Section 5.872 is hereby amended to read as follows:

Retirement for disability

5.872. Any member who shall be credited with 15 but less than 30 years of service computed as provided in Section 5.822 hereof, at least 15 of which shall have been served in this State, including the last 10 years of service immediately preceding retirement, and who shall, by reason of bodily or mental infirmity become incapacitated for further service, may be retired by the retirement board upon the application of the person himself stating what time not more than 90 days subsequent to the execution thereof, he desires to retire, or upon the application of the employer of such person; provided that retirement shall not be made except upon the basis of competent medical opinion secured by the retirement board.

Application

Termination of permanent status

Any member who applies for retirement after attaining an age at which the classification of persons as permanent employees of school districts cease and who at the time shall be credited with 10 or more but less than 30 years of service computed as provided in Section 5.822 hereof the last four years of which shall have been served in this State, shall, for the purposes of this chapter, be deemed to be incapacitated for further service and shall be retired under this section upon his application stating what time, not more than 90 days subsequent to the execution thereof, he desires to retire.

Any such member who, at the time of such application, shall be credited with 30 or more years of such service, the last four years of which shall have been served in this State, shall be retired under Section 5.870 hereof, upon his application stating what time, not more than 90 days subsequent to the execution thereof, he desires to retire.

Failure of a member to complete the documents required for retirement, within 90 days after receipt of the application for retirement in the office of the retirement board in Sacramento, California, shall make said application null and void.

Absence

The last 10 years of service in this State immediately preceding retirement may be broken by periods of absence from service or by periods of service in universities, colleges, or private schools within this State, or by service outside of this State during a year in which the member has met the minimum requirement for a year's service in this State, or a year's service outside of this State if 10 of the final 11 years of service have been in this State.

Periods for application

Application for retirement must be made within two years after the last day of service, or at any time during a leave of absence or renewal thereof if the person left service on such leave of absence duly granted by a governing board of a school district or other authority employing such person, or within six months after the appointment of a guardian of a member whose right to apply for retirement has otherwise lapsed under this paragraph, or who is determined to the satisfaction of the retirement board to have been mentally

incompetent at the time of such lapsing. After the right to apply for retirement has lapsed as provided in this paragraph, said right may be reestablished only by service in a status requisite for membership herein, of not less than two months. Reestablishment of right to apply

SEC. 4. Section 5.872-1 is hereby added to the School Code, to read as follows: New section

5.872-1. The retirement board may appoint one or more referees in any proceeding, as it may deem necessary or advisable, and may refer matters arising out of the same proceeding to different referees. Said referees shall be chosen from the members of the retirement board or from the employees of the Department of Education and the retirement system, and the duties of such referees shall be considered as a part of the routine duties attached to the positions regularly occupied in the service by the members of the board or employees chosen. Before entering upon his duties, the referee shall be sworn, before an officer authorized to administer oaths, faithfully and fairly to hear and determine the matters and issues referred to him, to make just findings and to report according to his understanding. The referee shall report his findings in writing to the retirement board within 30 days after the testimony is closed. Referees

SEC. 5. School Code Section 5.876 is hereby amended to read as follows: Stats 1937, p 1739

5.876. No person retired under Section 5.870 hereof, shall accept employment in a status requisite for membership in the retirement system as provided in Section 5.840 hereof, or in any teaching capacity in a public school, within two years after the effective date of retirement, and in any event not until after notifying the retirement board at its office in Sacramento, California, and if retirement be under Section 5.872 hereof, until said board has determined by medical examination, that said person has recovered from the disability for which he was retired. If any person shall fail to comply with the requirements of the sentence immediately preceding, said employment shall be invalid. If any person shall accept employment, in a status requisite for membership in the retirement system as provided in Section 5.840 hereof, or in any teaching capacity in a public school, after complying with the requirements of this section, his retirement allowance shall be canceled forthwith. Other employment

CHAPTER 1034

Stats 1883, p 93, amended

An act to amend Sections 777 and 874 of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, relating to public work contracts in cities of the fifth and sixth class.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 2259

SECTION 1. Section 874 of the act cited in the title hereof is hereby amended to read as follows:

Public works in cities of 6th class

Sec. 874. In any project for the erection, improvement and repair of public buildings and works; in all work in or about streams, bays, or water fronts, or in or about embankments, or other works for protection against overflow; in all street or sewer work exclusive of maintenance or repair; and in the furnishing of any supplies or materials for any such project inclusive of projects for maintenance or repair of streets or sewers, when the total expenditures required for the same exceed the sum of one thousand dollars ($1,000), the same shall be done by contract and shall be let to the lowest responsible bidder, after notice which shall consist of the publication of a notice inviting bids by two or more insertions thereof, not less than five days apart, in a newspaper of general circulation, printed and published in such city, which publication shall be commenced not less than 10 days prior to the date set in the notice for the opening of bids, or if there be no newspaper of general circulation printed and published therein, by posting copies of said notice inviting bids in at least three public places in said city, which places shall be those designated by ordinance as the places for posting of public notices, not less than 10 days prior to the date set in the notice for the opening of bids. Such notice shall distinctly and specifically state the work contemplated to be done; provided, that the city council may reject any and all bids presented and readvertise, in its discretion, and if any two or more bids are the same and are the lowest bids received, the council may accept whichever one it chooses;

Contracts

Day labor

provided further, after rejecting bids, the city council may declare and determine by a four-fifths vote of all its members that in its opinion the work in question may be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market, and after the adoption of a resolution to this effect it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section; and

Emergency

provided further, that in case of a great public calamity such as an extraordinary fire, flood, storm, epidemic or other disaster, or in the doing of emergency work deemed necessary in

preparation for National or local defense, the city council may, by resolution passed by vote of four-fifths of all its members declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property, and thereupon it may proceed to expend or enter into a contract involving the expenditure of any sum required in such emergency.

Call for bids

In the event that there is more than one newspaper of general circulation printed and published in such city the city council shall, annually, prior to the beginning of each fiscal year, publish a notice inviting bids, and, contract for the publication of all legal notices required to be published in a newspaper of general circulation printed and published in said city. Said contract shall include the printing and publishing of all such legal notices during the ensuing fiscal year. In the event there is only one newspaper of general circulation printed and published in said city, then the city council shall have the power to contract with such newspaper for the printing and publishing of such legal notices without being required to advertise for bids therefor.

Stats 1941, p 2260

SEC. 2. Section 777 of the act cited in the title hereof is hereby amended to read as follows:

Public works in cities of 5th class

Sec. 777. In any project for the erection, improvement, and repair of public buildings and works; in all street and sewer work exclusive of maintenance or repair, and in all work in or about streams, bays or water fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for any such project inclusive of projects for maintenance or repair of streets or sewers, when the expenditures required for the same exceed the sum of one thousand dollars ($1,000), the same shall be done

Contracts

by contract, and shall be let to the lowest responsible bidder, after notice which shall consist of the publication of a notice inviting bids by two or more insertions thereof, not less than five days apart, in a newspaper of general circulation, printed and published in such city, which publication shall be commenced not less than 10 days prior to the date set in the notice for the opening of bids, or if there be no newspaper of general circulation printed and published therein, by posting copies of said notice inviting bids in at least three public places in said city, which places shall be those designated by ordinance as the places for posting of public notices, not less than 10 days prior to the date set in the notice for the opening of bids; such notice shall distinctly and specifically state the work contemplated to be done; provided, that the board of trustees may reject any and all bids presented and readvertise, in their discretion, and if any two or more bids are the same and are the lowest bids received, the board of trustees may accept whichever one it chooses; provided further, after

Day labor

rejecting bids, the board of trustees may declare and determine by a four-fifths vote of all its members that in its opinion

the work in question may be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market, and after the adoption of a resolution to this effect they may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section; and provided further, that

Emergency

in case of a great public calamity such as an extraordinary fire, flood, storm, epidemic or other disaster, or in the doing of emergency work deemed necessary in the preparation for National or local defense, the board of trustees may, by resolution passed by vote of four-fifths of all its members declare and determine that public interest and necessity demands the immediate expenditure of public money to safeguard life, health or property and thereupon they may proceed to expend or enter into a contract involving the expenditure of any sum required in such emergency.

Call for bids

In the event that there is more than one newspaper of general circulation printed and published in such city the board of trustees shall, annually, prior to the beginning of each fiscal year, publish a notice inviting bids, and contract for the publication of all legal notices required to be published in a newspaper of general circulation printed and published in said city. Said contract shall include the printing and publishing of all such legal notices during the ensuing fiscal year. In the event there is only one newspaper of general circulation printed and published in said city, then the board of trustees shall have the power to contract with such newspaper for the printing and publishing of such legal notices without being required to advertise for bids therefor.

CHAPTER 1035

Stats 1939, p 2079, amended

An act to amend Sections 23, 29, 29.5, 40, 43, 49 and 63 of, to repeal Section 31 of, and to add Sections 2.5, 31, 36.5, 40.5 and 70.5 to the Gift Tax Act of 1939, relating to the taxation of transfers of property, to take effect immediately.

In effect immediately

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2.5 is hereby added to the Gift Tax Act of 1939, to read as follows:

Interest of wife in community property

Sec. 2.5. For purposes of this act, the wife is deemed to have the same interest in all community property whenever acquired, if the property is community because of the manner of its acquisition by the spouses, which she has in community property acquired since the effective date of Section 161a of the Civil Code.

SEC. 2. Section 23 of said act is hereby amended to read as follows: Stats 1941, p 110

Sec. 23. There shall be exempt from the tax imposed by this act all transfers to this State or to the United States or to societies, corporations and institutions now or hereafter exempted by law from taxation, or to any public corporation, or to any society, corporation, institution or association of persons exclusively engaged in or devoted to any charitable, educational, public, or other like work (pecuniary profit not being its object or purpose); or to any person, society, corporation, institution or association of persons in trust exclusively for or to be devoted exclusively to any charitable, educational, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled in possession or expectancy to any such property or to the income thereof; provided, however, that such society, corporation, institution or association be organized solely for charitable, educational, public or other like work under the laws of this State or of the United States or that the property transferred be limited for use within this State; provided further, that if such society, corporation, institution or association be organized or existing under the laws of a Territory or State of the United States (other than California) or of a foreign state or country, all transfers to such society, corporation, institution or association shall be exempt if at the date of the transfer the said State or Territory or foreign state or country under the laws of which such society, corporation, institution or association was organized or existing did not impose a gift tax of any character in respect of transfers to such a society, corporation, institution or association organized or existing under the laws of this State, or if at the date of the transfer the laws of the State or Territory or foreign state or country under which such society, corporation, institution or association was organized or existing contained a reciprocal provision under which transfers to such a society, corporation, institution or association organized or existing under the laws of another State or Territory or foreign state or country were exempted from gift taxes of every character providing said other State or Territory or foreign state or country allowed a similar exemption to such a society, corporation, institution or association organized or existing under the laws of another State or Territory or foreign state or country. Exemptions. Charitable institutions, etc

SEC. 3. Section 29 of said act is hereby amended to read as follows: Stats 1941, p 111

Sec. 29. In addition to the specific exemption, a transfer by gift from any donor to any donee in any calendar year not exceeding four thousand dollars ($4,000) is exempt from taxation under this act except where the transfer is of a future interest in property and except as provided in Section 2.4. General exemption

Stats 1941, p. 111

SEC. 4. Section 29.5 of said act is hereby amended to read as follows:

Alien nonresident

Sec. 29.5. No specific exemption shall be allowed where the donor is an alien nonresident of the United States.

Stats 1941, p. 112

SEC. 5. Section 31 of said act is hereby repealed.

New section

SEC. 6. Section 31 is hereby added to said act, to read as follows:

Definitions

Sec. 31. (a) "Inheritance tax" means the tax levied under the Inheritance Tax Act of 1935 or other inheritance law of California, except any tax levied under Subdivision (12) of Section 2 of such act or under a similar Federal estate tax credit provision in any other inheritance tax law of California.

(b) "Gift tax" means the tax levied under this act.

(c) "Includible gift" means the total gift, before allowance of any exemptions other than the intangibles or charitable exemptions, the transfer of which was subject to gift tax where the same transfer is also subject to inheritance tax at the death of the donor.

(d) The inheritance tax payable on an includible gift shall be reduced by a gift tax credit equal to the gift tax paid on the includible gift, subject to the limitations of this section.

(e) The gift tax paid in any year on the includible gift is deemed to be that proportion of the entire tax on all gifts by the donor to the donee in that year which the amount of the includible gift bears to the total gifts by the donor to such donee in that year.

(f) "Proportionate annual exemption" means the amount which bears the same proportion to the total annual exemption allowed for all gifts to the donee in the year the includible gift was made as the value of the includible gift at the date of gift or date of death, whichever is lower, bears to the total value at date of gift of all gifts by the donor to such donee in that year.

"Net includible gift" means the value of the includible gift at the date of gift or date of death, whichever is lower, less the proportionate annual exemption.

"Net reduced includible gift" means the net includible gift less the proper proportion (as determined by the Controller) of any deductions allowable under the inheritance tax law and for the payment of which the net includible gift is wholly or partially liable.

"Gross value of property transferred to the donee" means the value of all property transferred (within the meaning of "transfer" as defined in Subdivision (3) of Section 1 of the Inheritance Tax Act of 1935) to the donee from the donor subject to inheritance tax, after allowance of inheritance tax deductions and before allowance of inheritance tax exemptions.

The gift tax credit shall not exceed an amount which bears the same proportion to the total inheritance tax imposed because of the donor's death on transfers (within the meaning of "transfer" as defined in Subdivision (3) of Section 1 of

the Inheritance Tax Act of 1935) to the donee as the net reduced includible gift bears to the gross value of property transferred to the donee.

SEC. 7. Section 36.5 is hereby added to said act, to read as follows: New section

Sec. 36.5. Payment of the gift tax by the donee, or agreement by the donee to pay such tax, is not consideration, for the purpose of this act, for the transfer of any property. Consideration

SEC. 8. Section 40 of said act is hereby amended to read as follows: Stats 1941, p 112

Sec. 40. Any person who makes any transfer by gift shall, on or before April 15th following the close of the calendar year in which the gift was made, make a gift return under oath to the Controller who may for cause shown extend the time for making the return not exceeding six months. In such cases as the Controller may by rule prescribe, no gift return need be made. The Controller may by rule prescribe for the filing of returns by any other person for the donor when the donor is deceased or for other reason can not personally file the return within the time allowed. Gift return

SEC. 9. Section 40.5 is hereby added to said act, to read as follows: New section

Sec. 40.5. If a donor dies before filing a return for any gift and it is conceded that the same transfer is also subject to inheritance tax the value of the property transferred may be determined for submission in the gift return as follows, at the option of the executor or administrator or donee: Death of donor before filing return

At any time before filing of the gift return for the donor and before filing of the inheritance tax appraiser's inheritance tax report including the gift the executor or administrator in the probate proceeding, or the donee or respondent in any other proceeding, wherein the amount of inheritance tax on the transfer will be determined may file in the proceeding an "Election for Gift Tax Valuation."

The election shall show such information as may be required by the Controller and shall state that the person filing it (1) concedes that the gift is subject to inheritance tax and (2) elects that the appointed inheritance tax appraiser shall value the gift for gift tax as well as inheritance tax purposes. A copy of the election shall be served on the inheritance tax appraiser prior to or concurrently with the filing of the election or, if the appraiser has not yet been appointed when the election is filed, the copy shall be served on the appraiser immediately after his appointment.

As soon as possible after the filing and serving of such election, the inheritance tax appraiser shall without charge appraise the property as of the date of gift and send a report in the form prescribed by the Controller to the person filing the election showing the value of the gift for gift tax purposes. The original of this report shall be filed as part of the gift return and constitutes prima facie evidence of the value of the gift or gift tax purposes. If the appraiser's report is

not received in time so that it can be filed as part of the gift return within the time during which the gift return may be filed without penalty, the gift return shall contain a statement of the facts and may be filed without the report, and the Controller shall in such cases by rule prescribe for the manner of filing the report thereafter or for other means of determining the value of the property.

Stats. 1939, p 2086

SEC. 10. Section 43 of said act is hereby amended to read as follows:

Penalties

Sec. 43. If no gift return is made as required by this act or by the regulations of the Controller, or if the return does not show all transfers subject to the tax levied by this act in the year for which the return is made, a penalty of 10 per cent attaches to the tax on the transfers not included in a return. If the failure to make a gift return or the failure to include any transfers in a gift return is the result of fraudulent intent to evade the tax, an additional penalty of 25 per cent attaches to the tax on the transfers not included in a gift return. The penalties imposed by this section attach as of the date of the gift and notice of the determination of the tax and penalty shall be sent to the donor or to the person liable for the tax in the same manner as any other determination of tax. These penalties shall be considered as part of the tax for the purpose of determining the date when the tax and these penalties are delinquent and for the purpose of determining the penalty for delinquency.

Stats 1939, p 2087

SEC. 11. Section 49 of said act is hereby amended to read as follows:

When tax delinquent

Sec. 49. The tax is due at the time the gift is made. The tax is delinquent when the determination of the Controller fixing the amount of tax becomes final. If the tax is not

Interest

paid before it is delinquent it shall bear interest thereafter at the rate of 7 per cent per annum, except that if a gift return is filed after April 15th of the year succeeding the year when the gift was made, regardless of whether extension of time for filing is obtained, the tax shall bear interest at the rate of 7 per cent per annum beginning June 15th of the year succeeding the year when the gift was made. The Controller may postpone the date of delinquency for good cause but not beyond six months, in which case the tax shall bear interest during the period of postponement at 7 per cent per annum from the time when the tax would begin to bear interest had no postponement been allowed.

Stats 1941, p 114

SEC. 12. Section 63 of said act is hereby amended to read as follows:

Civil penalty

Sec. 63. Any person required under this act or under the regulations of the Controller to make any return or pay any tax who wilfully fails to make such return or pay such tax shall, in addition to other penalties provided by law, be subject to a penalty of one thousand dollars ($1,000), which may be collected in a civil action by the Controller brought in any court of competent jurisdiction.

SEC. 13. Section 70.5 is hereby added to said code, to read as follows: New section

Sec. 70.5. Nothing in Section 70 shall be construed to prevent the valuation of insurance policies and annuity contracts at their market value as of the date of gift. Insurance and annuity contracts

SEC. 14. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. Tax levy

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CHAPTER 1036

An act to amend Section 1 of an act entitled "An act to promote the utilization of the water of streams in this State and for that purpose authorizing the storage of the same underground and the damming of streams and the flowage of lands in effecting such storage for beneficial use," approved May 23, 1919, relating to storage of water underground. Stats 1919, p 826, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1 of act cited in the title hereof (Chapter 423, Statutes of 1919) is hereby amended to read as follows: Stats 1919, p 826

Section 1. The storing of water underground including the diversion of streams and the flowing of water on lands necessary to the accomplishment of such storage, is hereby declared to constitute a beneficial use of such water if the water so stored is thereafter applied to the beneficial purposes for which the appropriation for storage was made. Storing of water underground declared beneficial use

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CHAPTER 1037

An act to amend Sections 7455, 7677 and 7705 of the Revenue and Taxation Code and Sections 2 and 4 of the Motor Vehicle Fuel License Tax Act, relating to delinquency of the motor vehicle fuel license tax, including recoveries on bonds of delinquent distributors. Stats 1939 p 1274, and Stats 1923, p 571, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

SECTION 1. Section 7455 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 762

7455. Any recovery on a bond shall decrease the liability of the surety thereon to the extent of the recovery, but the Discharge of bond

mere recovery of part of the penalty of a bond shall not of itself cancel the remaining liability under the bond; neither shall the execution of a new bond nor the revocation of any license affect existing liabilities under any bond. A surety, however, may relieve itself of further liability pursuant to Section 2851 of the Civil Code.

Stats 1941, p 564

SEC. 2. Section 7677 of the Revenue and Taxation Code is hereby amended to read as follows:

When tax becomes delinquent

7677. The taxes are delinquent:

(a) When paid in person, if not paid prior to 5 p.m. of the day on which due and payable.

(b) When paid by mail, if the envelope in which the remittance is inclosed bears a post-office cancellation mark dated later than 12 p.m. of the day on which the tax is due and payable.

A penalty of 10 per cent of the amount of the taxes due shall be added for delinquency.

Stats. 1941, p 565

SEC. 2.5. Section 7705 of the Revenue and Taxation Code is hereby amended to read as follows:

Delinquent weekly installments

7705. If any weekly installment of tax is not paid on the Tuesday when required to be paid, a penalty of 5 per cent shall be added thereto. In addition, if any weekly installment of tax remains unpaid on the first day of the second calendar month following the month during which the last of the distributions occurred on which the weekly installment was levied, a penalty of 10 per cent of the installment, exclusive of penalties, shall be added thereto.

The weekly installment shall be deemed not paid or unpaid on any particular day:

(a) If not paid prior to 5 p.m. of that day, when paid in person.

(b) If the envelope in which the remittance is inclosed bears a post-office cancellation mark dated later than 12 p.m. of that day, when paid by mail.

Stats 1941, p 2414

SEC. 3. Section 2 of the Motor Vehicle Fuel License Tax Act is hereby amended to read as follows:

Distributor's license

Sec. 2. Every person, firm, association or corporation before becoming a distributor shall make an application to the State Board of Equalization for a license authorizing such distributor, person, firm, association or corporation to engage

Application

in business as a distributor. Applications for such licenses must be made to the State Board of Equalization on forms to be prescribed, prepared and furnished by said board. It shall be unlawful for any person, firm, association or corporation to be a distributor without first securing from the State Board of Equalization a license for which provision is made

in this section. Before granting any license authorizing any person, firm, association or corporation to engage in business as a distributor, the State Board of Equalization must require such person, firm, association or corporation to file with said board, in such form as shall be prescribed by said board, a bond duly executed by such person, firm, association or corporation as principal and a corporation such as is mentioned in Section 1056 of the Code of Civil Procedure of this State, as surety, payable to the people of the State of California, conditioned upon faithful performance of all the requirements of this act and expressly providing for the payment of all license taxes, penalties and other obligations of such person, firm, association or corporation arising out of this act. Bond

The total amount of the bond or bonds required of any distributor shall be fixed by the State Board of Equalization and may be increased or reduced by said board at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds required of any distributor, the State Board of Equalization must require a bond or bonds equivalent in total amount to twice his estimated monthly license tax determined in such manner as said board may deem proper; provided, however, that, subject to such terms and conditions as the State Board of Equalization may prescribe, any distributor may undertake to pay on each Tuesday the license tax accruing on all of his distributions of motor vehicle fuel during the week ending the Saturday next preceding, and, if any distributor shall so bind himself, said board shall fix his bond or bonds in a total amount equivalent to twice the license tax accruing on account of his estimated weekly distributions determined in such manner as said board may deem proper; and further provided, that the total amount of the bond or bonds required of any distributor shall never be less than one thousand dollars ($1,000) nor more than one hundred thousand dollars ($100,000). Amount of bond

Any recovery on a bond shall decrease the liability of the surety thereon to the extent of the recovery, but the mere recovery of part of the penalty of a bond shall not of itself cancel the remaining liability under the bond; neither shall the execution of a new bond nor the revocation of any license affect existing liabilities under any bond. A surety, however, may relieve itself of further liability pursuant to Section 2851 of the Civil Code.

In lieu of any such bond or bonds in total amount as fixed hereunder, any distributor may deposit with the State Treasurer, under such terms and conditions as said board may prescribe, a like amount of lawful money of the United States, or bonds or other obligations of the United States, the State of California, or any county or city and county of this State, of an actual market value not less than the amount so fixed by said board. All licenses issued to distributors under this section shall be valid until revoked by the State Board of Equalization. Discharge of bond

If weekly installment payment undertaken

Nothing in this section shall be construed as relieving any distributor of the duty of filing the sworn monthly statement required by Section 6 of this act. The assessment of any distributor who makes weekly payments shall be shown on the assessment roll prepared under said Section 6 in the same manner as the assessments of other distributors are shown thereon, and the Controller shall apply such payments to the credit of such distributor on the assessment roll for the month during which the distributions covered by such payments were made. Whenever any distributor undertaking to pay his license tax in weekly installments, as provided in this section, shall fail to pay the full amount thereof in accordance with the terms and conditions prescribed by the State Board of Equalization, his license may be revoked forthwith, unless he complies immediately with the requirement of this section relating to the filing of a bond or bonds equivalent in total amount to twice the estimated monthly license tax. In the event of nonpayment of any weekly installment of the license tax, or any part thereof, pursuant to the undertaking of any distributor, the full amount of the license tax accrued against such distributor shall become immediately due and payable and the Controller and the Attorney General shall proceed forthwith to collect the license tax due from such distributor in the manner prescribed by Section 4 of this act with reference to delinquency in the payment of the monthly license tax. All provisions of said Section 4 shall apply with full force and effect to collections required to be made under this section; provided, however, that the 10 per cent penalty for delinquency for which provision is made under Section 4 hereof shall accrue only as provided in said section, and there shall be added to any weekly installment of license tax not paid on Tuesday following the close of such week, a penalty of 5 per cent on account of such delinquency. The weekly installment shall be deemed not paid on the Tuesday on which required to be paid if not paid prior to 5 p.m. of that day, if paid in person, or, if paid by mail, if the envelope in which the remittance is inclosed bears a post-office cancellation mark dated later than 12 p.m. of that day. The accrual of any such penalty of 5 per cent shall not in anywise affect the 10 per cent penalty for delinquency imposed under Section 4 hereof, but such 10 per cent penalty shall not be computed upon any amount added to such weekly license tax as a penalty under this section.

Discontinuance

The license issued hereunder to any distributor shall not be transferable. Whenever a distributor ceases to engage in business as a distributor within the State of California by reason of the discontinuance, sale or transfer of such business, he shall give notice in writing thereof to the State Board of Equalization on or before the date of such discontinuance, sale or transfer. Such notice shall give the date of discontinuance and, in the event of a sale or transfer of the business, the date

thereof and the name and address of the purchaser or transferee. All taxes and penalties under this act, not yet due and payable under other provisions hereof, shall become due and payable concurrently with such discontinuance, sale or transfer, and the distributor shall forthwith make a report and pay all such taxes and penalties, and shall surrender to the State Board of Equalization the license theretofore issued. Unless such notice shall have been given as hereinbefore provided, such purchaser or transferee shall be liable for all taxes and penalties under this act accrued against the vendor or transferor to the date of such sale or transfer, but only to the extent of the value of the property and business thereby acquired.

Producers' and brokers' license

Every person, firm, association or corporation before becoming a producer or broker shall apply for a license on forms prescribed by the State Board of Equalization. Each such application shall be accompanied by a license fee of ten dollars ($10) payable to the State Board of Equalization.

Issuance of license

Upon the receipt of such application, accompanied by such license fee, the State Board of Equalization shall issue to every such applicant, except as otherwise provided herein, a license to engage in such business from the date of the issuance thereof, until and including the following December 31st, unless sooner canceled or revoked. Before January 1st of each year an application shall be filed and a license obtained by each such producer or broker for the succeeding calendar year. If any producer or broker shall fail to apply for the license hereby required and to pay the fee hereby specified prior to January 1st of each year, then there shall be added to the amount of such fee a penalty of 25 per cent on account of such delinquency. Any license so issued shall not be transferable and may be revoked by the State Board of Equalization as hereinafter provided. All license fees collected under the provisions of this section shall be credited to the "Motor Vehicle Fuel Fund" hereinafter created.

Refusal

In the event that an application for a distributor's, producer's or broker's license shall be filed hereunder by an applicant formerly holding under this act any license which, prior to the time of filing such application, shall have been revoked for cause by said board, or in the event that said board shall determine that such application is not filed in good faith or not made by the real person in interest, then, and in any of said events, said board may refuse to issue a license to the applicant. Before such refusal, however, said board shall grant the applicant a hearing and shall give the applicant at least 10 days' written notice of the time and place thereof. Such notice may be served personally or by mail. If by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the applicant at his address as the same appears in the records of said board.

Stats 1931, p 109

SEC. 4. Section 4 of the Motor Vehicle Fuel License Tax Act is hereby amended to read as follows:

Payment of tax

Sec. 4. License taxes herein required to be paid shall be payable in monthly installments to the State Controller for the month ending April 30, 1931, and each and every calendar

Tax a lien on distributor's property

month thereafter. The license tax shall be a lien upon all property of the distributor, attaching at the time of delivery or distribution subject to said license tax, having the effect of an execution duly levied against all property of the distributor, and remaining until the license tax is paid, or the property sold in payment thereof. The amount of such license

When delinquent

tax for each month shall be paid on or before the first day of the second calendar month thereafter, and if not paid prior thereto, shall become delinquent as follows: When paid in person, if not paid prior to 5 p m of that day; when paid by mail, if the envelope in which the remittance is inclosed bears a post-office cancellation mark dated later than 12 p m. of that

Penalty

day. Ten per cent penalty shall be added to the tax for delinquency. In the event that any distributor is delinquent

Notice to debtors, etc.

in the payment of his license tax hereunder, the Controller may give notice of the amount of such delinquency by registered mail to all persons having in their possession, or under their control, any credits or other personal property belonging to such distributor, or owing any debts to such distributor, at the time of receipt by them of such notice, and thereafter any person so notified shall neither transfer nor make other disposition of such credits, other personal property or debts until the Controller shall have given his consent to a transfer or disposition, or until 20 days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five days after receipt of such notice, advise the Controller of any and all such credits, other personal property or debts, in their possession, under their control or owing by them, as the case may be.

Collection of tax if delinquent

Whenever any distributor shall be delinquent in the payment of the license tax herein provided, the Controller or his duly authorized representative shall proceed forthwith to collect the license tax due from such distributor in the following

Seizure of property

manner: The Controller shall seize any property, real or personal, used by such distributor in the operation of his business, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been

Notice of intended sale

incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent distributor in writing at least 10 days before the date set for such sale by inclosing a form of such notice in an envelope addressed to said distributor at his last known place of business in this State if any, and depositing the same in the United States mail, postage prepaid, and

by publication for at least 10 days before the date set for such sale in a newspaper of general circulation published in the county or city and county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county or city and county, then by the posting of such notice in three public places in such county or city and county for said 10-day period. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, penalties and costs, the name of the distributor, and the further statement that, unless such taxes, penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

Sale

At any such sale, the property shall be sold by said Controller or his duly authorized agent in accordance with law and said notice, and the Controller shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold, and such bill of sale or deed shall vest title in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of the distributor. If, upon any such sale, the moneys so received shall exceed the amount of all license taxes, penalties and costs due the State from such distributor, any such excess shall be returned to the distributor, and his receipt therefor obtained. If, for any reason, the receipt of such distributor shall not be available, the Controller shall deposit such excess moneys with the State Treasurer, as trustee for such owner, subject to the order of such distributor, his heirs, successors or assigns.

Forfeiture of bond or deposit

The Controller must also immediately transmit notice of such delinquency to the Attorney General who shall at once proceed to collect all sums due to the State from any such distributor hereunder by bringing suit against the necessary parties to effect forfeiture of the bond or bonds of the distributor or of the money or securities deposited by the distributor with the State Treasurer in accordance with the terms of Section 2 of this act, reducing any deficiency to judgment against the distributor.

Remedies cumulative

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by the Controller or the Attorney General shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act. In any suit brought to enforce the rights of the State hereunder the assessment roll prepared by the State Board of Equalization pursuant to Section 6 of this act, or a copy of so much thereof as is applicable in such suit, duly certified by the Controller showing unpaid license taxes assessed against any distributor, shall be prima facie evidence of the assessment of the license tax, the delinquency thereof, the amount of the license tax, penalties and costs due and unpaid to the State, that the

Assessment roll as evidence

distributor is indebted to the people of the State of California in the amount of such license tax and penalties therein appearing unpaid and that all the forms of law in relation to the assessment and levy of such license tax have been fully complied with by all persons required to perform administrative duties under this act.

Effect Stats 1941, p 558

SEC. 5. The provisions of this act amending the Revenue and Taxation Code take effect only if Part 2 of Division 2 of the Revenue and Taxation Code is enacted by the Legislature at its Fifty-fourth Session, and, in such case, at the same time as said Part 2 takes effect; at which time the provisions of the Motor Vehicle Fuel License Tax Act amended by this act are hereby repealed.

CHAPTER 1038

An act to amend Section 137 of the Civil Code, relating to domestic relations, including actions for the support and maintenance of children.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1929, p 161

SECTION 1. Section 137 of the Civil Code is hereby amended to read as follows:

Alimony, permanent and temporary support, and costs of prosecution

137. When an action for divorce is pending, the court may, in its discretion, require the husband or wife, as the case may be, to pay as alimony any money necessary to enable the wife, or husband, to support herself and her children, or to support himself and his children, as the case may be, or to prosecute or defend the action. When the husband or wife wilfully deserts the wife or husband, as the case may be, or when the husband or wife has any cause of action for divorce as provided in Section 92 of this code, he or she may, without applying for divorce, maintain in the superior court an action against her or him for permanent support and maintenance of himself or herself or of himself and children, or of herself and children. When the husband wilfully fails to provide for the wife, she may, without applying for divorce, maintain in the superior court an action against him for permanent support and maintenance of herself or of herself and children. When a father wilfully fails to provide for his children, the mother of the children may, without applying for a divorce or maintenance for herself, maintain in the superior court an action against him solely for the support and maintenance of the children. During the pendency of any such action the court may, in its discretion, require the husband or wife, as the case may be, to pay as alimony or as costs of action or as

attorney's fees any money necessary for the prosecution of the action and for support and maintenance, and execution may issue therefor in the discretion of the court. The court, in granting the husband or wife permanent support and maintenance of himself or herself, or of himself and children or herself and children, in any such action, shall make the same disposition of the community property and of the homestead, if any, as would have been made if the marriage had been dissolved by the decree of a court of competent jurisdiction. The final judgment in such action may be enforced by the court by such order or orders as in its discretion it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked at the discretion of the court.

CHAPTER 1039

An act to amend the Agricultural Code by amending Sections 795, 828, 828.5, 828.85, 829.1 thereof, by adding new sections thereto, to be numbered 795.1, 795.2, 796, 796.1, 828.83, and by repealing Sections 796 and 797 thereof; and to provide standards for oranges, grapefruit, lemons and other citrus fruits and for the enforcement thereof, to provide for mandatory standard containers for citrus fruits and the marking thereof.

Stats. 1933, p. 60, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 795 of the Agricultural Code is hereby amended to read as follows:

Stats. 1939, p. 1770

795. Oranges, lemons and limes shall be mature and free from decay; free from serious damage due to freezing, drying at the stem or blossom end (resulting from causes other than freezing), splits, bruises or punctures, and in addition lemons shall be free from serious damage due to sunburn or internal decline. Damage by drying at the stem or blossom end of all oranges, lemons and limes (resulting from causes other than freezing), and by internal decline or drying due to sunburn of lemons, is not serious unless 20 per cent or more of the pulp shows staining, drying or desiccation. Damage from freezing to any one fruit is not serious unless (a) it causes a drying or desiccation in 20 per cent or more of the exposed pulp as shown on a transverse cut through the center or (b) it causes, before the drying process develops, a water-soaked appearance, or evidence of previous water-soaking, or the presence of crystals or crystalline deposit, on the two surface membranes of each of two or more segments as shown on the separation of two or more segments of a section, which section shall not be less than one inch or more than one and

Citrus fruits

Freezing damage

one-half inches in thickness, obtained from the central portion of the fruit by cutting off a portion of each end—such evidence of freezing injury to show for the entire length but not necessarily the entire area of the surface membranes.

The percentage of serious damage to oranges, lemons and limes in containers, or in bulk, may be established by inspection of a representative sample which shall consist of not less than 100 fruits. Damage caused by splits, bruises or punctures in any such citrus fruit is not serious if the injury is well healed and free from mold or decay. Damage other than drying, caused by sunburn to lemons, is not serious unless it affects the edible portion of the fruit.

With the exception of serious damage caused by freezing, not more than 10 per cent, by count, of the oranges, lemons and limes in any one container or bulk lot may be below these requirements but with the exception of serious damage by sunburn and internal decline of lemons, or by drying at the stem or blossom end of oranges, lemons and limes (resulting from causes other than freezing), not to exceed one-half of this tolerance shall be allowed for any one cause. In the case of serious damage by freezing injury, when the determination of serious freezing damage is based on a water-soaked appearance, or evidence of previous water-soaking, or the presence of crystals or crystalline deposit, on the surface membranes of the segments, as herein defined, and before the drying process develops, not more than 15 per cent, by count, of the oranges, lemons and limes in any one container or bulk lot may be below these requirements. After the drying process develops and the determination of serious freezing damage is based on a transverse cut, as herein defined, not more than 15 per cent, by count, of the oranges, lemons and limes in any one container or bulk lot may be below these requirements, but not to exceed one-third of this tolerance shall be allowed for oranges, lemons and limes which show a drying or desiccation in 40 per cent or more of the exposed pulp, as shown on a transverse cut through the center. The total tolerance for a combination of defects shall not exceed the tolerance permitted for any one cause by more than 5 per cent, by count.

New section

SEC. 2. A new section is hereby added to the Agricultural Code, to be numbered Section 795.1 and to read as follows:

Mature oranges

795.1. Oranges, except bloods, tangerines and mandarins, shall not be considered mature unless the juice contains soluble solids, as determined by a Brix scale hydrometer, equal to or in excess of eight parts to every part of acid contained in the juice (the acidity of the juice to be calculated as citric acid without water of crystallization), and unless, before picking, they have attained at least 25 per cent of characteristic color.

"Twenty-five per cent of characteristic color" in the case of oranges is defined as that color designated by the Munsell

color notation as hue one and fourteen one-hundredths green-yellow, value five and twenty-three one-hundredths chroma four and three-tenths (1.14GY5.23/4 3). Oranges shall be considered as having exceeded 25 per cent color if the average hue of the surface of each fruit is numerically less than one and fourteen-hundredths green-yellow, regardless of the other components of the color.

SEC. 3. A new section is hereby added to the Agricultural Code, to be numbered Section 795.2 and to read as follows: New section

795.2. Lemons shall not be considered mature unless they have reached that stage of ripeness which will insure the proper completion of the ripening process after they have been picked from the tree. Mature lemons

SEC. 4. Section 796 of the Agricultural Code is hereby repealed. Stats. 1937, p. 711

SEC. 5. A new section is hereby added to the Agricultural Code, to be numbered Section 796 and to read as follows: New section

796. Grapefruit shall be (1) mature, (2) free from serious decay, (3) free from serious damage by freezing or drying due to any cause, (4) free from serious injury due to any cause, (5) free from serious scars, including those caused by insects, (6) free from serious scale, (7) free from serious dirt, smudge stain, sooty mold, rot residues or other foreign material, (8) free from serious staining, (9) free from serious greenish or brownish rind oil spots, (10) free from serious spotting or pitting, (11) free from serious roughness, (12) free from serious aging, (13) free from serious softness, (14) free from serious sunburn, (15) free from serious sheepnose. Mature grapefruit

The following standards shall be applied in determining whether or not grapefruit meet the requirements of this section:

(1) Grapefruit are not mature unless (a) at the time of picking and at all times thereafter the juice contains soluble solids, as determined by a Brix scale hydrometer, equal to or in excess of five and one-half parts to every part of acid contained in the juice (the acidity of the juice to be calculated as citric acid without water of crystallization), except that in view of differences in climatic conditions prevailing south and east of San Gorgonio Pass, which result in the grapefruit grown in that area having, at maturity, a higher percentage of soluble solids to acid than the mature grapefruit grown in the area north and west of said San Gorgonio Pass, grapefruit produced in the area south and east of San Gorgonio Pass are considered mature if at the time of picking and at all times thereafter the juice contains soluble solids, as determined by a Brix scale hydrometer, equal to or in excess of six parts to every part of acid contained in the juice (the acidity

Mature grapefruit

of the juice to be calculated as citric acid without water of crystallization), and (b) 90 per cent or more of the grapefruit, by count, at time of picking and at all times thereafter have attained, on at least two-thirds of the fruit surface, at least a minimum characteristic yellow or grapefruit color, as indicated by Color Plate No. 19 L3 in "Dictionary of Color," Maerz & Paul first edition 1930. Grapefruit produced outside of this State under climatic conditions similar to those prevailing in the area south and east of San Gorgonio Pass and offered for sale in this State shall meet the same maturity standard as that prescribed for grapefruit produced south and east of said San Gorgonio Pass.

(2) Decay is serious if any part of the grapefruit is affected with decay.

(3) Damage by freezing or drying due to any cause is serious if 20 per cent or more of the pulp or edible portion of the grapefruit shows evidence of drying or a mushy condition; and damage by freezing or drying due to any cause is very serious if 40 per cent or more of the pulp or edible portion of the grapefruit shows evidence of drying or a mushy condition. Evidence of damage shall be determined by as many cuts of each individual grapefruit as are necessary.

(4) Injury due to any cause is serious if the skin (rind) is broken and the injury is not healed.

(5) Scars, including those caused by insects, are serious if they are dark, or rough, or deep and if they aggregate 25 per cent or more of the fruit surface.

(6) Scale is serious if 50 per cent or more of the fruit surface shows scale infestation in excess of 50 scales per square inch.

(7) Dirt, smudge stain, sooty mold, rot residues, or other foreign material are serious if an aggregate area of 25 per cent or more of the fruit surface is affected.

(8) Staining of the skin (rind) is serious if 50 per cent or more of the fruit surface is affected with a pronounced discoloration.

(9) Greenish or brownish rind oil spots are serious if they cover an aggregate area of 25 per cent or more of the fruit surface.

(10) Spotting or pitting is serious if the spots or pits are sunken and cover an aggregate area of 10 per cent or more of the fruit surface.

(11) Roughness is serious if 90 per cent or more of the fruit surface is rough and coarse, or lumpy.

(12) Aging is serious if one-third or more of the surface of the grapefruit is dried and hard.

(13) Softness is serious if the grapefruit is flabby.

(14) Sunburn is serious if it causes decided flattening of the fruit and drying and discoloration of the skin (rind) affecting more than one-third of the fruit surface.

(15) Sheepnose is serious if the stem end of the grapefruit protrudes decidedly.

Representative sample

The compliance or noncompliance with the standards for grapefruit prescribed in this chapter, except as to maturity, may be determined from a representative sample taken as follows:

(a) When in containers the sample shall consist of not less than 10 per cent, by count, of the grapefruit in each of the containers selected as the sample.

(b) When in bulk the sample shall consist of not less than 100 grapefruit, except that where the total number of grapefruit in the bulk lot is less than 1,000 grapefruit a representative sample shall consist of 10 per cent of the grapefruit.

Each individual grapefruit may be examined for one or all of the defects, except as to maturity, but only one defect shall be counted or scored against any individual grapefruit.

The official sample for testing for maturity of grapefruit shall consist of not less than 30 grapefruit.

Any such sample so taken shall constitute prima facie evidence of the character of the entire lot from which such sample was taken, as provided in Section 782 of this code.

Tolerances to be applied to certain of the foregoing standards are hereby established. The grapefruit in any one container or bulk lot shall be deemed as a whole to meet the requirements of Standards Numbers 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of this section so long as not over 10 per cent, by count, of the individual grapefruit in such container or bulk lot are below said standards, and so long as not over 5 per cent, by count, thereof are below any one of said standards. The grapefruit in any one container or bulk lot shall be deemed, as a whole, to meet the requirements of Standard Number 3 of this section so long as not more than 15 per cent, by count, of the individual grapefruit in such container or bulk lot are seriously damaged by freezing or drying due to any cause, but not to exceed one-third of this tolerance shall be allowed for very serious damage by freezing or drying due to any cause.

It shall be unlawful to mix or blend any lot of grapefruit which fails to conform to the requirements of this chapter with other lots which conform to such requirements, for the purpose of selling, marketing or transporting the fruit which has thus failed to conform to the requirements of this chapter.

New section

SEC. 6. A new section is hereby added to the Agricultural Code, to be numbered 796.1 and to read as follows:

Mixing or blending

796.1. No lot of citrus fruit failing to conform to the requirements because of serious damage caused by freezing injury may be mixed or blended with other lots of citrus fruit which conform to these requirements, resulting in the concealment of inferior fruit, thereby reducing the percentage of defective fruits in the seriously damaged lots to within the tolerance which is permitted for errors in grading only.

Any packed, wrapped citrus fruit which has been in storage or after being shipped fails to meet the requirements of the standards for citrus fruits established in this chapter only by reason of brown rot, blue mold, or green mold which has occurred after packing, shall not be held for violation of the provisions of this chapter on account of such deterioration.

Oranges (except tangerines and mandarins), grapefruit, and lemons when packed shall be in standard containers as provided and designated for each such citrus fruit in Section 828.83.

All containers of packed citrus fruits when packed and lidded shall bear upon them in plain sight and in plainly legible letters on one outside end: The name of the packer thereof together with a sufficiently explicit address to permit ready location of such packer; the number and average diameter of the citrus fruit in the container, except that containers of tangerines, mandarins and limes when not regularly packed, may instead be marked with the cubical capacity of the container; in the case of oranges and grapefruit the name of the variety, if known, and when not known, the words "unknown variety" or "seedlings."

Stats 1933, p 178

SEC. 7. Section 797 of the Agricultural Code is hereby repealed.

Stats 1939, p. 1482

SEC. 7.5. Section 828 of the Agricultural Code is hereby amended to read as follows:

Standard containers

828. There are hereby established standard containers and standard packs for the fruits, nuts and vegetables mentioned in Section 829, when being packed or placed in any container, or after packing, or when delivered for shipment, loaded, shipped, being transported, or sold in any container. These standard containers are permissive unless otherwise provided in this chapter. The words "standard" or "standard container" shall not be placed on any container unless such container conforms to the requirements specified for the standard containers of such fruit, nut or vegetable. When the fruit, nut or vegetable is packed in a standard container and in conformity to the standard pack established for such product, and then only, may the container be marked with the words "standard pack" or "standard container and pack."

The numbers, names, and dimensions of standard containers are set forth in the following sections. All measurements, unless otherwise specified, are measurements inside in inches, and reading from left to right are measurements of depth, width, and length, respectively.

Stats 1939, p 1484

SEC. 8. Section 828.5 of the Agricultural Code is hereby amended to read as follows:

Persimmon and pomegranate boxes

828.5	32	Standard persimmon box	$3\frac{3}{4}$	$11\frac{1}{2}$	$24\frac{5}{8}$
	34	Standard pomegranate box	$6\frac{1}{2}$	$11\frac{1}{2}$	$24\frac{5}{8}$

SEC. 9. Section 828.85 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 1772

828.85. In standard containers numbers 32 and 34 the average inside length of the two compartments, between center and end pieces, shall be not less than $11\frac{15}{16}$ inches. Length of boxes

Containers designated as standard for apricots, cherries, peaches, pears and plums and fresh prunes in this chapter, shall be considered standard for each such commodity, when used with or without a cleat or cleats, even though the sides of the container are placed above the container head. Cleats

These standard containers are hereinafter referred to by their respective numbers.

SEC. 10. Section 829.1 of the Agricultural Code is hereby amended to read as follows: Stats 1941, p 1275

829.1. (1.) Fresh apricots, numbers 1, 5, 6, 7, 8, 9, 22A, 22B, 24 or 27. Miscellaneous boxes

2. Strawberries, number 3a.

3. Red and blackcap raspberries, blackberries, dewberries and loganberries, numbers 3a or 3b.

4. Cherries, numbers 4, 10, 11, 12, 12A, 22C, 25 or 27.

5. Oranges and grapefruit, numbers 53, 54 and 55; lemons, numbers 56, 57, or 58, 59, as provided in Section 828.83.

SEC. 11. A new section is hereby added to the Agricultural Code, to be numbered Section 828.83 and to read as follows: New section Orange and grapefruit boxes

828.83.

53 Standard two-compartment orange or grapefruit box, each compartment to be	$11\frac{1}{2}$	$11\frac{1}{2}$	12
54 Standard one-compartment orange or grapefruit box	$11\frac{1}{2}$	$11\frac{1}{2}$	24
55 Standard two-compartment half orange or grapefruit box, each compartment to be	$5\frac{3}{4}$	$11\frac{1}{2}$	12
56 Standard two-compartment lemon box, each compartment to be	$9\frac{7}{8}$	13	$12\frac{1}{2}$
57 Standard two-compartment half lemon box, each compartment to be	$4\frac{15}{16}$	13	$12\frac{1}{2}$

For the purpose of permitting to be used up lemon box shook manufactured or contracted for to comply with former standards, the following containers numbers 58 and 59 shall be considered as standard for lemons only until December 31, 1942, and after that date containers numbers 56 and 57 shall be the only standard containers for lemons.

58 Standard two-compartment lemon box, each compartment to be	10	13	$12\frac{1}{2}$
59 Standard two-compartment half lemon box, each compartment to be	5	13	$12\frac{1}{2}$

To allow for reasonable variations in the size of packing containers by reason of manufacturing variations, atmospheric conditions and other factors affecting the size of such containers, the following tolerances from the foregoing dimensions are hereby permitted:

The total inside length of the two compartments of the standard two-compartment orange or grapefruit box, or the standard two-compartment half orange or grapefruit box, shall not be less than 23⅞ inches nor more than 24⅛ inches;

The total inside length of the standard one-compartment orange or grapefruit box shall not be less than 23⅞ inches nor more than 24⅛ inches;

The total inside length of the two compartments of the standard two-compartment lemon box, or the standard two-compartment half lemon box, shall not be less than 24⅞ inches nor more than 25⅛ inches;

If made of wood, tolerance of one-eighth of an inch is hereby permitted in width or depth of any of said standard containers "across the grain" of the wood used in the manufacture thereof, over or under the sizes above specified, and a tolerance of one-thirty-second of an inch over or under such sizes in width or depth "with the grain."

On and after March 1, 1942, lids for the above standard orange or grapefruit boxes shall not exceed 26⅛ inches in length, and for the above standard lemon boxes shall not exceed 27⅛ inches in length.

Constitutionality

SEC. 12. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each sentence, section, clause or part thereof, despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

CHAPTER 1040

An act to amend School Code Section 5.750, relating to absences from duty of employees of school districts.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 3059

SECTION 1. School Code Section 5.750 is hereby amended to read as follows:

Salary of absent certificated employee

5.750. When a person employed in a position requiring certification qualifications is absent from his duties on account of illness or accident for a period of five school months or less,

whether or not the same arose out of or in the course of the employment of such employee, the amount deducted from the salary due him for any month or months in which such absence occurs shall not exceed the sum which shall actually have been paid a substitute employee employed to fill his position during his absence.

Excepting in a district the governing board of which has adopted a salary schedule for substitute employees of the district under School Code Section 5.736, the amount paid such substitute employee during any such month or months shall be less than the salary due the employee absent from his duties.

When a person employed in a position requiring certification qualifications is absent from his duties on account of illness for a period of more than five school months, or when a person is absent from his duties for a cause other than illness, the amount deducted from the salary due him for the month or months in which such absence occurs shall be determined according to the rules and regulations established by the governing board of the district; provided, however, that such rules and regulations do not conflict with rules and regulations of the State Board of Education.

Nothing in this section shall be construed so as to deprive any district, city or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for persons requiring certification qualifications.

The provisions of this section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

CHAPTER 1041

An act to amend School Code Sections 5.652 and 5.653, relating to permanent employees of school districts.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. School Code Section 5.652 is hereby amended to read as follows: Stats 1935, p 1886

5.652. Governing boards of school districts shall not act upon any charges of incompetency unless during the preceding term or half school year prior to the date of the filing of such charge, and at least 90 days prior to the date of such filing, the board or its authorized representative shall have given the employee against whom the charge is filed, written notice of such incompetency, specifying the nature thereof with such particularity as to furnish the employee an opportunity to correct his faults and overcome his incompetency. Notice of incompetency

The term "incompetency" as used in this section means, and refers only to, the incompetency particularly specified as a cause for dismissal in School Code Section 5.650 and does not include any other cause for dismissal specified in School Code Section 5.650.

Stats 1935, p 1886

SEC. 2. School Code Section 5.653 is hereby amended to read as follows:

Suspens on and notice of dismissal

5 653. Upon the filing of written charges, duly signed and verified by the person filing the same with the governing board of a school district, or upon a written statement of charges formulated by the governing board, charging a permanent employee of said district with immoral conduct, or conviction of a felony or of any crime involving moral turpitude, or with incompetency due to mental disability, the said governing board may, if it deems such action necessary, immediately suspend said employee from his duties and give notice to said employee of his suspension, and that 30 days after service of such notice, he will be dismissed, unless said employee demands a hearing as hereinafter provided. Said notice of suspension and intention to dismiss, must be in writing and served upon the employee personally or by United States registered mail addressed to said employee at his last known address. A copy of the charges filed, together with a copy of this article, shall be attached to such notice. If said employee does not demand the hearing hereinafter provided for, within such 30-day period he may be dismissed upon the expiration of 30 days after service of such notice. No such employee may be suspended on a charge of incompetency due to mental disability until the governing board shall have appointed an independent recognized psychiatrist to examine such employee, nor unless such psychiatrist shall report in writing to said governing board that such employee is, in his opinion, suffering from mental disability of such character as to render such employee incompetent to perform his duties. The employee against whom the charge is filed must submit to such examination, but shall be entitled to be represented thereat by a psychiatrist or physician of his own choice, and the report of such last mentioned psychiatrist or physician shall be filed with said governing board at the request of the employee. The employee shall, upon request, and before action by the board, be furnished with a complete copy of any and all reports made by the psychiatrist or psychiatrists appointed by the governing board.

Examination by psychiatrist

CHAPTER 1042

An act to amend Sections 26472, 26520 and 26511 of, and add Section 26510.2 to, the Health and Safety Code, relating to adulterating, mislabeling, misbranding, false advertising and sale of foods and the powers of the State Department of Public Health in relation thereto.

Stats 1939, p 482, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 26472 of the Health and Safety Code is hereby amended to read as follows:

Stats 1939, p 985

26472 A food shall be deemed to be adulterated:

Components omitted, etc

(a) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(2) If any substance has been substituted wholly or in part therefor; or

(3) If damage or inferiority has been concealed in any manner; or

(4) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength or make it appear better or of greater value than it is.

Confectioneries

(b) If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, harmless natural gum, and pectin. This subsection shall not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(c) If it bears or contains a coal tar other than one from a batch which has been certified by the Federal Security Agency, Food and Drug Administration.

(d) If any mineral oil has been added thereto or mixed or packed therewith.

Fresh meat

(e) If it be fresh meat and it contains any chemical substance containing sulphites, sulphur dioxide, benzoate of soda or any other chemical preservative which is not approved by the United States Bureau of Animal Industry, or the United States Department of Agriculture, or the Bureau of Animal Industry of the California State Department of Agriculture, or the California State Board of Public Health.

Chopped meat

(f) If it be chopped meat or hamburger, or ground meat sold as such, and if it contains any substance other than the striated muscle of cattle to which is added not more than fifteen (15) per cent of fat derived from cattle.

(g) Nothing in this article shall be deemed to prohibit the introduction into meat or adding to meat common salt, sugar, wood smoke, cider vinegar, wine vinegar, malt vinegar, sugar vinegar, glucose vinegar, spirit vinegar, pure spices, saltpeter, nitrate of soda and nitrate of soda in natural state or in form of brine or pickling solutions; provided, no such substances shall increase the green or original weight by more than 10 per cent of products which are not smoked or cooked and by not more than 1 per cent of the green or original weight of products which are cooked or smoked. In the case of meat food products such as sausage or sausage and loaves, 10 per cent added water shall be permitted and allowed in smoked or cooked products of such nature, and 3 per cent in said products which are not cooked or smoked.

Alimentary paste

(h) If it be alimentary paste for egg noodles, if it contains any artificial color derived from coal tar or vegetable substances.

Stats 1939, p 990

SEC. 2. Section 26520 of said code is hereby amended to read as follows:

When prosecution forbidden

26520. No dealer shall be prosecuted under the provisions of this chapter if after receipt of an article he has used reasonable care in the use and handling thereof and he can produce a guarantee signed by the wholesaler, jobber, manufacturer, or other party located or residing in the United States from whom he purchased such article, to the effect that the same is not adulterated, mislabeled or misbranded within the meaning of this chapter; provided, however, that as to food contained in an original unbroken package, no retailer, who after the receipt of such package has used reasonable care in the use and handling thereof, shall be prosecuted under this chapter for a violation of any provision thereof in connection with any article received by such retailer in the regular channels of trade and as usual first-class merchantable stock and not as seconds, or damaged articles or merchandise or job lots purchased under such conditions as to put the purchaser on notice that such merchandise was not regular first-class merchandise.

Original package

New section

SEC. 3. Section 26540.2 is hereby added to said code, to read as follows:

Wine

26540.2. The State Board of Public Health is hereby empowered under this section to promulgate regulations establishing standards of purity for wine; provided, that the board shall not prescribe requirements respecting the size or type of containers for wine.

SEC. 4. Section 26541 of said code is hereby amended to read as follows: Stats 1939, p 992 See also Stats 1941, p 2855

26541. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. All definitions and standards promulgated pursuant to this chapter shall not in any instance require a higher standard than the standards required pursuant to the definitions currently promulgated by the Federal Security Agency, Food and Drug Administration. Such definitions and standards of identity promulgated by the board for distilled spirits shall not be inconsistent with similar standards promulgated by the United States Bureau of Internal Revenue, Alcohol Tax Unit, or other Federal agency; provided, however, that the provisions of this section shall not apply to wine. Optional ingredients. Federal standards.

CHAPTER 1043

An act to amend Sections 4, 4a, 5a, 6, 7, 9 and 13 of an act entitled "An act to regulate the conduct of canneries, to create a Division of Cannery Inspection to carry on such regulation, to provide rules regulating the proper sanitation of canneries under the State Board of Health," approved May 23, 1925, relating to the regulation of canneries and costs of inspection thereof. Stats 1925, p 931, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 3064

Sec. 4. There is hereby created the Cannery Inspection Board, to consist of six members The six members shall be: The Director of the State Department of Health, who shall act as chairman, the Director of the Hooper Foundation for Medical Research, University of California, and four men experienced in, and with substantial investments in, and actively engaged in the canning industry at the time of their appointment, to be appointed by the State Board of Public Health. One of the said four appointive members shall be engaged in the canning of animal food. The said four appointed members shall hold office for a term of one year or until their successors are appointed. Members of said board shall serve without compensation. It shall be the duty of said Cannery Inspection Board. Term. Compensation.

board, subject to the approval of the State Board of Public Health, to:

Cost of inspect on estimates

(a) Estimate the cost of the separate inspections and laboratory control required to be made for each product, subject to the provisions of this act, prior to the opening of the canning season of each such product having a canning season of less than three consecutive months and prior to each quarter for each product having a canning season of more than three consecutive months;

(b) Estimate, for the purpose of prorating such estimated cost of inspection and laboratory control the number of cases to be packed or the number of tons to be packed, or the number of man-hours necessary to be employed, whichever in its discretion is most equitable as a basis of proration;

(c) Determine, based on estimates (a) and (b), the probable cost of such inspection and laboratory control per thousand cases, or per ton, or per man-hour, whichever in its discretion is most equitable;

Cost of laboratory control and research

(d) The cost of laboratory control and research on products subject to the provisions of this act shall be prorated by the Cannery Inspection Board in the same manner as the costs of inspection are prorated by it.

Stats 1933, p 2294

SEC. 2 Section 4a of the said act is hereby amended to read as follows:

Quarantine

Sec. 4a. Any product packed in violation of this act may be quarantined by the State Board of Health until laboratory examinations have established that said product meets the requirements of this act. It shall be the duty of the person, firm, company, organization, association or corporation who packed any such product to pay to the State Board of Health all reasonable costs of said laboratory examinations, determined by the Cannery Inspection Board, subject to the approval of the State Board of Health, to be necessary to determine that such seized product is packed in violation of this act.

Stats 1939, p 3065

SEC. 3. Section 5a of the said act is hereby amended to read as follows:

Bases of proration

Sec. 5a. If the delegation of discretion to determine whether the case, ton, or man-hour basis be most equitable as a basis of prorating the cost of inspection and laboratory control hereunder be held to be invalid as an unlawful delegation of legislative power, such invalidity shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that if it had known that the delegation of such discretion would be declared invalid as an unlawful delegation of legislative power, it would have designated the man-hour basis of proration as the most equitable basis of proration. In the event of such invalidity, the cost of inspection and laboratory control hereunder shall be prorated on the man-hour basis.

SEC. 4. Section 6 of the said act is hereby amended to read as follows: Stats 1939, p 3065

Sec. 6. In making any of the separate inspections and laboratory control required to be made for each product, the State Board of Public Health shall not spend more than the amount estimated under Section 4 of this act as the cost of said inspection by the Cannery Inspection Board without the approval of said Cannery Inspection Board. At the end of each quarter or at the close of the canning season, where said canning season does not exceed three consecutive months, the State Board of Public Health shall determine the actual cost of inspection and laboratory control of each separate product for the preceding quarter or preceding canning season, and shall prorate such cost to each licensee on the basis of cases packed or tons packed, or number of man-hours necessary to be employed, whichever has been determined by the Cannery Inspection Board, with the approval of the State Board of Public Health, to be most equitable under the provisions of Section 4 of this act. Cost of inspections Limitations Proration

SEC. 5. Section 7 of the said act is hereby amended to read as follows: Stats 1939, p 3065

Sec. 7. If the deposit as provided in Section 5 of this act, made by any licensee hereunder, be insufficient to meet the actual cost determined by the State Board of Public Health, as provided in Section 6 of this act, then in addition to the license fee required in Section 2 of this act, the State Board of Public Health shall demand from such licensee, and such licensee shall immediately pay to the State Board of Public Health, the difference between such deposit and his pro rata of the actual cost of inspection and laboratory control. Payment of cost

SEC. 6. Section 9 of the said act is hereby amended to read as follows: Stats 1939, p 3066

Sec. 9. The State Board of Public Health may for the following cause or causes suspend or revoke a license issued under this act: Suspension and revocation of licenses

The nonpayment of said pro rata share of the cost, or failure to comply with a demand for a cash deposit or other security by the holder of such license.

The noncompliance with the regulations of the State Board of Public Health.

SEC. 7. Section 13 of the said act is hereby amended to read as follows: Stats 1939, p 3061

Sec. 13. No act which is made unlawful by any provision of an act of the Legislature of the State of California, entitled "An act adding Division 21, comprising Chapter 3 and Sections 26450 to 26624, inclusive, to the Health and Safety Code, relating to adulterating, mislabeling, misbranding, false advertising, and sale of foods and the powers of the State Department of Public Health in relation thereto," or any amendment thereto, shall be deemed lawful by reason of any provision of this act. Operation Stats 1939, p 2258

CHAPTER 1044

Stats 1935, p 1123, amended

An act to amend Sections 6 and 54 of the Alcoholic Beverage Control Act, relating to licenses.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 2132

SECTION 1. Section 6 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Rights and privileges of licensees

Sec. 6. Except as otherwise provided in this act and subject to the provisions of Section 22 of Article XX of the Constitution, the licenses provided for in the preceding section shall authorize the person to whom issued to exercise the following rights and privileges and no others at the premises for which issued during the year for which issued.

(a) Any manufacturer's license authorizes the person to whom issued to become a manufacturer and importer of the alcoholic beverage specified in the license, and whether manufactured by him or any other person, to package, rectify, mix, flavor, color, label and export the same, and to sell only such alcoholic beverages as are packaged by or for him only to persons holding wholesaler's, manufacturer's, manufacturer's agent's or rectifier's licenses authorizing the sale of such alcoholic beverages and to persons who take delivery of such alcoholic beverages within this State for delivery or use without the State, and the dealing in warehouse receipts for the alcoholic beverage specified in the license except that beer manufacturers may also sell beer to any person holding a license authorizing the sale of beer, and wine manufacturers may also sell wine to any person holding a license authorizing the sale of wine, and brandy manufacturers may also sell brandy to any person holding a license authorizing the sale of brandy; provided further, that a wine manufacturer's license authorizes the manufacture of grape brandy to be used exclusively for fortifying purposes by its holder on the premises for which issued; provided further, that as to distilled spirits originally distilled in this State any manufacturer of such distilled spirits so distilled in this State may sell such distilled spirits to any person holding a license authorizing the sale of distilled spirits.

(b) A still license authorizes the person to whom issued to own or possess the number of stills indicated in the license upon the premises for which issued.

(c) A rectifier's license authorizes the person to whom issued to cut, blend, rectify, mix, flavor and color distilled spirits and wine upon which the excise tax imposed by Section 23 has been paid, and, whether so cut, blended, mixed, flavored or colored by him or any other person, to package, label, export and to sell such products to persons holding licenses issued by the board authorizing the sale of distilled spirits.

On and after July 1, 1941, in order to qualify for a rectifier's license, a person must actually be engaged at the time the license is issued or renewed or within 30 days thereafter, in the bottling of distilled spirits owned by him. Said distilled spirits so owned by him shall comprise at least 50 per cent of the total distilled spirits bottled by him. Licenses

Provided, however, that nothing in this section shall be construed to prohibit the issuance of a distilled spirits manufacturer's agent's license to any person who is engaged in the bottling of distilled spirits owned solely by other manufacturer's agents, rectifiers, wholesalers or manufacturers.

A rectifier who also performs the functions of a distilled spirits wholesaler shall comply with all the provisions of this act applicable to a holder of a distilled spirits wholesaler's license.

(d) Any importer's license authorizes the person to whom issued to become an importer of alcoholic beverages specified in the license and to export such alcoholic beverages, and to transfer such beverages to himself under another license.

An importer's license shall not be issued to any person except the holder of a rectifier's or wholesaler's license.

(e) A bottling or packaging license authorizes the labeling, bottling or packaging of the alcoholic beverages specified in the license.

(e1) Wine bottling or packaging licenses authorizes the labeling, bottling or packaging of the alcoholic beverages specified in the license in accordance with and subject to the rules and regulations now in effect or as may hereafter be adopted by the State Department of Public Health of the State of California.

(f) Any wholesaler's license authorizes the sale of the alcoholic beverage specified in the license only to persons holding licenses issued by the board authorizing the sale of such alcoholic beverage and the exportation of such alcoholic beverages.

A wholesaler's license shall not be issued to any on-sale licensee. On and after September 1, 1941, no distilled spirits off-sale license shall be renewed or issued to a distilled spirits wholesaler whose premises are located in a city or town having a population of 50,000 or more as shown by the 1940 Federal census or to a distilled spirits wholesaler who sells distilled spirits to licensees whose premises are located in any city or town having a population of 50,000 or more as shown by the 1940 Federal census and a distilled spirits wholesaler's license shall not be held by any person unless such person at all times throughout the year has on his wholesale premises a reasonable stock of distilled spirits as determined by the Board of Equalization for which he has fully paid in United States currency or its equivalent. No wholesale license shall be issued to any other person who does not in good faith actually carry on or intend to carry on a bona fide wholesale business, by sale to retail licensees, of the alcoholic beverage designated in such wholesale license and the board may revoke any

Licenses

such wholesale license where such licensee fails for a period of 45 days to actively and in good faith engage in such wholesale business and shall revoke any distilled spirits wholesaler's license held by any person who fails to comply with other provisions of this section. Sale by a wholesale licensee to himself as a retail licensee shall not be held to be the transaction of a bona fide wholesale business.

(g) A retail package off-sale beer and wine license authorizes the sale, to consumers only and not for resale, of beer in packages and in quantities of 31 gallons or less per sale, and the sale of wine in packages and in quantities of 52 gallons or less per sale, for consumption off the premises where sold.

(h) An off-sale distilled spirits license authorizes the sale, to consumers only and not for resale, of distilled spirits in packages of not more than one gallon and, after December 31, 1937, in packages containing not less than one-half pint for consumption off the premises where sold; except that nothing in this act shall be deemed to prevent the sale in packages of less than one-half pint, of bitters or other aromatic or flavoring or medicinal preparations, which are classed for taxing purposes as distilled spirits, by off-sale distilled spirits licensees.

(i) An industrial alcohol dealer's license authorizes the sale of undenatured ethyl alcohol in packages of more than one gallon for use in the trades, professions or industries and not for beverage consumption.

(j) Any on-sale license authorizes the sale of the alcoholic beverage specified in the license for consumption on the premises where sold. An on-sale distilled spirits license authorizes the purchase and possession of distilled spirits in packages of not more than one gallon capacity and of not less than one-half pint capacity; except that nothing in this act shall be deemed to prevent the purchase or possession in packages of less than one-half pint capacity of bitters or other aromatic or flavoring or medicinal preparations, which are classed for taxing purposes as distilled spirits, by on-sale licensees. An on-sale beer and an on-sale beer and wine license also authorizes the exercise, with respect to the particular beverage or beverages mentioned in such license, of the rights and privileges granted by an off-sale beer and wine license; provided, however, that none of the licensees mentioned in this sentence shall have the right by reason of any such license in this sentence mentioned, to label, bottle or package or refill any package with any alcoholic beverage. On trains and boats, under such licenses, alcoholic beverages may be served only to passengers or employees.

(k) Any manufacturer's, manufacturer's agent's, rectifier's or wholesaler's license authorizes the dealing in warehouse receipts, for the kind of alcoholic beverages which such licensees are authorized to sell, to other licensed manufacturers, distilled spirits manufacturer's agents, rectifiers or

wholesalers who are authorized to sell the kind of alcoholic beverages covered by the warehouse receipt; provided, that nothing in this act shall be deemed to prohibit the sale of warehouse receipts for alcoholic beverages by other persons, in accordance with rules and regulations adopted by the board, to manufacturers, manufacturer's agents, rectifiers and wholesalers licensed to sell the kind of alcoholic beverages covered by said warehouse receipt when such warehouse receipt was acquired by such person prior to May 1, 1941. Licenses

An offer to sell or an agreement to sell distilled spirits which at the time of said offer or agreement are stored in containers larger than one gallon capacity and the ownership of such distilled spirits is represented by a warehouse receipt, shall be deemed a sale of a warehouse receipt.

(*l*) A public warehouse license authorizes the storage of alcoholic beverages for the account of another licensee, including the storage of such beverages in a United States customs bonded warehouse, a United States internal revenue bonded warehouse and a United States bonded storeroom; provided, however, that as provided in Section 7 hereof no license shall be required for the storage of beer upon which the excise tax levied by this act has been paid.

(m) Any manufacturer's, manufacturer's agent's, importer's, rectifier's or wholesaler's license shall also authorize the transfer of title to such alcoholic beverages to other licensed manufacturers, manufacturer's agents, importers, rectifiers and wholesalers when such alcoholic beverages are in storage in a licensed public warehouse, United States customs bonded warehouse or United States internal revenue bonded warehouse or United States bonded storerooms located at any place within the State without any additional or other license therefor. Such licenses shall also authorize the sale of alcoholic beverages specified in the license to persons who, under such procedure as shall be established by the board, take delivery of such alcoholic beverages in this State for delivery or use without the State.

(n) A distilled spirits manufacturer's agent's license authorizes the importation of distilled spirits into this State, the possession of distilled spirits in public or private warehouses, the exportation of distilled spirits, the cutting, blending, mixing, flavoring and coloring of distilled spirits for his own account or for the account of a distilled spirits manufacturer, manufacturer's agent, rectifier or wholesaler and whether so cut, blended, mixed, flavored or colored by him, or any other person, the packaging and the sale or delivery of such distilled spirits only to holders of distilled spirits manufacturer's, rectifier's or distilled spirits wholesaler's licenses.

It shall not be required that a person must actually engage in the cutting, blending or bottling of distilled spirits in order to qualify for a distilled spirits manufacturer's agent's license.

Licenses (o) A licensed beer manufacturer or a licensed beer wholesaler may, in addition to selling beer at his licensed premises, sell to other licensees authorized to sell beer from wagons or trucks operated by such manufacturer or wholesaler, and provided that a beer manufacturer may sell and deliver beer from branch offices located away from his place of manufacture and exercise all his license privileges thereat and therefrom, other than manufacture, and the board shall upon request issue such beer manufacturer a duplicate of his original license which shall authorize the maintenance and operation of each branch declared and designated by said manufacturer, upon the payment for each such duplicate of an amount equal to the license fee payable for a like period for a wholesale beer and wine license, and provided that in case any violation of any provision of this act or of any regulation of the board shall be committed in the exercise of the license privileges hereby authorized to be exercised at any such branch office, in the event such violation shall become a matter of investigation or hearing or decision by the board with relation to the license of the licensee, the board in making its ruling or decision, where such violation shall be found to be one committed in connection with the operation of said branch office and not a violation in connection with manufacturing or the manufacturing premises, shall not suspend or revoke or interfere with the manufacturer's license privileges or license at his place of manufacture but shall limit the application of its decision, permissible under this act, to and in connection with the particular duplicate license and the premises in the operation of which the violation occurred, and in the case of any violation of any provision of this act or of any regulation of the board committed in connection with the premises where the act of manufacturing beer is performed, the board in making its ruling or decision in connection with any such violation shall limit any such decision, permissible under this act, to and in connection with the license upon the premises of manufacture and to the particular function exercised by the licensee wherein a violation occurred, such as manufacturing, importing, exporting, packaging, labeling, selling to wholesalers or selling to retailers, and any existing duplicate license for any branch office, unless such branch office actually participated in the commission of the violation, shall not be affected or interfered with by such decision or by reason of such violation;

(p) A licensed wine manufacturer or brandy manufacturer may in addition to selling wine or brandy, as specified in the license, at his licensed premises sell and deliver wine or brandy to other licensees from branch offices or warehouses or United States bonded storerooms, located away from his place of manufacture and exercise all his license privileges thereat and therefrom other than manufacture, and the board shall

upon request issue such wine manufacturer or brandy manufacturer a duplicate of his original license which shall authorize the maintenance and operation of each branch or warehouse or United States bonded storeroom declared and designated by said manufacturer upon the payment by a wine manufacturer for each such duplicate of an amount equal to the license fee payable for a like period for a wholesale beer and wine license and by a brandy manufacturer the payment for each such duplicate license of an amount equal to the fee paid for his original license; and, notwithstanding any other provision of this act a licensed wine manufacturer or brandy manufacturer may be issued and may hold an off-sale distilled spirits license for the premises for which he holds a manufacturer's license and for any branch office maintained by such manufacturer; Licenses

(q) Any distilled spirits manufacturer's or brandy manufacturer's license and any rectifier's license authorizes the sale, in conformity with United States internal revenue laws and regulations, of such distilled spirits, the sale of which is authorized by the license, in packages larger than one gallon for use in the trades, professions or industries and not for beverage use;

(r) Any beer manufacturer, wine manufacturer, brandy manufacturer, rectifier or any wholesaler licensed under this act may in addition to the other privileges exercised under such license and in accordance with rules and regulations prescribed by the board, sell tax-paid alcoholic beverages mentioned in the license of such licensee to nonlicensees having a fixed place of business or residence upon territory within this State which is maintained by the United States Government as a military or naval reservation or National park.

SEC. 2. Section 54 of said act is hereby amended to read as follows: Stats 1939, p 25

Sec. 54. No manufacturer, manufacturer's agent, rectifier, distiller, bottler, importer or wholesaler or any officer, director or agent of any such person shall Certains acts prohibited

(a) Hold the ownership, directly or indirectly, of any interest in any on-sale license;

(b) Furnish, give or lend any money or other thing of value, directly or indirectly, to, nor guarantee the repayment of any loan or the fulfillment of any financial obligation of any person engaged in operating, owning or maintaining any on-sale premises where alcoholic beverages are sold for consumption on such premises;

(c) Furnish, give, rent, lend or sell, directly or indirectly, any equipment, fixtures or supplies, other than alcoholic beverage directly or indirectly to any person engaged in operating, owning or maintaining any on-sale premises where alcoholic beverages are sold for consumption on such premises; provided, that this subdivision shall apply only to manufacturers, bottlers, importers or wholesalers of products of the brewing industry;

Prohibited acts

(d) Furnish, give, lend or rent directly or indirectly to any person any decorations, paintings or signs other than signs for interior use of not to exceed in area 630 square inches for use in or about or in connection with any premises where alcoholic beverages are sold for consumption on such premises, or pay money or any thing of value for the privilege of placing or painting a sign or advertisement, or window display on or in any premises selling alcoholic beverages at retail;

(e) Own any interest, directly or indirectly, in the business, furniture, fixtures, signs, except signs for interior use mentioned in subdivision (d) herein, refrigeration equipment or lease in or of any premises operated or maintained under any on-sale license for the sale of alcoholic beverages for consumption on the premises where sold; or own any interest directly or indirectly in realty hereafter acquired upon which such on-sale premises are maintained unless the holding of such interest is permitted in accordance with regulations of the board;

(f) Except as permitted under Section 6 of this act or authorized by the provisions of this section hold the ownership, directly or indirectly, of any off-sale distilled spirits license for any premises, nor own or control any interest directly or indirectly by stock ownership, interlocking directors, trusteeship or mortgage of the premises or fixtures covered by an off-sale distilled spirits license; except that any stockholder, member, officer or director of a corporation or association, which corporation or association held a wholesaler's distilled spirits license which was in force on May 1, 1937, or any renewal thereof under this act, may hold or own off-sale distilled spirits licenses, or interests therein, for premises other than the premises for which such wholesaler's distilled spirits license was issued. For the purpose of this subdivision the issuance of a new wholesaler's license upon the expiration of an existing wholesaler's license shall be deemed a renewal thereof.

The provisions of this subdivision shall not apply to any off-sale distilled spirits license held or to be held by any wholesaler when such off-sale distilled spirits license is necessary to enable said wholesaler to operate or continue to operate any concession or leased retail stand in any hotel, which concession or stand is required to be operated by such wholesaler pursuant to any lease or contract entered into prior to July 1, 1937, and such retail off-sale distilled spirits licenses may be issued to any such wholesaler for such premises and purposes.

Provided further, that nothing in this subdivision shall prohibit any holder of a distilled spirits manufacturer's, manufacturer's agent's, rectifier's or wholesaler's license or any officer, employee or representative of such manufacturer, manufacturer's agent, rectifier or wholesaler from acting as a trustee for any off-sale distilled spirits licensee in any

bankruptcy or other proceedings for the benefit of the creditors of such off-sale distilled spirits licensee. Prohibited acts

(g) Directly or indirectly, deliver the possession of any alcoholic beverages to any on- or off-sale licensee under an agreement of consignment whereby title to such alcoholic beverages is retained by the seller or whereby such licensee receiving such alcoholic beverages has the right at any time prior to sale to relinquish possession to or return them to the original seller.

(h) Directly or indirectly, give any licensee or any person any alcoholic beverages as free goods as a part of any sale or transaction involving alcoholic beverages.

(i) Give secret rebates or make any secret concessions to any licensee or the employees or agents of said licensee and no licensee shall request or knowingly accept from another licensee secret rebates or secret concessions; or give or furnish, directly or indirectly, to any employee of any holder of a retail on-sale or off-sale license only anything of value for the purpose or with the intent to solicit, acquire or obtain the help or assistance of any such employee to encourage or promote either the purchase or the sale of the alcoholic beverage sold or manufactured by the licensee giving or furnishing any such thing of value, and any such employee who shall accept or acquire any such thing of value contrary to the provisions of this subdivision shall be guilty of a misdemeanor.

(j) Wilfully or knowingly discriminate, in the same trading area, either directly or indirectly in the price of any brand of distilled spirits sold to different retail licensees purchasing under like terms and conditions.

(k) Pay, credit, or compensate a retailer or retailers for advertising, display or distribution service in connection with the advertising and sale of distilled spirits.

(*l*) Directly or indirectly, hold the ownership or any interest by stock ownership or otherwise, in any firm, corporation, partnership or business, furnishing, supplying or dealing in any office, store or restaurant furnishings or equipment, other than signs for interior use or supplies authorized to be given under this act to any person engaged in operating, owning or maintaining any on-sale premises; provided, that this subdivision shall apply only to manufacturers, bottlers, importers and wholesalers of products of the brewing industry.

Any person violating any provision of this section shall be guilty of a misdemeanor and any holder of any retail on-sale or retail off-sale license who shall solicit the violation of the provisions of this section or accept or permit to be accepted on his behalf and with his consent any of the prohibited matters, articles or acts herein designated shall be guilty of a misdemeanor; provided, however, that the provisions of this section shall not apply to any equipment, fixtures or supplies furnished, given, lent or sold prior to the passage of this act so long as such equipment, fixtures or supplies Penalty

remain in the premises in which installed prior to such time, nor shall the provisions of this act apply to carbonic acid gas or tapping accessories furnished to any one on-sale licensee to a limit of not exceeding a value of five dollars ($5) per tap in any one calendar year.

CHAPTER 1045

Stats 1933, p 60, amended

An act to amend Section 123 of the Agricultural Code, relating to shipments of nursery stock.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1414

SECTION 1. Section 123 of the Agricultual Code is hereby amended to read as follows:

Marking of shipments

123. Each shipment of nursery stock, imported into any county or locality of the State from another county or locality within the State, shall have marked thereon in a conspicuous manner and place the name and address of the shipper, owner, or person, forwarding the same, and also the name of the person or his agent, to whom the same is forwarded.

Shipping permit

Each such shipment, sold or offered for delivery or transportation from one county to another, or delivered or transported from one county to another, shall have affixed thereto in a conspicuous place by the person making such sale, delivery or transportation, a shipping permit issued by the commissioner having jurisdiction in the county of origin, warning that inspection at destination is required.

Certificate of inspection and release

Each such shipment sold for delivery or transportation to a locality within the same county or delivered or transported to a locality within the same county, shall have affixed thereto in a conspicuous place by the person making such sale, delivery or transportation, a shipping permit or in lieu thereof a certificate of inspection and release issued by the commissioner of that county, giving notice that inspection at destination is not required except that a shipping permit or certificate of inspection and release need not be affixed to nursery stock sold at retail and delivered to the purchaser on premises where a certificate of inspection and release of a size suitable for display is exhibited in a manner and in such location or locations as may be prescribed by the commissioner.

Any person who shall sell, deliver or transport any shipment of nursery stock without a certificate of inspection and release shall at or prior to the time such shipment is transported, forward a manifest to the commissioner having jurisdiction at destination. Such manifest shall state by name the complete contents of each such shipment, the name of the locality where the contents were grown, and the means whereby such shipment is being transported, whether by freight, express, mail, truck, boat, airplane or otherwise.

CHAPTER 1046

An act to add Section 219.1 to the Penal Code, relating to the unlawful wrecking of motor vehicles operated by a common carrier and causing bodily harm, and prescribing the punishment therefor.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 219.1 is hereby added to the Penal Code, to read as follows: New section

219.1. Every person who unlawfully throws, hurls or projects at a vehicle operated by a common carrier, while such vehicle is either in motion or stationary, any rock, stone, brick, bottle, piece of wood or metal or any other missile of any kind or character, or does any unlawful act, with the intention of wrecking such vehicle and doing bodily harm, and thus wrecks the same and causes bodily harm, is guilty of a felony and punishable by imprisonment in the State prison for not less than one nor more than 14 years. Throwing missiles at vehicles, etc

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CHAPTER 1047

An act to add Section 11656.5 to the Insurance Code, relating to workmen's compensation insurance. Stats 1935, p 496, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 11656.5 is hereby added to the Insurance Code, to read as follows: New section

11656.5. In order to permit employees of small farms being brought under the provisions of the Workmen's Compensation Law, employers of agricultural labor who are members of any nonprofit agricultural association or who are members of, or stockholders in, any nonprofit cooperative agricultural marketing association of producers, some or all of whom may not be required to carry compensation insurance, may, under such conditions as the commissioner may prescribe in order to effectuate the purpose of Article 2, Chapter 3, of this part, be insured under a group compensation insurance policy; provided, if the association guarantees the payment of premiums in respect to all members who are covered under the policy. Insuring agricultural employers

CHAPTER 1048

Stats 1939, p 1395, repealed

An act to repeal Chapter 166 of the Statutes of 1939, relating to summary probate proceedings.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Repeal

SECTION 1. Chapter 166 of the Statutes of 1939 is hereby repealed.

CHAPTER 1049

Stats 1909, p 87, amended

An act to add Section 136d to the Bank Act, relating to the disposition of property held as trustee or in safekeeping by a bank, title insurance or trust company in process of liquidation, providing for the escheat thereof, authorizing the State Treasurer to act as a trustee for a trust company, bank, or title insurance company in liquidation, and making an appropriation.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section hereby is added to the Bank Act, to be numbered 136d, to read as follows:

Liquidation money held for unknown persons

Sec. 136d. Upon the liquidating of any trust company or any bank or trust department of any bank, or upon the discontinuance of trust business by any trust company, bank or title insurance company, if said trust company, bank or title insurance company has in its possession money or other property held by such trust company, bank or title insurance company, in trust or in safekeeping and the beneficiaries or persons entitled to such money or other property are unknown, or can not be found, upon the approval of the superior court of the county in which the liquidation proceedings are pending or the principal office of such trust company, bank or title insurance company is situated, it may:

Money to State Treasurer

(a) In the case of money, deliver the same to the State Treasurer;

Other property to Controller

(b) In the case of other property, deliver the same to the State Controller for deposit in the State Treasury; and at the same time it shall furnish to the State Controller a certified copy of the court order approving the delivery and a notice stating the amount of money delivered to the State Treasurer. Upon the receipt of money or other property by the State Treasurer, he shall issue a receipt for the same and said receipt shall be deemed a voucher in favor of the bank, trust company or title insurance company the same as though

executed by the beneficiary or other person entitled to said property.

All money received by the State Treasurer pursuant to this section shall be deposited in the School Land Fund. All money or other property deposited pursuant to this section shall be recorded and accounted for by the State Controller.

Petition by claimant

Any person who claims the money or property so deposited with the State Treasurer shall file a verified petition in the Superior Court in and for the County of Sacramento, stating facts necessary for the court to determine his right thereto. If, upon trial of the issues, the court is satisfied of the claimant's right or title to the money or property claimed, it shall grant him a certificate to that effect under its seal. Upon presentation of such certificate, the State Controller shall draw his warrant on the State Treasurer for the amount of money covered thereby, and if the certificate covered any property, upon presentation of such certificate the State Controller shall direct the State Treasurer to deliver the property to the claimant, and the certificate shall serve as sufficient authority for the delivery of the property to the claimant.

Certificate

Claim in lieu of petition

Whenever the money claimed by any person, or the total value of property, including money claimed, is less than three hundred dollars ($300) any such claimant may, in lieu of filing such petition, present his claim for the money or other property to the State Board of Control, stating facts necessary for the board to determine his right thereto. The board may, in its discretion, upon recommendation of the Attorney General, allow and order paid such claim, or order the delivery of the property to the claimant. When payment has been made or the property has been delivered under this section to any claimant, no suit shall thereafter be maintained by any other claimant against the State or any officer thereof for or on account of such money or property.

Appropriation

There is hereby appropriated out of the School Land Fund such moneys as are necessary to pay the warrants drawn by the State Controller upon presentation of the certificate of the superior court, or upon the order of the State Board of Control for the payment of a claim allowed by it, all as provided for in this section.

Escheat

Money or other property deposited with the Treasurer under the provisions of this section, if not claimed by the person or persons entitled thereto within five (5) years from the date of such deposit, shall become the property of the State of California by escheat and the Attorney General shall commence a proceeding on behalf of the State in the Superior Court for Sacramento County in accordance with Section 1268 of the Code of Civil Procedure to have it adjudged that the title to such property has vested in the State.

Upon escheat of such money or other property, the money and proceeds from the property shall be disposed of in the

same manner as is provided by law for the disposal of estates of deceased persons which have escheated.

State Treasurer as substituted trustee

Upon the liquidating of any trust company or any bank or trust department of any bank, or upon the discontinuance of trust business by any trust company, bank or title insurance company, if said trust company, bank or title insurance company has in its possession money or other property held by such trust company, bank or title insurance company, in trust or in safekeeping, and a new or substituted trustee for such trust company, bank or title insurance company can not be obtained, the superior court of the county in which the liquidation proceedings are pending or the principal office of such trust company, bank or title insurance company is situated, may designate the State Treasurer to act as a new or substituted trustee for such trust company, bank or title insurance company.

CHAPTER 1050

Stats 1939, p 1960, amended

An act to amend Section 8, and to repeal Section 9, of the Community Recreation Enabling Act of 1939, relating to the qualifications of employees.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1962

SECTION 1. Section 8 of the act cited in the title hereof is hereby amended to read as follows:

Employees

Sec. 8. Every public authority may appoint, prescribe the duties of and provide for the compensation and necessary expenses of such recreational directors, supervisors, custodians, assistants, deputies, and other employees as it deems reasonably necessary for carrying out the provisions and purposes of this act; provided, however, that only persons employed in positions requiring certification qualifications shall be paid out of funds set aside for the payment of teachers' salaries.

Stats 1939, p 1962

SEC. 2. Section 9 of the act cited in the title hereof is hereby repealed.

CHAPTER 1051

An act to amend Section 559½ of the Code of Civil Procedure, relating to alias writs of attachment.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 559½ of the Code of Civil Procedure is hereby amended to read as follows: Stats. 1927, p. 797

559½. After the return and filing of the writ of attachment, or upon filing by the plaintiff of a verified affidavit setting forth the loss of the writ of attachment, the clerk, upon demand of the plaintiff at any time before judgment, may issue an alias writ which shall be in the same form as the original, without requirement of a new affidavit for attachment or of a new undertaking as provided in Section 539 of the Code of Civil Procedure. Alias writs

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CHAPTER 1052

An act to amend Sections 468, 511 and 758 of, and to add Sections 468.2, 511.1, 511.2 and 511.3 to, the Vehicle Code, relating to the regulation of speeds on public streets and highways. Stats. 1935, p. 93, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 468 of the Vehicle Code is amended to read as follows: Stats. 1939, p. 2107

468. Speed Restriction Signs. (a) Local authorities having jurisdiction shall by ordinance or resolution determine and select those principal streets and highways entering business or residence districts which shall be signposted. Speed restriction signs

(b) Speed restriction signs shall be erected upon every State highway and every principal street and highway determined and selected as heretofore provided at the entrance thereof into a business or residence district, and may be erected upon any other highway at the entrance thereof into such a district or districts.

(c) Every speed restriction sign hereafter located upon a highway shall be of metal and rectangular in shape, except that the corners shall be slightly rounded and shall conform approximately to the specifications hereinafter set forth. The minimum size of the sign measured through its center shall be

30 inches in length and 24 inches in width. The face of the sign shall be black with the words and figures specifying the applicable speed limit in white thereon. The top of the words "speed limit" shall be two and one-half inches from the top edges of the sign. Each letter of the words "speed limit" shall be four inches in height and of five-eighths inch stroke. The top of the figures shall be one and eleven-sixteenths inches below the bottom of the words "speed limit." Each figure of the figures shall be 10⅞ inches in height and one and three-fourths inch stroke. The top of the word "miles" shall be one and eleven-sixteenths inches below the bottom of the figures. Each letter of the word "miles" shall be four inches in height and of five-eighths inch stroke. A white border line of three-eighths inch stroke shall parallel the outside edges of the sign. The outside edge of the border line shall be three-eighths inch from the outside edges of the sign. The sign may be made of larger dimensions in which event the size and stroke of letters, figures and lines shall be increased in the proper proportion.

New section

SEC. 2. Section 468 2 is hereby added to the Vehicle Code, to read as follows:

Posting outermost boundaries of districts

468.2. Posting Outermost Boundaries of Districts. Where one or more business and residence districts are contiguous, or where, as authorized by this code, speed is to be restricted between two districts, either business or residence, or at the end of either thereof, speed restriction signs as required by Section 468 need be erected and maintained only at the boundaries of the outside limits of the area in which speed is to be restricted.

Stats 1939, p 2108

SEC. 3. Section 511 of the Vehicle Code is hereby amended to read as follows:

Prima facie speed limits

511. Prima Facie Speed Limits. The speed of any vehicle upon a highway not in excess of the limits specified in this section or established as authorized in this code is lawful unless clearly proved to be in violation of the basic rule declared in Section 510 hereof.

The speed of any vehicle upon a highway in excess of any of the limits specified in this section or established as authorized in this code is prima facie unlawful unless the defendant establishes by competent evidence that any said speed in excess of said limits did not constitute a violation of the basic rule declared in Section 510 hereof at the time, place and under the conditions then existing.

The prima facie limits referred to above are as follows and the same shall be applicable unless changed as authorized in this code and, if so changed, then only when signs have been

erected giving notice thereof, in which event the speed designated on the sign shall be the prima facie limit:

Fifteen miles

(a) Fifteen miles per hour:

(1) When passing a school building, or the grounds thereof, contiguous to the highway during school recess or while children are going to or leaving such school during opening or closing hours or while the playgrounds of any such school are in use by school children.

(2) When traversing a grade crossing of a steam, electric or street railway, if during the last 100 feet of the approach to such crossing the driver does not have a clear and unobstructed view of such crossing and of any traffic on such railway for a distance of 400 feet in both directions along such railway.

(3) When approaching or upon a curve or any other part of a highway in the event the driver's view is obstructed within a distance of 100 feet along the highway in the direction in which such driver is proceeding.

(4) When traversing any intersection of highways if during the last 100 feet of his approach to such intersection the driver does not have a clear and unobstructed view of such intersection and of any traffic upon all of the highways entering such intersection for a distance of 100 feet along all such highways, except on a through highway or at a traffic-controlled intersection.

Twenty-five miles

(b) Twenty-five miles per hour:

(1) In any business or residence district.

(2) When upon the grounds of any public school, State university, State college, State, county, or municipal institution or building, veterans' home, or United States Veterans' Administration Facility.

(3) Upon a highway bordering upon the grounds of any State hospital, veterans' home or United States Veterans' Administration Facility when signs giving notice of the speed limit have been erected. The authority having jurisdiction over the highway may erect such signs whenever considered necessary for the protection of life or property.

(4) Upon that portion of any highway within or bordering upon any public park which passes through or borders upon any public playground or passes any building or other place of public assemblage when signs giving notice of the speed limit have been erected. The authority having jurisdiction over the highway may erect such signs whenever considered necessary for the protection of life or property.

Fifty-five miles

(c) Fifty-five miles per hour under all other conditions unless a different speed is established as provided in this code and signs are in place giving notice thereof.

New section

SEC. 4. Section 511.1 is hereby added to the Vehicle Code, to read as follows:

Increasing 25 mile limit

511.1. Authority to Increase 25-Mile Limit. Whenever the Department of Public Works determines upon the basis

of an engineering and traffic investigation that a speed of 35 miles per hour or 45 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any State highway otherwise subject to a prima facie limit of 25 miles per hour under this code, the department may determine and declare a prima facie speed of 35 or 45 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon said highway.

New section

SEC. 5. Section 511.2 is hereby added to the Vehicle Code, to read as follows:

Decreasing 55 mile limit

511.2. Authority to Decrease 55-Mile Limit. Whenever the Department of Public Works determines upon the basis of an engineering and traffic investigation that the prima facie limit of 55 miles per hour is more than is reasonable or safe upon any portion of a State highway for a distance of not exceeding 1,500 feet in length between districts, either business or residence, or 1,000 feet at the end of either thereof, the department may determine and declare a reasonable and safe prima facie limit thereon lower than 55 miles per hour, but not less than 25 miles per hour, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon said highway.

New section

SEC. 6. Section 511.3 is hereby added to the Vehicle Code, to read as follows:

Local speed zoning

511.3. Speed Zoning on Other Than State Highways. Local authorities may exercise the same powers and duties in determining and establishing prima facie speed regulations upon highways under their respective jurisdictions in the same manner as such regulations may be determined and established on State highways by the Department of Public Works.

Stats 1935, p 243

SEC. 7. Section 758 of the Vehicle Code is hereby amended to read as follows:

Presumptions as to character of district and speed limit

758. Presumption as to Character of District. Every highway shall be conclusively presumed to be outside of a business or residence district unless such district is duly signposted when and as required by this code. Whenever speed restriction signs have been erected upon any highway as authorized in this code, the prima facie speed upon such highway so signposted shall be presumed to be that displayed upon such signs unless it is established by clear and competent evidence that the nature of the district or the provisions of this code do not substantiate the speed restrictions as set forth upon such signs.

CHAPTER 1053

An act to amend Sections 158, 162, 178, 179, 183 and 226 of, and to add Section 195.5 to, the Vehicle Code, relating to the registration of vehicles.

Stats 1935, p. 93, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

In effect Jan 1, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 158 of the Vehicle Code is hereby amended to read as follows:

Stats 1937, p. 503

158. Display of License Plates. (a) License plates issued for a motor vehicle other than a motorcycle shall be attached thereto, one in the front and the other in the rear. The license plate issued for all other vehicles required to be registered hereunder shall be attached to the rear thereof.

Display of license plates

(b) Every license plate shall at all times be securely fastened to the vehicle for which it is issued so as to prevent the plate from swinging and at a minimum distance of 12 inches from the ground in a position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible.

(c) Every license plate shall remain attached during the current calendar year to the vehicle for which it is issued except as otherwise permitted by law with reference to special plates issued to a manufacturer, transporter or dealer and except plates issued for vehicles which are exempt from payment of registration fees or plates which bear other distinguishing marks or symbols when such vehicles are no longer exempt from payment of registration fees or no longer entitled to plates bearing distinguishing marks or symbols. This section shall not apply to plates which the department as authorized has ordered to be surrendered, transferred to another vehicle or removed.

(d) The department may seize any license plate which is not attached to the vehicle for which issued when and as required hereunder and may attach or require such plate to be attached to the proper vehicle.

SEC. 2. Section 162 of the Vehicle Code is hereby amended to read as follows:

Stats 1937, p. 504

162. Permanent Registration of Vehicles Publicly Owned. The registration requirements stated herein shall apply to every vehicle owned by the United States Government, State, or any county, city and county, city or political subdivision of the State, except in the following particulars:

Publicly owned vehicles

(a) A license plate issued for any such vehicle while publicly owned need not display the year number for which it is issued, but shall display a distinguishing symbol or letter.

(b) The registration of any said vehicle and the registration card issued therefor shall not be renewed annually but shall remain valid until the certificate of ownership for any such vehicle is suspended, revoked or canceled by the department for cause or upon a transfer of any interest shown in such certificate of ownership; but upon any change in such ownership the vehicle shall be reregistered in accordance with the provisions of this code relating to any vehicle privately owned and the special license plates theretofore issued for said vehicle while publicly owned shall be surrendered to the department.

Stats 1935, p 115

SEC. 3. Section 178 of the Vehicle Code is hereby amended to read as follows:

Liability upon transfer

178. Owner Released From Liability for Negligence Upon Transfer. An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession thereof to a purchaser shall not by reason of any of the provisions of this code be deemed the owner of such vehicle so as to be subject to civil liability for the operation of such vehicle thereafter by another when such owner in addition to the foregoing has fulfilled either of the following requirements:

(1) When such owner has made proper indorsement and delivery of the certificate of ownership and delivered the certificate of registration as provided in this code.

(2) When such owner has delivered to the department or has placed in the United States mail, addressed to the department, either a notice as provided in Section 177 or appropriate documents for registration of such vehicle pursuant to such sale or transfer.

Stats 1935, p 115

SEC. 4. Section 179 of the Vehicle Code is hereby amended to read as follows:

Application for transfer

179. Transferee to Apply for Transfer. Whenever any person has received as transferee a properly indorsed certificate of ownership and the registration card of the vehicle described in said certificate and card, such transferee shall within 10 days thereafter forward such certificate and card with the proper transfer fee to the department and thereby make application for a transfer of registration, except as provided in the next section.

Stats 1939, p. 1394

SEC. 5. Section 183 of the Vehicle Code is hereby amended to read as follows:

Assignment by legal owner

183. Assignment by Legal Owner Only. A legal owner may assign his title or interest in or to a vehicle registered hereunder to a person other than the owner without the consent of and without affecting the interest of such owner. The department upon receiving a certificate of ownership indorsed

by the legal owner and the transferee of legal ownership accompanied by the registration card shall accordingly transfer the legal ownership and shall issue a new certificate of ownership to the new legal owner and a new registration card to the owner.

The owner upon receiving such new registration card shall immediately sign the same and place it in the vehicle to which it refers.

SEC. 6. Section 195.5 is hereby added to the Vehicle Code, to read as follows: New section

195.5. Limitations on Chattel Mortgages. The provisions of Section 195 shall not be construed to permit the filing of two or more chattel mortgages on any vehicle which are concurrent in whole or in part. In the event the vehicle is registered hereunder and is owned by two or more persons, the certificate of ownership must be properly indorsed by all persons whose names appear thereon as owners. Limitations on chattel mortgages

SEC. 7. Section 226 of the Vehicle Code is hereby amended to read as follows: Stats 1935, p 125

226. Owner to Return Evidence of Registration Upon Cancellation, Suspension or Revocation. Whenever the department as authorized hereunder cancels, suspends or revokes the registration of a vehicle or a certificate of ownership, registration card, or license plate or plates, or the certificate of a dealer, manufacturer or transporter, or any nonresident or other permit, the owner or person in possession shall immediately return the documents, plates, certificate or other evidence of registration so canceled, suspended or revoked to the department. Return of evidence of registration

SEC. 8. This act shall take effect at midnight on December 31, 1941. Effective date

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CHAPTER 1054

An act to amend Sections 382 and 384 of the Vehicle Code, relating to the registration of motor vehicles. Stats 1935, p 93, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941] In effect Jan 1, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 382 of the Vehicle Code is hereby amended to read as follows: Stats 1937, p 1595

382. Fees for Duplicates. Upon application for duplicates as permitted under this code, the following fees shall be paid: Duplicates

(a) For a duplicate certificate of ownership or registration card $0 50

(b) For any duplicate license plate or plates or substitute plate or plates for the same vehicle_____$1 00
(c) For a duplicate operator's or chauffeur's license___$0 50

Stats 1937, p 505

SEC. 2. Section 384 of the Vehicle Code is hereby amended to read as follows:

Credit for fees

384. Credit for Fees Paid. Whenever any registered commercial vehicle for which fees have been paid under Section 372 is withdrawn from service in this State before the expiration of such registration the owner may surrender the registration card and license plates previously issued for such vehicle to the department and, at the time of withdrawal, make application for the registration of another commercial vehicle which is subject to the fees specified in Section 372. In such event and upon a proper showing of the facts the department upon determining the fees payable hereunder shall allow as credit thereon the amount of the fee paid under Section 372 for the unexpired portion of the previous registration but in addition to fees otherwise payable hereunder less any such credit shall charge and collect an additional fee of two dollars ($2) for issuance of such new registration.

Effective date

SEC. 3. This act shall take effect at midnight on December 31, 1941.

CHAPTER 1055

Stats 1935, p 93, amended

An act to amend Sections 525, 543 and 553 of, to repeal Section 604 of, and to add Section 525.5 to the Vehicle Code, relating to the regulation of traffic.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats. 1939, p 2197

SECTION 1. Section 525 of the Vehicle Code is hereby amended to read as follows:

Driving on right side of roadway

525. Drive on Right Side of Roadway. (a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of, and as close as practicable to the right-hand curb or edge of, such roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(2) When placing a vehicle in a lawful position for, and when such vehicle is lawfully making a left turn.

(3) When the right half of a roadway is closed to traffic while under construction or repair.

(4) Upon a roadway designated and signposted for one-way traffic.

(b) The State Department of Public Works shall by regulation determine a distinctive roadway marking which shall indicate no driving over such marking, and is authorized either by such marking or by signs and markings to designate any portion of a State highway where the volume of traffic or the vertical or other curvature of the roadway renders it hazardous to drive on the left side of such marking or signs and markings. When such markings or signs and markings are in place, the driver of a vehicle shall not drive to the left thereof. Roadway marking

(c) It is unlawful to drive any vehicle upon any State highway which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section of not less than two feet in width delineated by curbs, lines or other markings on the roadway except to the right of such barrier or dividing section, or to drive any vehicle over or across any such dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except through an opening in such physical barrier or through a plainly marked opening in such dividing section. Divided roadways

SEC. 2. A new section, to be numbered 525.5, is hereby added to the Vehicle Code, to read as follows: New section

525.5. Off-center Lanes. The authorities in charge of any highway may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway, and all members of the California Highway Patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs. Off-center lanes

SEC. 3. Section 543 of the Vehicle Code is hereby amended to read as follows: Stats 1935 p 185

543. Starting Parked Vehicles or Backing. No person shall start a vehicle stopped, standing or parked on a highway nor shall any person back a vehicle on a highway unless and until such movement can be made with reasonable safety. Starting parked vehicle or backing

SEC. 4. Section 553 of the Vehicle Code is hereby amended to read as follows: Stats 1935, p 187

553. Vehicle Entering Highway From Private Road or Driveway. The driver of a vehicle about to enter or cross a highway from an alley not exceeding a width of 16 feet, or any private road or driveway shall yield the right of way to all vehicles approaching on said highway. Entering highway from alley or private way

SEC. 5. Section 604 of the Vehicle Code is hereby repealed. Stats 1939, p 2198

CHAPTER 1056

Stats 1935, p 93, amended

An act to amend Sections 583 and 586 of the Vehicle Code, relating to the stopping, standing or parking of a vehicle.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats. 1935, p 190

SECTION 1. Section 583 of the Vehicle Code is hereby amended to read as follows:

Clearance

583. Required Unobstructed Width of Roadway. In no event shall any person stop, park or leave standing any vehicle, whether attended or unattended, upon any highway outside of a business or residence district unless not less than 20 feet of the width of the paved or improved or main traveled portion of the roadway opposite such stopped, parked or standing vehicle is left clear and unobstructed for the free passage of other vehicles.

Stats 1935, p. 191

SEC. 2. Section 586 of the Vehicle Code is hereby amended to read as follows:

Stopping in certain places

586. Stopping, Standing or Parking Prohibited in Specified Places. No person shall stop, park or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control signal device, in any of the following places:

(a) Within an intersection except adjacent to curbs as may be permitted by local ordinance.

(b) On a crosswalk.

(c) Between a safety zone and the adjacent curb opposite such zone or along such curb within such distance from a point opposite an end of such safety zone as may be indicated by a sign or red paint on such curb when such sign or paint was erected or placed by local authorities pursuant to ordinance.

(d) Within 15 feet of the driveway entrance to any fire station.

(e) In front of a public or private driveway.

(f) On a sidewalk.

(g) Alongside or opposite any street or highway excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(h) On the roadway side of any vehicle stopped, parked or standing at the curb or edge of a highway.

(i) Alongside curb space authorized for the loading and unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on such curb when such sign or red paint was erected or placed by local authorities pursuant to ordinance.

(j) In a tube or tunnel or upon a bridge.

CHAPTER 1057

An act to amend Sections 554, 616 and 675 of the Vehicle Code, relating to equipment on vehicles.

Stats 1935, p 93, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 554 of the Vehicle Code is hereby amended to read as follows:

Stats 1937, p 168

554. Operation of Vehicles and Street Cars on Approach of Authorized Emergency Vehicles. Upon the immediate approach of an authorized emergency vehicle giving audible signal by siren and having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle:

Operation on approach of emergency vehicle

(1) The driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway clear of any intersection and thereupon stop and remain in such position until such authorized emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

(2) The motorman of every street car shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

SEC. 2. Section 616 of the Vehicle Code is hereby amended to read as follows:

Stats 1935, p 201

616. Division Refers to Vehicles Upon Highways. The provisions of this division refer exclusively to the equipment of vehicles when operated upon the highways. The provisions of this division apply to all vehicles whether publicly or privately owned when operated upon the highways, including all authorized emergency vehicles, except where specific exemption or provision is made relating thereto.

Applicable only to vehicles on highways

SEC. 3. Section 675 of the Vehicle Code is hereby amended to read as follows:

Stats 1939, p 2096

675. Windshields. Every motor truck or truck tractor, and every fire truck, fire engine or other fire apparatus, whether owned by private persons, the State, or by any county, city and county, city, district, public corporation, municipal corporation, or other political subdivision or agency of the State, shall be equipped with an adequate windshield.

Windshields

SEC. 3. The provisions of Section 675 of the Vehicle Code relating to fire trucks, fire engines and other fire apparatus, in so far as they pertain to fire trucks, fire engines and other fire apparatus in use or in operation on the effective date of this act, shall not become operative until January 1, 1944.

Operative date

CHAPTER 1058

Stats 1935, p. 93, amended

An act to amend Section 679 of the Vehicle Code, relating to the condition of a vehicle and its equipment.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p. 225

SECTION 1. Section 679 of the Vehicle Code is hereby amended to read as follows:

Unsafe vehicles

679. Unlawful to Operate Vehicle Without Required Equipment or in Unsafe Condition. It is unlawful to operate on any highway any vehicle or combination of vehicles which is in an unsafe condition, which is not equipped as required by this code, or which is not safely loaded.

CHAPTER 1059

Stats 1935, p. 93, amended

An act to add a new section, to be numbered 660, to the Vehicle Code, relating to the sale of used vehicles.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section, to be numbered 660, is hereby added to the Vehicle Code, to read as follows:

Light and brake adjustment on used vehicles

660. Light and Brake Adjustments on Used Vehicles. No dealer shall sell a used motor vehicle without first testing and if necessary adjusting the lights and brakes on such vehicle to conform with the provisions of this code unless such vehicle is sold for the purpose of being wrecked or dismantled.

CHAPTER 1060

Stats 1935, p. 496 amended

An act to repeal Article 4, comprising Sections 10490 to 10494, inclusive, of Chapter 5, Part 2, Division 2 of, and to add Article 4, comprising Sections 10490 to 10501, inclusive, to Chapter 5, Part 2, Division 2 of, the Insurance Code, relating to insurance.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Repeals

SECTION 1. Article 4, comprising Sections 10490 to 10494, inclusive, of Chapter 5, Part 2, Division 2, of the Insurance Code is hereby repealed.

SEC. 2. Article 4, comprising Sections 10490 to 10501, inclusive, is hereby added to Chapter 5, Part 2, Division 2 of the Insurance Code, to read as follows: New article

Article 4. Qualifications and Exemptions

10490. This article is applicable only to life and disability insurance. Except as otherwise expressly permitted by this code, life or disability insurance shall not be transacted in this State by any person other than a corporation. A person not exempted by Chapter 10 of this part shall not transact life or disability insurance in this State except pursuant to a valid and unrevoked certificate of authority issued by the commissioner or under a valid and unrevoked certificate of exemption issued by the commissioner pursuant to this article. Transaction of life and disability insurance

10491. Persons possessing a valid and unrevoked certificate of authority to transact life or disability or life and disability insurance issued by the commissioner are not subject to this article. Persons excepted

10492. Any incorporated benefit and relief association of nonprofit, charitable or eleemosynary character formed by public schools or officers or employees of public schools or school districts, that confines its privileges and membership to pupils of public or private schools may, if it complies with the requirements of this article, procure a certificate of exemption from the commissioner. Certificate of exemption School associations

10493. Any incorporated benefit and relief association of nonprofit, charitable, or eleemosynary character formed by a church, lodge, labor union, or employees of a common employer that confines its privileges and membership to its own employees and the members of the church, lodge, labor union, employees or officers of such common employer, or employees or officers of companies or corporations of which a single employer owns at least one-quarter of the issued capital or voting stock, or to persons who were such corporate officers or employees at the time of becoming members of such association, may, if it complies with the requirements of this article, procure a certificate of exemption from the commissioner. Same Church, lodge, labor union, etc., associations

10494. Any incorporated domestic lodge, order or association of a purely religious, charitable or benevolent description that insures only the lives or health of its members and does not provide for death benefits of more than two hundred fifty dollars ($250) or for disability benefits of more than two hundred fifty dollars ($250) to any one person in any one year and does not issue to applicants or members, policies, benefit certificates, or any other visual evidence of benefits, except complete copies of the articles of association and by-laws, to be received by members or their beneficiaries, may, Same Other charitable, etc., associations

if it complies with the requirements of this article, procure a certificate of exemption from the commissioner.

Application for certificate of exemption

10495. A certificate of exemption may be procured from the commissioner by filing with him certified copies of the articles of incorporation and by-laws of the applicant together with certified copies of any evidences of insurance which it may issue and a statement of the operations of the applicant. There shall also be filed with such application a statement of the financial condition of the applicant in such form as the commissioner may prescribe. The commissioner may, pursuant to Article 4, Chapter 1, Part 2, Division 1, require from any person transacting life or disability insurance, whether or not an applicant for a certificate of exemption, such information as will enable him to determine whether or not such person is transacting life or disability insurance in conformity with or in violation of this code.

Where insurance transacted without certificate of authority

10496. Any person transacting life or disability insurance without a certificate of authority so to do issued by the commissioner shall not give, allow, or promise to give or allow any compensation for procuring new members. The term "compensation" as used herein is confined to a payment, percentage, bonus or monetary credit given, promised or allowed for the securing of new members which directly or by any arrangement, understanding or device is based in whole or in part upon the number of new members or reinstatements procured, or the nominal or contingent value of their certificates or policies, or the net or gross amount of dues or premiums paid or payable by them or upon any other variable result or contingency.

Issuance of certificate of exemption

10497. If the commissioner finds that an applicant for a certificate of exemption meets the applicable requirements of this article and those requirements of this code, made applicable to such an applicant by this article, and that the applicant is not formed, conducted or operated for profit or as a commercial insurance enterprise for the benefit of any group or person rather than the relatively equal benefit of its members, he shall issue to the applicant a certificate of exemption.

Law applicable

10498. An applicant for a certificate of exemption must comply with, and the possessor of a certificate of exemption is subject to, the following provisions of this code:

Sections 1 to 41, inclusive;
Chapter 1, Part 1, Division 1;
Chapter 2, Part 1, Division 1;
Chapter 3, Part 1, Division 1;
Article 3, Chapter 4, Part 1, Division 1;
Article 4, Chapter 4, Part 1, Division 1;
Chapter 5, Part 1, Division 1;
Article 1, Chapter 6, Part 1, Division 1;

Law applicable

Article 3, Chapter 6, Part 1, Division 1;
Chapter 9, Part 1, Division 1;
Article 1, Chapter 1, Part 2, Division 1;
Article 4, Chapter 1, Part 2, Division 1;
Article 6, Chapter 1, Part 2, Division 1;
Article 8, Chapter 1, Part 2, Division 1;
Article 9, Chapter 1, Part 2, Division 1;
Article 14, Chapter 1, Part 2, Division 1;
Article 15, Chapter 1, Part 2, Division 1;
Article 16, Chapter 1, Part 2, Division 1;
Article 17, Chapter 1, Part 2, Division 1;
Article 1, Chapter 2, Part 2, Division 1;
Article 2, Chapter 2, Part 2, Division 1;
Article 3, Chapter 2, Part 2, Division 1;
Article 4, Chapter 2, Part 2, Division 1;
Article 5, Chapter 2, Part 2, Division 1;
Article 7, Chapter 2, Part 2, Division 1;
Chapter 1, Part 2, Division 2;
Chapter 2, Part 2, Division 2;
Chapter 3, Part 2, Division 2;
Article 1, Chapter 5, Part 2, Division 2;
Division 3.

Violations

10499. The commissioner may at any time notify any corporation possessing a certificate of exemption that he has grounds to believe that it is violating any of the applicable provisions of this code or is not operating in strict conformity with the documents filed with the commissioner as a basis of its application for the certificate of exemption. The notice shall fix the time and place for hearing at which the person notified may appear and show cause why the commissioner should not revoke its certificate of exemption. The time fixed shall not be less than 15 nor more than 60 days after date of the notice.

Hearing

At the time and place specified in the notice and order to show cause, the commissioner shall hold a hearing at which the possessor of a certificate of exemption may present evidence to show that it is not violating any applicable provision of this code, and that it is operating in conformity with the documents which were filed as a basis for the certificate of exemption. If after such hearing the commissioner finds the evidence shows that the operations of the corporation are in violation of any of the applicable provisions of this code, or are in violation of the documents upon which its application for certificate of exemption was based, the commissioner shall revoke the certificate of exemption and the corporation whose certificate of exemption is thus revoked shall cease the transaction of life and disability insurance until it procures a new certificate of exemption or a certificate of authority under other provisions of this code.

Revocation of certificate

This article does not prevent the commissioner from acting and bringing proceedings under Article 14, Chapter 1, Part 2,

Division 1, if grounds exist for the institution of such proceedings with respect to any person transacting life or disability insurance either with or without a certificate of exemption.

Unlawful to transact insurance without certificate

10500. Every person not exempted by Chapter 10 of this part who transacts life or disability insurance without a valid and unrevoked certificate of authority or without a valid and unrevoked certificate of exemption issued pursuant to this article, is guilty of a misdemeanor. Every employee, officer or agent of any person who knowingly assists any person in the transaction of insurance in violation of this article, is guilty of a misdemeanor.

Continuance of existing business

10501. Any person specified in Sections 10492, 10493 and 10494 who is transacting life or disability insurance at the time this article takes effect without a valid and unrevoked certificate of authority so to do, may continue the transaction of life or disability insurance for a period of not more than 30 days thereafter if within 15 days after this article becomes effective it files with the commissioner notice of intention to apply for a certificate of exemption.

If, after such investigation as he may deem necessary, the commissioner is satisfied that reasonable grounds exist to believe that the filer of a notice of intention to apply for a certificate of exemption is able to or will conform to the requirements of this article, he may by written order, extend the time during which it may transact life or disability insurance pending the filing of a proper application for and issuance of a certificate of exemption.

CHAPTER 1061

Stats 1933, p 60, amended

An act to amend Section 92 of the Agricultural Code, relating to district agricultural fairs.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2385

SECTION 1. Section 92 of the Agricultural Code is hereby amended to read as follows:

State premium money

92. The Department of Finance shall apportion any money appropriated by the State for the encouragement of county, district or combined county and district fairs to the various agricultural fairs on the basis of the amount which each fair actually paid in premiums for agricultural, horticultural, mineral and live stock exhibits, and exhibits of domestic arts and agricultural mechanics made or manufactured for other than

commercial purposes, in each year. The money so apportioned shall be paid to the several counties and district agricultural associations as soon as such apportionment is determined.

Advances

The Department of Finance, out of any money on hand to be apportioned, may advance to any county or district agricultural association, for the purpose of paying premiums, at any time during the year, any portion of the money to which, in the opinion of the Director of Finance, the county or district agricultural association will become entitled for that year.

Deposit in bank

The county or district agricultural association shall deposit such money in a separate bank account approved by the Director of Finance in accordance with the provisions of Section 10 of an act entitled "An act to authorize and control the deposit in banks of money belonging to or in the custody of the State and to repeal all acts or parts of acts in conflict with this act," approved April 12, 1923, as amended.

Stats 1935, p 461

Expenditures

Such money may be expended for premiums, capital outlay, including purchase of land, construction, improvements, equipment, or other purposes for the encouragement of county or district agricultural association fairs pursuant to a budget submitted to, and approved by, the Department of Finance subject to the provisions of Section 677.5 of the Political Code.

All sums expended from such moneys for construction and improvements by counties shall be subject to the provisions of Section 4041.18 of the Political Code.

Statement of premiums paid

The county auditor or secretary of any such fair desiring to share in any such appropriation shall file with the Department of Finance on or before December 31st, of each year, a sworn statement setting forth the actual amount paid for premiums by such fair held in that year.

Allocation base

Six thousand dollars ($6,000) shall be the maximum base of allocation paid any fair for its first year of operation, and thereafter in each subsequent year in which a fair is held the maximum base of allocation shall increase by 10 per cent over the maximum base for the year in which a fair was last held.

In the event the premiums paid during any year in which a fair is held are less than the maximum base of allocation for that year, the base of allocation for that year shall be the premiums so paid during such year. For any fair operated prior to 1933 which received, or was qualified to receive, money from appropriations for the support of agricultural fairs, the basis may be increased 10 per cent for each year in which a fair was held from the time the fair was first held, except that if no fair was held by the county or district for a period of five or more years the percentage of increase shall apply only from the first fair held after said period. Any fair may pay premiums in an amount greater than that used as the base of apportionment to it.

Department of Finance Rules and regulations

The Department of Finance shall prescribe rules and regulations for the judging of exhibits, and the maximum amount of premiums which may be offered and paid for all classes,

sections, and types of exhibits. No fair shall receive any apportionment of funds under this section unless it complies with such rules and regulations.

Restrictions on allotments

No allotment from the appropriation herein provided shall be made for more than one fair in any one year in any county or district. The fact that a county or district contracts one with the other or with a county fair association, to hold an agricultural fair shall not bar it from receiving a proper proportion of the moneys herein appropriated, except that no county or district may hold a joint or combined fair and receive an allotment of money under the provisions of this section. No fair for which a separate appropriation is made by the State shall participate in the apportionment of any money appropriated for the encouragement of county and district agricultural fairs.

Examination of books and records

The Department of Finance, in its discretion, may at any time examine the books and records of any fair to determine the correctness of any statement or report filed with the Department of Finance.

CHAPTER 1062

Stats 1935, p 496, amended

An act to add Section 32.5 to the Insurance Code, and to add Article 2.5 to Chapter 5, Part 2, Division 1 of said code, relating to life insurance and life insurance analysts.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 32.5 is hereby added to the Insurance Code, to read as follows:

"Life insurance analyst"

32.5. "Life insurance analyst" means a person who, for a fee or compensation of any kind, paid by or derived from any person or source other than an insurer:

(a) On behalf of another person transacts life insurance with, but not on behalf of, an insurer; or,

(b) Advises, purports to advise, or offers to advise any person insured under, named as beneficiary of, or having any interest in, a life insurance contract, in any manner concerning that contract or his rights in respect thereto.

New article

SEC. 2. Article 2.5, comprising Sections 1720 to 1720.13, inclusive, is hereby added to the Insurance Code, to read as follows:

Article 2.5. Life Insurance Analysts

Persons exempted

1720. The following persons are exempt from this article:

(a) Active members of the State Bar of California.

(b) Licensed life agents, while lawfully acting for a life insurer as its agent.

(c) Fellow or associate members of the American Institute of Actuaries or the Actuarial Society of America.

(d) An officer or employee of any bank or trust company who receives no compensation from sources other than the bank or trust company for activities connected with his employment which would otherwise subject him to this article.

(e) Any person employed by an employer who on behalf of his employer or any employee of his employer transacts life insurance with, but not on behalf of an insurer; or,

Advises his employer or any employee of his employer in any manner concerning life insurance; if:

(1) The employer receives no compensation by reason of such transactions or advice; and

(2) Such person receives no compensation from any source other than his employer for such transactions and advice.

Eligibility for license

1720.01. An employee or officer of any insurer or a person licensed under Articles 1 or 2 of this chapter is not eligible for license as a life insurance analyst. A life insurer shall not pay a life insurance analyst any commission directly or indirectly, on any life insurance transacted by a life insurance analyst.

Commission

Qualifications

1720.02. A license to act as life insurance analyst shall not be issued to any person not residing in this State, nor to any person who is under 21 years of age at the time of application.

Application

1720.03. Such license shall be obtained only on a written application on a form prescribed by the commissioner. The commissioner may decline to act upon an incomplete or defective application until amendments or an amended application are filed with him which complete the prescribed form and are properly executed. He may prescribe the form of such amendments or amended application.

Interrogatories

1720.04. The applicant shall answer under oath such interrogatories as the commissioner himself or through his deputies propounds on forms prepared by the commissioner.

Issuance of license

1720 05. A license shall not be issued until the commissioner has satisfied himself upon evidence presented and recorded as to the integrity of the applicant and that the applicant:

(a) Is of good business reputation and of good general reputation.

(b) Has a thorough knowledge of life insurance.

(c) Has not participated in or been connected with any business transaction which, in the opinion of the commissioner, tends to show unfitness to act in a fiduciary capacity or to maintain the standards of fairness and honesty required of a trustee or other fiduciary.

(d) Has not wilfully misstated any material fact in an application to the commissioner for a license or in a document filed in support of such an application, and has not obtained his license by concealment or knowing misrepresentation.

(e) Is a fit and proper person to hold the license applied for.

(f) Does not seek the license for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this State.

(g) Has within six months preceding issuance of the license taken and passed the qualification examination provided in this article.

(h) Has filed the bond required by this article.

Grounds for refusing license

1720.055. The commissioner may decline to issue a license if an applicant:

(a) Has been refused a license or had a license revoked by any public authority for reasons which indicated lack of honesty or integrity or which showed improper business practice on the part of the applicant.

(b) Has been convicted of a misdemeanor or felony denounced by this code or one of the elements of which involved the misappropriation of money or property.

(c) Has committed an act forbidden by this code.

Notice and hearing

1720.06. A license shall not be refused by the commissioner on the basis of Section 1720.05, excepting subdivisions (g) and (h), without hearing on notice to the applicant held within 60 days after his application is filed in proper form.

Examination

1720.07. The commissioner shall conduct or arrange for a written examination, to be given at least twice a year upon questions prepared by the commissioner, as to the qualifications of the applicant to act as life insurance analyst.

Scope

1720.08. The examination shall be of sufficient scope to satisfy the commissioner that the applicant has sufficient knowledge of and is thoroughly familiar with the life and/or disability insurance laws of this State, and with the provisions, terms, and conditions of life insurance contracts written on residents of this State, and has a thorough and complete knowledge of life insurance.

Applicant's bond

1720.09. Every applicant for a license to act as a life insurance analyst shall file with his application or maintain in effect a satisfactory bond to the people of the State of California, duly executed by an admitted surety insurer, approved by the commissioner, in the amount of two thousand dollars ($2,000). Such bond shall be continuous in form and the total aggregate liability on such bond shall be limited to the amount of the penalty of the bond.

The bond shall indemnify any person who may be damaged by any fraudulent act or conduct of the licensee in connection with his activities as a life insurance analyst and shall be conditioned upon the faithful accounting and application of all moneys coming into his possession in connection with his activities as a life insurance analyst.

The bond shall remain in force and effect until the surety is released from liability by the commissioner, or until the bond is canceled by the surety. The surety may cancel the bond and be relieved of further liability thereunder by delivering 30 days' written notice to the commissioner. Such cancellation shall not affect any liability incurred or accrued thereunder prior to the termination of the 30-day period. The right of the licensee to act under his license terminates on cancellation of the bond and may be revived only by the furnishing of another bond during the license period in which cancellation occurred.

Expiration and renewal of license

1720.1. Unless revoked by the commissioner, the license of a life insurance analyst shall expire at the same time and be renewed in the same manner as licenses of life insurance agents. The fee for filing application for issuance or renewal of license to act as a life insurance analyst is ten dollars ($10). The fee for giving the qualifying examination for life insurance analyst is twenty-five dollars ($25).

Applicability of sections

1720.11. The provisions of Sections 780, 781, 782 and 784 and Article 3 of this chapter are applicable to licensees and applicants for license under this article, and the words "insurance agent" used in that article include licensees and applicants for license under this article.

Violations

1720.12. Any person who acts, offers to act, or assumes to act, as a life insurance analyst when not licensed by the commissioner as provided by this article, or after such license granted to him has been suspended or revoked, unless proceedings are pending in the courts to review the act of the commissioner, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than one year or by both such fine and imprisonment.

Penalty

Same

1720.13. Any person who acts, offers to act or assumes to act as a life insurance analyst in violation of Section 1720.12 is guilty of a public nuisance and may be enjoined from so doing pursuant to Section 12928 6.

Constitutionality

SEC. 3. If any of the provisions of the Insurance Code added or amended by this act, or the application thereof to any person or circumstance, is held invalid, the remainder of such provisions, or their application to other persons or circumstances shall not be affected thereby.

Operative period

SEC. 4. The sections added to the Insurance Code by this act shall not be effective after September 30, 1945.

CHAPTER 1063

Stats 1935, p 496, amended

An act to amend Sections 1020, 1021, 4022, 4023, 4042, 4043, 4045, 4060, 4062, 1063, 1064, 1080, 1082, 1084, 4085, 5000 and 5022, and to repeal Sections 5001, 5002, 5003 and 5004 and Article 6, consisting of Sections 5020 and 5021, of Chapter 4, Part 1, Division 2 of the Insurance Code and to add Sections 4064.5 and 4065 thereto, all relating to insurance.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 610

SECTION 1. Section 4020 of the Insurance Code is hereby amended to read as follows:

Purposes

4020. Corporations may be formed under the general corporation law for the purpose of making contracts for fire insurance, automobile insurance, or both, covering the property of their members.

Stats 1935, p 610

SEC. 2. Section 4021 of the Insurance Code is hereby amended to read as follows:

By-laws

4021. The directors of any such insurer shall adopt such by-laws, not in conflict with the laws of this State, as they deem proper for the government of its affairs and the conduct of its business. Such by-laws shall provide for the liability of its members in accordance with the provisions of this chapter.

Stats 1935, p 610

SEC. 3. Section 4022 of the Insurance Code is hereby amended to read as follows:

Dividends and net cash surplus

4022. An insurer formed under this chapter shall not make any dividend except from profits on hand after retaining unimpaired a net cash surplus of one hundred fifty thousand dollars ($150,000) over and above the aggregate of all liabilities together with reinsurance reserve. It shall also retain not less than 5 per cent per annum of all profits thus available for dividends until two hundred thousand dollars ($200,000) is accumulated in such a net cash surplus.

Dividends shall not be paid out of surplus required by or accumulated pursuant to this section.

Stats 1935, p 611

SEC. 4. Section 4023 of the Insurance Code is hereby amended to read as follows:

Investment of net cash surplus

4023. The net cash surplus accumulated pursuant to Section 4022 shall be invested in the manner provided for in Article 3, of Chapter 2, of Part 2, Division 1, but shall not

be invested in securities described by Sections 1176, 1177 and 1178.

SEC. 5. Section 4042 of the Insurance Code is hereby amended to read as follows: Stats 1935, p 611

4042. Any member may withdraw at any time by requesting cancellation and surrendering his policy to the insurer. The insurer may retain the customary short rate for the expired portion of the policy period. Withdrawal

SEC. 6. Section 4043 of the Insurance Code is hereby amended to read as follows: Stats 1935, p 611

4043. The insurer may cancel any policy by giving the insured five days' written notice to that effect. Upon surrender of the policy the insurer shall return to the insured that proportion of the premium which the unexpired portion of the term of the policy bears to the stated term of the policy less any sums due the insurer from assessments prior to cancellation. Cancellation by insurer

Where cancellation is effected by either the insurer or the member the member is liable to the insurer for:

(a) His share of all losses which have occurred during the time the policy was in force, unless the policy was not subject to assessment as provided in this article.

(b) All unpaid assessments levied against him pursuant to this chapter.

SEC. 7. Section 4045 of the Insurance Code is hereby amended to read as follows: Stats 1935, p 611

4045. It may, in its by-laws, limit the liability of its members for the payment of the losses and expenses not provided for by its cash funds to the amount of one annual premium equal and in addition to the annual cash premium of the insured on each policy in force. Limiting liability

If an insurer subject to this chapter has a surplus of admitted assets over all liabilities in a sum equal to one and one-half times the minimum paid-in capital required of incorporated insurers issuing policies on a reserve basis and transacting the same classes of insurance, the commissioner, upon written request, shall issue his certificate stating such fact. Members of an insurer so certified shall have no liability for assessment on policies issued while such certificate remains in effect. No assessment liability where certificate issued

Whenever the commissioner finds that such fact does not exist, he shall revoke and require the surrender of his certificate. Upon revocation of such certificate no policy shall thereafter be permitted by the insurer to remain in force beyond the term of the policy or the date fixed for the next payment of premium without written indorsement thereon providing for assessment liability pursuant to this chapter.

Stats 1935, p 611

SEC. 8. Section 4060 of the Insurance Code is hereby amended to read as follows:

Term of policy

4060. Such insurer may issue fire policies for a term not exceeding five years.

Stats 1935, p 612

SEC. 10. Section 4062 of the Insurance Code is hereby amended to read as follows:

Limit of risk

4062. Policies insuring against the peril of fire shall not be issued in an amount in excess of two thousand five hundred dollars ($2,500) on any one risk, except:

(a) When protected by reinsurance in admitted insurers.

(b) After there is a total of one million dollars ($1,000,000) of fire insurance outstanding on the books of the insurer, for each additional such total of one million dollars ($1,000,000) an additional one thousand dollars ($1,000) a risk may be assumed.

Stats 1935, p 612

SEC. 11. Section 4063 of the Insurance Code is hereby amended to read as follows:

"One risk" defined

4063. For the purpose of Section 4062, any subject matters of insurance situated in the same city block, or separated by less than 100 feet of space free from combustible material likely to communicate fire, constitute one risk. In the case of insurance against fire loss to automobiles, the location of any risk shall be determined by the location specified in the policy.

Stats 1935, p. 612

SEC. 12. Section 4064 of the Insurance Code is hereby amended to read as follows:

Requisites for beginning business

4064. A policy of insurance shall not be issued by any such insurer until it has procured a certificate of authority from the commissioner authorizing it to transact the classes of insurance included in the policy. The commissioner shall not issue a certificate of authority to such an insurer until it has on hand at least two hundred thousand dollars ($200,000) in cash, at least one hundred fifty thousand dollars ($150,000) of which shall be in excess of all liabilities including as a liability the reserve for unearned premiums.

An insurer organized under this chapter shall not issue any policy of fire insurance until at least five hundred thousand dollars ($500,000) of insurance, in at least 500 separate risks other than fire insurance on motor vehicles have been subscribed for and are entered upon its books, and upon which at least twenty-five thousand dollars ($25,000) has been collected in premiums from such subscribers.

SEC. 12.5. Section 4064.5 is hereby added to the Insurance Code, to read as follows: New section

4064.5. Any domestic insurer organized under this chapter which has prior to January 24, 1941, procured from the commissioner a permit to solicit subscriptions or collect premiums for insurance and prior to the expiration of such permit has complied with all the provisions thereof, upon proof of compliance with all of the provisions of this chapter, other than Sections 4064 and 4084 as amended, and upon proof of compliance with the provisions of Sections 4064 and 4084 as they existed on January 24, 1941, shall receive a certificate of authority to transact insurance under this chapter. Such insurer may continue to transact insurance in accordance with the provisions of Sections 4064 and 4084 as they existed on January 24, 1941, until December 31, 1943, and subject to compliance with other provisions of this chapter, it may continue to transact insurance if after that date and until December 31, 1947, it maintains a surplus of not less than twenty-five thousand dollars ($25,000). Such an insurer may, subject to compliance with other provisions of this chapter, continue to transact insurance after December 31, 1947, if after that date and until December 31, 1951, it maintains a surplus of not less than seventy-five thousand dollars ($75,000). On and after January 1, 1952, the provisions of Sections 4064 and 4084 as they then or may thereafter exist are applicable to such an insurer. Certificate of authority to transact insurance

"Surplus" as used in this section means the amount by which the admitted assets of the insurer exceed the aggregate of its liabilities for losses reported, expenses, taxes, and all other indebtedness together with its reinsurance reserve.

Any insurer referred to in this section, may, prior to December 31, 1951, elect by written notice to the commissioner to transact insurance under the provisions of Sections 4064 and 4084 as they exist after January 24, 1941. Upon the filing of such written election with the commissioner, specifying the date upon which it is to be effective, such an insurer is subject to all of the provisions of Sections 4064 and 4084 as so amended from and after the date specified in the notice of election.

SEC. 13. Section 4065 is hereby added to Article 4, Chapter 4, Part 1, Division 2 of the Insurance Code, to read as follows: New section

4065. Such an insurer shall not issue any policy of automobile insurance until applications for automobile insurance have been made to it and subscribed for by at least 500 applicants upon at least 500 motor vehicles. Requisites for issuing automobile insurance

If at any time an insurer fails to meet or maintain the minimum requirements of the preceding sentence, the commissioner shall notify it to meet such requirements within 60 days after notice; if the insurer fails so to do, it shall not issue any

policies of automobile insurance until it has on hand applications for such insurance which together with policies in force are equal to, or in excess of, the requirements of the preceding sentence.

Stats 1935, p 612

SEC. 14. Section 4080 of the Insurance Code is hereby amended to read as follows:

Limit on expenses

4080. For any calendar year the incurred expenses of such insurer, excepting losses paid, loss adjustment expenses, dividends, and taxes shall not exceed the sum of the following amounts:

(a) Forty per cent of the net premium earned during that year after deducting therefrom net earned reinsurance premiums for that year.

(b) Reinsurance commissions received on reinsurance ceded by it.

Commissions on reinsurance are the property of the ceding insurer.

Stats 1935, p 612

SEC. 15. Section 4082 of the Insurance Code is hereby amended to read as follows:

Action by commissioner

4082. If the insurer fails to exercise reasonable diligence or refuses to recover excess expense moneys paid, the commissioner, for the benefit of the policyholders, may recover the moneys from any one or all of the persons made liable by this article. Such failure or refusal constitutes grounds for institution by the commissioner of proceedings under Article 14, Chapter 1, Part 1, Division 1.

Stats 1935, p 612

SEC. 16. Section 4084 of the Insurance Code is hereby amended to read as follows:

Assessments

4084. Such insurer shall maintain its admitted assets at an amount equal to, or in excess of, the aggregate of its accrued losses, other liabilities, reinsurance reserve and the surplus required by Section 4064 or 4064.5, whichever is applicable. Whenever such funds fall below such amount, the insurer shall assess its members, each in proportion to his liability, if any, a sum sufficient to make up the deficit. Failure or refusal by an insurer to levy the assessments required by this section after 30 days' notice from the commissioner so to do is grounds for institution by the commissioner of proceedings under Article 14, Chapter 1, Part 1, Division 1.

Stats 1935, p 612

SEC. 17. Section 4085 of the Insurance Code is hereby amended to read as follows:

Assessment book

4085. The insurer shall record, in a book kept for that purpose, the order of such assessment together with a statement setting forth the condition of the insurer at the date of

the order. Such statement shall include the amount of its admitted assets at their current market value, the amount of the assessment called for and the aggregate amount of premiums on policies on which an assessment liability exists.

SEC. 18. Sections 5001, 5002, 5003 and 5004 of the Insurance Code are hereby repealed. Repeals

SEC. 19. Section 5000 of the Insurance Code is hereby amended to read as follows: Stats 1935, p 613

5000. A foreign mutual fire insurer which has been admitted to transact insurance under this chapter prior to January 1, 1941, may continue to transact insurance in accordance with the provisions of this chapter as they existed on that date and until July 1, 1943, at which time the provisions of this chapter as they then or may thereafter exist are applicable to such an insurer. Any such insurer may, prior to July 1, 1943, elect by written notice to the commissioner to transact insurance under the provisions of this chapter as they exist after January 1, 1941. Upon the filing of such written election with the commissioner, specifying the date upon which it is to be effective, such an insurer is subject to all the provisions of this chapter as so amended from and after the date specified in the notice of election. Continuation of business

SEC. 20. Article 6, entitled "Finances and Statements" and consisting of Sections 5020 and 5021, of Chapter 4, Part 1, Division 2, of the Insurance Code, is hereby repealed. Repeal

SEC. 21. Section 5022 of the Insurance Code is hereby amended to read as follows: Stats 1935, p 614

5022. Any domestic insurer operating under this chapter is insolvent whenever its admitted cash assets are less than the surplus required by Section 4064 plus the aggregate of its liabilities for losses reported, expenses, taxes and all other indebtedness together with its reinsurance reserve. Insolvency

The contingent liability to assessment of the members of an insurer operating under this chapter shall not be considered as an asset of the insurer by the commissioner in determining the financial condition of the insurer.

CHAPTER 1064

An act to further the education of children of disabled World War veterans by allowing free tuition in State-owned colleges and universities.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Disabled veterans' children exempt from fees

SECTION 1. No State-owned college, university, or other school shall charge any tuition, or incidental fees to any child of any veteran of the United States military service who has a service connected disability, and whose annual income both from earnings and from governmental compensation does not exceed one thousand eight hundred dollars ($1,800); provided, that nothing in this act contained shall prevent The Regents of the University of California from charging to and collecting from nonresident students an admission fee and rate of tuition in accordance with the provisions of Section 1394½ of the Political Code, nor shall anything in this act prevent the charging and collecting of fees required of nonresident students admitted to colleges and schools under the jurisdiction of the Department of Education, or the Director of Education.

Repeal

SEC. 2. Any laws or portions thereof in conflict with Section 1 of this act are hereby repealed.

CHAPTER 1065

Stats 1939, p 482, amended

An act to amend Section 19150 of the Health and Safety Code, relating to the protection of buildings against earthquakes.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Stats 1939, p 946

SECTION 1. Section 19150 of the Health and Safety Code is hereby amended to read as follows:

Horizontal force resistance

19150. Every building of any character, except a building to which this chapter does not apply, constructed in any part of this State shall be designed and constructed to resist and withstand horizontal forces from any direction of not less than either of the following, whichever is the greater:

(a) Two per cent of the total vertical design load.

(b) Twenty pounds per square foot of wind pressure on the vertical projection of the exposed surface of every portion of the building more than 60 feet in height, and 15 pounds per square foot of wind pressure on the vertical projection of the exposed surface of every portion of the building 60 feet or less in height.

CHAPTER 1066

An act to amend Sections 658 and 659 of, to repeal Section 658.3 of, and to add Section 658.1 to, the Fish and Game Code, relating to the taking of salmon. Stats 1933, p 394, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 658 of the Fish and Game Code is hereby amended to read as follows: Stats 1937, p 1372

658. In Districts 10 and 11, salmon may be taken with hook and line between May 1st and August 31st. There is no bag limit. The size limit is as provided in Section 661 of this code. Salmon

SEC. 2. Section 658.3 of the Fish and Game Code is hereby repealed. Stats 1941, p 2060

SEC. 3. Section 658.1 is hereby added to the Fish and Game Code, to read as follows: New section

658.1. In Districts 10 and 11, salmon may be taken with hook and line between September 1st and October 31st. The bag limit is two per day. Not more than one daily bag limit may be possessed by any person during any one day. No such salmon may be sold. Salmon

SEC. 4. Section 659 of the Fish and Game Code is hereby amended to read as follows: Stats 1933, p 456

659. In Districts 12B, 12C and 13, salmon may be taken with hook and line, at any time. The bag limit is two per day for salmon so taken. Salmon

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CHAPTER 1067

An act to amend the title and Sections 1a, 1b, 1c, 2, 3, 3a, 4, 5, 7, 8, 9, 12, 14, 15, 16, 17, 18 and 19 of the Municipal Improvement Act of 1913, and to add Sections 1e and 14a thereto, relating to the construction of public improvements, the levy of assessments and the limitation thereof and the issuance of bonds. Stats 1913, p 421, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The title to the Municipal Improvement Act of 1913 shall be and hereby is amended to read as follows: Stats 1941, p 91

An act to provide for the acquisition, installation, construction, reconstruction, extension, repair and maintenance Title

Stats 1911, p 730

of works and improvements mentioned in the Improvement Act of 1911 and of public utilities and other public works by municipalities, cities and counties, counties, and by any district or public corporation authorized by law to construct such public improvements, or by combination thereof; for the assessment of the cost and expenses thereof upon the property benefited; and for the issuance of bonds to represent such assessment; providing that such proceedings shall be subject to the Special Assessment Investigation, Limitation and Majority Protest Act of 1931.

Stats 1931, p 1372

Stats 1941, p. 91

SEC. 2. Section 1a of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Construction, repair, etc., of streets, etc.

Sec. 1a. Whenever the public interest or convenience may require, the city council of any municipality may also install, construct, reconstruct, extend, repair and maintain any or all of the works and improvements mentioned in the Improvement Act of 1911 and acquire by gift or purchase land and rights of way and easements necessary therefor. Whenever in this act any improvement is described or referred to as provided in Section 1 hereof, this reference shall also be deemed to include each and all of the improvements referred to in this section and improvements referred to elsewhere in this act, unless otherwise expressly limited.

Stats. 1941, p 92

SEC. 3. Section 1b of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Provisions of Stats 1911, p 730, incorporated

Sec. 1b. The provisions of Section 1a of the Improvement Act of 1911 are incorporated herein by reference. The reference in that section to Section 1 of the same act shall be deemed and is hereby declared to refer to Sections 1 and 1a of this act. Whenever in the opinion of the city council initiating proceedings under this act, the proceedings involve a comprehensive scheme of improvement as is more particularly described in Section 1a of the Improvement Act of 1911, then the power and authority vested by the provisions of that section in the several legislative bodies referred to in that section shall be vested under this act in the same legislative bodies. Wherever any proceeding is initiated under this act by a legislative body other than that of a city or county, then if any of the lands to be assessed lie within the corporate limits of any municipal corporation or municipal corporations, the consent by resolution of the legislative body of such municipal corporation or municipal corporations shall be obtained before the proposed assessment shall be confirmed, and if any of the lands to be assessed lie within unincorporated territory the consent by resolution of the legislative body of such county shall be obtained before the proposed assessment shall be confirmed.

Proceedings initiated by legislative body other than that of city or county

Stats 1941, p 92

SEC. 4. Section 1c of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Alternative procedure

Sec. 1c. As an alternative procedure for constructing any improvement authorized under said Improvement Act of 1911, the city council may pass a resolution of intention to

do such work, such resolution containing a provision that the work shall be instituted when any local, State or National agency or authority accepts the proposed work as a project for which a contribution of labor, or labor and any portion of materials, supplies or equipment will be made by such agency or authority. Under such alternative procedure the work to be done by the contractor shall consist of furnishing all or any part of the labor, materials, supplies and equipment necessary for the construction of the improvements. Provided, however, that under such alternative the work may be performed or the labor, material, supplies and equipment furnished without calling for bids in the same manner as provided in Section 14 hereof. Whenever such alternative procedure is adopted, the resolution shall recite that fact and shall state the name of the agency or authority which is to make the contribution and the contribution which is to be made. The resolution shall also state the work to be done by the contractor or by the city. In all other particulars the resolution shall conform to the provisions of Section 2 of this act. However, nothing in this section shall prevent the acceptance of contributions not mentioned in the resolution of intention for any improvements mentioned in this section, and for that purpose Section 84 of the Improvement Act of 1911, as added by Chapter 1032 of the Statutes of 1933, is incorporated herein by reference thereto.

Bids not required

Recitals in resolution

Stats. 1911, p. 730

SEC. 5. Section 1e is hereby added to the Municipal Improvement Act of 1913, to read as follows:

New section

Sec. 1e. Before any ordinance or resolution of intention may be adopted, or other initial action prescribed by this act may be taken by the legislative body of any county, city, city and county, district or other public corporation, for the construction of any public improvement or the acquisition of any property for public use where the cost of such construction or acquisition is to be paid in whole or in part by special assessments or through special assessment taxes on lands, the proceedings required by the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 shall be taken; provided, however, that it shall not be necessary to take proceedings pursuant to said act when one or more of the following situations exist: (1) when the proceedings are undertaken by a district or public corporation within one year of its incorporation, and the proposed improvements are substantially described in an investigation proceeding had under the District Investigation Act of 1933 for the incorporation of said district or public corporation; or (2) when said improvement proceedings are by a charter city, and said city has complied with the provisions of Section 17 of Article XIII of the Constitution; or (3) when all of the owners of more than 85 per cent in area of the property subject to assessment for said proposed improvement have signed and filed with the clerk or secretary of the legislative body undertaking said proceedings a written petition for said improvements and waiver of

Proceedings required

Stats. 1931, p. 1372

Exceptions

Stats. 1933, p. 2141

said investigation proceedings. The words "substantially described" as herein used shall be deemed to mean that additional improvements of the same or similar nature may not be provided unless the estimated cost thereof shall not exceed 10 per cent of the estimated cost of the improvements provided for in said former report.

Stats 1913, p 421

SEC. 6. Section 2 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Resolution of intention

Sec. 2. Before ordering any improvement to be made which is authorized by Section 1 of this act, the city council shall adopt a resolution declaring its intention to do so, briefly describing the proposed improvement, and specifying the exterior boundaries of the district to be benefited by said improvement and to be assessed to pay the cost and expenses thereof, and to be known as the assessment district; provided, however, that the city council may, in its discretion, order, in said resolution of intention, that a certain portion or percentage of the cost and expenses of said improvement, the amount of which portion or percentage shall be specified in said resolution, shall be paid out of the treasury of the municipality, from such fund as the city council may designate.

Kinds of work

Said proposed improvement may include any or all of the different kinds of work mentioned in Section 1 of this act; provided, however, that the maintenance of appliances or the furnishing of electric current, gas, or other illuminating agent, shall be for a period stated in the resolution of intention, but not exceeding two years. The city council shall also, in the same resolution, refer the proposed improvement to the board, commission or officer of the city having charge and control of the construction of public improvements of the kind described in such resolution, or to the city engineer, or to such other board or officer of the city, or competent person employed by the city for the purpose, as the council may name in said resolution, and direct such board, commission, officer or person to make and file with the clerk of the council a report in writing, presenting the following:

Plans and specifications

1. Plans and specifications of the proposed improvement, excepting in so far as said improvement includes the acquisition of works or appliances already installed and any other property necessary or convenient for the operation thereof, or the acquisition of the use of any such works, appliances and property, as provided for in Section 1 of this act, as to which works, appliances and property such report shall contain a general description thereof.

Estimate of cost

2. An estimate of the cost of said improvement and of the cost of lands, rights of way and easements and of the incidental expenses in connection therewith.

Diagram of district

3. A diagram showing the assessment district above referred to, and also the boundaries and dimensions of the respective subdivisions of land within said district as the same existed at the time of the passage of the resolution of intention, each of

which subdivisions shall be given a separate number upon said diagram.

Assessment according to benefits

4. A proposed assessment of the total amount of the cost and expenses of the proposed improvement upon the several subdivisions of land in said district in proportion to the estimated benefits to be received by such subdivisions, respectively, from said improvements; provided, that whenever any portion or percentage of the cost and expenses of such improvement is ordered to be paid out of the treasury of the municipality, as hereinbefore provided, the amount of such portion or percentage shall first be deducted from the total estimated cost and expenses of such improvement, and the assessment upon property, proposed in said report shall include only the remainder of said estimated cost and expenses. Said assessment shall refer to such subdivisions upon said diagram by the respective numbers thereof.

Amount paid out of treasury deducted

Stats 1913, p 423

SEC. 7. Section 3 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Consideration of report

Sec. 3. Upon the filing of the report provided for in Section 2 of this act, the said clerk shall present the same to the city council for consideration, and said council may modify the same in any respect, and, in case of any such modification, the report, as modified, shall stand as the report for the purpose of all subsequent proceedings except that the report may be confirmed, modified or corrected as provided in Sections 3a and 5 hereof. Thereafter, the council, by resolution, shall appoint a time and place for hearing protests in relation to the proposed improvement, which time shall not be less than 30 days from the date of the passage of said resolution, and shall direct the clerk of the city council to give notice of said hearing as provided in Section 4 hereof, and shall designate a daily or weekly newspaper published and circulated in said city in which such notice shall be published.

Hearing of protests

Stats 1911, p 93

SEC. 8. Section 3a of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Modification of report

Sec. 3a. Whenever the report is modified as is provided for in Section 5 hereof, except where the modification is directed to the amounts of the assessments, the provisions of Section 6 of the Improvement Act of 1911 shall be followed.

Stats 1913, p 423

SEC. 9. Section 4 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Notices of local improvement posted

Sec. 4. After the passage of the resolution of intention and the filing of the said report and the setting of the time and place for hearing protests, the clerk of the said city council shall cause to be conspicuously posted on all the open streets within such district, at not more than 300 feet apart on each street so posted, but not less than three in all, notices of the passage of said resolutions. Said notice shall be headed "Notice of Local Improvement," in letters of not less than one inch in height, and shall in legible characters, state the fact and date of passage of the resolution and of the filing of said report and the date, hour and place set

for the hearing of said protests, and briefly describe the improvement proposed to be made or acquired, and refer to said resolution of intention and report for further particulars.

Publication

He shall also cause a notice similar in substance to be published by two successive insertions in a daily or weekly newspaper, published and circulated in said municipality, and designated by said council for that purpose. Said notices must be posted and published, as above provided, at least 20 days before the date set for hearing of said protests. No proceeding shall ever be held invalid for failure to post any street or streets therein as above provided if these provisions have been substantially complied with. The clerk shall mail or cause to be mailed notices of the adoption of the resolution of intention and the filing of said report, postage prepaid, at least 20 days before the date set for hearing of said protests, to all persons owning real property proposed to be assessed, whose names and addresses appear on the last equalized assessment roll for city taxes prior thereto or as known to the clerk but failure of the clerk to mail said notice to any such property owner or failure of any such property owner to receive the same shall in no wise affect the validity of any proceedings taken hereunder. Such notice shall contain a statement of the time, place and purpose of the hearing on the resolution of intention and report and a statement of the total estimated cost of the proposed improvement, the amount, as shown by the said report, to be assessed against the particular parcel covered by the notice together with a statement that any person interested may file a protest in writing as provided in this act.

Substantial compliance sufficient

Mailing notices to property owners

Affidavit of clerk

The clerk of the council shall upon the completion of the mailing of said notices, file with the city council an affidavit setting forth the time and manner of the compliance with the above requirements for publishing, posting and mailing such notices.

Stats 1913, p 423

SEC. 10. Section 5 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Written protest

Sec. 5. Any person interested, objecting to said improvement, or to the extent of the assessment district, or to the proposed assessment provided for in Section 2 of this act, may file a written protest with the clerk of the city council at or before the time set for the hearing referred to in Section 3 hereof. The clerk shall indorse on every such protest the date of its reception by him, and, at the time appointed for the hearing above provided for, shall present to said council all protests so filed with him. If such protests be against said improvement and said city council find that the same are signed by the owners of a majority or more of the area of the lands within said assessment district, all further proceedings under said resolution of intention shall be barred, and no new resolution of intention for the same improvement shall be passed within one year after the presentation of such protests to the city council. If such protests are against the improvement, and the council find that they are not signed

Majority may bar resolution

by the owners of a majority or more of the area of the lands within the assessment district, or if such protests are against the extent of the assessment district, the council shall hear said protests at the time appointed therefor, as above provided, or at any time to which the hearing thereof may be adjourned, and pass upon the same and its decision shall be final and conclusive, and if such protests are sustained the proceedings shall be abandoned but may be renewed at any time, and if such protests are denied the proposed assessment shall be confirmed. If such protests are against the proposed assessment, the council shall hear said protests at the time appointed therefor, as above provided, or at any time to which the hearing thereof may be adjourned, and may confirm, modify or correct said proposed assessment.

Decision final

When, upon the hearing, said proposed assessment is confirmed, as filed or as modified or corrected, the city council shall, by resolution, order said proposed improvement to be made or acquired, and declare its action upon said report and assessment, which resolution shall be final and conclusive on all persons, and the assessment shall be thereby levied upon the respective subdivisions of land in the assessment district.

Order of improvement

SEC. 11. Section 7 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Stats 1913, p 424

Sec. 7. Upon the passage of the resolution provided for in Section 5 hereof, the clerk of said city council shall transmit to the city tax collector the diagram and assessment provided for in Subdivisions 3 and 4 of Section 2 hereof, and any modifications or corrections thereof made by said city council. If other than a municipal corporation is conducting the proceeding then the diagram and assessment shall be transmitted to and recorded by the corresponding officer of the entity conducting the proceeding, which officer shall be the county surveyor if a county is conducting the proceeding, and such officer shall perform the duties hereinafter provided for the tax collector. If neither a municipal corporation nor a county is conducting the proceeding then, in addition to transmitting and recording the diagram and assessment as above provided, a certified copy of such diagram and assessment shall be recorded with the county surveyor if the improvement district or any part thereof is in unincorporated territory and with the superintendent of streets of the city or cities if the improvement district or any part thereof is in incorporated territory for the purpose of giving constructive notice of the creation of the assessment lien.

Transmitting diagram and assessment

SEC. 12. Section 8 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Stats 1913, p 424

Sec. 8. Upon receipt of the diagram and assessment referred to in the last preceding section, the tax collector shall record the same in a substantial book, to be kept for that purpose, in his office Upon the date of such recordation (or in the event of recordation of a certified copy with the county surveyor or the superintendent of streets of the city or both

Recordation of diagram and assessment

Lien of assessment

as provided in Section 7, then upon that date) the assessment shall become a lien and be due and payable, and if not paid within 60 days thereafter, except for all unpaid assessments for which bonds are to be issued, shall become delinquent and

Delinquency

thereupon, for all assessments unpaid for which bonds are not to be issued 5 per cent of the amount of each such assessment shall be added thereto. Notice thereof shall be given in the manner and form and at the times specified in Section 22 of

Stats 1903, p 376

the Street Opening Act of 1903. The tax collector shall also fix a time and place for the sale of various parcels of land upon which the assessments are unpaid, which said date shall be not less than 60 days, nor more than six months, from the date of the recordation of said diagram and assessment.

Stats 1913, p 425

SEC. 13. Section 9 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Notice of sale for delinquency

Sec. 9. The tax collector shall, within 10 days after the date of such delinquency, begin the publication of a notice of sale of the property upon which the assessments have not been paid, which publication must be made by two insertions in a daily or weekly newspaper, published and circulated in the city. The description of the various parcels of land need not be set out at length, but they may only be designated in such notice by the respective numbers of the same as they appear upon the assessment and diagram, which shall be properly referred to therein. Opposite the description or designation of each parcel of land shall be set out in such notice, the name of the owner as it appears on the last equalized assessment roll for city taxes prior thereto or as known to the tax collector, the amount assessed against the same, the penalty for delinquency, and its portion of the costs of the sale.

Mailing of notices

At least 15 days prior to the date of the sale, as in Section 8 provided, the tax collector shall mail notices of sale postage prepaid, to the owners of all property upon which the assessments have not been paid, as the same appear on the last equalized assessment roll for city taxes prior thereto or as known to the tax collector. The various parcels shall be designated by their legal description or by street number in addition to their respective numbers as the same appear upon the assessment and diagram. Opposite the description and designation of each parcel in the notice shall be set out the amount assessed against the same, the penalty for delinquency and its portion of the costs of the sale.

The tax collector shall upon the completion of the publishing and mailing of said notices of sale, file with the city council an affidavit setting forth the time and manner of the compliance with the above requirements for publishing and mailing such notices.

Payment prior to sale

At any time after such delinquency, and prior to the sale of any parcels of lands assessed and delinquent, any person may pay the assessment thereon, together with the penalties and costs due thereon, including the cost of advertising, if

such payment is made after the first publication of the notice of sale.

Sale of land

At the time and place fixed therefor, the tax collector shall proceed with such sale, commencing at the head of the list of lands contained in such notice, and continuing in the numerical order thereof until all the property on which the assessments remain unpaid is sold; provided, that he may postpone or continue the sale from day to day until the sale is completed. The tax collector shall separately sell each parcel of land in such published notice on which the assessment remains unpaid, or so much thereof as shall be necessary to realize the amount assessed against the same, together with the penalties and costs as aforesaid, and fifty cents ($0.50) for a certificate of sale. In case there is no other purchaser, the same shall be struck off to the city as purchaser.

Stats 1913, p 426

SEC. 14. Section 12 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Deed to property

Sec. 12. If the property is sold, and is not redeemed within said period of 12 months from the date of the sale, the tax collector shall execute to the person named in the original certificate, or to his assignee on his application, if such purchaser or assignee has complied with the provisions of this section, a deed of the property described in said certificate, which said deed shall refer in general terms to the proceedings under which the same is issued, and shall contain a description of the property, also any assignment thereof, and the fact that no person has redeemed the property. The tax collector shall receive from the applicant for a deed, one dollar ($1) for making such deed, unless the city is the purchaser, in which case no charge shall be made therefor. The purchaser or his assignee, must at least 30 days before he applies for a deed, serve upon the owner of the property, and upon the occupant of such property, if the same is occupied, a written notice, setting forth a description of the property, that said property has been sold for a delinquent assessment (specifying the improvement for which the same was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice, and the time when such purchaser or assignee will apply to the tax collector for a deed. If the said owner can not be found, after due diligence, said notice must be posted in a conspicuous place upon said property at least 30 days before the time stated therein, at which the application for a deed will be made. The person applying for a deed must file with the tax collector an affidavit or affidavits, showing that notice of such application has been given, as herein required, and if the notice was not served on the owner of the property personally, that due diligence was used to find said owner; which affidavit or affidavits must be filed by the tax collector in his office. If redemption of the property is made after such affidavits are filed, and more than 11 months from the date of sale, the person making such redemption must pay, in addition to the other amounts

Notice of application for deed

Affidavit

Redemption

required, three dollars ($3) for the service of notice and the making of such affidavits, which amount shall be paid over to the purchaser, or his assignee, in the same manner as other sums paid for redemption. No deed for any property sold for delinquent assessment shall be made until the purchaser, or his assignee, has complied with all the provisions of this section, and filed the proper affidavits with the tax collector. Such deed shall convey the title in fee to said property and shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the execution thereof, and the grantee is immediately, upon the receipt thereof, entitled to possession of the property described therein.

Stats 1915, p 987

SEC. 15. Section 14 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Letting contract for improvement

Sec. 14. At any time after the funds for the proposed improvement, or any part thereof, shall be in the hands of said treasurer, the city council may let to the lowest responsible bidder or bidders the contract or contracts for such improvement, or the respective parts thereof, and, in so far as said improvement includes the acquisition of works or appliances already installed and any other property necessary or convenient for the operation thereof, or the acquisition of the use of any such works, appliances and property, as hereinabove provided, the council may authorize such acts and proceedings as may be necessary for the purpose of effecting such acquisition. Every such contract shall be let to the lowest responsible bidder after notice inviting sealed proposals published by two insertions in some newspaper published in such municipality, and designated by the city council for that purpose, or if there be no such newspaper, then by such posting as the city council may provide. The time fixed for the opening of the bids shall not be less than 10 days from the time of the first publication or posting of said notice. Every bid shall be accompanied by a certified check, amounting to 10 per cent of the bid, payable to the order of the clerk of said city council, and the same shall be forfeited to the municipality in case the bidder depositing the same does not, within 15 days after written notice that the contract has been awarded to him, enter into a contract with the municipality for the work, the faithful performance of which shall be secured by an undertaking in such penal sum as the city council shall require, with sureties satisfactory to said council. The contractor shall also furnish a labor and material bond as required by law. The contract must provide that the work shall be done, and the work must be done, strictly in accordance with the plans and specifications contained in the report provided for in Sections 2 and 3 of this act. The work must be done under the supervision of the board, officer or person by whom the report provided for in Section 2 of this act was made, and no work shall be paid for until it has been accepted by said board, officer or person, but this shall not prevent acceptance of and payment for completed portions of the work

Certified check

Work done according to plans

as it progresses. If the contractor abandons the work, or fails to proceed with the same as rapidly as required by his contract, the said city council may relet the work in the same manner as in the case of the first letting thereof, and retain the amount of the cost of the same, and of any expense incidental to the reletting out of any funds due or to become due, to the contractor, and also hold him and his sureties responsible for such cost and expense, and for any damages resulting from such abandonment or failure upon his bond; provided, however, that the city council, in its discretion, may, at any time within 10 days after the award of any contract, as above provided, or at any time within 10 days after the time fixed for the opening of bids, if no bids have been received, order by resolution adopted by a vote of two-thirds of all its members, that said proposed contract be not made, and that the municipality itself execute the work embraced therein, in accordance with the plans and specifications adopted for such work, and employ the labor, and provide the material, appliances, supplies and illuminating agent necessary therefor; and the cost and expenses of such work shall be paid out of the aforesaid funds; and provided further, that the amount appropriated and used from said funds for said purpose shall not exceed the amount of the bid upon which the award of contract aforesaid was made, or, if no bids have been received and the work is to be executed by the municipality itself, as herein provided, such cost and expense shall not exceed the amount of the estimate thereof provided for in Section 2 of this act; and if such cost and expense shall exceed the amount of said bid, or of said estimate in case no bids are received, then such excess shall be met out of any moneys in the general fund in the treasury of said city; and provided further, that at any time after the funds for the proposed improvement, or any part thereof, shall be in the hands of said treasurer, the city council, in its discretion, may, without calling for bids, order, by resolution adopted by a vote of two-thirds of all its members, that the municipality itself perform the work of such improvement, or the respective parts thereof, in accordance with the specifications and plans adopted for such work, and employ the labor, and provide the material, appliances, supplies, and illuminating agent necessary therefor; in which case the cost and expense of such work shall be paid out of the aforesaid funds and if such cost and expense shall exceed the amount of such estimates, then such excess shall be met out of the moneys in the general fund of the treasury of said city.

Abandonment by contractor

City may do work

SEC. 15.5. Section 14a is hereby added to the Municipal Improvement Act of 1913, to read as follows:

New section

Sec. 14a. The provisions of an act entitled "An act to secure the payment of claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements or machinery used or consumed by such contractors in the performance of

Stats 1919, p 487, made applicable

such works and prescribing the duties of certain officers with respect thereto," approved May 10, 1919, as now or hereafter amended, are hereby expressly made applicable to the construction of works and improvements under this act.

Stats 1913, p 427

SEC. 16. Section 15 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Supplemental assessments

Sec. 15. In case the first assessment for any improvement provided for in this act proves insufficient, one supplemental assessment may be made to raise the deficit, in the same manner as nearly as may be, as the first assessment, except that protests may only be made against such supplemental assessment. Such supplemental assessments shall be paid as cash assessments as in this act provided and no bonds shall be issued thereon.

Stats 1913, p 427

SEC. 17. Section 16 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Disposition of excess from assessments

Sec. 16. If at any time an assessment for any such improvement shall realize a larger sum than is necessary therefor, the excess may be spent for the maintenance of the said improvement or as an alternative method of disposition of such excess there shall be applied as a credit to each assessment, or installment thereof, a pro rata share of such excess as each assessment, or installment thereof, bears to all the assessments. Where the assessment or any installment thereof has been paid in cash such credit shall be returned in cash to the person paying the corresponding assessment or installment, upon his furnishing satisfactory evidence of such payment. Where the assessment or any installment thereof is unpaid the credit shall be applied upon such assessment or the earliest unpaid installment, or installments of principal and interest. The resolution of intention shall state whether said excess shall be used for maintenance or shall be credited and/or refunded as herein provided.

Stats 1913, p 427

SEC. 18. Section 17 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Lien of special assessment

Sec. 17. Every special assessment levied under this act shall, from the date of the recordation thereof with the city tax collector, county surveyor or superintendent of streets, be a lien upon the land upon which it is levied paramount to all other liens, except prior assessments and taxation, and such lien shall continue until such special assessment is paid, or until the property is sold and a deed is made therefor to the purchaser, as hereinbefore provided, and all parties shall have constructive notice of such lien from the date of the recordation of the diagram and assessment as referred to in Sections 7 and 8 hereof.

Stats 1941, p 93

SEC. 19. Section 18 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Issuance of bonds

Stats 1911, p 730

Sec. 18. The legislative body conducting the proceedings under the provisions of this act may, in its resolution of intention, determine and declare that bonds shall be issued under the provisions of either the Improvement Act of 1911,

or the Improvement Bond Act of 1915. In any case, the assessment shall be recorded in the office of the superintendent of streets of the city, county surveyor of the county, or district engineer of the district or public corporation conducting the proceedings in the manner and with like force and effect as provided in the Improvement Act of 1911 and the Improvement Bond Act of 1915, and the assessment therefor shall have the priority, and the proceedings shall be subject to all of the curative clauses and powers of reassessment, provided in those acts, except and provided, however; that whenever the proceeding is being conducted by a district or a public corporation other than a municipal corporation or county, no assessment or bond shall become a lien and no person shall be deemed to have notice thereof unless and until a certified copy of said assessment shall be recorded in the office of the county surveyor if the improvement district or any part thereof is in unincorporated territory and with the superintendent of streets of the city or cities if the improvement district or any part thereof is in incorporated territory. In any case, the official in whose office the original of the assessment is recorded shall give the notice to pay the assessments, as provided in this act. If bonds are to be issued under the Improvement Act of 1911, then assessments under twenty-five dollars ($25) shall be subject to the penalties and costs, and collected as provided for cash assessments in the Street Opening Act of 1903.

Stats 1915, p 1441

Recordation of assessment

The city council, at any time after the publication of any resolution of intention adopted hereunder, or the ordering of the improvement or acquisition, or the confirmation of the assessment, or ordering the issuance of bonds, and any contractor, at any time after the award of contract to him, may bring an action in the superior court of the county in which said city is located, to determine the validity of said proceedings, assessment, bonds, contract, improvement or acquisition, or any thereof. Such action shall be brought pursuant to and be governed by the provisions of, and shall have the effect, as provided in Section 16 of said Improvement Act of 1911, except as herein otherwise provided.

Action to determine validity of proceedings, etc

Such bonds may be issued and sold by the city council as they shall determine, and the proceeds thereof shall be deposited in the fund specified in Section 13 hereof. The notice in the resolution of intention shall recite a maximum rate of interest to be paid on such indebtedness, not to exceed 6 per cent per annum payable semiannually, which rate shall not be exceeded in the issuance of said bonds. All said bonds shall be made payable to bearer.

Sale

SEC. 20. Section 19 of the Municipal Improvement Act of 1913 is hereby amended to read as follows:

Stats 1913, p 428

Sec. 19. The following words and phrases shall, where used in this act, have the following meanings:

Definitions

(1) The term "improvement" includes all work and improvements mentioned in Section 1 of this act.

(2) The terms "municipality" and "city" include every incorporated city, city and county or county or other entity authorized to operate under this act as provided in Section 1d.

(3) The terms "city council" and "council" include any body or board in which by law is vested the legislative power of any city or municipality.

(4) The terms "treasurer" and "city treasurer" include any person or officer who has charge and makes payments of the city or municipal funds.

Existing proceedings

SEC. 21. Proceedings commenced under the Municipal Improvement Act of 1913 prior to the effective date of this act may be continued to completion in the same manner and with the same force and effect as if this act had not been enacted.

CHAPTER 1068

Stats 1933, p 2141, amended

An act to add Section 24 to the District Investigation Act of 1935, relating to sanitary and sanitation districts.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. The act cited in the title hereof is hereby amended by adding a new section numbered 24 and to read as follows:

Where act inapplicable

Sec. 24. This act shall not apply to proceedings for the formation of a sanitary or sanitation district when such proceedings have been recommended by the health officer of the county instituting such proceedings as necessary as a health measure, given in writing and spread upon the minutes of the legislative body thereof, and such necessity is found to exist by resolution adopted by the affirmative vote of four-fifths of the members thereof; provided, however, that before adopting the resolution or ordinance of intention to make such improvement, said legislative body shall also find by resolution adopted by four-fifths vote of its members, that in its opinion the contemplated acquisition and/or improvement is one in which the probable assessments will not exceed the limitations set up in this act, that the proposed project is feasible, and the properties to be assessed will be able to carry the burden of such proposed assessments, and that the limitations on the amount of the assessments herein provided may be dispensed with; and provided further, that the majority protest provisions hereof shall apply. The findings and determinations herein provided shall be final and conclusive upon all persons in the absence of actual fraud.

CHAPTER 1069

An act to amend the Streets and Highways Code by adding Section 2808 thereto, relating to the exemption of proceedings for the construction or acquisition of sanitary sewers and sewage disposal works from the Special Assessment Investigation, Limitation and Majority Protest Act of 1931.

Stats 1935, p 248, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2808 is hereby added to the Streets and Highways Code, to read as follows:

New section

2808. None of the provisions of this division, except the majority protest provisions, shall apply to proceedings for the construction of sanitary sewers and sewage disposal works when such proceedings have been recommended by the health officer of the city or county in which such proceedings are instituted as necessary as a health measure, if such recommendation is given in writing and spread upon the minutes of the legislative body conducting said proceedings, and such necessity is found to exist by resolution adopted by the affirmative vote of four-fifths of the members thereof; provided, however, that before adopting the resolution or ordinance of intention to make such improvement, said legislative body shall also find by resolution adopted by a like vote, that in its opinion the contemplated acquisition or improvement is one in which the probable assessments will not exceed the limitations set up in this division, that the proposed project is feasible, that the properties to be assessed will be able to carry the burden of such proposed assessments, and that the limitations on the amount of the assessments set up in this division may be dispensed with. The findings and determinations made by the legislative body pursuant to this section shall be final and conclusive upon all persons in the absence of actual fraud.

Where division inapplicable

CHAPTER 1070

Stats 1935, p 248, amended

An act to amend Sections 2802, 2804, 2820, 2904, 2951 and 3012, and to add Sections 2809 and 2996, to the Streets and Highways Code, relating to waiver of report, limitation of actions, and costs on abandonment under the Special Assessment Investigation, Limitation and Majority Protest Act of 1931.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 752

SECTION 1. Section 2802 of the Streets and Highways Code is hereby amended to read as follows:

"Assessment roll"

2802. As used in this division, "assessment roll" or "taxation assessment roll" when used with reference to a county, or district or other public corporation, means the taxation assessment roll of the county, and when used with reference to a city means the assessment roll of the county in which the city is located unless a correction factor is established for the purpose of determining true value as provided for in Part 8, in which event those terms mean the taxation assessment rolls of the city.

Stats 1941, p 752

SEC. 2. Section 2804 of said code is hereby amended to read as follows:

Where division inapplicable

2804. This division shall not apply to irrigation districts, irrigation district improvement districts, fire districts, fire protection districts or to public cemetery districts, or to any proceeding otherwise subject hereto when one or more of the following situations exist: (1) when the proceedings are undertaken by a district or public corporation within one year of its incorporation, and the proposed improvements are substantially described in an investigation proceeding had under Stats 1933, p 2141 the District Investigation Act of 1933 for the incorporation of said district or public corporation; or (2) when said improvement proceedings are by a charter city, and said city has complied with the provisions of Section 17 of Article XIII of the Constitution; or (3) when all of the owners of more than 85 per cent in area of the property subject to assessment for said proposed improvement have signed and filed with the clerk or secretary of the legislative body undertaking said proceedings a written petition for said improvements and waiver of said investigation proceedings. The words "substantially described" as used herein shall be deemed to mean that additional improvements of the same or similar nature may not be provided unless the estimated cost thereof shall not exceed 10 per cent of the estimated cost of the improvements provided in said former report.

SEC. 3. Section 2809 is hereby added to said code, to read as follows: New section

2809. As used in this division "legislative body" shall include the governing body of any district or other public corporation authorized by law to construct such public improvements. "Legislative body"

SEC. 4. Section 2820 of said code is hereby amended to read as follows: Stats 1941, p 753

2820. Before any ordinance or resolution of intention may be adopted, or other initial action prescribed by any law of this State taken by the legislative body of any county, city, district or other public corporation, for ordering the construction of any public improvement or the acquisition of any property for public use where the cost of such construction or acquisition is to be paid in whole or in part by special assessments or through special assessment taxes upon lands, the proceedings required by this division shall be taken. Proceedings required

SEC. 5. Section 2904 of said code is hereby amended to read as follows: Stats 1941, p 759

2904. Whenever an improvement contract has been awarded, the county or city or district or other public corporation, the legislative body of which is conducting the proceeding, shall, if the actual cost of the improvement, including incidental expenses, exceeds the amount that may be specially assessed upon benefited property, pay such excess cost from the general or any fund available and the balance shall be specially assessed under the statute under which the proceeding is conducted. Payment of excess cost of improvements

If the property to be specially assessed is within the jurisdiction of more than one legislative body and consents to such proceeding have been given by all the legislative bodies having jurisdiction, any such legislative body whose consent has been so given may appropriate all or any part of such excess cost from any available funds under its control, and may pay the amount so appropriated into the treasury of the county or city or district or other public corporation whose legislative body has jurisdiction over the proceeding to be applied in payment of such excess.

SEC. 6. Section 2951 of said code is hereby amended to read as follows: Stats 1941, p 781

2951. The notice of proposed assessment shall be substantially in the following form (filling in the blanks): Form of notice of proposed assessment

NOTICE OF PROPOSED ASSESSMENT

Notice is hereby given that the (name of the legislative body) proposes to adopt a resolution of intention under the

(here mention statute under which it proposes to proceed) covering (here state in general terms what acquisitions and/or improvements are to be made). Your land will be assessed to pay a part of the cost thereof. This questionnaire is sent to the property owners interested to ascertain whether or not the owners of as much as 15 per cent of the area of the proposed district demand proceeding under the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931." Under said investigation act information will be obtained and a report thereon made, open to public inspection, and stating among other things (1) the estimated cost of the proposed project; (2) the estimated amount of existing assessments upon each parcel of land in the district; (3) the estimated assessment upon your lands for the proposed project. In the event that you desire the proceeding under said investigation act, so indicate on the attached card and return the same to the clerk within 30 days from (here set forth the date, not earlier than one day subsequent to the mailing of the cards). Sign your name legibly and describe or designate the property owned by you.

Stats 1931, p 1372

Clerk of (here designate legislative body)

Return post card

The return post card as sent out shall be addressed to the clerk sending out the notice and shall have thereon a guarantee of the payment of the postage for the return thereof and on the reverse side shall contain the following:

(does)

The undersigned (does not) demand the making of the investigation provided for by the "Special Assessment, Investigation, Limitation and Majority Protest Act of 1931" in connection with the (here set forth the same description of the project as is contained upon the notice post card).

(Signature)_____

(Description or designation of property)_____

Instruction: If you are in favor of the improvement without the investigation report strike out the word "does." If you desire the investigation report, whether or not you desire the improvement, strike out the words "does not."

New section

SEC. 7. Section 2996 is hereby added to said code, to read as follows:

Abandonment of proceedings; cost prior thereto

2996. In the event that any proceedings are abandoned by reason of protest filed pursuant to the provisions of Section 2930 hereof, or for any other reason, the cost and expense of such proceedings to the date of such abandonment shall be a charge against the treasurer of the city, county, district or other public corporation instituting such proceedings.

SEC. 8. Section 3012 of said code is hereby amended to read as follows: Stats 1941, p 765

3012. Any action, suit or proceeding of any kind or nature in which the validity of any of the proceedings taken under the provisions of this division, up to and including the action on the investigation report, is questioned or attacked shall be commenced within 30 days after the date of the adoption of the resolution or ordinance finally acting on said investigation report, and in case such action is not brought within said 30 days, then thereafter all persons whatsoever shall be barred in any action, suit or proceeding from pleading, asserting or claiming that any of the proceedings up to and including the action on said investigation report were defective, faulty or invalid in any respect. When suits questioning proceedings must be brought

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CHAPTER 1071

An act to amend Sections 6, 10, 14, 15, 16 and 20, and to add Sections 24, 25 and 26 to an act entitled "District Investigation Act of 1933," relating to the investigation report and debt limitations. Stats 1933, p 2141, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.] In effect September 13 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6 of the act cited in the title is hereby amended to read as follows: Stats 1933, p 2142

Sec. 6 In addition to such matters as may be required by the supervisory body, the following information must be included in the report: Contents of report

(a) A map or maps showing the boundaries of the proposed district, the general nature, location and extent of the proposed project, and the lands to be assessed or taxed to pay any part of the cost thereof;

(b) All essential data as to the needs of present and estimated future population, in regard to the proposed project;

(c) Economic factors involved in the proposed project;

(d) Preliminary plans showing the nature, type and arrangement of all facilities to be constructed, together with general specifications and itemized estimates of cost based upon such plans;

(e) The total estimated itemized cost of any alternative method of procedure recommended for obtaining the same desired general purpose showing the advantages and disadvantages of each of such alternatives;

(f) An itemized estimated statement of each of the following matters as to each parcel of real property within the proposed district, stated in a separate column as to each of said

Contents of report

matters, and the total estimated amount of each of said matters as to all of said properties within said district, to wit:

(1) The assessed value of land, as shown on the last equalized assessment roll. If such value of any parcel is not shown upon said roll the assessor who made said roll shall estimate the assessed value thereof, and such estimate shall be controlling for the purpose of this report.

(2) The assessed value of the improvements on said lands, as shown on said roll, or such estimate thereof when not shown thereon.

(3) The true value of such real property, computed as herein provided.

(4) All unpaid matured special assessments, and all unpaid matured special assessments and special assessment taxes, exclusive of penalties, costs or interest, to pay any bonds and interest coupons theretofore issued.

(5) All special assessments and special assessment taxes not yet due and payable, which will be thereafter levied to pay any bonds and interest coupons theretofore issued. Where said amounts constitute specific liens, the amounts thereof shall be tabulated from the records showing same. In all other instances, such amounts shall be apportioned in the manner set forth in the act pursuant to which they were provided to be levied.

(6) The estimated cost of all projects theretofore initiated or completed, for which special assessments or special assessment taxes will thereafter be levied, but as to which no part of the cost has yet been assessed or taxed. Where there is a record of the estimated cost of such project, the amount thereof shall be used. In all other instances, such cost shall be estimated by the person making the report.

(7) All taxes thereafter to be levied to pay all outstanding unmatured general obligation bonds and interest coupons for which no levy has been theretofore made. Said report shall contain a tabulated estimate of such liability, designating each particular bond issue, the corporate entity issuing same, the total outstanding unmatured amount of said bonds, an estimate of the amount to be levied for unmatured interest coupons thereon, for which no levy has been made, and the portion of the total thereof for which any of the properties in the district are liable.

(8) All other unpaid tax liens not otherwise herein provided for, exclusive of penalties, costs and interest thereon, which have been theretofore levied, including levies to pay any outstanding matured or unmatured general obligation bonds or interest coupons thereon.

(9) The estimated cost of the proposed project. The report shall contain an itemized estimate of such cost, together with a brief explanation of the manner in which it is apportioned therein between the several parcels of property within the proposed district.

(g) A brief summary of the essential facts of the report in a concise, understandable form.

SEC. 2. Section 10 of said act is hereby amended to read as follows: Stats 1933, p 2144

Sec. 10. The notice of the hearing shall: Contents of notice

(a) State the name and nature of the district and the title of the act under which the district is being formed;

(b) State that a report has been filed with the supervisory body concerning the advisability of forming the proposed district and that the report is available for inspection at the office of the clerk of said body;

(c) Designate the boundaries of the proposed district;

(d) State the time and place for the hearing;

(e) State that at said hearing protests will be considered by the body organizing the district;

(f) Set out the summary of the report as required by Section 6, paragraph (g), of this act;

(g) In mailed notices a further statement that land in which the person addressed is interested within the proposed district may be assessed or taxed for the proposed project in the event said district is formed.

SEC. 3. Section 14 of said act is hereby amended to read as follows: Stats 1933, p 2145

Sec. 14. The proceedings shall terminate or be so modified that the amount to be assessed or levied for the cost of the proposed project will be less than the limits herein established, if the report shows: Limitations on assessments and taxes

(a) That the total amount of assessments and taxes proposed assessments and taxes, as estimated under Subdivisions (4) to (9) inclusive of part (f) of Section 6 of this act, upon any parcel or parcels of real property in the proposed district, will exceed one-third of the true value of such parcel or parcels of property whose assessed value, separately or in the aggregate, exceeds 5 per cent of the total assessed value of all real property within the proposed district;

(b) That the total amount of assessments and taxes and proposed assessments and taxes, as estimated under Subdivisions (4) to (9) inclusive of part (f) of Section 6 of this act, upon all the real property within the district, will exceed one-third the true value of all the real property within the proposed district.

SEC. 4. Section 15 of said act is hereby amended to read as follows: Stats. 1933, p 2145

Sec. 15. Notwithstanding anything in this act contained, if the legislative body conducting the proceedings, after the report provided for herein has been filed and considered, shall find by four-fifths vote of all members thereof entered upon its minutes that the proposed project is feasible and that the properties to be assessed will be able to carry the burden of such proposed assessment or tax, the limitation on the amount of the assessments or taxes herein provided may be exceeded and dispensed with both with respect to the limitations named When limitations may be exceeded

with reference to the district as a whole and as to the limitations respecting an individual parcel or group of parcels. In the event of such finding by said legislative body, then the limitations provided in subdivisions (a) and (b) of Section 14 shall not apply. A finding and determination by such legislative body that the limitation of the assessments or taxes herein provided may be exceeded or dispensed with shall, when made, be final and conclusive upon all persons in the absence of actual fraud.

Stats 1933, p 2145

SEC. 5. Section 16 of said act is hereby amended to read as follows:

Majority protest

Sec. 16. Said proceedings shall also terminate if prior to the time it is determined that the district shall be formed, written protests against the formation of the district are filed with the clerk of the supervising authority by owners of a majority of the property subject to assessment for district purposes, computed according to the assessed value of same as appearing on the last equalized county assessment roll.

Stats 1933, p 2146

SEC. 6. Section 20 of said act is hereby amended to read as follows:

Limitation on assessments

Sec. 20. If the actual cost of the project set out in the report shall exceed the total estimated cost of said project as stated in said report by more than 10 per cent of such estimated cost, no part of the excess over said 10 per cent shall be assessed or taxed upon properties within the district, unless the supervisory body of the entity which formed said district shall first make the finding provided in Section 15 hereof.

New section

SEC. 7. A new section is hereby added to said act, numbered and to read as follows:

Where act inapplicable

Sec. 24. This act shall not apply to proceedings for the formation of a sanitary or sanitation district when such proceedings have been recommended by the health officer of the county instituting such proceedings as necessary as a health measure, given in writing and spread upon the minutes of the legislative body thereof, and such necessity is found to exist by resolution adopted by the affirmative vote of four-fifths of the members thereof; provided, however, that before adopting the resolution or ordinance of intention to make such improvement, said legislative body shall also find by resolution adopted by four-fifths vote of its members, that in its opinion the contemplated acquisition and/or improvement is one in which the probable assessments will not exceed the limitations set up in this act, that the proposed project is feasible, that the properties to be assessed will be able to carry the burden of such proposed assessments, and that the limitations on the amount of the assessments herein provided may be dispensed with; provided further, that the majority protest provisions hereof shall apply. The findings and determinations herein provided shall be final and conclusive upon all persons in the absence of actual fraud.

SEC. 8. A new section is hereby added to said act, numbered and to read as follows: New section

Sec. 26. Any action, suit or proceedings of any kind or nature in which the validity of any proceedings taken under the provisions of this act is questioned or attacked shall be commenced within 30 days after the adoption of the resolution or ordinance finally acting on the investigation report, and in case such action is not brought within said 30 days, then thereafter all persons whatsoever shall be barred in any action, suit or proceedings from pleading, asserting or claiming that any of the proceedings under this act were defective, faulty or invalid in any respect. When suits questioning proceedings must be brought

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CHAPTER 1072

An act to amend Section 6541.5 of, and to add Sections 4774, 4775, 6544 and 6545 to, the Health and Safety Code, relating to special assessment proceedings. Stats 1939, p 482, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4774 is hereby added to the Health and Safety Code, to read as follows: New section

4774. The improvements authorized to be constructed or acquired under this article are restricted to those permitted to be constructed or acquired by such districts under Article 4 of this chapter. Improvements authorized

SEC. 2. Section 4775 is hereby added to the Health and Safety Code, to read as follows: New section

4775. No assessment or bond hereafter levied or issued shall become a lien and no person shall be deemed to have notice thereof until a certified copy of said assessment and the diagram thereto attached shall be recorded in the office of the county surveyor if the improvement district or any part thereof is in unincorporated territory and with the superintendent of streets of the city or cities if the improvement district or any part thereof is in incorporated territory. Lien of assessment or bond, recordation

SEC. 3. Section 6541.5 of said code is hereby amended to read as follows: Stats 1939, p 618

6541.5. The Street Improvement Act of 1913 is applicable to districts. Stats 1913, p 954, applicable

New section SEC. 4. Section 6544 is hereby added to said code, to read as follows:

Improvements authorized 6544. The improvements authorized to be constructed or acquired by this article are restricted to those permitted to be constructed or acquired by such districts under Article 1 of this chapter.

New section SEC. 5. Section 6545 is hereby added to said code, to read as follows:

Lien of assessment or bond, recordation 6545. No assessment or bond hereafter levied or issued shall become a lien and no person shall be deemed to have notice thereof until a certified copy of said assessment and the diagram thereto attached shall be recorded in the office of the county surveyor if the improvement district or any part thereof is in unincorporated territory and with the superintendent of streets of the city or cities if the improvement district or any part thereof is in incorporated territory.

CHAPTER 1073

Stats 1935, p 248, amended *An act to amend Sections 5821 and 5830 of the Streets and Highways Code, relating to the levy of a maintenance tax.*

In effect September 13, 1941 [Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 880 SECTION 1. Section 5821 of the act cited in the title hereof is hereby amended to read as follows:

Assessment for operation and maintenance costs 5821. The board of supervisors may, in its resolution declaring its intention to order work done or improvements made or by separate resolution, declare its intention to order that the expenses of maintaining and operating any or all of said improvements or any or all other existing improvements such as are permitted to be constructed herein, including the cost of necessary repairs, replacements, fuel, power, electrical current, care, supervision, and any and all other items necessary for the proper maintenance and operation thereof, shall be assessed, either partly or wholly, upon the real property lying within the district to be benefited by and to be assessed to pay the cost of the construction of said improvement, or upon such district as the board of supervisors shall determine will be benefited by the maintenance and operation of the improvements proposed to be maintained; the amounts so assessed to be levied and collected in the same manner and by the same officers as taxes for county purposes are levied and collected.

SEC. 2. Section 5830 of the act cited in the title is amended to read as follows: Stats 1941, p 882

5830. The board of supervisors shall thereafter, in each year, prior to the time of fixing the county tax rate, estimate the cost of maintaining and operating the said improvements to be maintained and operated within said maintenance district during the ensuing year. Said board shall decide whether or not the cost of the same shall be borne wholly or partially by the said maintenance district and shall, in addition to all other taxes, fix a special tax rate for the real property within said maintenance district sufficient to raise an amount of money to cover the expense of maintaining said improvements during the ensuing year, or such portion of said amount as the board of supervisors shall determine shall be borne by said district, and the board of supervisors shall levy a special assessment tax each year upon the real property in such district sufficient to pay such expense or the portion thereof which must be paid by the district. Same Levy of

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CHAPTER 1074

An act to add Section 5.588 to the School Code, relating to the annual teachers institutes.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5.588 is hereby added to the School Code, to read as follows: New section

5.588. Notwithstanding anything in this chapter to the contrary, any superintendent of schools authorized or required to hold an annual teachers institute during 1941 may postpone such annual teachers institute until February, 1942, and hold such institute in the City and County of San Francisco. Postponement

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CHAPTER 1075

An act to add Sections 1550.1, 1550.2 and 1550.3 to the Streets and Highways Code, relating to the powers of the county board of supervisors to levy road taxes. Stats 1935, p 248, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1550 1 is added to the Streets and Highways Code, to read as follows: New section

1550.1. The board of supervisors may form special road maintenance districts in subdivided areas of the county Formation of special road maintenance districts

wholly outside of incorporated cities. Formation of said districts may be ordered by the board of supervisors when in their opinion additional road funds are necessary to properly maintain roads in specific areas of the county. Such districts shall be formed by order of the board setting forth the boundaries thereof, and in no case shall a special road maintenance district be formed where the boundaries of said district cause it to include lands within more than one county road district as formed under Section 1020 of this Streets and Highways Code. Such district shall be in existence until the board shall by its order discontinue such district. If such a district is to be formed, the board of supervisors shall set a date for a hearing on said formation. Such hearing shall not be held in less than three weeks after the date of the order for the hearing, and prior to the date of the hearing, a notice of said hearing shall be published twice in a newspaper of general circulation in the area, and, in addition, at least three notices shall be posted in public places within the proposed district. At the hearing, protests may be heard on the proposed formation of such district. It shall be within the power of the board of supervisors to determine from the results of the hearing the necessity for said special road maintenance district, and, if it be deemed necessary, the district may be formed as hereinbefore provided.

Order

Hearing

New section

SEC. 2. Section 1550.2 is added to the Streets and Highways Code, to read as follows:

Special road maintenance tax

1550.2. Each year at the meeting at which the board of supervisors levies the property tax for general county purposes, the board may estimate the amount of property tax for road maintenance necessary in special road maintenance districts as provided by Section 1550.1, and a property tax shall be levied in said special road maintenance district for the purposes of said district. Said tax shall be in addition to all taxes for roads otherwise provided, but in no case shall the sum of this special maintenance tax and all other property taxes for roads exceed the sum of forty cents ($0.40) upon each hundred dollars ($100) of assessable property in the district as provided by Section 1550.

Limitation

New section

SEC. 3. Section 1550.3 is added to the Streets and Highways Code, to read as follows:

Performance of work, expenditures

1550.3. All work done in special road maintenance districts shall be done by the county road commissioner in whose regular road district the special road district lies and all laws relating to the expenditure of road funds raised by property taxes shall apply to the expenditures of said districts.

CHAPTER 1076

An act to amend Section 4300b and to repeal Section 4300d of the Political Code, relating to fees for official services.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4300b of the Political Code is hereby amended to read as follows: Stats 1937, p 1615

4300b. Sheriff's, Constables' and Marshals' Fees. For serving or executing any process, writ, order, paper or notice, except as in this section provided, required by law or litigants to be served, fifty cents ($0.50). Fees of sheriffs, constables and marshals

For serving or levying a writ of attachment, execution, or order for the delivery of personal property, one dollar ($1).

For taking any bond or undertaking, fifty cents ($0.50).

For serving an attachment or execution on any ship, boat, or vessel, three dollars ($3).

For serving or executing a writ of attachment, execution or order on real property, one dollar ($1).

For keeping and caring for property under attachment, execution or claim and delivery, such sum as the court may fix; provided, that no greater sums than the following shall be allowed:

(a) Five dollars ($5) when necessarily employed for any twelve (12) hour period or any part thereof;

(b) Seven dollars and fifty cents ($7.50) when necessarily employed for a twenty-four (24) hour period, or any part thereof in excess of twelve (12) hours, except that a fee of five dollars ($5) may be allowed a keeper when necessarily employed for each twelve (12) hour period, or any part thereof, as a custodian on the premises of a business establishment which is carrying on its business during such twelve (12) hour period, or any part thereof.

For copy of any writ, process, paper, order or notice actually made by him, when required or demanded, per folio, ten cents ($0.10); provided, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For preparing and posting notices of personal property sale under attachment, execution or order of court, besides mileage, fifty cents ($0.50) each.

For furnishing notice for publication, twenty-five cents ($0.25).

For conducting and postponing sale of personal property as required by law or litigant, besides mileage, one dollar ($1).

For advertising sale and posting notice of real property, and of any ship, boat or vessel as required by law, besides mileage, exclusive of costs of publication, each, fifty cents ($0.50).

Fees of sheriffs, constables and marshals

For publication of notice in newspaper, the reasonable cost of publication, subject to the approval of the court.

For serving writ of possession or restitution, putting a person in possession of the premises, and removing the occupant, three dollars ($3).

For serving a garnishment, one dollar and fifty cents ($1.50).

For serving notices under Section 561 of the Code of Civil Procedure, one dollar and fifty cents ($1.50).

For making a demand for payment on execution, or the delivery of property, besides mileage, fifty cents ($0.50).

For making a nulla bona return on execution, twenty-five cents ($0.25).

For making a not found return on summons, besides mileage, twenty-five cents ($0.25).

For collecting money on attachment or execution, with or without levy, 1 per cent on the first thousand dollars or less, and one-half of 1 per cent on all sums over one thousand dollars ($1,000).

For execution and delivery of sheriff's, constable's or marshal's deed, one dollar and fifty cents ($1.50).

For executing and delivering certificate of sale, fifty cents ($0.50).

For executing and delivering any other instrument, ten cents ($0.10) per folio.

For subpenaing witnesses, including copy of subpenas, each, twenty-five cents ($0.25).

For serving or executing a civil order or warrant of arrest, except under the provisions of Title 5, Part 3, of the Code of Civil Procedure relating to civil contempts of court, besides mileage, one dollar ($1).

For summoning trial jury of twelve or less, two dollars ($2); for each additional juror, ten cents ($0.10).

For traveling in the service or execution of any process, writ, order, paper or notice required by law or litigant, to be served for each mile actually and necessarily traveled from any sheriff's, constable's or marshal's office to point of service, one way only, twenty-five cents ($0.25).

For each mile actually and necessarily traveled outside of his township to serve any process, writ, order, paper or notice, the constable shall charge, in going only, twenty-five cents ($0.25); provided, that a constable shall not be required to travel outside of his township to serve any civil process, writ, order, paper or notice.

For transporting prisoners to the county jail, the sheriff shall charge actual cost of such transportation.

For each mile necessarily traveled within his county, the constable or marshal, in executing a warrant of arrest, both in going to and returning from place of arrest, fifteen cents ($0.15).

For each mile traveled out of his county, a constable shall charge, both going to and returning from place of arrest, five cents ($0.05); provided, that for traveling in the performance

of two or more official services at the same time, including the service of civil process or criminal warrants, or transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged.

For executing a search warrant, a constable shall charge such fees and mileage as may be allowed for executing warrant of arrest.

For arresting prisoner and bringing him into court or jail, a constable shall charge the actual cost of such transportation.

For transporting prisoners to and from the county jail, a constable shall charge the actual cost of such transportation.

In addition to the fees hereinbefore provided for, the sheriff, constable or marshal shall be entitled to collect from the litigant, or person requiring their services, besides mileage, inspecting, checking, releasing or any other handling of property under his custody, charge or keeping pursuant to any process, writ, order, paper or notice.

SEC. 2. Section 4300d of the Political Code is hereby repealed. Stats 1939, p 2389

CHAPTER 1077

An act to add Section 52.5 to the Agricultural Code, relating to county agricultural commissioners. Stats 1933, p 60, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 52.5 is hereby added to the Agricultural Code, to read as follows: New section

52.5. The board of supervisors of any county in which there is no commissioner may employ the commissioner or a qualified deputy commissioner of an adjoining county to perform the duties of commissioner in the employing county, but only with the consent of the board of supervisors of such adjoining county and at a rate of compensation not exceeding eight dollars ($8) per day, exclusive of such expenses as may be allowed by the employing county. Employment of commissioner or deputy in adjoining county

CHAPTER 1078

Stats 1937, p 1229, amended

An act to add Article 3, comprising Sections 21600 to 21608, inclusive, to Chapter 9 of Division 8 of the Business and Professions Code, relating to the regulation of junk dealers.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New article

SECTION 1. Article 3, comprising Sections 21600 to 21608, inclusive, is hereby added to Chapter 9 of Division 8 of the Business and Professions Code, to read as follows:

Article 3. Junk

"Junk"

21600. As used in this article, "junk" means any and all secondhand and used machinery and scrap iron, including automobiles, tools, implements or parts or portions thereof, and any and all secondhand and used furniture or other personal property, other than live stock, or parts or portions thereof.

"Junk dealer"

21601. As used in this article, "junk dealer" includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

"Junk yard"

21602. As used in this article, "junk yard" includes any yard, plot, space, inclosure, building or any other place where junk is collected, stored, gathered together and kept.

Persons to whom article inapplicable

21603. This article shall not apply to any of the following:

(a) Secondhand furniture merchants.

(b) Pawnbrokers.

(c) Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not carried on and conducted in conjunction with a junk yard.

(d) Persons engaged in the business of selling new automobile tires or batteries or other equipment taking in part payment used articles of the same kind and thereafter selling or disposing of the same.

(e) Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard.

(f) Secondhand clothing merchants and ragpickers.

Same

21604. This article shall not apply to any person who sells junk acquired in the conduct of any business other than that of junk dealer.

Records

21605 Every junk dealer in this State is hereby required to keep a written record of all sales and purchases made in

the course of his business. Such record shall be exhibited on demand to any peace officer of this State.

Contents of records

21606. Every junk dealer shall set out in the written record required by this article all of the following:

(1) The place and date of each sale or purchase made in the conduct of his business of junk dealers;

(2) The name, address and occupation of each person from whom junk is purchased or obtained, and the license number of any motor vehicle used in transporting the junk to the junk dealer's place of business;

(3) The name, address and occupation of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's place of business.

Preservation of records

21607. Every junk dealer shall preserve the written record required by this article for at least two years after making the final entry of any purchase or sale of junk.

Penalty for violation

21608. Any junk dealer who fails in any respect to keep the written record required by this article, or to set out in such written record any matter required by this article to be set out therein, every junk dealer who refuses, upon demand of any peace officer of this State, to exhibit such record and every junk dealer who destroys such record within two years after making the final entry of any purchase or sale of junk therein, is guilty of a misdemeanor.

CHAPTER 1079

An act to amend Sections 30 and 39 of an act entitled "An act providing for the incorporation of public utility districts in unincorporated territory, authorizing such districts to incur bonded indebtedness for the purpose of the construction of works and the acquisition of property, and to levy and collect taxes to pay the principal and interest on bonds and for carrying on their operations, and providing for the powers, management and government of such districts, and imposing certain duties and functions in connection with such districts upon certain county officers," approved May 31, 1921, relating to public utility districts in unincorporated territory.

Stats 1921, p 906, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 30 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1933, p 2562

Sec. 30. Any public utility district incorporated as herein provided shall have power:

Powers of districts

First—To have perpetual succession.

Second—To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

Third—To adopt a seal and alter it at pleasure

Fourth—To take by grant, purchase, gift, devise, or lease, or otherwise acquire, and to hold and enjoy, and to lease or dispose of, real and personal property of every kind within or without the district, when in the judgment of the board of directors it is for the best interests of the district so to do. The provisions of this section shall apply to all sales or purchases heretofore or hereafter made.

Fifth—To acquire, construct, own, operate, control or use, within or without, or partly within and partly without, the district, works for supplying the inhabitants of said district with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the disposition of garbage, sewage, or refuse matter; and to do all things necessary or convenient to the full exercise of the powers herein granted; also to purchase any of the commodities or services aforementioned from any other utility district, municipality, person, or private company, and distribute the same, or to acquire, construct, own, complete, use and operate a fire department, public parks, public playgrounds, public swimming pools, public recreation buildings and buildings to be used for public purposes and the use of said district and for the purposes of this act all of the foregoing projects shall be considered a public utility or utilities or public utility works.

Disposition of surplus facilities

Whenever there is a surplus of available water, light, heat or power above that which may be required by such inhabitants or municipalities within the district, such district shall have power to sell or otherwise dispose of such surplus outside of the district to persons, firms, and public or private corporations.

Employment of surplus facilities

Whenever any of the facilities, works, or utilities of the district, or part thereof, is not used or employed to its fullest capacity for the benefit or requirements of the district or its inhabitants, such district shall have power to employ such surplus facilities to supply any of its public utility services outside the boundaries of the district upon such terms and conditions and under such agreement or agreements as its board of directors shall determine to be for the best interests of the district. Any public utility service supplied by the district outside its boundaries shall not exceed in amount the same type of public utility service supplied by the district within its boundaries.

Eminent domain

Sixth—To have or exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use. To take any property necessary or convenient to the exercise of the powers herein granted, whether such property be already devoted to the same use or otherwise. In the proceedings, venue and trial, relative to

the exercise of such right the district shall have the same rights, powers and privileges as a municipal corporation.

Seventh—To construct works across or along any street or public highway, or over any of the lands which are now or may be the property of this State, and to have the same rights and privileges appertaining thereto as have been or may be granted to municipalities within the State, and to construct its works across any stream of water or watercourse. The district shall restore any such street or highway to its former state as near as may be, and shall not use the same in a manner to unnecessarily impair its usefulness. Works

Eighth—To borrow money and incur or assume indebtedness, and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness that may exist against or be assumed by the district; provided, however, that no district shall incur any funded indebtedness which shall in the aggregate exceed 20 per centum of the assessed valuation of all real and personal property situated within the district. Indebtedness

Ninth—To levy and collect, or cause to be levied and collected, taxes for the purpose of carrying on the operations and paying the obligations of the district; provided, however, that no farm products, crop or crops which are stored within the exterior boundaries of said district shall be subject to taxation by said district. Taxes

Tenth—To make contracts, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers herein in this act granted. Contracts

Eleventh—To proceed in the name of the district in case of condemnation proceedings. Condemnation

SEC. 2. Section 39 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1921, p. 926

Sec. 39. (1) If from any cause the revenues of the district shall be inadequate to pay the principal or interest on any bonded debt as it becomes due, the board of directors must, or if funds are needed to carry out the objects and purposes of the district, which can not be provided for out of the revenues of the district, then the board of directors may, levy a tax for such purposes as herein provided. The board shall state the purposes for which such taxes are necessary, and must fix, by ordinance, the amount of money necessary to be so raised by taxation. If the amount to be raised at any one time by taxation for a purpose other than interest or sinking fund payments exceeds the sum of fifty thousand dollars ($50,000), such ordinance shall not go into effect before 30 days from its final passage. Levy of tax if revenues insufficient to pay principal or interest

(2) The board of directors may by ordinance provide the mode and manner of assessing, and of correcting and equalizing assessments upon, the taxable property situated within the district, for the purpose of levying district taxes, and of levying and collecting such taxes, and may provide for the collection of delinquent taxes by actions or legal proceedings Assessments

which are hereby authorized to be brought, prosecuted and maintained in the name of the district against the several owners of property from whom such taxes may be due and delinquent, for the purpose of recovering the amount of the delinquent tax, with penalties, interest, and costs; provided, that the provisions of such ordinance shall be conformable to general law.

Use of county assessments

(3) The board of directors may elect to avail itself of the assessment or assessments made by the assessor or assessors of the county or counties in which the district is situated, and may take such assessment or assessments as the basis for district taxation; provided, that the board of directors shall declare its said election by ordinance and file a certified copy of the same with the auditor or auditors of the county or counties in which the district is situated, on or before any Monday in February of each year. Thereafter all assessments shall be made and taxes collected by the county assessor and tax collector, or county assessors or tax collectors, of the county or counties in which the district is situated until the board of directors of the district by ordinance elect otherwise. The said county auditor or auditors thereupon must, on or before the second Monday in August of each year, transmit to the board of directors of the district a statement in writing showing the total value of all property within the district, which value shall be ascertained from the assessment book of the said county or counties for that year as equalized and corrected by the board or boards of supervisors of such county or counties. In case the board of directors shall so elect, as hereinabove provided, it shall, on the first week day in September, or if such week day falls upon a holiday then on the first business day thereafter, fix the rate of taxes, designating the number of cents upon each hundred dollars ($100), using as a basis the value of property as assessed by the county assessor or assessors and so returned to such board of directors by the county auditor or auditors, as hereinabove provided, which rate of taxation shall be sufficient to raise the amount previously fixed by the board, as hereinabove prescribed; which acts by said board of directors are declared to be a valid assessment of such property and a valid levy of such taxes so fixed. The board of directors must immediately thereafter transmit to the county auditor or auditors of the county or counties in which the district is situated a statement of such rate so fixed by the board of directors.

The said auditor or auditors must then compute and enter in a separate column in the assessment book or assessment books, to be headed "Utility District Tax, _____ Public Utility District (naming it)," the respective sums in dollars and cents or dollars or cents to be paid as a district tax on the property therein enumerated and assessed as being in the public utility district, using the rate of levy so fixed by the board of directors of the district, and the assessed value as found in such assessment book or assessment books. Such taxes so levied

shall be collected at the same time and in the same manner as county taxes; and when collected the net amount, as ascertained as hereinafter provided, shall be paid to the treasurer of the district, under the general requirements and penalties provided by law for the settlement of other taxes.

Statement of expenses of county officers

Each county auditor and tax collector affected by the provisions of this act shall annually file with the board of supervisors of his county itemized statements showing the additional expense to his office caused by the performance of the duties imposed upon him or his office under the provisions of this act, and upon the filing of such statements the board of supervisors shall, by an order spread upon its minutes, deduct such expenses from the tax money of the district, while in the hands of the tax collector, and transfer the amount deducted into the county salary fund; provided, that not more than one-half of 1 per centum on the amount collected shall be so charged or deducted by any county. The board or boards of supervisors of such county or counties may provide such extra help for their county offices or officers as in their judgment may be necessary for the proper performance of their duties hereunder.

Whenever any real property situate in any public utility district formed under the provisions of this act, which district has availed itself of the provisions of this subdivision of this section, has been sold for taxes and has been redeemed, the money paid for such redemption shall be apportioned and paid by the county treasurer or treasurers receiving the same to such public utility district, in the proportion which the tax due to such district bears to the total tax for which such property was sold.

Taxes a lien on property

(4) All taxes levied under the provisions of this act shall be a lien on the property on which they are levied; and the enforcement of the collection of such taxes may be had in the same manner and by the same means as is provided by law for the enforcement of liens for State and county taxes, all the provisions of law relating to the enforcement of the latter being hereby made a part of this act, so far as applicable; provided, that where a public utility district has not availed itself of the provisions of Subdivision (3) of this section, the delinquent property sold by the tax collector of the district for delinquent taxes shall be struck off by him to the district and shall thereafter be redeemed or disposed of as is provided by law in the case of delinquent property sold to the State for delinquent State and county taxes.

CHAPTER 1080

Stats 1937, p 699, amended

An act to amend Sections 1, 2 and 3 of an act entitled "An act authorizing any incorporated city within this State to adopt by ordinance a retirement or pension system for the retirement of officers and employees; providing for the creation of a retirement board and for the delegation of certain powers to such board; authorizing the creation of a pension and retirement fund and the levy of a special tax in connection therewith; authorizing the transfer of surplus funds; providing for joint contributions to said fund by officers and employees and the city; and authorizing any regularly established fire or police protection district to avail itself of the provisions of this enabling act," approved May 19, 1937, relating to municipal retirement systems.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p. 700

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Adoption of city retirement or pension system

Section 1. Any city within this State is hereby authorized to adopt by ordinance a retirement or pension system for its officers and employees and provide for the payment of retirement allowances, pensions, disability payments and death benefits, or any of them. Said ordinance shall provide for the appointment of a retirement board and for the delegation to such board of such powers and duties in relation to such system as be deemed advisable to carry out the intent and purpose of this act. The ordinance adopting a retirement or pension system may be adopted either by a majority vote of the electorate of the city or by approval of a two-thirds majority of the governing body of such city. In either case of adoption said ordinance can not be repealed except by a vote of the electorate.

It is intended by the provisions of this act to enable any city within this State to adopt such a retirement system as may be adaptable to the size and type of city involved.

Stats 1937, p 700

SEC. 2. Section 2 of said act is hereby amended to read as follows:

Resolution of intention

Sec. 2 The city council shall adopt a resolution giving notice of intention to adopt such an ordinance, which resolution shall contain a summary of the major provisions of the proposed retirement system. The ordinance shall not be adopted unless and until an election has been held to permit the employees proposed to be included in the retirement system to express by secret ballot their approval or disapproval of said retirement proposal. The ballot of such election shall include the summary of the retirement system as set forth in the foregoing resolution The election shall be conducted in such a manner as to permit the firemen, the

Election to determine employees' approval or disapproval

policemen, and the other city employees proposed to be included in the system separately to express their approval or disapproval thereof. Said election shall be conducted in such manner as shall be prescribed by the legislative body of the city. The ordinance shall not include in the retirement system any of the three groups above mentioned a majority of whose members voted to disapprove the proposed system. In the event of approval by a majority of any of the three groups, membership in the system shall be compulsory for all members of that group.

Contracts with other agencies

The legislative body of any city may maintain its own retirement fund or may contract with the legislative body or governing board of any other city or county within the State, or with any State department for the performance of any service in connection with the establishment or administration of such retirement system or for the investment, care or administration of retirement funds or for any other service relating thereto.

Stats 1937 p 700

SEC. 3. Section 3 of said act is hereby amended to read as follows:

Provisions of ordinance

Sec. 3. The ordinance establishing such pension or retirement system shall, among other things, provide for the following:

(a) The amount of benefits to be paid to any officers or employees, or their beneficiaries, and the terms and conditions upon which such benefits shall be paid.

(b) The contribution to be paid by such officer or employee to the pension and retirement fund.

(c) The contribution to be paid by the city to the pension and retirement fund, which, exclusive of contributions paid on account of service rendered prior to the effective date of the ordinance, shall not exceed the total contribution paid to the pension and retirement fund by the officers and employees.

(d) The personnel of the retirement board, which shall consist of not less than five members, at least two members of which shall be elected by the officers and employees who have been included in such retirement system.

(e) The adoption of rules and regulations for the administration of such a retirement or pension system by the retirement board.

(f) The refunding to any officer or employee who withdraws from the retirement system, prior to retirement, of the amount of such officer's or employee's contribution, with such interest as may have been credited to his contribution.

CHAPTER 1081

Stats 1937, p 1229, amended

An act to amend Section 2814 of the Business and Professions Code, relating to the Board of Nurse Examiners Fund.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2357

SECTION 1. Section 2814 of the Business and Professions Code is hereby amended to read as follows:

Appropriation

2814. All money in the Board of Nurse Examiners Fund of the State of California is hereby appropriated to carry out the provisions of this chapter, and the promotion of nursing education in this State.

CHAPTER 1082

Stats 1939, p 1067, amended

An act to amend Section 3110 of the Public Resources Code, relating to the Petroleum and Gas Fund and making an appropriation.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1113

SECTION 1. Section 3110 of the Public Resources Code is amended to read as follows:

Petroleum and Gas Fund

3110. All money paid to the State Treasurer pursuant to this chapter shall be deposited to the credit of the Petroleum and Gas Fund, which fund is continued in existence.

All the money in the Petroleum and Gas Fund is hereby appropriated to the Department of Natural Resources, Division of Oil and Gas, for the purpose of carrying out the provisions of this chapter.

CHAPTER 1083

Stats 1935, p 496, amended

An act to amend Section 11792 of the Insurance Code, relating to State Compensation Insurance Fund.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 727

SECTION 1. Section 11792 of the Insurance Code is hereby amended to read as follows:

Revolving fund

11792. The commission may, with the approval of the State Department of Finance, withdraw from the State Compensation Insurance Fund in the State Treasury, without at the

time presenting vouchers and itemized statements, a sum not to exceed in the aggregate one million dollars ($1,000,000), to be used as a cash revolving fund. Such revolving fund shall be deposited in such banks and under such conditions as the commission determines, with the approval of the State Department of Finance. The Controller shall draw his warrants in favor of the commission for the amounts so withdrawn, and the Treasurer shall pay such warrants.

CHAPTER 1084

An act to amend Section 1031 of the Military and Veterans Code, relating to the Veterans' Home of California, and abolishing the Veterans' Home of California Federal Fund.

Stats 1935, p 1338, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1031 of the Military and Veterans Code is hereby amended to read as follows:

Stats 1935, p 1103

1031. All moneys received by the State from the United States for the use of the home shall be placed to the credit of and shall augment the current appropriation for the support of the home.

Federal funds

SEC. 2. The Veterans' Home of California Federal Fund is hereby abolished, and any money in that fund on the effective date of this act shall be credited to, and shall augment the current appropriation for the support of the Veterans' Home of California.

Fund abolished

CHAPTER 1085

An act to amend Section 953a of the Code of Civil Procedure, relating to appeals.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 953a of the Code of Civil Procedure is hereby amended to read as follows:

Stats 1937, p 476

953a. Any person desiring to appeal from any judgment, order or decree of any court of record, may, in lieu of preparing and settling a bill of exceptions pursuant to the provisions of Section 650 of this code, or of Section 988a of this

Appeals from court of record

code, or for the purpose of presenting a record on appeal from any appealable judgment or order, or for the purpose of having reviewed any matter or order reviewable on appeal from final judgment, file with the clerk of the court from whose judgment, order or decree said appeal is taken, or to

Notice be taken, a notice stating that he desires or intends to appeal, or has appealed therefrom, and requesting that a transcript of the testimony offered or taken, evidence offered or received, and all rulings, instructions, acts or statements of the court, also all objections or exceptions of counsel, and all matters to which the same relate, and also all proceedings taken on motion for a new trial, and all matters to which the same relate, be made up and prepared.

Time of notice Said notice must be filed within ten (10) days after the filing of the notice of appeal.

Phonographic report of trial Upon receiving said notice, it shall be the duty of the court to require a stenographic reporter thereof to transcribe fully and completely the phonographic report of the trial and also all proceedings taken on motion for a new trial and all matters to which the same relate. The stenographic reporter shall within twenty (20) days after the clerk has given notice to the stenographic reporter that said notice has been filed with

Transcript the clerk, prepare a transcript of the phonographic report of the trial, including therein copies of all writing offered or received in evidence and all other matters and things required by the notice above referred to, to be therein contained, and shall file the same with the clerk of said court; provided, however, that said twenty (20) day period shall not commence to run until appellant has fully complied with the provisions of Section 953b of this code.

Postponement of filing transcript The stenographic reporter shall not postpone the filing of the transcript except upon order of the court, upon affidavits filed with the court by the reporter, stating facts and not conclusions, which affidavits before any continuance is granted shall be served upon the attorneys appearing in said cause, which service shall be made by United States mail, postage prepaid, addressed to said attorneys at their respective offices, not less than three (3) days, unless the court shall otherwise order, prior to the making of said order of continuance.

Time for presentment of transcript for record Upon the transcript being filed, it shall be the duty of the clerk forthwith to set a time (such time to be not more than ten (10) days after the filing of the transcript) for presenting it to the judge for approval, and to give notice of the filing of the transcript, and of the time set for presenting it to the judge, to the attorneys appearing in the cause, not less than five (5) days before the time so set.

Examination by judge At the time specified in the notice of the clerk to the attorneys, said transcript shall be presented to the judge for his approval, and the judge shall examine the same and see that the same is a full, true and fair transcript of the proceedings had at the trial, the testimony offered or taken, evidence offered or received, instructions, acts or statements of the

court, also all objections and exceptions of counsel and matters to which the same relate, also all proceedings taken on motion for a new trial and all matters to which same relate.

Certification

The judge shall thereupon certify to the truth and correctness of said transcript and the same shall, when so settled and allowed, be and become a portion of the judgment roll and may be considered on appeal in lieu of the bill of exceptions now provided for by law.

Additional matters in transcript

If the judgment, order or decree appealed from, be not included in the judgment roll, the party desiring to appeal shall, on the filing of said notice, specify therein such of the pleadings, papers, records and files in said cause as he desires to have incorporated in said transcript in addition to the matters hereinbefore required and the same shall be included.

Respondents may require additions

The respondents on said appeal may at the time said transcript is presented for settlement and allowance, require the insertion therein of such other papers, files, documents, records and proceedings of said cause, including the proceedings on motion for a new trial, as they then desire to have incorporated therein, and the said papers, files, documents, records and proceedings shall when so incorporated be deemed fully authentic for use on said appeal

The parties may by stipulation omit any matters from said record which they desire to so omit.

CHAPTER 1086

An act defining henceforth the boundaries of Alameda County Water District, also ratifying the incorporation in said district of certain lands as shown in the certificate of the president and secretary of the board of directors of said district filed in the office of the Secretary of State of the State of California on May 18, 1940, and as certified to by the certificate of the said Secretary of State filed in the office of the county clerk of Alameda County on May 22, 1940, also providing for the management of said district as enlarged by the present officers thereof.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Boundaries of Alameda County Water District

SECTION 1. The exterior boundaries of Alameda County Water District situated in Alameda County, California, shall henceforth be as follows:

Said boundaries shall be enlarged so that they will include the lands heretofore embraced in said district and in addition all those certain lands which are declared to have been annexed to said district in the certificate of the president and secretary of the board of directors of said district filed in the office of the Secretary of State of the State of California on May 18, 1940, and as certified to by the certificate of the said Secretary

of State filed in the office of the county clerk of Alameda County on May 22, 1940. The annexation proceedings referred to in said certificates are confirmed. The management of said district as enlarged by the aforesaid annexation proceedings shall be under and by the officers of said Alameda County Water District and the annexed area referred to shall constitute in all respects a part of said district.

Filing statement

SEC. 2. Nothing contained in this act shall be construed to render the change in the boundaries of the Alameda County Water District effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Section 3720 of the Political Code, is filed in the manner and within the time required by that section.

CHAPTER 1087

Stats 1929, p 572, amended

An act to add Sections 2.5 and 2.8 to "An act relating to the sale or exchange of surplus products between public institutions owned, managed or controlled by the State, or the political subdivisions thereof and providing for the disposition of moneys received therefrom, and to repeal that certain act entitled 'An act providing for the exchange of commodities between the public institutions owned or managed and controlled by the State, or the political subdivisions thereof,' approved March 18, 1905," approved May 13, 1929, relating to the sale, exchange or other disposition of surplus products made or produced at or by public institutions owned, managed or controlled by the State.

Stats 1905 p 185

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2.5 is hereby added to the act cited in the title hereof, to read as follows:

Sales other than to public institutions

Sec. 2.5. If it is impossible or impracticable to sell or exchange agricultural or live stock products between the several public institutions owned, managed or controlled by the State or the political subdivisions thereof, such products, except those grown by prison labor, may be sold in any manner authorized by law and all moneys received from such sale shall be disposed of in accordance with the provisions of Section 3 hereof.

New section

SEC. 2. Section 2.8 is hereby added to said act, to read as follows:

Purchases by public institutions

Sec. 2.8. No public institution owned, managed, or controlled by the State shall purchase any product from any source other than a public institution owned, managed or controlled by the State, or a political subdivision thereof, if the Department of Finance determines that such product is available under this act.

CHAPTER 1088

An act to add Sections 1.51a and 1.52 to the School Code, relating to student body funds and organizations.

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1.51a is hereby added to the School Code, to read as follows: New section

1.51a. The funds of any student body organization shall be deposited in a bank approved by the governing board of the school district and shall be expended subject to such procedure as may be established by said student body organization subject to the approval of an employee or official of the school district designated by the governing board thereof. Deposit and expenditure of student body funds

SEC. 2. Section 1.52 is hereby added to the School Code, to read as follows: New section

1.52. Groups of students may organize student body associations within the public schools with the approval and subject to the control and regulation of the governing board of the school district in which such schools are located; provided, that such organizations shall have as their purpose the conduct of activities on behalf of the students approved by the school authorities and not in conflict with the authority and responsibility of the public school officials. Such student body organizations may be granted the use of school premises and properties without charge subject to such regulations as may be established by the governing board of the school district. Student body organizations

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CHAPTER 1089

An act to add a new section to the Agricultural Code, to be numbered 643.1, relative to inspections of dairies. Stats 1933, p 60, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Agricultural Code, to be numbered 643.1, reading as follows: New section

643.1. No dairy shall be degraded or the milk therefrom excluded from the market for an infraction or infractions of paragraphs (b), (c), (d), (f), (i) or (*l*) of Section 643 of this code, which upon written notice from a qualified inspector can be corrected and are corrected within 24 hours of the issuance of said notice. Any such notice shall be served personally upon the owner or operator of the dairy. Correction of infractions

CHAPTER 1090

Stats 1931, p 587, amended

An act to add Section 1443 to the Probate Code, relating to the appointment of guardians of minors and incompetent persons.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 1443 is hereby added to the Probate Code, to read as follows:

Investigations by probation officer

1443. The probation officer in the county in which the petition for appointment of guardian of a minor or incompetent person is pending, shall make an investigation of each case whenever he is requested so to do by a judge of the superior court.

CHAPTER 1091

Stats 1935, p 1338, amended

An act to amend Section 184 of the Military and Veterans Code, relating to purchases of property by The Adjutant General.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 1348

SECTION 1. Section 184 of the Military and Veterans Code is hereby amended to read as follows:

Purchases

184. Purchases of property not exceeding five hundred dollars ($500) in value shall be made in the manner The Adjutant General directs. If such purchases require an expenditure of a sum exceeding five hundred dollars ($500), he shall secure at least three bids on such property unless such number of bids is not obtainable. He shall, if the Governor approves, contract with the lowest responsible bidder to furnish such property. All proposals and contracts made under the authority hereby conferred shall be filed in the office of The Adjutant General.

CHAPTER 1092

An act to add a new section to the Health and Safety Code, to be numbered 115, relating to the creation of the Department of Public Health Fund, and providing for the expenditure of moneys from said fund.

Stats. 1939, p. 482, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Health and Safety Code, to be numbered 115 and to read as follows:

New section

115. There is hereby created in the State Treasury, a special fund designated as the "Department of Public Health Fund."

Department of Public Health Fund

All moneys directed by law to be paid into said fund shall be paid therein and shall be expended solely for the enforcement of the act, article or law under which it is derived, and the expenditure from said fund for the enforcement of any such act, article or law shall not exceed the amount of money credited to said fund thereunder.

The department shall keep a separate record of the classes and sources of income credited to the Department of Public Health Fund and of the disbursements therefrom.

SEC. 2. All moneys directed by law to be paid to the Department of Public Health for credit to any special funds in the State Treasury shall, upon effective date of this act, be paid into the Department of Public Health Fund and any balances remaining in such special funds shall be transferred upon effective date of this act to the Department of Public Health Fund after which such special funds shall be abolished. Any appropriations available out of such special funds abolished shall become payable from the Department of Public Health Fund.

Same. Payments and transfers to fund

CHAPTER 1093

An act to add Section 446 to the Political Code, relating to financial adjustments within departments, defining the methods whereby such adjustments may be made, declaring the urgency thereof, and providing that this act shall take effect immediately.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 446 is hereby added to the Political Code, to read as follows:

New section

446. The Controller may approve any general plan whereby any division, bureau, agency, or office, (i) which is within a

Financial adjustments

department and (ii) which is either supported by a special fund or by a separate appropriation from the General Fund, may make financial adjustments with the department of which it is a part and with any other division, bureau, agency, or office of the same department for services rendered, supplies used, or for a proper proportion of other expenses. Copy of the approved plan shall be furnished to the Department of Finance. Such adjustments, when made in accordance with the plan previously approved by the Controller, shall be made by filing a financial statement, approved by the Department of Finance, with the Controller and requesting the Controller to make the necessary transfers upon his books. Upon receipt of such requests, the Controller shall make the transfers upon his books.

Urgency

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1, Article IV of the Constitution of the State of California and shall therefore take effect immediately. The facts constituting the emergency are as follows:

Legal questions have been raised as to the propriety of current practices with respect to charges and adjustments within one department. Unless this act takes effect immediately an unwarranted burden may be placed upon the General Fund for which no adequate appropriation or preparation has been made, resulting in needless cost and confusion to the State with a consequent increase in the deficit in the General Fund to the detriment of the credit of the State.

CHAPTER 1094

Stats 1933, p 394, amended

An act to add Section 39 to the Fish and Game Code, relating to the powers of the commission to determine and fix the bag limits for migratory birds.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 39 is hereby added to the Fish and Game Code, to read as follows:

Migratory birds
U S C, Tit 16, Secs 703-711

39. The commission may determine and fix the bag limits for migratory birds in conformity with the limits prescribed pursuant to the Migratory Bird Treaty Act.

CHAPTER 1095

An act to amend Section 1161a of the Code of Civil Procedure, relating to unlawful detainer.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1161a of the Code of Civil Procedure is hereby amended to read as follows: Stats 1929, p 719

1161a. In either of the following cases, a person who holds over and continues in possession of real property, after a three-day written notice to quit the same, shall have been served upon him, or if there is a subtenant in actual occupation of the premises, also upon such subtenant, as prescribed in Section 1162 of the Code of Civil Procedure, may be removed therefrom as prescribed in this chapter. When person holding over must vacate property

1. Where the property has been duly sold by virtue of an execution against him, or a person under whom he claims, and the title under the sale has been duly perfected.

2. Where the property has been duly sold, upon the foreclosure, by proceedings taken as prescribed in this code, of a mortgage, or under an express power of sale contained therein, executed by him, or a person under whom he claims, and the title under the foreclosure has been duly perfected.

3. Where the property has been duly sold in accordance with Section 2924 of the Civil Code, under a power of sale contained in a deed of trust executed by him, or a person under whom he claims, and the title under the sale has been duly perfected.

4. Where the property has been duly sold by him, or a person under whom he claims, and the title under the sale has been duly perfected.

CHAPTER 1096

An act to amend Section 1181 of the Civil Code, relating to proof or acknowledgment of an instrument.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1181 of the Civil Code is hereby amended to read as follows: Stats 1911, p 429

1181. The proof or acknowledgment of an instrument may be made in this State, within the city, county, city and county, Proof or acknowledgment

township or district for which the officer was elected, or appointed, before either:

1. A clerk of a court of record;
2. A county recorder;
3. A county clerk;
4. A court commissioner;
5. A notary public;
6. A justice of the peace.

CHAPTER 1097

Stats 1939, p. 482, amended

An act to repeal Part 2 of Division 13 of the Health and Safety Code, and to add a new Part 2 to said Division 13, relating to auto courts and resorts, and auto and trailer camps.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Repeal, new part

SECTION 1. Part 2 of Division 13 of the Health and Safety Code is hereby repealed, and a new Part 2 is hereby added to said Division 13, to read as follows:

PART 2. AUTO COURTS AND RESORTS, AUTO AND TRAILER CAMPS

CHAPTER 1. DEFINITIONS AND SCOPE

"Auto court and resort"

18100. "Auto court and resort" as used in this part means any area, place or tract of land where two or more single family dwellings, or a building containing two or more apartments designed, used, or intended wholly or in part for the accommodation of automobile transients are located and offered for hire, rent or lease by any person, firm or corporation.

"Trailer coach"

18101. "Trailer coach," as used in this part, means any camp car, trailer or other vehicle, with or without motive power, designed and constructed to travel on the public thoroughfares at the maximum allowable speed limit and in accordance with the provisions of the Vehicle Code, and designed or used for human habitation.

"Auto and trailer camp"

18102. "Auto and trailer camp," as used in this part, mean any area or tract of land where space is rented or held out for rent to owners or users of trailer coaches or tent campers furnishing their own camping equipment, or where free camping is permitted owners or users of trailer coaches or tent camping equipment for the purpose of securing their trade.

18103. "Camp site," as used in this part, means any portion of an auto and trailer camp designed for the use or occupancy of one trailer coach or camping party. "Camp site"

18104. "Apartment," as used in this part, means a room or suite of rooms in a building occupied or designed for occupation by one family for living or sleeping purposes. "Apartment"

18105. "Building," as used in this part, means a tent, tent-house, rest room or a single or multifamily dwelling. "Building"

18106. "Dwelling," as used in this part, is a building containing one or more apartments. "Dwelling"

18107. "Family," as used in this part, means one person living alone or a group of two or more persons occupying an apartment. "Family"

18108. In an auto court and resort or auto and trailer camp, "nuisance" includes any of the following: "Nuisance"

(a) Any public nuisance known at common law or in equity jurisprudence.

(b) Whatever is dangerous to human life or is detrimental to health.

(c) The overcrowding of any room with occupants.

(d) Insufficient ventilation or illumination of any room.

(e) Inadequate or insanitary sewage or plumbing facilities.

(f) Whatever renders air, food, or drink unwholesome, or detrimental to the health of human beings.

18109. This part applies only in the unincorporated areas of the State. Application

CHAPTER 2. ENFORCEMENT, ACTIONS AND PROCEEDINGS

18200. The California Highway Patrol shall enforce the provisions of Section 18602. The Division of Immigration and Housing in the Department of Industrial Relations shall enforce every other provision of this part. Enforcement

The officers or agents of the division may:

(a) Enter public or private property to determine whether there exists any auto court and resort, auto camp or trailer camp to which this part applies. Powers of officers

(b) Enter and inspect all auto courts and resorts, auto camps or trailer camps, wherever situated, and inspect all accommodations, equipment or paraphernalia used in connection therewith, including the right to examine any registers of occupants maintained therein in order to secure the enforcement of the provisions of this part.

For the purpose of securing the enforcement of this part the officers or agents of the Division of Immigration and Housing shall have the authority of peace officers, including authority to make arrests, to serve any process or notice throughout Authority

the State, and generally such other authority of peace officers as may be necessary in order to secure enforcement of this part.

Abatement of nuisance

18201. The owner or operator of an auto court and resort or an auto and trailer camp shall abate any nuisance in the court and resort or camp within five days, or within such longer period of time as may be allowed by the Division of Immigration and Housing, after he has been given written notice by the division to remove the nuisance. If he fails to do so within that time, the district attorney of the county in which the auto court and resort or camp, or the greater portion of the auto court and resort or camp, is situated shall bring a civil action to abate the nuisance in the superior court of the county in the name of the people of the State of California.

Judgment or order

18202. In any action or proceeding to abate a nuisance in an auto court and resort or auto and trailer camp, proof of the following facts is sufficient for a judgment or order for the abatement of the operation of the auto court and resort or auto and trailer camp:

(a) Previous conviction of the owner or operator of the auto court and resort or auto and trailer camp of a violation of this part which constitutes a nuisance.

(b) Failure on the part of the owner or operator to correct the violation after the conviction.

(c) The violation is the basis for the proceeding.

CHAPTER 3. PERMITS AND FEES

Permit required

18300. It is unlawful for any person to do any of the following unless he first makes application in writing to the Division of Immigration and Housing and obtains a permit therefor:

(a) Construct an auto court and resort or auto and trailer camp.

(b) Construct additional buildings or reconstruct or move existing buildings in an existing auto court and resort or auto and trailer camp.

(c) Operate, or rent, lease, sublease, let, or hire out for occupancy any space in an auto and trailer camp or any building in an auto court and resort that has been constructed, reconstructed, or altered or moved without having obtained a permit as required herein.

Plans, fees, etc., for new camp, etc

18301. In the case of a new auto court and resort, a new auto and trailer camp, or a new combination auto court and resort and auto and trailer camp, the application shall be accompanied by:

(a) A description of the grounds upon which the auto court and resort or auto and trailer camp is to be constructed.

(b) Plans and specifications of the proposed construction.

(c) A description of the water supply, ground drainage, and method of sewage disposal.

(d) A fee of twenty-five dollars ($25), except that the fee shall be waived when the new auto court and resort or new auto and trailer camp is to be operated as a combination auto court and resort and auto and trailer camp with an auto court and resort or trailer camp for which a fee has been paid and a permit issued.

Same

18302. In the case of an existing auto court and resort or auto and trailer camp, the application shall be accompanied by:

Existing camps, etc

(a) A description of the grounds upon which buildings are to be added or reconstructed, or to which buildings are to be moved, or which is to be used for camping purposes.

(b) Plans and specifications of the proposed addition, reconstruction or movement.

(c) A description of the water supply, ground drainage, and method of sewage disposal.

Issuance of permit

18303. Within 10 days after the application, descriptions, plans and specifications, and required fee, if any, are filed and paid, an inspector of the Division of Immigration and Housing shall inspect the grounds upon which the applicant proposes to do the work for which he seeks a permit. The division shall issue a written permit to the applicant if, in its opinion:

(a) The grounds are satisfactory for the work proposed.

(b) The descriptions and plans and specifications filed indicate that the work proposed will meet the requirements of this part.

Notice of change in name or ownership

18304. The Division of Immigration and Housing shall be notified by the owner or operator of any auto court and resort or auto and trailer camp of any change in the name of or the ownership or possession thereof. Said notice shall be in written form and shall be furnished within 30 days from and after any such change in name or transfer of ownership or possession.

Permits posted

18305. Permits for construction and operation shall be posted in a conspicuous place.

Expiration upon failure of completion

18306. All permits as required in this chapter for construction or reconstruction of an auto court and resort or auto and trailer camp shall automatically expire within six months from the date of the issuance thereof in those cases where the construction or reconstruction has not been completed within said period; provided, however, that the Division of Immigration and Housing may extend the expiration date of said permit for a reasonable time.

CHAPTER 4. AUTO COURTS AND RESORTS

Article 1. Construction

Generally

18400. Every building in an auto court and resort shall be constructed in a substantial and thoroughly workman-like manner; and shall provide shelter to the occupants against the elements, and exclude dampness in inclement weather.

Studs

18402. The wooden studs in every bearing wall and bearing partition shall be not less than 2″ x 4″; and the studs shall be spaced not more than 16″ center to center, except that construction of equal or greater strength may be used in lieu thereof.

Fire stoppage

18403. All wooden stud walls and partitions shall be effectively fire stopped at the floors and ceilings.

Angle-bracing

18404. Each wooden stud wall and partition shall be thoroughly and effectively angle-braced at each corner and at least once in each 25 feet of its length, except that diagonal sheathing or other membrane of comparable strength and rigidity may be used for angle-bracing.

Floor joists or bearing supports

18405. No floor joist or other bearing support shall be cut or notched for any purpose unless it is reinforced to take up the weakness caused by the cut or notch.

Cross-bridging

18406. Every span of wooden floor joists shall be cross-bridged with cross-bridging of not less than 2″ x 3″ material, at intervals not more than eight feet apart. A bearing partition, wall, girder, or other support under the joists that is blocked solid over its top between the joists with blocks not less than two inches thick the full depth of the joists shall take the place of cross-bridging.

Masonry foundation

18407. Unless it is impracticable because of soil conditions, every wooden building shall have a masonry foundation of adequate size to accommodate the structure.

Air space

18408. There shall be a clear air space under the lower floor of every building in an auto court and resort. The air space shall:

(a) Measure at least 12 inches in the clear from the underside of the floor joists to the ground directly beneath; provided, that waterproof masonry floors of not less than four-inch thickness may be laid directly on the ground.

(b) Be inclosed.

(c) Be provided with a sufficient number of openings with screens, lattice work, or similar installations, of a size to insure ample ventilation.

The surface underneath the floor shall be kept clean, and shall be free from any accumulation of rubbish, debris, or filth.

Sleeping room Width and area

18409. Every sleeping room in any building in an auto court and resort shall:

(a) Have a superficial floor area of at least 80 square feet.

(b) Be at least seven feet in width at any point within that portion of the room included in computing the minimum required superficial floor area.

Ceiling height

18410. Every sleeping room and kitchen in any building in an auto court and resort shall have a ceiling height of at least eight feet, measured from the finished floor to the finished ceiling; but if the room has a sloping ceiling, the ceiling height may be less than eight feet in not more than one-half the sloping ceiling portion of the room.

Partition

18411. Every partition in a building in an auto court and resort separating a room used for cooking purposes from a room used for sleeping purposes shall extend to the ceiling; or to the roof, if there is no ceiling and any openings therein shall be provided with a full length solid door.

Kitchen Area

18412. Every kitchen in any building in an auto court and resort shall contain not less than 50 square feet of floor area.

Toilets and bathrooms Partition

18413. Every room in a building in an auto court and resort used as a toilet or bath room shall be separated by a partition extending to the ceiling, or to the roof if there is no ceiling, and any openings therein shall be provided with a full length solid door.

Provisions inapplicable to tent houses

18414. The provisions of Sections 18402, 18403, 18404, 18405, 18406 and 18407 of this article shall not apply to the construction of tent houses in seasonal resorts operated between May 1st and October 15th of each year.

Article 2. Windows

"Window"

18430. "Window," as used in this article, includes a French door or window.

Measurement

18431. Windows required by this article may be measured the full width of the sash.

Area

18432. Every living room, sleeping room, or kitchen in every building in any auto court and resort shall be provided with one or more windows having an aggregate area of not less than one-eighth the floor area of the room, or not less than 12 square feet, whichever is the greater.

Every bath or water closet compartment in the building shall be provided with one or more windows having an aggregate area of not less than three square feet; provided, however, if the room contains more than one water closet, bath or urinal, the total window area shall be equivalent to three square feet for each water closet, bath or urinal, but need not exceed one-fourth of the superficial floor area of the room.

Arrangement

18433. Windows required by this article shall be so arranged that at least one-half of their aggregate area may be opened.

Opening. Street, etc

18434. All required windows shall abut upon a street, or a yard or court not less than four feet in clear width, and containing an area of not less than 40 square feet, open and unobstructed to the sky, located on the same lot as the building it serves. Required bath or toilet room windows, however, may open into a vent shaft at least three feet in its least dimension and unobstructed to the sky.

Roofed porch

18435. Any window required by this article may open through a roofed porch which:

(a) Does not exceed seven feet in depth.

(b) Has one side or one end abutting a street, or a yard or court not less than four feet in width. Such street, yard or court shall be directly opposite the windows served.

(c) Has a ceiling height of not less than seven feet.

The open and unobstructed side and end of the porch may be covered with metal screening of at least 16 mesh.

Article 3. Plumbing, Use and Sanitation

Water closet

18460. One water closet for each sex shall be provided for every 10 apartments or fractional part thereof in an auto court and resort; provided, however, that the enforcement agency may authorize other types of toilet facilities in its discretion

Bathing facilities

18461. One shower or bath tub for each sex shall be provided for every 10 apartments or units or fractional part thereof in every auto court and resort. Such shower or bath tub shall be supplied with hot and cold water.

Waterproof floors

18462. The floor of every water closet and shower bath compartment shall be constructed, and shall be maintained in a waterproof condition by the use of cement, concrete, or other approved waterproof material. The waterproof material shall be applied upward on the interior walls of the shower bath compartment to a height of not less than six feet above the floor.

Location

18463. No apartment or unit shall be more than 200 feet from a toilet and a shower or bath compartment.

Kitchen sink

18464. Each kitchen shall be provided with a kitchen sink supplied with running water.

Connection between water closet and kitchen, etc.

18465. No door or other opening in a water-closet compartment shall open from or into any room in which food is stored, prepared, or cooked.

Traps and vents

18466. In every building in an auto court and resort every plumbing fixture affecting the sanitary drainage system shall be separately and effectively trapped and vented and the vent pipe shall extend to the outer air above the roof.

Cesspools and septic tanks

18467. If it is impracticable to connect the plumbing fixtures affecting the sanitary drainage system with municipal or sanitary district sewer, sewage or waste may be discharged into a cesspool or into a septic tank constructed to the satisfaction of the enforcement agencies; provided, such method of disposal is not in conflict with any existing county ordinances or regulations.

Water supply

18468. There shall be in every auto court and resort an adequate supply of pure water for all the requirements of the camp. The water shall be obtainable from faucets installed within 100 feet of each part of the court.

Common cups and dippers

18469. No dipping vessels or cups for common use are permissible in any auto court and resort.

Gas appliances Vents etc

18470. Every gas water heater, and every other gas-fire appliance used for the purpose of heating a building, except gas plates and gas ranges, in every auto court and resort apartment shall be effectively vented so as to discharge at least 90 per cent of the flue gases therefrom through a sheet metal or other approved vent pipe not less than the area of the vent outlet on the appliance but in no case less than three inches in internal diameter, which vent pipe shall be connected to a vertical, or substantially vertical flue or chimney leading to the outer air above the roof. The flue or chimney shall be either terra cotta, brick, fire clay, or other approved product, having a wall thickness of adequate insulating value, and which will not disintegrate from the effects of the products of combustion. The internal area of the flue or chimney shall be at least 12 square inches.

All gas appliances subject to the provisions of this section and all gas plates and gas ranges shall be rigidly connected with metal piping directly to the gas service inlet.

Cooking and sleeping

18471. A room used for the cooking and preparation or storage of food shall not be used for sleeping purposes.

Air space in sleeping rooms

18472. It is unlawful to use or permit to be used for sleeping purposes any room in any building that does not contain at least 640 cubic feet of air space.

If any room is used for sleeping purposes by more than two persons, the minimum required cubic air space of the room shall be increased by not less than 500 cubic feet for each additional person in excess of two that the room is designed, built, or intended to, or does, accommodate.

Sanitation Buildings

18473. Every building in an auto court and resort and every part of such building shall be maintained in a clean and sanitary condition and shall be kept free from vermin, debris, filth, rubbish, garbage or other offensive matter.

Same Grounds

18474. The premises upon which an auto court and resort is situated shall be well drained and properly graded and maintained in a clean and sanitary condition.

Bedding

18475. Every mattress and all bedding used in any auto court and resort shall be maintained in a clean and sanitary condition and free from vermin.

Disposal of garbage and waste

18476. All garbage, waste and rubbish in every auto court and resort shall be burned, buried or removed from the premises without creating a nuisance and in such manner as may be approved by the health department of the county in which the camp is located.

CHAPTER 5. AUTO AND TRAILER CAMPS

Article 1. General Provisions

Compliance by trailer coaches

18600. Every trailer coach parked in a trailer camp shall comply with all of the requirements of that part of this code pertaining to buildings in an auto court and resort under any of the following circumstances:

(a) Where the wheels or tires have been removed therefrom, except for the purpose of making temporary repairs or placing it in dead storage.

(b) Where the trailer coach has been rigidly attached to or connected with water, gas or sewer pipes.

(c) Where the trailer coach has been permanently attached to the ground by means of underpinning or foundation.

(d) Where the trailer coach has been altered or changed in such a manner that it fails to comply with the requirements of the Vehicle Code governing the use of trailers on public thoroughfares.

(e) Where the trailer coach does not carry a current yearly license issued by a State motor vehicle department.

(f) Where the trailer coach is in the possession or control of the operator of the camp or his agent and is used for occupancy in the camp.

Occupancy of land

18601. It is unlawful for any person to use, occupy, or maintain any trailer coach, tent or tent-house upon any area or tract of land for a period of more than seven days during

any one three-months' period of time without the written permission of the owner or person legally in charge of the land.

Overnight parking on highway

18602. It is unlawful to camp over night or to park a trailer coach over night upon any public highway including the right of way. This provision shall not apply where a trailer coach is parked for the purpose of making emergency repairs.

Article 2. Camp Sites

Camp site: Area, etc

18625. Each camp site in an auto and trailer camp shall be not less than 500 square feet in area with a clear space of not less than six feet between each camp tent or trailer coach or another building, and the distance of any tent or trailer coach to the lot line shall be not less than three feet.

Prohibition

18626. An auto and trailer camp shall not accommodate any camping parties for whom there are no available camp sites in the camp.

Article 3. Water-closet, Bathing, and Plumbing Facilities

Water closet

18650. There shall be not less than one water-closet for each sex for each 10 camp sites or fractional part thereof; provided, however, that the enforcement agency in its discretion may authorize the use or other types of toilet facilities. All toilet facilities shall not be farther than 200 feet from each camp site.

Same Signs

18651. In every auto and trailer camp water-closets for men shall be distinctly marked: "For men"; and water-closets for women shall be distinctly marked: "For women." In addition, the location of water-closets shall be plainly indicated by signs.

Floors

18652. The floor of every water-closet compartment shall be constructed and shall be maintained in a waterproof condition by the use of cement, concrete, or other waterproof material. The waterproof material shall be applied upward on the interior walls of the water-closet compartment, to a height of not less than 12 inches above the floor.

Toilet in trailer coach

18653. It is unlawful for any person to use, or permit the use of, any toilet in any trailer coach located or camped within an auto and trailer camp.

Bathing facilities

18654. In every auto and trailer camp, shower baths or other bathing facilities with hot and cold running water shall be installed in separate compartments for every 10, or fractional part of 10 camp sites for each sex. All shower baths or other bathing facilities provided herein shall not be farther than 200 feet from each camp site.

Floors 18655. The floor of every shower bath compartment shall be constructed and shall be maintained in a waterproof condition by the use of cement, concrete, or other approved waterproof material. The waterproof material shall be applied upward on the interior walls of the compartment to a height of not less than six feet above the floor.

Sanitation 18656. Every water-closet compartment or compartments containing bathing facilities shall be:

(a) Kept clean.

(b) Kept free from obnoxious odors, flies, mosquitoes, or other insects.

Windows (c) Provided with one or more windows having an aggregate area of not less than three square feet. However, if the room contains more than one water-closet, bath or urinal, the total window area shall be equivalent to three square feet for each water-closet, bath or urinal, but need not exceed one-fourth of the superficial floor area of the room.

Slop sinks 18657. There shall be installed in every auto and trailer camp one or more slop sinks, which shall be conveniently located within 100 feet of each trailer coach or camp site.

Traps and vents 18658. In every building in an auto and trailer camp every plumbing fixture affecting the sanitary drainage system shall be separately and effectively trapped and vented and the vent pipe shall extend to the outer air above the roof.

Cesspools or septic tanks 18659. If it is impracticable to connect the plumbing fixtures affecting the sanitary drainage system with a municipal or sanitary district sewer, sewage or waste may be discharged into a cesspool or into a septic tank constructed to the satisfaction of the enforcement agencies; provided, such method of disposal is not in conflict with any existing county ordinance or regulation.

Water 18660. There shall be in every auto and trailer camp an adequate supply of pure water for all the requirements of the camp. The water shall be obtainable from faucets installed within 100 feet of each part of the camp.

Common dippers or cups 18661. No dipping vessels or cups for common use are permissible in any auto and trailer camp.

Article 4. Garbage and Rubbish Disposal

Garbage cans 18680. In every auto and trailer camp one or more metal garbage cans with tight fitting covers, appropriately labeled, shall be provided for every six, or fractional part of six, trailer coaches or camp sites within the camp.

Disposal of garbage

18681. All garbage, waste, and rubbish in every auto and trailer camp shall be burned, buried, or removed from the premises and disposed of without creating a nuisance.

Same

18682. Any person who uses, occupies, operates, or maintains any trailer coach shall not deposit or dispose of any garbage, rubbish, or refuse otherwise than by burning or burying it at a distance more than 50 feet from any public highway or road and more than 200 feet from any spring, well, stream, lake, reservoir, or other source of water supply.

Deposit of waste

18683. It shall be unlawful to permit any waste water or material from sinks or other plumbing fixtures in a trailer coach to be deposited upon the surface of the ground, and all such fixtures, when in use, must be connected to a sewer system or covered cesspool or septic tank.

Chapter 5. Maintenance and Sanitation

Drainage and sanitation

18710. The area or tract of land upon which an auto and trailer camp is maintained shall be:

(a) Well drained and graded.

(b) Kept free from dust.

(c) Kept clean and free from the accumulation of refuse, garbage, rubbish, or debris.

Chapter 6. Miscellaneous Provisions

Register

18720. Every person who owns or operates an auto court and resort or an auto and trailer camp shall keep a register in which shall be entered (a) the name and address of each guest who is the owner or operator of an automobile for which space is rented in the camp; and (b) the make, type and license number of the automobile.

Exceptions

18721. This part does not apply to any supervised public park, public camp ground, or picnic ground owned, operated, or maintained by any of the following:

(a) The Federal Government.

(b) The State.

(c) Any agency or political subdivision of the State.

18721.5. This part does not apply to any hotel or apartment house which is subject to the provisions of Part 1 of this division.

Caretaker

18722. It is unlawful for any person to operate or maintain, or cause or permit to be operated or maintained, any auto and trailer camp, unless there is a caretaker in the camp at all times. The caretaker shall enforce within the camp the provisions of this part governing the operation and maintenance of auto and trailer camps.

CHAPTER 7. VIOLATIONS

Penalty 18800. Every owner or operator of an auto court and resort or an auto and trailer camp who violates any of the provisions of this part is guilty of a misdemeanor, punishable by a fine not exceeding two hundred dollars ($200) or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

CHAPTER 1098

An act to provide for the formation of, government of, issuance of bonds by and assessment in motor vehicle parking districts.

In effect September 13, 1941 [Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Petition for formation of parking district SECTION 1. Any 10 or more owners of property, owning taxable land equal in assessed value to twenty-five per cent (25%) of the assessed value of all the taxable land in a proposed motor vehicle parking district as described in the petition, may petition for the formation of a parking district. If the proposed parking district is wholly within a municipality the petition shall be filed with the legislative board of the municipality. If the proposed parking district is partly within a city and partly within unincorporated territory, or wholly within unincorporated territory, the petition shall be filed with the board of supervisors of the county in which the proposed district is located. If the proposed parking district is partly within a city and partly within unincorporated territory, a copy of the petition shall be filed with the legislative board of the municipality, and the board of supervisors shall not have jurisdiction to proceed to act upon the petition until the legislative board of such city has approved such petition and consented thereto by resolution spread upon its minutes.

Contents SEC. 2. The petition shall contain all of the following:

(a) A description of the boundaries of the proposed district.

(b) A statement of the need for parking facilities within the boundaries of the proposed district.

(c) A prayer that a parking district be formed for the area described.

(d) The name for the proposed district, which shall include "parking district."

(e) The signatures of petitioners.

Notice SEC. 3. Upon receipt of the petition, the board shall cause notice to be given once a week for two successive weeks, by publication in a newspaper of general circulation, published within the municipality or county in which the proposed district is located, that upon the first regular meeting day of the board following the final publication of the notice, the board will

determine whether or not a parking district with the boundaries described in the petition will be formed in the county.

Protests; hearing

SEC. 4. The owners of the property within the proposed district may file written protests against the formation of the district. On the day of the hearing and on any day to which it shall be recessed, the board shall examine the protests and shall hear evidence presented by any interested persons in favor of or against the formation of the parking district.

Termination of proceedings on majority protest

SEC. 5. If, at the hearing, it appears that the owners of more than one-half of the assessed value of land only in the district have filed protests to the formation of the district, the board shall, by resolution to be entered upon its minutes, so find, and shall abandon the formation of the district, and no further proceeding for the formation of the district shall be taken within a period of six months from the date of such abandonment. At the conclusion of the hearing the board shall determine whether or not the area described in the petition will be benefited by the formation of a parking district. The determination of the board upon any of the matters presented in any of the protests or objections and upon all the matters involved therein shall be final and conclusive.

Formation of district

SEC. 6. If the board determines that the described area will benefit by the formation of a parking district, the board shall declare the district formed under the name given it in the petition. From henceforth the district shall be a body corporate and politic with perpetual succession.

Election for commissioners

SEC. 7. Upon the formation of the district, the board shall call an election to elect the commissioners of the district.

Conduct of election

SEC. 8. The election shall be called, conducted, determined, and declared in the manner for calling, conducting, determining, and declaring ordinary elections of the district, except that the board shall act in the place of the board of commissioners and the clerk of the city or county with whose governing board the petition has been filed shall act in the place of the manager of the district.

Commissioners

SEC. 9. The elective officers of a district consists of three commissioners, who shall each own real property within the boundaries of the district worth at least six thousand dollars ($6,000).

Electors

SEC. 10. The electors of the district shall be owners, without regard to residence, of an interest in real property within the district, which interest is assessed on the last preceding equalized assessment roll of the county.

Vote

SEC. 11. Each property owner so qualified to vote shall be entitled to cast one vote for each one hundred dollars ($100) of assessed valuation of land only or fraction thereof greater than fifty dollars ($50) as the same appears to have been assessed on the equalized assessment roll used.

Computation of vote

SEC. 12. In determining the total number of votes any voter is entitled to cast, the total assessed value of all interests owned by the voter shall be divided by 100, and the quotient shall determine the number of votes.

List of voters SEC. 13. The manager of the district shall prepare a list of the voters entitled to vote at any district election. He shall deliver the list to the inspector of the election board prior to the holding of the election.

Election officers SEC. 14. The board of commissioners shall 10 days prior to the holding of any election, appoint an inspector and two clerks to conduct it. At the same time the board shall name the polling place.

Notice SEC. 15. At least five days prior to the holding of the election, the board of commissioners shall cause to be published a notice stating the day on which and the place at which the election shall be held.

Poll hours SEC. 16. The polls shall be open from 9 a.m. to 5 p.m.

Election date SEC. 17. Immediately after the organization of the first board of commissioners the board shall determine a definite date for regular elections of the board of commissioners, which shall be held every two years thereafter.

Management SEC. 100. The board of commissioners of a parking district shall manage and conduct the business and affairs of the district.

Meetings SEC. 101. The board shall determine the times at which its regular meetings shall be held and the manner of calling special meetings of it.

Manager SEC. 102. The board shall appoint a manager to execute its orders, which manager shall hold office at the pleasure of the board.

Seal SEC. 103. The board shall adopt a seal for the district.

Power to sue SEC. 200. The district may sue and be sued.

General powers SEC. 201. The district may do any act in order to furnish parking space for motor vehicles and to properly handle and care for any cars parked within any parking space owned or operated by the district.

Acquisition of property SEC. 202. The district may acquire any interest in property by purchase or gift from any person, firm, association, government, political subdivision, city, county, municipality, district, public agency or corporation. The interest may be acquired by contract, lease or deed. All property within the district or within one thousand (1,000) feet of the exterior boundaries of the district necessary for its uses is affected with a public use, and may be acquired by the district pursuant to Title 7 of Part 3 of the Code of Civil Procedure of California.

Building SEC. 203. The district may construct any buildings its board deems necessary to accomplish its purposes, and is not restricted in the accomplishment of the construction by any provision of law governing the public works of the State or any public agency, corporation or district.

Construction bonds The board of commissioners of a parking district shall require any person, firm or corporation with whom a contract for the construction of any building, improvement or works, or the repair thereof, is made and entered into, to file with

the board good and sufficient bonds, to be approved by the board, conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 303 of the Statute of 1919, as amended, and to be subject to the provisions of that chapter.

Operations, employees

SEC. 204. A district may operate and maintain any property it acquires to carry out its purposes, and may employ the personnel therefor.

Rules and charges

SEC. 205. A district by its board shall establish equitable rules and charges, if any, for the use of parking space it has acquired, and may restrict, or partially restrict, the use of the parking space to, or make rates designed to favor the owners of any interest in property within the district, persons designated by the owners of the property, or any subdesignees thereof.

Bonds

SEC. 300. A district may issue bonds for the purpose of acquiring any property it may require, constructing any buildings it may construct, and operating and maintaining any buildings or works it may operate and maintain.

Same

SEC. 301. Whenever the board of a district deems it desirable to issue bonds, it shall determine the total amount of the bonds to be issued, the form, terms and conditions of the bond and the amount of each bond. The total amount of the principal of the indebtedness proposed to be incurred shall not exceed twenty per cent (20%) of the assessed value of the taxable land in the district as shown by the county assessment roll of all the lands of the district as last equalized, prior to the resolution of the board.

Election on bonds

SEC. 302. Before any bonds may be issued, the board shall submit to the electors of the district the question of whether the district shall issue bonds in the amounts and for the purposes stated.

Issuance

SEC. 303. If it shall be determined at such election that bonds shall be issued in the amounts and for the purposes stated, the board shall thereupon issue such bonds. The provisions of the Improvement Act of 1911 shall govern the issuance, sale, enforcement and collection of bonds for the work contemplated by this act.

Stats 1911, p 730

Election

SEC. 304. The election shall be called, conducted, determined, and declared as nearly as practicable in accordance with the manner for holding ordinary elections of the district.

Sale of bonds

SEC. 305. The bonds may be disposed of in any manner and at any time that the board of the district deems wise.

Vitiating errors

SEC. 306. No informalities in the calling, conduct, determination, or declaration of the result of the election to authorize the issuance of bonds shall vitiate it if the election is fairly called, conducted, determined, and declared.

Payment

SEC. 307. The bonds and the interest on them shall be paid by the manager of the district from funds provided and available for their payment.

Estimates of expenditures

SEC. 399. In making its estimate of expenditure for the ensuing period, the board of commissioners shall in the second year of the operation of the district and thereafter include as an offset to the amount of money needed to be raised by taxes, cash on hand as of the preceding July 1st secured from parking fees or other sources except the sale of bonds and not then definitely allocated to any improvement or expense already incurred, it being the general purpose of this provision that the district may use any income other than that derived from the sale of bonds for the purpose of maintaining, repairing, improving and operating the parking district, and may tax for those purposes only the amount estimated to be necessary to make up the total amount needed for estimate period.

Taxation for maintenance and operation

SEC. 400. The board of commissioners shall annually on or before the twentieth day of July estimate the amount of money which will be needed to defray the cost of maintenance and operation of the district prior to the close of the next succeeding calendar year. Such costs shall include but not be limited to rental or lease payments on properties used by the district and the cost of improvements or equipment necessary to the operation of the district; provided, that the total cost of improvements or equipment shall not in any one year exceed twenty-five thousand dollars ($25,000) unless a larger sum for such purposes has been approved by a majority vote of the district at an election under the provisions of Sections 10 to 17, inclusive. Having prepared its estimates as provided in the foregoing, the board of commissioners through the manager of the district shall submit them to the governmental agency under whose actions the district was formed, which agency shall thereupon make the necessary provision for the levy of an ad valorem tax upon the district sufficient in amount to raise the money set out in said estimate. The property upon which the tax shall be levied shall be designated and certified to the above mentioned governmental agency. The board of commissioners shall have the power subject to a vote of the district at an election under the provisions of Sections 10 to 17, to designate as the properties upon which any year's tax levy is to be made as (1) land only within the district, or (2) land and improvements only within the district. The assessed value of the properties within the district as used by the governmental agency forming the district shall be used as the basis of the district tax levy.

Taxation policy

SEC. 401. In securing a vote to determine whether maintenance taxes shall be levied on land only or upon land and improvements only, the commissioners may submit for approval a policy to be followed for a period of not to exceed six years from the date of the election.

Elections

SEC. 402. Any of the matters required by this act to be submitted to election may be placed on the ballot and submitted to the electors at any general or special election, except that the election of commissioners shall be held only at a general election, as provided in Section 17.

CHAPTER 1099

An act to amend Section 1207 of the Penal Code, relating to entry of judgment of conviction.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1207 of the Penal Code is hereby amended to read as follows: Stats 1935, p 461

1207. When judgment upon a conviction is rendered, the clerk must enter the same in the minutes, stating briefly the offense for which the conviction was had, and the fact of a prior conviction, if any. A copy of the judgment of conviction shall be filed with the papers in the case. Entry of judgment

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CHAPTER 1100

An act to amend Sections 3.362, 4.871, 4.873, 4.884 and 4.885 of, and to add Sections 4.871a and 4.884a to the School Code, relating to the support of the public school system.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 3.362 of the School Code is hereby amended to read as follows: Stats 1937, p 1749

3.362. Junior colleges may be maintained as separate day or evening junior colleges or in conjunction with any day or evening high school. Junior colleges

SEC. 2. Section 4.871 of the School Code is hereby amended to read as follows: Stats 1937, p 1750

4.871. He shall apportion to each high school district five hundred fifty dollars ($550) for each year of the six-year course covering grades 9 to 14, inclusive, maintained in each day high school or junior college therein during the preceding school year. Apportionment to each district

SEC. 3. Section 4.873 of the School Code is hereby amended to read as follows: Stats 1937, p. 1751

4.873. He shall apportion to each high school district on account of each separate high school, each combined junior high school and senior high school, each separate junior college, and each combined high school and junior college maintained therein eighty dollars ($80) for each unit or major Apportionment on average daily attendance basis

fraction of a unit of the first 10 units of average daily attendance in special day classes, special evening classes, evening high school classes and evening junior college classes, including compulsory continuation classes for persons under 18 years of age, maintained in connection with each such school during the preceding school year; sixty dollars ($60) for each unit or major fraction of a unit of the second 10 units of such average daily attendance; and forty dollars ($40) for each unit or major fraction of a unit of the third 10 units of such average daily attendance.

Stats 1937, p 1751

SEC. 4. Section 4.884 of the School Code is hereby amended to read as follows:

Years maintained

4.884. He shall allow for each high school district two hundred fifty dollars ($250) for each year of the six-year course covering grades 9 to 14, inclusive, maintained in each day high school or junior college therein during the preceding school year.

Stats 1937 p 1751

SEC. 5. Section 4.885 of the School Code is hereby amended to read as follows:

Amount per unit

4.885. He shall allow to each high school district on account of each separate high school, each combined junior high school and senior high school, each separate junior college, and each combined high school and junior college maintained therein forty dollars ($40) for each unit or major fraction of a unit of the first 10 units of average daily attendance in special day classes, special evening classes, evening high school classes and evening junior college classes, including compulsory continuation classes for persons under 18 years of age, maintained in connection with each such school during the preceding school year; thirty dollars ($30) for each unit or major fraction of a unit of the second 10 units of such average daily attendance; and twenty dollars ($20) for each unit or major fraction of a unit of the third 10 units of such average daily attendance.

New section

SEC. 6. Section 4.871a is hereby added to the School Code, to read as follows:

Apportionment from State High School Fund

4.871a. He shall apportion to each high school district two thousand two hundred dollars ($2,200) for each evening high school and one thousand one hundred dollars ($1,100) for each evening junior college maintained therein during the preceding school year; provided, that such apportionment shall be made only for evening high schools and junior colleges which shall have complied with all requirements made by the State Board of Education.

SEC. 7. Section 4.884a is hereby added to the School Code, to read as follows: New section

4.884a. He shall allow for each high school district one thousand dollars ($1,000) for each evening high school, and five hundred dollars ($500) for each evening junior college maintained therein during the preceding school year; provided, that such apportionment shall be made only for evening high schools and junior colleges which shall have complied with all requirements made by the State Board of Education. Apportionment from State General Fund

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CHAPTER 1101

An act to amend Section 5.430 of the School Code, relating to school principals.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5.430 of the School Code is hereby amended to read as follows: Sch. C., 1929, p. 238

5.430. No person shall be employed as principal of a school of six or more teachers, including the principal, unless he is the holder of a valid teacher's certificate and a valid school administration certificate of the same grade as the school to be administered. Principal's certificate

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CHAPTER 1102

An act authorizing wage or salary deductions for public officers and employees in favor of credit unions.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Public officers or employees are authorized and empowered to provide by wage and salary deductions for the purchase of shares in or the payment of money to any regularly chartered credit union. Auditors, treasurers or other disbursing officers of any public agency are authorized and empowered to recognize and act upon such wage or salary assignments. No provision of law prohibiting, restricting or limiting the assignment or order for wages or salary shall be deemed in any way to prohibit, restrict or limit the power herein conferred. Deduction for payment to credit union

CHAPTER 1103

Stats 1935, p. 93, amended

An act to amend Section 744 of the Vehicle Code, relating to records of convictions to be reported to the Department of Motor Vehicles.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 241

SECTION 1. Section 744 of the Vehicle Code is hereby amended to read as follows:

Report of convictions

744. Conviction to Be Reported to Department. (a) Every justice of the peace, magistrate or judge of a court not of record shall keep a full record of every case in which a person is charged with any violation of this code.

(b) Within 10 days after the conviction of a person for any violation of this code, excepting violations of Sections 586, 587 and 588 of this code relating to the improper parking of vehicles, every justice of the peace, magistrate or judge of a court not of record and every clerk of a court of record in which such conviction was had, shall prepare and immediately forward to the department at its office at Sacramento an abstract of the record of said court covering the case in which said person was so convicted which abstract must be certified by the person so required to prepare the same to be true and correct.

(c) Said abstract must be made upon a form furnished by the department and shall contain all necessary information as to the parties to the case, the nature of the offense, the date of hearing, the plea, the judgment and the amount of the fine or forfeiture, as the case may be.

(d) The failure, refusal or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal therefrom.

(e) The department shall keep all abstracts received hereunder at its office in Sacramento and the same shall be open to public inspection during reasonable business hours.

(f) For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

CHAPTER 1104

An act to repeal School Code Sections 2.506 and 2.507, relating to elementary school districts.

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. School Code Sections 2.506 and 2.507 are hereby repealed. Repeals

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CHAPTER 1105

An act to amend Section 4246 of the Political Code, relating to the compensation for public services in counties of the seventeenth class.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4246 of the Political Code is hereby amended to read as follows: Stats 1941, p 1613

4246. In counties of the seventeenth class, the following shall receive as compensation for the services required of them by law, or by virtue of their offices, the following sums: Monterey County Salaries

1. The county auditor, three thousand six hundred dollars ($3,600) per annum; provided further, that in the event the county auditor shall serve as, and perform the duties of, the county purchasing agent, he shall receive, as full compensation for such services, the sum of eight hundred fifty-five dollars ($855) per annum. Auditor

2. The district attorney, four thousand eight hundred dollars ($4,800) per annum; provided, that the district attorney shall be allowed the amount of his actual and necessary traveling and other expenses, when incurred in connection with the prosecution of criminals, within the county. District attorney

3. The supervisors, the sum of one thousand two hundred dollars ($1,200) each per annum, and seven cents ($0.07) per mile for all distances actually traveled in the performance of his duty as road commissioner, not to exceed four hundred fifty dollars ($450) per annum, together with mileage, at the rate of seven cents ($0.07) per mile in going from his place of residence to the county seat and returning at each session of the board. Supervisors

4. Grand jurors and trial jurors in the superior court shall receive for each day's attendance three dollars ($3), and for every mile actually traveled in attending court as such juror, in going only, fourteen cents ($0.14). Jurors

CHAPTER 1106

An act to amend Section 2.81 of the School Code, relating to school districts situated partly in two counties.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 27

SECTION 1. Section 2.81 of the School Code is hereby amended to read as follows:

Districts in two or more counties Jurisdiction

2.81. Whenever any school district is situated partly within two or more counties, jurisdiction over such district is hereby conferred upon the county superintendent of schools of the county in which the schoolhouse in the joint district is located.

CHAPTER 1107

Stats 1935, p. 93, amended

An act to add Section 511.5 to the Vehicle Code, relating to speed limits.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 511.5 is hereby added to the Vehicle Code, to read as follows:

U. S. Veterans' Administration Facility

511.5. The prima facie speed limit of 25 miles per hour provided for in Section 511 shall also apply when passing a United States Veterans' Administration Facility or the grounds thereof contiguous to the highway.

CHAPTER 1108

An act to amend School Code Section 3.760, relating to courses of study in day elementary schools.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Sch. C., 1929, p. 146

SECTION 1. School Code Section 3.760 is hereby amended to read as follows:

Course of study for day elementary schools

3.760. Except as otherwise herein provided, the courses of study for the day elementary schools in districts maintaining junior high schools shall embrace six years of instruction,

and in districts in which junior high schools are not maintained, such courses of study shall embrace eight years of instruction; and such courses must allot six or eight years, respectively, for instruction in subjects required to be taught in such schools and may allot not more than two years for kindergarten instruction.

The course of study for any day elementary school located in an elementary school district situated in a high school district maintaining one or more junior high schools, where such districts are governed by boards of identical personnel, shall embrace six years or eight years at the discretion of the governing board of the elementary school district.

The courses of study for the day elementary schools of a unified school district maintaining one or more junior high schools shall embrace six years. In all other cases, the courses of study of any elementary school shall embrace eight years.

Each day elementary school may allot not more than two years for kindergarten instruction.

CHAPTER 1109

An act to add Section 15.5 to an act entitled "An act to authorize the counties of the State of California to establish systems for the retirement and pension of certain county and county fire protection district officers and employees, namely county foresters, fire wardens and county fire protection district firemen as defined in the act, and to provide certain benefits for their dependents, and empowering county boards of supervisors to levy a special tax," approved May 19, 1939, relating to the establishment of systems for the retirement and pension of certain county and county fire protection district officers and employees.

Stats 1939, p 1416, amended

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 15.5 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 15.5. As an alternative method of providing a retirement system for county foresters, fire wardens and firemen any county in this State may contract with the Board of Administration of the State Employees' Retirement System making all or any of such employees members of said system in such manner as may be provided by the State Employees' Retirement Act.

Contracts with State Employees' Retirement System

Stats 1931, p 1442

CHAPTER 1110

An act to amend Section 4157 of, and add Section 4157.5 to, the Political Code, relating to the powers and duties of county sheriffs.

In effect September 15, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1923, p 236

SECTION 1. Section 4157 of the Political Code is hereby amended to read as follows:

Duties of sheriff

4157. The sheriff must:

1. Preserve peace, and to accomplish this object may sponsor, supervise or participate in any project of crime prevention, rehabilitation of persons previously convicted of crime or the suppression of delinquency.

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit, or who have committed, a public offense.

3. Prevent and suppress any affrays, breaches of the peace, riots, and insurrections which may come to his knowledge; and investigate public offenses which have been committed.

4. Attend all superior courts held within his county, and obey all lawful orders and directions of all courts held within his county.

5. Command the aid of as many male inhabitants of his county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail, and the prisoners therein.

7. Release on the record all attachments of real property, when the attachment placed in his hand has been released or discharged.

8. Indorse upon all process and notices the year, month, day, hour and minute of reception and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper, and time when received.

9. Serve all process and notices in the manner prescribed by law.

10. Certify, under his hand, upon process or notices, the manner and time of service, or if he fails to make service, the reason of his failure, and return the same without delay.

New section

SEC. 2. Section 4157.5 is hereby added to the Political Code, to read as follows:

Ambulance service

4157.5. In addition to any other powers and duties conferred by law upon the sheriff he is hereby authorized to supply ambulance service within the unincorporated area of the county to any person if all of the following conditions exist:

(a) Such person has been rendered so desperately ill, whether by sudden sickness or accident, that immediate hospitalization is necessary in order to save life or limb.

(b) His condition is such that he is not able to himself arrange for ambulance transportation.

(c) No relatives or friends provide such services.

(d) Transportation to the hospital can not be obtained, except by extending the credit of the county.

(e) Ambulance service is not available or can not be obtained within the time necessary in order to save life or limb, from any other department, bureau, or agency of the county which is authorized by law to furnish the same.

CHAPTER 1111

An act to add Section 689.5 to the Code of Civil Procedure, relating to third party claims.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 689.5 is hereby added to the Code of Civil Procedure, to read as follows:

New section

689.5. Whenever, under Section 689 of this code a third party claim has been filed as to property levied on and the plaintiff has failed to furnish or maintain a sufficient undertaking to authorize the levying officer to continue to hold the property and such officer is unable to find the defendant to deliver the property, the levying officer shall notify the defendant in writing at his last known address, and if within 10 days thereafter the levying officer is unable to locate the defendant he may return the property to the party filing the third party claim.

Third party claim. Return of property to claimant

CHAPTER 1112

An act to amend Section 1203.4 of the Penal Code, relating to probation.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1203.4 of the Penal Code is hereby amended to read as follows:

Stats 1935, p 1709

1203.4. Every defendant who has fulfilled the conditions of his probation for the entire period thereof, or who shall have been discharged from probation prior to the termination of the period thereof, shall at any time thereafter be permitted by the court to withdraw his plea of guilty and enter a plea of not guilty; or if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in

Change of plea on termination of probation

either case the court shall thereupon dismiss the accusations or information against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted. The probationer shall be informed of this right and privilege in his probation papers. The probationer may make such application and change of plea in person or by attorney authorizing in writing; provided, that in any subsequent prosecution of such defendant for any other offense, such prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed.

CHAPTER 1113

An act to amend Section 800 of the Penal Code, relating to time of commencing criminal actions.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 856

SECTION 1. Section 800 of the Penal Code is hereby amended to read as follows:

Limitation Felonies

800. An indictment for any other felony than murder, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, or the falsification of public records, must be found, and information filed, or case certified to the superior court, within three years after its commission. An indictment for the acceptance of a bribe by a public official or a public employee, a felony, must be found, and the information filed, or case certified to the superior court, within six years after its commission.

Acceptance of bribe

CHAPTER 1114

An act making an appropriation to the Department of Natural Resources, Division of Parks, for the acquisition of land in Marin County as part of the State Park System.

In effect September 13, 1941

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Appropriation: Acquisition of "Camp Taylor"

SECTION 1. In addition to any other money appropriated there is hereby appropriated to the Department of Natural Resources, Division of Parks, out of any money in the State Park Maintenance and Acquisition Fund the sum of twenty-five thousand dollars ($25,000), or so much thereof as may be necessary, and subject to the conditions provided in this act, for the acquisition during the Ninety-third and Ninety-fourth

Fiscal Years for State park purposes of land in Marin County known as "Camp Taylor" and more particularly described as follows:

Tract of land known as Lot A, Sec. 2-3-9-10, T. 2 N., R. 8 W., containing 607 acres; tract of land known as Lot A, Sec. 11, T. 2 N., R. 8 W., containing 450 acres; tract of land known as Lot A, Sec. 12, T. 2 N., R. 8 W., containing 45 acres; tract of land known as Lot A, Sec. 14, T. 2 N., R. 8 W., containing 374 acres; tract of land known as Lot A, Sec. 15, T. 2 N., R. 8 W., containing 531 acres; tract of land known as Lot A, Sec. 22-23, T. 2 N., R. 8 W., containing 295 acres; all more fully described in Book 45 of Deeds on page 25, Marin County Records;

Also tract of land bounded northeast and east by F. W. Dickson 346 acre tract and 80.3 acre tract, southwest by land of Eliz. A. Rodgers, containing 30.4 acres more fully described in Book 45 of Deeds on page 25, Marin County Records, being altogether 2,332.4 acres, more or less.

Limitations on expenditure

SEC. 2. No part of the appropriation made by this act shall be expended until such time as the board of supervisors of the County of Marin either (a) cancels the entire amount of delinquent taxes and penalties upon the land described in Section 1; or (b) pays into the State Treasury for use by the State for the acquisition of said land an amount equivalent to the total of such taxes and penalties, said amount being approximately twenty-five thousand dollars ($25,000).

Any additional money needed for the purchase or acquisition of the lands described herein shall be raised by public subscription, and the board of supervisors of the County of Marin is hereby authorized to appoint a committee of responsible citizens of the County of Marin for that purpose.

CHAPTER 1115

Stats 1925, p 648, amended

An act to amend Section 9 of "An act authorizing the establishment of municipal courts, prescribing their constitution, regulation, government, procedure and jurisdiction, and providing for the election and appointment of the judges, clerks and other attaches of such courts, their terms of office, qualification and compensation, and for the selection of jurors therein," approved May 23, 1925, as amended, relating to municipal courts in cities or cities and counties of the second and one-fourth class.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Stats 1939, p 2122

SECTION 1. Section 9 of the act cited in the title hereof is hereby amended to read as follows:

Cities of 2¼ class

Sec. 9. The municipal court in a city or city and county of the second and one-fourth class shall be constituted, and

the judges, officers and attaches thereof shall receive compensation as follows:

Judges, etc. (a) There shall be five judges, each of whom must be a registered and qualified elector of the city or city and county wherein they are to serve and must have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding their election or appointment, and each of whom shall receive six thousand dollars ($6,000) per annum, payable in equal monthly installments;

(b) There shall be one clerk and secretary to be appointed by the judges of the court, who shall receive three hundred dollars ($300) per month;

(c) The clerk may appoint the following:

One chief deputy, who shall receive two hundred sixty dollars ($260) per month;

Five court clerks, each of whom shall receive one hundred eighty-five dollars ($185) per month;

Three deputy clerks, each of whom shall receive one hundred eighty-five dollars ($185) per month;

One bookkeeper, who shall receive one hundred fifty dollars ($150) per month;

Two deputy clerks, each of whom shall receive one hundred fifty dollars ($150) per month;

Seven file index deputy clerks, each of whom shall receive one hundred twenty-five dollars ($125) per month;

(d) There shall be one marshal to be appointed by the judges of the court who shall receive three hundred dollars ($300) per month;

(e) The marshal may appoint the following:

One assistant marshal, who shall receive two hundred twenty-five dollars ($225) per month;

One chief deputy marshal, who shall receive two hundred dollars ($200) per month;

Three deputy marshals, each of whom shall receive one hundred eighty dollars ($180) per month;

Four deputy marshals, each of whom shall receive one hundred sixty dollars ($160) per month;

(f) There shall be one court matron, to be appointed by the judges of the court, who shall receive one hundred seventy-five dollars ($175) per month.

Forfeiture of office Any appointive officer or employee of the municipal court in cities or cities and counties of the second and one-fourth class who becomes a candidate for election by the people to any other public office or position shall automatically forfeit such office or employment.

Division of costs Whenever a municipal court is established in a city of the second and one-fourth class, the salaries of the judges, clerk, marshal, and other attaches, and the cost of all supplies, books, furniture and suitable quarters, for carrying out their duties, including supplies and equipment for the preparation and maintenance of duplicate records of the court, or a division

thereof, when sessions are held at more than one place within the city wherein the court is established shall be paid by the county in which the court is situated out of its municipal court fund, if there be one, or if there be no such fund, out of the general fund.

The city shall reimburse the county in the amount of 20 per cent of all costs of maintaining and operating the municipal court from such municipal court fines and forfeitures as by law would otherwise become the property of the city. The amount to be paid may be deducted and retained for the account of the county by the county auditor, as often as may be practicable, and at least semiannually, from the amounts payable to the city pursuant to Section 1463 of the Penal Code.

The city in which the court is established shall provide and maintain suitable quarters for one department of the municipal court, including heating, light and janitorial service, and the city and county shall enter into an agreement providing for the payment of the rental thereof, including heat, light and janitor service, by the county out of the municipal court fund, if there be one, or if there be no such fund, out of the general fund.

CHAPTER 1116

An act to amend Sections 2139 and 2148 of, and to add Section 2149 to, the Business and Professions Code, and to amend Sections 11000, 11160, 11161, 11476, 11477, 11479, 11570 and 11571 of the Health and Safety Code, relating to the diagnosis of foot conditions and ailments, the prescribing or recommending of foot appliances or shoes and the practice of chiropody, including the use of electric devices and narcotic drugs in such practice.

Stats 1937, p 1229, and Stats 1939, p 482, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2139 of the Business and Professions Code is hereby amended to read as follows:

Stats 1937, p 1258

2139. The certificate to practice chiropody authorizes the holder to practice chiropody. As used in this chapter:

Certificate to practice chiropody

Chiropody means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot. No chiropodist shall do any amputation or use an anesthetic other than local.

Stats. 1937, p 1260

SEC 2. Section 2148 of the Business and Professions Code is hereby amended to read as follows:

Foot appliances

2148. Nothing in this chapter prohibits the manufacture, the recommendation or the sale of either corrective shoes or appliances for the human feet.

Stats 1941, p 17

SEC. 4. Section 11000 of the Health and Safety Code is hereby amended to read as follows:

"Physician," etc

11000. As used in this division, the terms "physician," "veterinarian," "dentist," "chiropodist," "pharmacist," and "osteopathic physician and surgeon," or any similar designation, mean persons who hold valid, unrevoked certificates to practice their respective professions in this State, issued by their respective examining boards in this State. The term "physician" includes physician and surgeon and also osteopathic physician and surgeon.

Stats 1941, p 18

SEC. 5. Section 11160 of the Health and Safety Code is hereby amended to read as follows:

Prescription required

11160. Except as otherwise provided in this division, no person shall possess, transport, sell, furnish, administer or give away, or offer to transport, sell, furnish, administer or give away, or attempt to transport a narcotic except upon the written prescription of a physician, dentist, chiropodist or veterinarian licensed to practice in this State.

Stats 1939, p 758

SEC. 6. Section 11161 of the Health and Safety Code is hereby amended to read as follows:

Who may write

11161. No person other than a physician, dentist, chiropodist or veterinarian shall write a prescription.

Stats. 1939, p. 764

SEC. 7. Section 11476 of the Health and Safety Code is hereby amended to read as follows:

Order re possession

11476. No person other than a physician, dentist, osteopath, chiropodist, registered nurse, veterinarian or pharmacist, shall have in his possession a hypodermic syringe or a hypodermic needle, or any instrument or contrivance used for the same purpose, unless it was purchased by the person with a written order signed by a physician, dentist, chiropodist, veterinarian, or osteopath.

Stats 1941, p. 22

SEC. 8. Section 11477 of the Health and Safety Code is hereby amended to read as follows:

Refilling, copy, etc

11477. No order shall be for more than one hypodermic syringe or for more than three hypodermic needles. No copy or duplicate of the order shall be made for or delivered to any person. The order or prescription shall not be refilled.

A registered nurse of this State or student nurse in any hospital or accredited training school for nurses may obtain or possess a hypodermic syringe and hypodermic needles when working under the immediate direction and supervision of a physician, chiropodist, or dentist.

SEC. 9. Section 11479 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p. 765

11479. The provisions of this division with reference to hypodermic syringes and needles do not apply to the sale at wholesale by drug jobbers, drug wholesalers and drug manufacturers to any of the following: Exemptions

(a) Pharmacies as defined in the Business and Professions Code.

(b) Physicians.

(c) Dentists.

(d) Chiropodists.

(e) Veterinarians.

(f) Other jobbers, wholesalers or manufacturers.

Nor do such provisions apply to the sale at retail in pharmacies by pharmacists to any of the following:

(a) Other pharmacists.

(b) Physicians.

(c) Dentists.

(d) Chiropodists.

(e) Veterinarians.

SEC. 10. Section 11570 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 765

11570. No prescription is required in case of the sale of narcotics at retail in pharmacies by pharmacists to any of the following: Retail sales to physicians, etc, by pharmacists

(a) Physicians.

(b) Dentists.

(c) Chiropodists.

(d) Veterinarians.

In any sale mentioned in this article, there shall be executed any written order that may otherwise be required by law.

SEC. 11. Section 11571 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 766

11571. No prescription is required in case of sales at wholesale by jobbers, wholesalers and manufacturers to any of the following: Wholesale sales to pharmacists, etc

(a) Pharmacists as defined in the Business and Professions Code.

(b) Physicians.

(c) Dentists.

(d) Chiropodists.

(e) Veterinarians.

(f) Other jobbers, wholesalers or manufacturers.

CHAPTER 1117

Stats 1937, p 792, amended

An act to add Part 1.5, comprising Sections 5700 to 5784, inclusive, to Division 8 of the Harbors and Navigation Code, relating to the formation of harbor improvement districts in more than one county, providing for the issuance of bonds and the levying of taxes therefor, and for the management, maintenance and control thereof.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New part

SECTION 1. Part 1.5, comprising Sections 5700 to 5784, inclusive, is hereby added to Division 8 of the Harbors and Navigation Code, to read as follows:

PART 1.5. JOINT HARBOR IMPROVEMENT DISTRICTS

GENERAL PROVISIONS

"Harbor"

5700. "Harbor," as used in this part, includes any bay, harbor, inlet or other arm of the sea in which the tides of the Pacific Ocean ebb and flow, or any navigable water of the Pacific Ocean suitable for the anchoring and docking of vessels.

"District"

5701. "District," as used in this part, refers to a district formed pursuant to this part.

"Instituting county"

5702. "Instituting county" means the county in which the largest portion of the acreage of the proposed district is situated

"Governing board"

5703. "Governing board" means the board of supervisors of the county in which the largest portion of the acreage of an existing district is situated.

CHAPTER 1. FORMATION

Article 1. Petition

Formation by two or more counties

5710. Two or more contiguous counties, or any contiguous portions of two or more counties may be formed into a district for the improvement or development of a harbor if the exterior boundaries of the proposed district include a bay, harbor, inlet or navigable water of the Pacific Ocean.

The work may include the dredging of channels, shipways, ship berths, anchorage places and turning basins, the construction of jetties, breakwaters, bulkheads, sea walls, wharfs, slips, and warehouses.

Petition

5711. Fifty or more persons who desire to form a district for the improvement or development of a harbor, may present a petition in writing signed by them to the board of supervisors of the county in which the largest portion of the acreage of the proposed district is situated, at a regular or special meeting of the board.

The petition shall show:

(a) The name of the proposed district.

(b) The official name or name by which the harbor is commonly known.

(c) The exterior boundaries of the proposed district, which shall include the whole or some part of the harbor proposed to be improved or developed.

(d) A general description of the proposed improvement and development work.

(e) The estimated cost of the improvement or development, and the incidental expenses.

Purpose

5712. The petition shall contain a request that the territory included within the boundaries be formed into a district for the purpose of the improvement or development of the harbor.

Petitioners

5713. Each signer of the petition shall be a registered voter, resident, and freeholder within the proposed district.

Notice of hearing

5714. The board of supervisors to whom the petition is presented by resolution shall fix a time for hearing the petition not less than two nor more than five weeks from the time of presentation, and shall cause notice to be given of the time and place of hearing by publication in some newspaper of general circulation, printed and published in the county, for not less than two weeks prior to the time of hearing.

Contents of notice

5715. The notice shall contain a copy of the petition, but the names attached to the petition need not be included in the notice of the publication. Also, the notice shall state all persons interested may appear and be heard at the hearing.

When partly within city

5716. If the proposed harbor improvement district is partly within a city, a copy of the petition shall be filed with the city council of such city, and the board of supervisors shall not have jurisdiction to proceed to act upon the petition until the city council of such city has approved such petition and consented thereto by resolution spread upon its minutes.

Article 2. Hearing

Continuance

5720. At the time and place specified in the notice the board of supervisors of the instituting county shall consider the petition and may continue the hearing from time to time.

Certificates as evidence

5721. A certificate issued by the assessor of a county in which any part of the acreage of the proposed district is situated, and filed in the proceedings, which states that the name of any signer of the petition appears upon the last equalized assessment roll of the county for land assessed to him and located within the boundaries of the proposed district, is prima facie evidence that the signer is a freeholder within the proposed district.

A certificate signed by the county clerk of a county in which any part of the acreage of the proposed district is situated, which states that the name of any signer of the petition is registered and uncanceled as an elector of the county and that he resides within the boundaries of the proposed district, is prima facie evidence that the signer is a registered voter within the proposed district.

Change in boundaries

5722. At the hearing, the board of supervisors may change the exterior boundaries of the proposed district, as set forth in the petition, by excluding lands which would not be benefited by the improvement or development of the harbor.

Same

5723. The board of supervisors may also change the exterior boundaries of the proposed district, as set forth in the petition by adding to the proposed district other contiguous lands which will be benefited by the improvement or development of the harbor.

Notice of change of boundaries

5724. Land may not be added to the proposed district until notice is served upon the owner of the lands proposed to be added.

The notice may be personally served upon the owner or published for the same period of time and in the same paper as the original petition and notice of hearing.

The notice shall state the day, hour, and place at which the owner will be heard and shall generally describe the lands proposed to be added to the proposed district.

Supervisors' Investigation, etc

5725. The board of supervisors shall investigate and determine:

(a) If the improvement or development work generally described in the petition is feasible.

(b) If, when completed, it will result in the improvement or development of the harbor.

(c) If the estimated cost and incidental expenses are the reasonable and necessary costs of the improvement or development work and incidental expenses.

For the purpose of investigation and determination, it may submit the improvement or development work described in the petition to engineers for examination and report.

Continuance

5726. If it appears, and the board of supervisors finds that it is necessary, in order to make a sufficient and adequate examination, to continue the hearing beyond 90 days, the board may

for that purpose continue the hearing for not longer than six months from the date of the presentation of the petition.

Additional development work

5727. The board of supervisors is not bound by the improvement or development work described in the petition, or by the estimated cost set forth, but it may find that other, different, or less amount of improvement or development work should be done, and find the estimated cost and the incidental expenses.

Finding of facts

5728. Upon final hearing, the board of supervisors of the instituting county shall have a finding of facts entered upon the minutes of the meeting if it appears that:

(a) The petition and notice of hearing have been duly published.

(b) The petition is signed by a sufficient number of persons who possess the required qualifications.

(c) A harbor exists within the exterior boundaries of the proposed district set forth in the petition.

(d) It can be improved and developed as generally described in the petition at a cost not disproportionate to the benefit to be derived from the improvement and development.

Contents of finding of facts

5729. The finding of facts required to be made by the board of supervisors shall set forth:

(a) The name of the proposed district, as set forth in the petition.

(b) The official name or name by which the harbor is commonly known.

(c) A description of the exterior boundaries of the territory to be included within the proposed district, as originally set forth in the petition, or as they may have been changed by the inclusion or exclusion of lands.

(d) The improvement or development work to be done.

(e) The estimated cost, and the incidental expenses.

Conclusive evidence

5730. The findings are conclusive evidence of the existence of every fact found by the board of supervisors of the instituting county and of the due signing and publication of the petition and of the publication or personal service of all prior notices, and vest the board of supervisors with authority to proceed pursuant to this part.

Article 3. Election for Formation and Issuance of Bonds

Order of supervisors

5740. The board of supervisors of the instituting county shall make and have entered in the minutes an order finally determining the exterior boundaries of the district, the improvement or development work to be done in the harbor, and the estimated cost, and the incidental expenses.

Call of election

5741. The board shall pass a resolution calling an election for the purpose of submitting to the qualified voters the proposition of the formation of the district and incurring a bonded

debt and issuing and selling bonds, to pay the cost of the improvement or development work, in a sum not greater than the estimated cost and the incidental expenses as found by the board.

Resolution

5742. This resolution of the board of supervisors shall:

(a) Fix the date of the election which shall be not less than 30 nor more than 60 days after the date of the passage of the resolution.

(b) Designate one or more voting precincts and generally describe the boundaries of each precinct.

(c) Designate a place within each precinct at which the polls will be opened for the purpose of the election on the date of the election.

(d) Appoint a board of election for each precinct, consisting of one inspector, one judge, and one clerk, each of whom shall be a registered elector of, and reside within, the precinct for which he is appointed.

(e) State the object and purposes for which the indebtedness is proposed to be incurred and the amount of the principal of the indebtedness.

(f) Recite a maximum rate of interest to be paid on indebtedness, not exceeding 7 per cent per annum, payable semiannually.

Manner of voting, etc.

5743. The resolution shall also prescribe the manner of voting for or against the incurring of the indebtedness and for or against the formation of the district, and in all particulars not recited in the resolution or as otherwise provided for in this part, the election shall be held in accordance with the general election law of the State, so far as it is applicable, but it is not necessary to mail or send out sample ballots or precinct polling cards.

Marking ballot

5744. The resolution shall invite the qualified voters residing in the proposed district to vote upon the proposition by stamping a cross (+) on the ballot opposite the proposition of the formation of the district and of the incurring of indebtedness thereby.

Form of ballot

5745. The ballot to be used at the election need not be on legal ballot paper, but shall be substantially in the following form:

HARBOR DISTRICT

OFFICIAL BALLOT

Instructions to voters: To vote in favor of the formation of the harbor district and the incurring of the indebtedness thereby, stamp a cross (+) in the voting square at the right of the words "For the harbor district."

To vote against the formation of the harbor district and the incurring of the indebtedness thereby, stamp a cross (+) in

the voting square at the right of the words "Against the harbor district."

All erasures and distinguishing marks are forbidden and make the ballot void. If you wrongly stamp, tear, or deface this ballot, return it to the inspector of election and obtain another.

PROPOSITION

"For the harbor district" (here set forth a general statement of the purposes for which the indebtedness is to be incurred, and the amount of the indebtedness).

"Against the harbor district" (here set forth a general statement of the purposes for which the indebtedness is to be incurred and the amount of the indebtedness).

Precincts, election boards

5746. The board of supervisors of the instituting county shall arrange with the boards of supervisors of every other county in which any portion of the proposed district is situated for each of such boards of supervisors to specify the voting precincts and the boards of election for each precinct in the county which such board prefers. The precincts and boards of election so specified shall be considered to be designated by the board of supervisors of the instituting county, and shall be so included in the resolution.

Costs of election

5747. The costs of the election, including the cost of the publication of the resolution, shall be borne by the various counties in which is situated any portion of the proposed district, each county bearing that part of the total cost which the acreage of the proposed district situated in the county bears to the total acreage of the proposed district. Such costs are a proper charge on the funds of the county. The instituting county may advance the total costs of the election, and obtain reimbursement from the other counties concerned.

Publication of election notice

5748. The resolution calling the election shall be published at least twice a week for two weeks in a daily or semiweekly newspaper of general circulation printed, published, and circulated within the proposed district, or if no daily or semiweekly newspaper is published therein, then the resolution shall be published twice in a weekly newspaper published or circulated within the proposed district.

The passage of the resolution and its publication constitute the notice of election and no other notice need be given.

Polls, when open

5749. On the day of the election the polls at each of the polling places designated shall be opened at the hour of 6 o'clock a.m. and shall be kept opened until the hour of 7 o'clock p.m. of the same day, when the polls shall be closed. Any elector within the polling place or standing in line thereat who has not had an opportunity to vote and desires to vote shall be permitted to vote after the hour of 7 o'clock p.m. on the day of election.

Returns

5750. When the polls are closed, the board of election in each precinct shall canvass the votes, make up and certify the returns as near as practicable in accordance with the election laws of the State governing general elections, and deposit them with the county clerk of the county in which the election is held.

Transmittal to supervisors, canvass

5751. The county clerk shall transmit the returns to the board of supervisors of the instituting county. The board at its first regular meeting after the date of the election shall canvass the returns of the election, and shall have entered upon the minutes of the meeting a finding showing the number of votes cast in each precinct for the district and the incurring of the indebtedness, and the number of votes cast against the district and the incurring of the indebtedness, and the total number of votes cast in all the precincts for and against the harbor district and the incurring of the indebtedness.

Adverse vote: New proceedings

5752. If from the canvass it appears and the board of supervisors finds that a majority of the votes were not cast for the proposed district and the incurring of indebtedness thereby, it shall enter that fact upon its minutes, and no further proceedings shall be taken under the petition, but a new petition may be signed and filed and a new proceeding had after the expiration of one year from the date of the election.

Favorable vote: Order

5753. If it appears and the board of supervisors finds that more than a majority of the votes cast at the election were cast for the district and the incurring of the indebtedness, it shall have that fact entered upon the minutes, together with a description of the boundaries of the district, its name, and the official name or names by which the district is commonly known, and enter an order declaring the district duly formed, and existing in the counties in which the proceedings were had, and that an indebtedness of the district is authorized in the principal sum specified, to pay the cost of making the improvement or development, as set forth in the resolution.

Transmittal to Secretary of State

5754. The clerk of the board of supervisors of the instituting county shall thereupon immediately make up and certify a copy of these minutes and order and transmit them to the Secretary of State.

Certificate of Secretary of State

5755. The Secretary of State shall file the certificate in his office, and within five days thereafter shall execute under the Great Seal of the State, and transmit to the clerk of the instituting county, his certificate that a harbor district under the name set forth in the petition has been formed and exists.

Formation of district

5756. The clerk of the instituting county shall file the certificate in his office and upon the filing of the certificate of the Secretary of State in the office of the county clerk, the formation of the district is complete, and the district existing,

and an indebtedness is authorized in the sum specified in the resolution calling the election.

Time for contest of proceedings

5757. An action or proceeding shall not be maintained or prosecuted in any court whatever to test or to invalidate the formation of the district or the authorized indebtedness unless it is commenced in a court of competent jurisdiction within 60 days after the date of the filing of the certificate of the Secretary of State in the office of the county clerk of the instituting county.

CHAPTER 2. BONDS

Article 1. Issuance and Sale

Resolution to sell bonds

5760. The governing board shall pass a resolution providing for the issuance and sale of bonds to represent the principal of the indebtedness authorized to pay the cost of the improvement or development work in the harbor, and shall prescribe the form of the bonds.

Payment of bonds

5761. All bonds issued under this part shall be payable substantially in the following manner:

A part to be determined by the governing board, which shall be not less than one-fortieth part of the whole indebtedness, shall be paid each year on a date, and at a place to be fixed by the governing board, and designated in the bonds, together with interest on all sums unpaid at that date.

Denomination of bonds, interest

5762. The governing board may determine the denomination of the bonds, except that no one bond shall be of a denomination less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). The bonds shall be payable with interest at the rate specified in the bond, which shall not exceed the maximum fixed by the resolution calling the election.

Signatures

5763. The bonds shall be signed by the chairman of the governing board and the treasurer of the county and countersigned by the auditor of the county in which is situated the largest portion of the acreage of the district.

The coupons upon the bonds shall be numbered consecutively and signed by the county treasurer.

If any officer whose signature or countersignature appears on the bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, his signature or countersignature is as valid as if he had remained in office.

Sale of bonds, proceeds

5764. Bonds may be issued and sold by the governing board for not less than their par value and accrued interest at the date of delivery, and the proceeds shall be placed in a separate fund in the treasury of the county in which is situated the largest portion of the acreage of the district, and applied exclusively to the purposes mentioned in the resolution and for which the bonds were voted.

Article 2. Payment of Bonds, Taxation

Estimate of taxation

5770. Bonds issued are obligations of the district. The governing board shall annually, before the time of fixing the general tax levy for county purposes, estimate the amount of money necessary to be raised by taxation to meet the payment of principal and interest on outstanding bonds which will become payable before the proceeds of another tax levy made at the time of the next general tax levy for county purposes can be made available for payment of such principal and interest.

The total estimate shall be divided by the governing board in proportion to the value of the real property of the district in each county. The value shall be determined from the equalized values of the last assessment rolls of the counties. When the division of the estimate has been made, the governing board shall promptly certify to the boards of supervisors of the counties in which the district is situated the respective parts of the estimate apportioned to each county.

Tax levy

5771. The board of supervisors of each county in which is situated any part of a district shall annually, at the time of levying county taxes levy a tax upon all the property within the district situated in the county sufficient to raise the amount so certified to the board of supervisors by the governing board.

Collection

5772. The tax shall be collected by the same officers and in the same manner as other county taxes, and the money shall be paid into a separate fund in the county treasury.

Repository of funds

5773. The treasurer of the county in which the largest portion of the acreage of the district is situated is the repository of all of the funds of the district. The treasurer of any other county in which is situated a portion of the district, shall, at any time, but not oftener than twice each year, upon order of the governing board, settle with the governing board and pay over to the treasurer, who is the repository, all money in his possession belonging to the district.

Responsibility for safekeeping

5774. The county treasurer who serves as repository shall likewise settle with the governing board for all money belonging to the district. The repository is responsible upon his bond for the safekeeping and disbursement of all money of the district held by him.

Chapter 3. Management and Control

Board of supervisors

5780. The district shall be governed by the board of supervisors of the county in which the largest portion of the acreage of the district is located until the improvement or development work done under the authority of the governing board is complete.

Completion of work

5781. When the improvement or development work is completed, the governing board shall retain complete control over the procedure established in this part for the raising of funds to meet the principal and interest of bonds issued to pay the cost of such improvements or developments.

Contractors' claims Stats 1919, p 487

5781.5. The provisions of an act entitled "An act to secure the payment of the claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements, or machinery used or consumed by such contractors in the performance of such works, and prescribing the duties of certain public officers with respect thereto," approved May 10, 1919, as now or hereafter amended, are hereby expressly made applicable to the improvement or development of a harbor by the governing board.

Plans

5782. Whenever the money for which the indebtedness was incurred is in the treasury of the county, the governing board may employ and pay necessary engineers and other experts to prepare the necessary plans, profiles, specifications, advertisement for bids, and contracts.

Contract

Work shall be done by contract let to the lowest regular responsible bidder. Separate portions of the work may be let to different contractors.

Notice inviting bids

Notice inviting bids shall be published twice in a daily or weekly newspaper designated by the governing board for that purpose, and the notice may set forth the requirements that the governing board deems advisable.

Governing board

5783. When all improvement or development work done under the authority of the governing body is complete, the maintenance, management and control of the work done remains and is vested in the board of supervisors of the county in which the largest portion of the acreage is situated if any part of the harbor is located within the boundaries of the county. If not, the board of supervisors of the county in which the harbor or greatest part by area is located succeeds to and is vested with the maintenance, management and control of the harbor. This board of supervisors may employ and pay all necessary agents, servants and employees to manage, maintain and control it.

The board of supervisors maintaining, managing and controlling the harbor shall do so for the benefit of the entire district and shall use funds received solely from operating receipts of the harbor, or from taxes levied only in its county.

Federal cooperation

5784. If the purposes for which the bonds were voted are being or shall be carried out by cooperation or agreement between the United States of America or any department, officer or agency thereof, and the district, the proceeds of the bonds may be turned over to the United States of America, or

any department, officer or agency thereof, to be expended by it in the performance of the improvement or development work for which the bonds were voted.

Federal control

The maintenance, management, and control of the harbor may also be turned over to the United States of America or any department, officer or agency thereof, if the title to the harbor remains in the district. During the time the harbor is so maintained, managed and controlled no funds shall be raised by taxes in any of the counties in which the district is situated to pay operating expenses of the harbor.

CHAPTER 1118

An act to amend Section 384a of the Penal Code, relating to the unauthorized removal of plants and other substances from public or private lands or rights of way.

In effect September 13, 1941

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2719

SECTION 1. Section 384a of the Penal Code is hereby amended to read as follows:

Destruction of plants

384a. Every person who within the State of California wilfully or negligently cuts, destroys, mutilates, or removes any native tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any native tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon State or county highway rights of way, or who removes leaf mold thereon; provided, however, that the provisions of this section shall not be construed to apply to any employee of the State or of any political subdivision thereof engaged in work upon any State, county or public road or highway while performing such work under the supervision of the State or of any political subdivision thereof, and every person who for commercial purposes wilfully or negligently cuts, destroys, mutilates or removes any native tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portions of any native tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon public land or upon land not his own, or leaf mold on the surface of public land or upon land not his own, without a written permit from the owner of the land signed by such owner or his authorized agent, and every person who knowingly sells, offers, or exposes for sale, or transports for sale, any native tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or leaf mold, so cut or removed from State or county highway rights of way, or removed from

public land or from land not owned by the person who cut or removed the same without the written permit from the owner of the land, signed by such owner or his authorized agent, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than two hundred dollars ($200) or by imprisonment in a county jail for not more than six months or by both such fine and imprisonment. Penalty

The written permit required under this section shall be signed by the landowner, or his authorized agent, and acknowledged before a notary public, or other person authorized by law to take acknowledgments. One copy of such permit shall be given to the constable of the township and one copy to the fire warden of the district in which the property is situated. Permit

Any county or State fire warden, or any peace officer of the State of California, shall have full power to enforce the provisions hereof and to confiscate any and all such shrubs, trees, ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens or leaf mold, or parts thereof unlawfully cut or removed or knowingly sold, offered or exposed or transported for sale as hereinbefore provided. Enforcement

The provisions of this section shall not be construed to apply to any native tree or shrub, or fern or herb or bulb or cactus or flower, or greens, declared by law to be a public nuisance. Construction of section

The provisions of this section shall not be deemed to apply to the necessary cutting or trimming of any such trees, shrubs, or ferns or herbs or bulbs or cacti or flowers, or greens if done for the purpose of protecting or maintaining an electric power line or telephone line or other property of a public utility.

The provisions of this section do not apply to persons engaged in logging operations or in suppressing fires.

CHAPTER 1119

An act to amend Section 4248 of the Political Code, relating to compensation for public services in counties of the nineteenth class.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4248 of the Political Code is hereby amended to read as follows: Stats 1941, p 1614

4248. In counties of the nineteenth class the following shall receive as full compensation for the services required of them by law or by virtue of their offices, the following sums: Ventura County Salaries

1. The auditor, three thousand six hundred dollars ($3,600) per annum. Auditor

2. The district attorney, five thousand dollars ($5,000) per annum and actual traveling expenses while away from his office District attorney

on county business, and when traveling in his own car, the district attorney shall receive six cents ($0.06) per mile for each mile actually traveled. The district attorney shall not personally engage in the private practice of law.

Supervisors 3. Each supervisor, two thousand four hundred dollars ($2,400) per annum and his necessary expenses when attending to the business of the county. When traveling in his own car on county business he shall receive six cents ($0.06) per mile for each mile actually traveled.

Jurors 4. For acting as a grand juror in the superior court, each juror shall be paid for each day's attendance upon regularly called grand jury meetings, committee meetings, or when appointed by the foreman of a grand jury to make individual investigations, the sum of three dollars ($3) per day. For every mile actually traveled as a grand juror in attending court, grand jury meetings, regularly called committee meetings or when properly appointed by the foreman of the grand jury to make individual investigations, six cents ($0.06) per mile for each mile actually traveled.

CHAPTER 1120

Stats 1937, p 1229, amended *An act to amend Section 14700 of the Business and Professions Code, relating to the protection of the rights of authorship.*

In effect September 13, 1941 [Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 716 SECTION 1. Section 14700 of the Business and Professions Code is hereby amended to read as follows:

Writings 14700. Any person may file with the Secretary of State a printed or typewritten copy of any lecture, sermon, address, dramatic composition, story, radio script, radio program, or motion picture scenario together with an affidavit attached thereto setting forth that the person is the author of the printed or typewritten matter, and is entitled to all the rights and benefits accruing therefrom.

CHAPTER 1121

An act to amend Section 421 of the Fish and Game Code, relating to sporting fishing licenses.

Stats 1933, p 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 421 of the Fish and Game Code is hereby amended to read as follows:

Stats 1937, p 1388

421. Sporting fishing licenses are required for the taking of the following fish and mollusks only: Tuna, yellowtail, marlin swordfish, broadbill swordfish, jewfish, or black sea bass, barracuda, white sea bass, albacore, bonito, rock bass, kelp bass, California whiting (also known as corbina and surf fish), yellowfin croaker, spotfin croaker, salmon, steelhead and other trout, charr, whitefish (fresh water), striped bass, black bass, perch (fresh water), crappie, calico bass, pismo clams, cockle clams, abalones, scallops, catfish in District 22, and all varieties of sun fishes. It is unlawful for the holder of a sporting fishing license to sell any fish or mollusk taken by him under such license.

Sporting fishing license

CHAPTER 1122

An act to add Section 719 to the Fish and Game Code, relating to shad and shad roe.

Stats 1933, p 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 719 is hereby added to the Fish and Game Code, to read as follows:

New section

719. Between July 15th and March 14th shad and shad roe may be sold only under regulations of the commission.

Shad and shad roe

CHAPTER 1123

An act to amend Section 869 of the Welfare and Institutions Code, relating to the liability of the committing county for maintenance of juvenile delinquents.

Stats 1937, p 1005, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 869 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1939, p 1491

869. No order for payment from the county treasury of the expense of support and maintenance of a ward of the

Expiration of order

juvenile court shall be effective for more than 12 months, and no order for payment from the county treasury of the expense of support and maintenance of a minor person concerning whom a verified petition has been filed in accordance with the provisions of Sections 721 and 722 of this code, other than a ward of the court, shall be effective for more than one month. Upon all hearings of the case of any ward of the juvenile court the case shall be continued on the calendar, but in no instance to exceed 12 months.

When person committed to department

For each person committed to the Department of Institutions for placement in a correctional school, however, the county from which he is committed shall pay the State at the rate of twenty dollars ($20) per month for the time such person so committed remains in such State school or in any other State institution under the jurisdiction of the State Department of Institutions to which such person may be transferred. Except, that if such person is transferred to an institution for the insane, the county may cause his commitment as a juvenile delinquent to be vacated and to have a new commitment entered as a mental patient. Each county auditor shall include in his State settlement report, rendered to the Controller in the months of January and June, the amount due under the provisions of this article, and the county treasurer, at the time of the settlement with the State in such months, shall pay to the State Treasurer, upon the order of the Controller, the amounts to be found to be due by reason of such commitments.

State settlement report

When ward placed in home

When any ward of the juvenile court, is, with the consent of the juvenile court of the county committing him and the officer in charge of the State reformatory or State school to which he was committed, placed in a boarding home, foster home or work home, but who continues to be under the supervision of such State reformatory or State school, the county may reimburse the boarding home, foster home or work home in an amount adequate for the maintenance of the ward, but not to exceed twenty dollars ($20) per month.

CHAPTER 1124

Stats 1937, p. 1005, amended

An act to amend Section 6701 of the Welfare and Institutions Code, relating to the transfer of inmates at the request of relatives or friends.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 1160

SECTION 1. Section 6701 of the Welfare and Institutions Code is hereby amended to read as follows:

Transfer on request

6701 Inmates may be transferred to a like institution at the request of relatives or friends, if there is room in the like

institution to which transfer is sought and if the Department of Institutions and the superintendents of the institutions from which and to which the transfer is to be made consent thereto. The expense of such transfer shall be paid by such relatives or friends. Expense

CHAPTER 1125

An act to add Section 6702 to the Welfare and Institutions Code, relating to the financial liability of transferred inmates. Stats 1937, p 1005, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6702 is hereby added to the Welfare and Institutions Code, to read as follows: New section

6702. Whenever a person, committed to the care of the Department of Institutions under one of the commitment laws which provides for reimbursement for care and treatment to the State by the county of commitment of such person, is transferred under Section 6700, to an institution under the jurisdiction of the department where the State rather than the county is liable for the support and care of inmates, the county of commitment may have the original commitment vacated and a new commitment issued, designating the institution to which the person has been transferred, in order to absolve the county from liability under the original commitment. Transfer when cost of care is paid by county

CHAPTER 1126

An act to add Section 6703 to the Welfare and Institutions Code, relating to the financial liability of transferred inmates. Stats 1937, p 1005, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6703 is hereby added to the Welfare and Institutions Code, to read as follows: New section

6703. Whenever a person, committed to the Department of Institutions under one of the commitment laws providing for no reimbursement for care and treatment to the State by the county of commitment, is transferred under Section 6700, to an institution under the jurisdiction of the department where the county is required to reimburse the State for such care Transfer when cost of care is paid by State

and treatment, the Department of Institutions may have the original commitment vacated and a new commitment issued, designating the institution to which the person has been transferred, in order to make the county liable for the care and treatment of the committed person to the extent provided by Sections 7009 and 7010 of the Welfare and Institutions Code.

CHAPTER 1127

Stats 1937, p 1005, amended

An act to amend Section 7102 of the Welfare and Institutions Code, pertaining to the purpose of the State Inebriate Colony.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats. 1939, p 2773

SECTION 1. Section 7102 of the Welfare and Institutions Code is hereby amended to read as follows:

Purpose of chapter

7102. In establishing State inebriate colonies it is the purpose of this chapter to cure, rehabilitate or make self-supporting in all cases possible those who may hereafter be committed to any such colony.

CHAPTER 1128

Stats 1937, p 1005, amended

An act to amend and renumber the title of Chapter 4, Part 4, of Division 6, of the Welfare and Institutions Code, as added by Chapter 994 of the Statutes of 1939, relating to State inebriate colonies.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Chapter heading

SECTION 1. The title of Chapter 4, Part 4, Division 6, of the Welfare and Institutions Code, as added by Chapter 994 of the Statutes of 1939, is hereby amended and renumbered to read as follows:

CHAPTER 5. STATE INEBRIATE COLONIES

CHAPTER 1129

An act to amend Section 673 of the Vehicle Code, relating to exhausts of vehicles operated over the highways. Stats 1935, p 93, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 673 is hereby amended to read as follows: Stats 1935, p 223

673. Mufflers—Prevention of Noise. Any motor vehicle on a highway shall at all times be equipped with a muffler in constant operation to prevent any excessive or unusual noise and no such muffler nor the exhaust system shall be equipped with a cut out, by-pass or similar device. Mufflers

A muffler as required herein shall be considered adequate when it conforms to the standards of performance for mufflers established by the several manufacturers of motor vehicles through common practice.

All exhaust pipes shall be parallel to the ground and vehicle, or vertical, and, if vertical, the exhaust from such pipes shall not be directed to the side of the vehicle. Exhaust pipes

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CHAPTER 1130

An act to amend Section 3254 of the Welfare and Institutions Code, relating to the duties of the Department of Institutions with respect to the Industrial Home for the Adult Blind. Stats 1937, p 1005, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 3254 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1937, p 1118

3254. The Department of Institutions shall: Duties of department

(a) Make inquiry into the financial condition of the home and its prosperity, and employ all reasonable means to make the home self-supporting.

(b) Provide separate dormitories for males and females.

(c) Purchase, in accordance with law, provisions, fuel, and all other supplies needed at the home.

(d) Designate the number of employees, prescribe their duties, and fix their compensation.

CHAPTER 1131

Stats. 1937, p. 1005, amended

An act to add Chapter 8 to Part 4, Division 6 of the Welfare and Institutions Code, creating a Division of Extramural Care in the Department of Institutions and prescribing its powers and duties.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. Chapter 8 is hereby added to Part 4 of Division 6 of the Welfare and Institutions Code, to read as follows:

CHAPTER 8. EXTRAMURAL CARE

Division of Extramural Care

7350. There is a Division of Extramural Care in the Department of Institutions.

Head of division

7351. The head of the Division of Extramural Care is the Medical Superintendent of Extramural Care. He shall be selected in the same manner, and have the same qualifications, as other medical superintendents under the jurisdiction of the Department of Institutions.

If no legislative appropriation should be available for the establishment and maintenance of the position of Medical Superintendent of Extramural Care, then the Director of Institutions may designate any properly qualified medical officer in the employ of any of the institutions in the jurisdiction of the department to act, on part time, as Medical Superintendent of Extramural Care without additional salary.

Jurisdiction

7352. The Medical Superintendent of Extramural Care shall have jurisdiction over all persons on parole or on escape from institutions under the jurisdiction of the Department of Institutions. He shall have jurisdiction over all outpatient clinics organized and maintained by the Department of Institutions on grounds of institutions under the jurisdiction of the Department of Institutions, or elsewhere. He shall have the duty of inspecting private institutions licensed under Section 5700 of this code and of regulating the operation of the same.

Determination of paroles

7353. The Medical Superintendent of Extramural Care shall have the power and duty to determine which patients in the various institutions under the jurisdiction of the Department of Institutions shall be placed on parole. He shall, through his staff, arrange for placement on parole and supervise the patients while on parole.

Rules and regulations

7354. The Medical Superintendent of Extramural Care shall adopt rules and regulations necessary to carry into effect the provisions of this chapter. These rules and regulations shall be approved by the Director of Institutions.

CHAPTER 1132

An act to amend Section 1179 of the Fish and Game Code, relating to nongame birds.

Stats 1933, p. 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1179 of the Fish and Game Code is hereby amended to read as follows:

Stats 1933, p 496

1179. It is unlawful to take or possess any protected, native, nongame bird except under written permit issued by the commission. Such birds shall not be transported out of the State or sold. Exotic species of birds, the importation of which is not prohibited by State or Federal law, may be possessed and sold without permit.

Possession of nongame birds

CHAPTER 1133

An act to amend Section 4057 of, and to add Section 4058 to, the Political Code, relating to county ordinances and to validate county ordinances wherein publication was defective.

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4057 of the Political Code is hereby amended to read as follows:

Stats 1931, p 243

4057. The enacting clause of all ordinances of the board shall be as follows: "The board of supervisors of the County of_____do ordain as follows." Every ordinance shall be signed by the chairman of the board and attested by the clerk. On the passage of all ordinances the votes of the several members of the board shall be entered on the minutes, and all ordinances shall be entered at length in the "ordinance book." Except as provided in Division 4, Chapter 2 of the Elections Code no ordinance passed by the board shall take effect within less than 30 days after its passage. Before the expiration of 15 days after the passage of an ordinance it shall be published once, with the names of the members voting for and against the same, in some newspaper published in the county, if there be one, and if there be none published in the county, then such ordinance shall be posted at the courthouse door within said 15-day period and remain posted thereafter for at least one week. An order entered in the

Passage of ordinances of boards of supervisors

minutes of the board that such ordinance has been duly published or posted shall be prima facie proof of such publication or posting.

New section

SEC. 2. A new section, numbered 4058, is hereby added to the Political Code, to read as follows:

Ordinances defectively published

4058. No county ordinance heretofore passed shall be declared void solely by reason of the fact that said ordinance was not published for a full week within 15 days after its passage; provided, that the first actual publication of said ordinance was within the 15-day period, and thereafter actual publication was made for a full week.

CHAPTER 1134

Stats 1933, p 394, amended

An act to amend Section 159 of the Fish and Game Code, relating to Fish and Game District 3H.

In effect September 13, 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Stats 1933, p 419

SECTION 1. Section 159 of the Fish and Game Code is hereby amended to read as follows:

District 3H

159. District 3H. The following shall constitute Fish and Game District 3H: All that area within the County of Santa Barbara within the following boundaries: Beginning at the summit of the San Marcos Pass approximately in Section 17, T. 5 N., R. 28 W., San Bernardino meridian following easterly the northerly side of the Camino Ceilo to its intersection with the Santa Barbara-Gibraltar road; thence in a northerly and easterly direction following the westerly side of said road to the south abutment of the Gibraltar dam; thence on the summit of said dam across the Santa Ynez River to the north abutment; thence due north approximately one and one-half miles to the summit of the divide between the Santa Ynez River and Camuesa Canyon; thence following northwesterly said divide to the southerly side of Camuesa road; thence in a general westerly and southerly direction following the southerly and easterly side of said road to the Santa Ynez River road; thence in a general westerly and southerly direction following the southerly and easterly side of said road to the San Marcos road; thence southerly following the easterly side of said road to the point of beginning.

CHAPTER 1135

An act to amend Section 1270 and to repeal Section 1270.5 of the Fish and Game Code, relating to deer seasons. Stats 1933, p 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1270 of the Fish and Game Code is hereby amended to read as follows: Stats 1939, p 1724

1270. In Districts 1⅞, 2, 2½, 2¾ and 3, deer may be taken between August 1st and September 15th; in Districts 3½ and 4⅛ deer may be taken between August 10th and September 9th; elsewhere in the State deer may be taken between September 16th and October 15th. Deer

SEC. 2. Section 1270.5 of the Fish and Game Code is hereby repealed. Stats 1939, p 2284

CHAPTER 1136

An act to amend Section 737eee of the Political Code, relating to the salary of the judge of the Superior Court in and for the County of Yolo.

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 737eee of the Political Code is hereby amended to read as follows: Stats 1933, p 1732

737eee. The annual salary of the judge of the Superior Court in and for the County of Yolo is six thousand five hundred dollars ($6,500). Superior judge Yolo County

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CHAPTER 1137

An act to amend Sections 62 and 62 6, and to repeal Section 141 of the Fish and Game Code, relating to fish and game districts. Stats 1933, p 394, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 62 of the Fish and Game Code is hereby amended to read as follows: Stats 1939, p 2298

62. District 1. The following shall constitute Fish and Game District 1: Those portions of the following counties not District 1

included in other districts: Trinity, Shasta, Tehama, Plumas, Butte, Sierra, Sutter, Yuba, Nevada, Placer, Sacramento, Madera, Tulare; those portions of San Joaquin County lying east and north of the east bank of the San Joaquin River and not included in Districts 3 and 12B; those portions of Stanislaus and Merced counties lying east of the west bank of the San Joaquin River; those portions of Fresno County lying east of the west bank of Fresno Slough, Fish Slough and Summit Lake; those portions of Kings County east of the main power line of the San Joaquin Light and Power Company, crossing the north line of Kings County, in Sec. 4, T. 18 S., R. 19 E., and crossing the south line of the said county on the section line between Secs. 33 and 34, T. 24 S., R. 19 E.; those portions of Kern County lying east of the west bank of Bull Slough and the west and south banks of Buena Vista Lake to the southeast corner of the lake and lying north of a line extending from this point directly east and intersecting the Tejon State highway and lying east of said State highway from the above mentioned point of intersection to where the said State highway crosses the northern boundary line of Los Angeles County, not included in other districts.

Stats 1939, p 2298

SEC. 2. Section 62 6 of the Fish and Game Code is hereby amended to read as follows:

District 1⅞

62.6. The following shall constitute Fish and Game District 1⅞: Those portions of the following counties not included in other districts. Alpine, El Dorado, Amador, Calaveras, Tuolumne and Mariposa. Except as otherwise provided, all of the provisions of this code relating to District 1 shall apply to District 1⅞.

Stats 1933, p 413

SEC. 3. Section 141 of the Fish and Game Code is hereby repealed.

CHAPTER 1138

Stats 1935, p 93, amended

An act to amend Sections 269, 304, 506 and 736 of the Vehicle Code, relating to drivers of motor vehicles.

In effect September 13, 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p. 1593

SECTION 1. Section 269 of the Vehicle Code is hereby amended to read as follows:

Grounds for refusal of license

269. Grounds Requiring Refusal of License. The department shall not issue an operator's or chauffeur's license to any person:

(a) Who is not of legal age to receive such license.

(b) Who is an habitual drunkard or addicted to the use of narcotic drugs or an habitual user of any other drug rendering such person incapable of safely operating a motor vehicle.

(c) Who is insane or feeble-minded or an idiot, imbecile, or epileptic.

(d) Who is unable as shown by examination to understand traffic signs or signals or who does not have a reasonable knowledge of the provisions of this code governing the operation of vehicles upon the highways.

(e) When it appears by examination or other evidence that such person is unable to operate a motor vehicle upon a highway safely because of physical or mental defect or lack of skill.

(f) Any physical or mental defect of the applicant which in the opinion of the department does not affect the applicant's ability to exercise reasonable and ordinary control in operating a motor vehicle upon the highway shall not prevent the issuance of a license to the applicant.

SEC. 2. Section 304 of the Vehicle Code is hereby amended to read as follows: Stats 1939, p. 2117

304. Grounds Requiring Revocation by Department. (a) The department shall immediately revoke the privilege of any person to operate a motor vehicle upon a highway upon receipt either of a duly certified abstract of the record of any court showing that such person has been convicted of or found by a juvenile court to have committed any of the following crimes or offenses: Grounds for revocation of licenses

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle.

(2) Driving while under the influence of intoxicating liquor proximately causing the death of or bodily injury to any person under Section 501 hereof.

(3) Driving when addicted to the use, or under the influence, of narcotic or other drugs, under Section 506 hereof.

(4) Failure of the driver of a vehicle involved in an accident resulting in injury or death to any person to stop or otherwise comply with Section 480 hereof.

(5) Theft or unlawful taking of a vehicle in violation of Section 503 of this code, or grand theft of a motor vehicle.

(6) Upon three or more convictions upon violation of Section 481, Section 502, or 505 within a period of 12 months from the time of the first conviction, or upon a combination of three or more of any such convictions within a like period.

(7) Any felony in the commission of which a motor vehicle is used.

(b) The privilege revoked under subdivision (a) hereof shall not be renewed until the expiration of one year after the date of such revocation and until the person whose privilege was so revoked gives proof of ability to respond in damages as provided in this code.

Stats. 1935, p. 176

SEC. 3. Section 506 of the Vehicle Code is hereby amended to read as follows:

Driving by narcotic addicts

506. Driving When Addicted to or Under Influence of Narcotics or Other Drugs. (a) It is unlawful for any person who is addicted to the use, or under the influence, of narcotic drugs to drive a vehicle upon any highway. Any person convicted under this subsection shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State prison for not less than one year nor more than five years or in the county jail for not less than 90 days nor more than one year or by a fine of not less than two hundred dollars ($200) nor more than five thousand dollars ($5,000) or by both such fine and imprisonment.

(b) It is unlawful for any person under the influence of any drug, other than a narcotic, to a degree which renders him incapable of safely driving a vehicle, to drive a vehicle upon any highway. Any person convicted under this subsection shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not to exceed one year or by a fine of not to exceed five hundred dollars ($500) or both.

(c) The fact that any person charged with a violation of this section is or has been entitled to use such drugs under the laws of this State shall not constitute a defense against any violation of this section.

Stats. 1935, p. 237

SEC. 4. Section 736 of the Vehicle Code is hereby amended to read as follows:

Taking before magistrate

736. When Person Arrested Must Be Taken Immediately Before a Magistrate. Whenever any person is arrested for any violation of this code, not declared herein to be a felony, the arrested person shall be immediately taken before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense and is nearest or most accessible with reference to the place where the arrest is made in any of the following cases:

(a) When the person arrested fails to exhibit his operator's or chauffeur's license or other satisfactory evidence of his identity.

(b) When the person arrested refuses to give his written promise to appear in court.

(c) When the person arrested demands an immediate appearance before a magistrate.

(d) When the person arrested is charged with violating Section 480, Section 502 or Section 506 hereof.

CHAPTER 1139

An act to add Section 269.1 to, and to amend Section 307 of, the Vehicle Code, relating to drivers licenses.

Stats 1935, p 93, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. A new section to be numbered 269.1 is hereby added to the Vehicle Code, to read as follows:

New section

269.1. Refusal of License. The department must refuse to issue an operator's or chauffeur's license or to renew such a license to any person who is convicted three times of operating a motor vehicle while under the influence of intoxicating liquor after December 31, 1941.

Driving by person under the influence of intoxicating liquor

SEC. 2. Section 307 of the Vehicle Code is hereby amended to read as follows:

Stats 1939, p 2113

307. Grounds Requiring Suspension by the Department. (1) The department upon receipt of a duly certified abstract of the record of any court showing that any person has been convicted of operating a motor vehicle while under the influence of intoxicating liquor, punishable as a misdemeanor, or of reckless driving resulting in personal injury under subdivision (b) of Section 505, shall suspend the privilege of such person to operate a motor vehicle upon a highway; such suspension to remain in effect until such person surrenders to the department all operators' or chauffeurs' licenses such person may hold evidencing such privilege.

Grounds for suspension of licenses

(2) Upon a showing by its records that any such person has never before been convicted of operating a motor vehicle while under the influence of intoxicating liquor, or of reckless driving resulting in personal injury under subdivision (b) of Section 505, the department shall issue to such person a probationary operator's or chauffeur's license.

Probationary licenses

(3) If following a conviction of an offense which would require the issuance of a probationary license and before a probationary license is issued by the department or if during the probationary period the licensee is convicted of operating a motor vehicle while under the influence of intoxicating liquor, a misdemeanor, or of violating the provisions of Section 481 or 505 of this code, the department shall suspend the privilege of such person to operate a motor vehicle upon a highway and require the surrender of all licenses which such person may hold evidencing such privilege until such person gives proof of ability to respond in damages as provided in this code.

(4) At any time after one year from the date of issuance of such probationary license, the licensee may request that the department withdraw the probationary license and issue a

regular operator's or chauffeur's license. The department shall issue a regular operator's or chauffeur's license upon request unless since the issuance of the probationary license the privilege of such person to operate a motor vehicle has been suspended or revoked. If the privilege was suspended a regular license shall not be issued until one year after the termination of the suspension. If the privilege was revoked a regular license shall not be issued until one year after a new probationary license was issued.

(5) Upon a showing by its records that any person who has been convicted of operating a motor vehicle while under the influence of intoxicating liquor, or of reckless driving resulting in personal injury under subdivision (b) of Section 505, has been convicted subsequently of either offense, the department shall suspend his driving privilege and all licenses evidencing such privilege, until the person gives proof of ability to respond in damages as provided in this code.

(6) Any person whose privilege of operating a motor vehicle upon the highway has heretofore been suspended pending the giving of proof of ability to respond in damages under the provisions of Section 304 (c) or 308 of this code or Section 73½ of the California Vehicle Act, may request, and the department, upon a showing by its records that such person has been convicted of one violation only of an offense which would be ground for such suspension, shall withdraw the requirement that proof be filed and shall issue a probationary license to such person subject to the provisions of this section.

Stats 1931, p. 2110 (Repealed by Stats. 1935, p 93)

(7) The provisions of this section shall not be construed as repealing or modifying any other provisions of this code relating to the issuance, suspension or revocation of licenses, but the procedure herein provided shall be supplemental to other provisions of this code.

CHAPTER 1140

Stats 1935, p 496, amended

An act to add Section 10369 to the Insurance Code, relating to approval of policy forms.

In effect September 13, 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 10369 is hereby added to the Insurance Code, to read as follows:

Optional standard provision

10369. The commissioner may approve a policy form which contains, in lieu of Standard Provision 11, an optional standard provision setting forth a facility of payment clause which shall be in modification of or in addition to the substance of Standard Provision 11. Such optional standard provision shall be in such form or forms as the commissioner, after notice and hearing, promulgates.

CHAPTER 1141

An act to amend Section 2 of the Fish and Game Code, relating to definitions.

Stats 1933, p 394, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the Fish and Game Code is hereby amended to read as follows:

Stats 1937, p 1399

2. As used in this code:

Definitions

a. "Person" includes association, partnership, and corporation.

b. "Department" means Department of Natural Resources.

c. "Commission" means the Fish and Game Commission and "commissioner" means a member of the Fish and Game Commission.

d. "District" means fish and game district.

e. "Take" means hunt, pursue, catch, capture, kill, or possess.

f. "Bird" means wild bird or meat thereof.

g. "Mammal" means wild mammal or meat thereof.

h. "Bag limit" means the maximum limit, in number or amount of birds, mammals, fish, mollusks, or crustaceans which may lawfully be taken by any one person during a specified period of time.

i. "Open season" means that period of time during which the taking of birds, mammals, fish, mollusks, or crustaceans is allowed.

j. "Closed season" means that period of time during which the taking of birds, mammals, fish, mollusks, or crustaceans is prohibited.

k. "Transport" includes offer or receive for transportation.

l. "Sell" includes offer for sale, possess for sale, barter, exchange, and trade.

m. "Day" means calendar day, and "week" means calendar week.

n. Whenever in this code the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified. The first date specified designates the first day of the period, and the second day specified designates the last day of the period. No period of time specified in this code exceeds one year unless otherwise expressly provided.

Dates

o. "Section" means a section of this code unless some other statute is expressly mentioned.

q. "Chumming" means the placing in the water of fish, parts of fish, or other material upon which fish feed, for the

purpose of attracting fish to a particular area in order that they may be taken.

r. "Angling" means the taking of, or attempting to take, fish by hook and line in such manner that the fish voluntarily takes the bait or lure in its mouth.

CHAPTER 1142

An act to amend Section 3440.5 of the Civil Code, relating to fraudulent transfers.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2840

SECTION 1. Section 3440.5 of the Civil Code is hereby amended to read as follows:

Transfers of goods in warehouse

Stats 1909, p 437

3440.5. Section 3440 of this code shall not apply to goods in a warehouse where a warehouse receipt has been issued therefor by a warehouseman as defined in the Warehouse Receipts Act, and a copy of such receipt is kept at the principal place of business of the warehouseman and at the warehouse in which said goods are stored. Such copy shall be open to inspection upon written order of the owner or lawful holder of such receipt.

CHAPTER 1143

Stats 1939, p 1067, amended

An act to amend Section 4104 of the Public Resources Code, relating to the building of camp fires or smoking on National forest land.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p. 1147

SECTION 1. Section 4104 of the Public Resources Code is hereby amended to read as follows:

Smoking or building fires upon National forest land

4104. Except at the places or during the period designated by regulations set up under authority of the Secretary of Agriculture of the United States, no person shall smoke or build a camp fire upon National forest land without the written permit issued by an authorized agent of the Secretary of Agriculture of the United States, and without possession of the fire fighting tools required by such permit.

CHAPTER 1144

An act to amend Section 4279 of the Political Code, relating to compensation for public services in counties of the fiftieth class.

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4279 of the Political Code is hereby amended to read as follows: Stats 1941, p 1633

4279. In counties of the fiftieth class the following shall receive as compensation for the services required of them by law, or by virtue of their office, the following sums: Calaveras County. Salaries

1. The auditor, one thousand dollars ($1,000) per annum. Auditor

2. The district attorney, two thousand dollars ($2,000) per annum and necessary traveling expenses to be allowed by the board of supervisors. District attorney

3. Each supervisor, one thousand five hundred dollars ($1,500) per annum, in full payment for services as member of the board of supervisors, as member of the board of equalization and as road commissioner, and twenty cents ($0.20) per mile, going only, in traveling from his residence to the county seat at each session of the board. Each supervisor shall also receive his necessary and actual itemized traveling expenses when traveling outside the county by order of the board on business connected with his office; said traveling expenses not to exceed five hundred dollars ($500) per year in the aggregate for all members of the board of supervisors. Supervisors

4. For attending as a grand juror, or a trial juror in criminal and civil cases in the superior court, for each day's attendance, three dollars ($3); for each mile actually traveled one way as such grand juror, or trial juror, in the superior court, under summons or order of the court, twenty-five cents ($0.25). The county clerk shall certify to the auditor the number of days' attendance, and the number of miles traveled by each juror and the auditor shall then draw his warrant therefor and the treasurer shall pay the same. Jurors

CHAPTER 1145

Stats 1935, p 1123, amended

An act to amend Sections 4 and 7 of the Alcoholic Beverage Control Act, relating to licenses and to the conduct of business and transfer of licenses by an executor, administrator, guardian, trustee, receiver, assignee for the benefit of creditors and others.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 2137

SECTION 1. Section 7 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Separate licenses for each premise, etc.

Sec. 7. Each license issued under this act shall be issued to a specific person, and, except in the case of licenses authorizing the sale of alcoholic beverages on trains or boats, shall be issued for a specific location, the principal address of which shall be indicated on the license. Separate licenses shall be issued for each of the premises of any business establishment having more than one location except as provided for in Section 6, subdivisions (o) and (p), and except that the holder of a public warehouse license maintaining or operating more than one public warehouse in this State shall be required to obtain but one license for all of his public warehouse establishments. A copy of the original public warehouse license issued to a public warehouseman maintaining or operating more than one public warehouse in this State shall be posted in each of his public warehouse establishments. A charge of one dollar ($1) shall be made by the board for each copy of a public warehouse license issued to such public warehouseman.

Warehouse storage and tax-paid beer and wine

Beer and wine upon which excise taxes have been paid to the State at the rate fixed under this act, may be stored by or for any licensee under this act in any private or public warehouse or elsewhere in this State without the necessity of any license by the party furnishing or providing the storage space, or any special additional license being required by such licensee; provided, however, that any other alcoholic beverage may without the necessity of any additional license be stored by or for a licensee in private warehouses approved by the board if within the limits of the county in which such licensees licensed premises are located, or in a public warehouse within such county, or may be stored in bond in a public warehouse outside such county where such warehouse is also a United States customs bonded warehouse, or a United States internal revenue bonded warehouse or United States bonded storeroom.

Counter or service bar in more than one room

Any on-sale distilled spirits licensee who maintains upon or within the premises for which such license is issued more than one room in which there is regularly maintained a fixed counter or service bar at which distilled spirits are served for

consumption within the licensed premises shall obtain from the board, and the board shall upon request issue a duplicate of his original license for each room, in excess of one, containing such fixed counter or service bar and shall post a duplicate of his original license in each such room. He shall pay to the board at the time of application for each such duplicate license an amount equal to the license fee payable for a like period for the original on-sale distilled spirits license. Failure to obtain such duplicate license or licenses and to pay such fees and renewal fees therefor shall subject such licensee to the penalties imposed by this act for failure to obtain an original license or to pay the renewal fees therefor.

Trains and boats

Licenses for trains and boats shall be based on the average number in actual operation, during the license year, of each class of operating units, viz., trains and boats upon which the license privileges are exercised, such average number to be determined as the board may prescribe.

Transfer of licenses

Each license issued under this act is separate and distinct, shall be transferable from one person to another upon approval by the board and the payment of a transfer fee of ten dollars ($10), and upon such conditions as the board shall prescribe, and shall be transferable from the premises for which issued upon compliance with the provisions of this act relating to the issuance of an original license and only as may be permitted by the board, upon payment of a transfer fee of ten dollars ($10) for each license; provided, that the privilege of applying for a transfer of a license shall be exercised by the surviving partners of a deceased licensee, or by the executor, administrator or guardian of the estate of a licensee, or, in the event that a deceased licensee leaves no estate to be administered, by the surviving spouse of the deceased licensee, and may be exercised by a trustee of the bankrupt estate of a licensee, or by an assignee for the benefit of the creditors of a licensee with the consent of the assignor.

Whenever a license certificate issued under the act is in effect and is lost or destroyed, the board shall issue a duplicate license upon the payment of a fee of five dollars ($5).

Stats 1937, p 2130

SEC. 2. Section 4 of the Alcoholic Beverage Control Act is hereby amended to read as follows:

Sale of stock after termination of license

Sec. 4. Any person in possession of a stock of lawfully acquired alcoholic beverages following the revocation or voluntary surrender of, or failure to renew his license may sell such stock, under supervision of the board in such manner as the board shall by rule or regulation provide, to a licensee or licensees authorized to sell such alcoholic beverages.

Warehouse receipts acquired as security

Any bank, trust company, or financial institution owning or possessing warehouse receipts for alcoholic beverages which warehouse receipts were acquired by such bank, trust company, or financial institution as security for a loan may after permission has been given by the board sell such warehouse

receipts to a licensee authorized to sell such alcoholic beverages or such warehouse receipts.

Administrators, etc.

Any person acting as administrator, executor, or guardian of the estate of a retail licensee, or any person acting as receiver for a retail licensee, or trustee of the bankrupt estate of a retail licensee, or assignee for the benefit of creditors of a retail licensee, is authorized, after receiving permission from the board, to sell and deal in alcoholic beverages under authority of the license issued to the retail licensee for whom such person is acting, for a period not exceeding 45 days from the date of the appointment of such person as administrator, executor, guardian, receiver, trustee, or assignee for the benefit of creditors.

The administrator, executor or guardian of the estate, or receiver, or assignee for the benefit of creditors, or trustee of the bankrupt estate of a licensee other than a retail licensee, may, after receiving the permission of the board, on such terms and conditions as the board shall prescribe, operate under the license issued to the licensee for whom such person is acting, pending transfer of such license to such person, for a period not exceeding 45 days. The terms and conditions upon which permission to operate under the provisions of this paragraph shall be granted, shall include the filing of an appropriate bond under the applicable provisions of this act conditioned upon the payment of all excise taxes, penalties and interest assessed against or imposed upon such persons arising out of this act in those cases in which such persons are liable for the payment of excise taxes, penalties and interest under the provisions of this act.

CHAPTER 1146

Stats 1939, p 1274, amended

An act to add Section 4109.5 to the Revenue and Taxation Code, relating to property taxation, the redemption of property, and the payment of delinquent taxes in installments.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 4109.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Supplemental record

4109.5. If delinquent taxes are paid in installments, the redemption officer may stamp or write "See Supplemental Record" on the margin of the delinquent list. On a supplemental record set up by the redemption officer for the purpose, he shall show the name of the person making the payments, a description of the property, the amount paid, the year or years of delinquency, and the number of the certificate of redemption, if any, issued.

CHAPTER 1147

An act to amend Sections 26541 and 26542 of the Health and Safety Code, relating to food and beverages, and the standards prescribed by the State Board of Public Health in relation thereto.

Stats 1939, p 482, amended

[Approved by Governor July 12, 1941 Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 26541 of the Health and Safety Code is hereby amended to read as follows:

Stats 1941, p 2699

26541. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. All definitions and standards promulgated pursuant to this chapter shall not in any instance require a higher standard than the standards required pursuant to the definitions in force, or currently promulgated by the Federal Security Agency, Food and Drug Administration, under the Federal act, in the event that any such standards are required thereunder.

Optional ingredients

Federal standards

Such definitions and standards of identity promulgated by the board for distilled spirits shall not be inconsistent with similar standards promulgated by the United States Bureau of Internal Revenue, Alcohol Tax Unit, or other Federal agency; provided, however, that the provisions of this section shall not apply to wine.

SEC. 2. Section 26542 of the Health and Safety Code is hereby amended to read as follows:

Stats 1939, p 992

26542. The authority to promulgate regulations for the efficient enforcement of this chapter is vested in the board. The board shall promulgate regulations exempting from the provisions of this chapter food which is in accordance with the normal practice of the trade introduced or offered for introduction into trade and which is being delivered to an establishment where it is to be processed, labeled or packed on condition that such food shall conform with the provisions of this act upon its removal from such processing, labeling or packing establishment. The regulations promulgated and the definitions and standards prescribed pursuant to this chapter shall not require higher standards and shall not be more restrictive than the definitions, standards and regulations which are in force, or promulgated by the Federal

Regulations

Federal regulations

Security Agency, Food and Drug Administration, under the provisions of the Federal act, in the event that any such definitions, standards, or regulations are in force thereunder.

Violations The violation of a regulation promulgated under this chapter shall be deemed to be a violation of this chapter.

CHAPTER 1148

An act to amend Section 688 of, and to add Section 688.1 to, the Code of Civil Procedure, relating to property subject to execution.

In effect September 13, 1941 [Approved by Governor July 12, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 538 SECTION 1. Section 688 of the Code of Civil Procedure is hereby amended to read as follows:

Property liable to execution 688. All goods, chattels, moneys or other property, both real and personal, or any interest therein, of the judgment debtor, not exempt by law, and all property and rights of property seized and held under attachment in the action, are liable to execution. Shares and interests in any corporation or company, and debts and credits, and all other property, both real and personal, or any interest in either real or personal property, and all other property not capable of manual delivery, may be levied upon or released from levy in like manner as like property may be attached or released from attachment; provided, that no cause of action nor judgment as such, shall be subject to levy or sale on execution. Gold dust must be returned by the officer as so much money collected at its current value, without exposing the same to sale.

Not affected until levy Until a levy, the property is not affected by the execution; but no levy shall bind any property for a longer period than one year from the date of the issuance of the execution, except a levy on the interests or claims of heirs, devisees or legatees in or to assets of deceased persons remaining in the hands of executors or administrators, thereof prior to distribution and payment; provided, however, an alias execution may be issued on said judgment and levied on any property not exempt from execution.

New section SEC. 2. Section 688.1 is hereby added to the Code of Civil Procedure, to read as follows:

Lien of judgment creditor on pending action 688.1. Upon motion of a judgment creditor of a plaintiff or plaintiffs in an action or special proceeding made in the court in which the action or proceeding is pending, the court, judge or justice thereof may, in his discretion, order that the

judgment creditor be granted a lien upon the cause of action and upon any judgment subsequently procured in such action or proceeding, and, during the pendency of said action, may permit said judgment creditor to intervene therein. Such judgment creditor shall have a lien to the extent of his judgment upon all moneys recovered by his judgment debtor in such action or proceeding, and no compromise, settlement or satisfaction shall be entered into by or on behalf of said debtor without the consent of said judgment creditor, unless his lien is sooner satisfied or discharged. The clerk or justice of the court shall indorse upon the judgment recovered in such action or proceeding a statement of the existence of the lien, the date of the entry of the order creating the lien, and the place where entered, and any abstract issued upon the judgment shall contain, in addition to the matters set forth in Section 674 of the Code of Civil Procedure, a statement of the lien in favor of such judgment creditor.

CHAPTER 1149

An act to amend Section 26470 of the Health and Safety Code, relating to adulterated food and the failure to comply with standards of freshness and purity.

Stats 1939, p 482, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 26470 of the Health and Safety Code is hereby amended to read as follows:

Stats 1939, p 984

26470. A food shall be deemed to be adulterated:

When deemed adulterated

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

Components

(2) If it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of Section 26471; or

(3) If it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; or

(4) If it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or

Production

(5) If it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or which has been fed upon the uncooked offal from a slaughterhouse; or

Animal products

Containers (6) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

Poultry products (7) If it is a canned poultry product or products containing poultry meat which does not comply with any standards of freshness and purity prescribed by the board under Article 6 of this chapter, notwithstanding a compliance with the labeling requirements of Section 26494.

CHAPTER 1150

Stats 1933, p 1969, amended *An act to amend Sections 2, 15, 18, 18.1, 19.1 and 21 of the Agricultural Prorate Act, relating to agricultural proration programs, including definitions, proration program committees, equalization pools and the deposit of moneys.*

In effect September 13, 1941 [Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2486 SECTION 1. Section 2 of the Agricultural Prorate Act is hereby amended to read as follows:

Definitions Sec. 2. As used in this act:

(a) The term "person" includes any individual, firm, association or corporation.

(b) The term "agricultural waste," in addition to its ordinary meaning, shall include economic waste, and waste incident to the harvesting and/or preparation for any delivery to market of agricultural commodities in excess of reasonable market demands.

(c) The terms "product," "crop" or "commodity" mean any horticultural, viticultural, or vegetable product of the soil, live stock and live stock products and poultry and poultry products, but shall not include milk or milk products.

(d) The terms "proration zone" or "zone" mean any district or districts with respect to which a program of market proration is proposed to be or has been instituted.

(e) The term "commission" means the Agricultural Prorate Advisory Commission unless otherwise indicated by the context.

(f) The term "producer" means any person engaged in the business of growing or producing any agricultural product for commercial use to the extent of at least one producing factor as hereinafter defined.

(g) The term "distributor" means any person, other than a retailer, who acquires and distributes any product at wholesale or retail.

(h) The term "retailer" means any person engaged in the business of making sales exclusively at retail.

(i) The term "handler" means any person receiving agricultural commodities from the producer for the purpose of marketing the same.

(j) The phrase "primary channel of trade" shall mean that transaction in which the producer or his cooperative marketing association loses physical possession of the commodity through the sale thereof or other disposition commercially.

(k) The term "producing factor" means the unit of one acre in commercial production, or such other unit as the commission shall specify, in the event that it finds that more than one acre or a fractional part of an acre, or some other unit of commercial production, is required to assure reasonable control of the commodity. In the case of a proration marketing program for live stock or live stock products or for poultry or poultry products, the producing factor shall be specified in the proration marketing program.

(*l*) The term "owner" means the producer in possession of agricultural commodities and legally entitled to dispose of the same for marketing purposes.

(m) The term "proration" means the uniform percentage of their total production which all producers may harvest and prepare for market and/or market during specified proration periods.

(n) The term "dealer" means any distributor or retailer.

(o) The term "processor" means any person who buys, or otherwise takes title to or possession of, farm products for the purpose of processing or manufacturing the same or selling, reselling or redelivering the same in dried, canned, extracted, fermented, distilled, or other preserved form, and shall include (1) any person or exchange conducting such business and (2) any person or exchange buying farm products from the producer thereof for the purpose of reselling them to any person or exchange conducting such business.

(p) The term "production" means the total crop of an agricultural commodity of a producer as defined in this section.

(q) The term "director" means the Director of Agriculture of the State of California, and, unless the context otherwise requires, includes any authorized agent of the director.

(r) The singular includes the plural.

SEC. 2. Section 15 of the Agricultural Prorate Act is hereby amended to read as follows: Stats 1939, p. 2193

Sec. 15. After the approval of the petition by the commission, the director shall divide the proposed zone into as many districts not exceeding seven as may appear convenient or necessary, and allot to each district the number of producers therefrom who may serve upon a program committee. The director shall thereupon call a meeting of producers in each district at which the producers shall elect persons eligible to serve upon a program committee. Such election shall be by secret ballot after nomination from the floor. Not less than

Districts

Election for program committee eligibles

three eligible persons shall be elected for each producer member of the program committee allotted to the district. At such election each producer in attendance shall be entitled to one vote, and voting by proxy shall not be permitted. All eligible persons elected in each district shall be producers within said district. In the event a corporation or a partnership is a producer, it may designate a representative who may be a nominee. From the eligible lists of producers elected in such districts, the director shall, subject to the approval of the commission, select and appoint not less than five and not more than seven members to serve on the program committee. For each member the director shall appoint an alternate. Each district in the zone or area shall be entitled to at least one member and one alternate member on said committee. The director may also, if requested by the program committee and approved by the commission, appoint on said committee in addition to the producer members, not more than two handler members and corresponding alternates who are handlers of the commodity affected by the proration program in the proposed zone.

Appointments to program committees

Program

The persons so appointed by the director as the program committee shall formulate a proration marketing program which shall be submitted to the commission. The commission after a hearing or hearings on the proposed program held within the zone shall make written findings as to whether the program is reasonably calculated to carry out the objectives of this act and based upon said findings shall approve or disapprove the program, or may modify it and approve it as modified. If the producing factor is to be determined by the commission such determination shall be made and shall become a part of the program. The commission shall fix a date prior to which the program, in order to become effective, must be consented to by producers as provided in this act.

Approval or disapproval by director

Stats 1939, p 2495

SEC. 2½. Section 18 of the Agricultural Prorate Act is hereby amended to read as follows:

Proration program committee

SEC. 18. In the event of the institution of a marketing program in a proration zone, the committee chosen under Section 15 shall be the proration program committee. The members of said committee shall serve for two years. The marketing program may, however, fix the date upon which the two-year term of program committee members will terminate. The members of such program committee shall be entitled to compensation at the rate of ten dollars ($10) each for each day while engaged on official business; provided, that such compensation shall not be paid for more than five days in any month unless approved by the director, and members shall be reimbursed for their necessary traveling expenses.

Compensation

Alternates

The director shall appoint in the same manner as the program committee was appointed an alternate for each member of the committee. It shall be the duty of such alternate to sit as a regular member of the committee in case the member

for whom he is an alternate fails for any reason to attend any meeting of the committee, and he shall be compensated and reimbursed for his necessary traveling expenses in the same manner and to the same extent as a regular member when so serving.

Vacancies on the program committee occasioned by the expiration of term, death, or resignation of any member, or by removal for incompetence or inattention or neglect of duties as a member of the program committee by the director, with the approval of the commission, or by a member ceasing to qualify as a producer or handler of the commodity concerned, shall be filled in the same manner as the original appointments were made. Vacancies

The program committee shall appoint an agent, subject to the approval of the director, who shall administer the proration program under the direction of the program committee and who may be removed from office in the same manner as he was appointed. The salary or compensation of such agent shall be fixed by the program committee subject to the approval of the director. Administrative agent

Such agent shall appoint such deputy agents and other assistants as may be necessary to direct the program, which appointments shall be subject to the approval of the program committee. Such agents, deputy agents and other assistants are employees of the zone and not of the State of California. No officer or employee shall receive compensation based on a percentage of volume involved in a prorate program, or in any manner that would lend encouragement to the promotion of a proration program for the purpose of increasing salaries and income. Deputy agents and assistants

SEC. 2¾. Section 18.1 of the Agricultural Prorate Act is hereby amended to read as follows: Stats. 1939, p. 2496

Sec. 18.1. The marketing program to be made effective in any proration zone shall be so formulated as to rectify as far as possible the adverse marketing conditions specified in Section 10 hereof, and to maintain market stability under the limitations of this act. Such marketing program after being in effect may be altered or modified in minor particulars from time to time by such program committee with the approval of the commission; provided, that the commission may require the director to hold a hearing in the zone prior to such approval. If any alteration or modification is proposed by the program committee altering the program then in effect, by the addition of any one or more of the particulars (a), (b), (c), (d), or (e) of Section 19.1 hereof, the commission shall not approve such alteration or modification unless a public hearing is held thereon. Following the public hearing a referendum shall be conducted by sending a mail ballot to all producers or their duly authorized agent as shown on the lists of producers of the commodity affected compiled in accordance with the provisions of this act and such alteration or modification shall not become effective if 40 per cent Program Character. Alteration or modification. Public hearing. Referendum.

or more of said producers vote against such proposed alteration or modification. Before approving any alteration or modification of any marketing program, the commission must find that the same is reasonably calculated to carry out the purposes and attain the objectives of this act.

Stats 1939, p 2497

SEC. 3. Section 19.1 of the Agricultural Prorate Act is hereby amended to read as follows:

Powers of program committee re adverse marketing conditions

Sec. 19.1. The program committee for the purpose of minimizing the effect of surpluses or other adverse market conditions may be empowered in any program in any one or more of the following particulars:

(a) To establish and maintain surplus, stabilization or diversion pools. The program committee shall be authorized to receive from each producer for delivery into a surplus pool or stabilization pool the uncertificated portions of the marketable supply of the agricultural commodity covered by a marketing program and market the same by grades or sizes for the account of such producers when it can be advantageously disposed of either in its original or converted state. The program committee shall designate the quantity or the percentage of the marketable supply of such commodity that shall be placed in the stabilization pool and the quantity or the percentage of the marketable supply of such commodity that shall be placed in the surplus pool. The program committee shall be authorized to receive from each producer for delivery into a diversion pool such quantity or percentage of the production, of each producer, which fails to qualify for marketing or sale under grade, quality or size regulations established in the marketing program or under standardization laws or other laws of this State or of the United States. In operating any such stabilization, surplus or diversion pool, the program committee may fix grading, packing and servicing charges to be assessed against such commodities received into such pools and requiring such handling. The program committee shall have title to all of the commodity in each of such pools and shall handle all of such commodity received into each of such pools and account for the same to each producer who is beneficially interested therein upon a pooled basis.

(1) In the case of surplus pools, the contents of any such pool shall not be marketed in any form which would directly compete with that part of the crop which is regularly certificated or which is in a stabilization pool. However, any part of any such surplus pool may be turned over by a program committee to charitable organizations, self-help cooperatives, and similar agencies under proper safeguards to prevent any part of the commodity so disposed of from directly competing with the part of the crop marketed through the usual channels of trade.

(2) In the case of any stabilization pool, the contents thereof may be disposed of or may be marketed from time to time as the program committee deems advisable, and

consistent with the maintenance of stabilized marketing conditions.

(3) In the case of any diversion pool, the contents thereof shall be disposed of for by-products or for other diversion purposes under proper safeguards to prevent any part of the commodity so disposed of from directly competing with the part of the crop marketed through the usual channels of trade.

(b) To create, establish or otherwise obtain and operate facilities for the financing, grading, packing, servicing, processing, preparing for market and disposal of such surplus in such manner as to maintain stability in the markets and to dispose of such surplus or the contents of established pools and/or any of their derived products.

(c) To create, maintain and disburse an equalization fund to be used for the removal of any inequalities between producers as to the total volume marketed through prorated channels resulting from errors in estimating production or surplus or for indemnifying producers whose production, in whole or in part, is diverted in green form or otherwise from normal marketing outlets or diverted to relief, by-products, or other noncompetitive purposes pursuant to a marketing program.

(d) To establish, adopt and apply methods for correlating the marketable supply of any commodity to the reasonable market demands therefor by means of volume limitation, time limitation, diversion, or by grade, quality or size regulations applicable to the total production of any commodity, or to that portion of any commodity which qualifies for marketing pursuant to standards authorized in the marketing program or standardization laws or other laws of this State, or of the United States.

(e) To broaden distribution and increase consuming outlets by appropriate educational and trade stimulation efforts of a general industry nature and not unfairly depreciative of the quality of any other food product.

Cost

The cost of the exercise of such powers as are herein granted to the program committee shall be a part of the cost of the operation of the program and shall be obtained through fees in the same manner as other costs of the program; provided, that no part of any funds raised for equalization fund purposes specified in subsection (c) of this section shall be applied to the cost of maintenance of the commission and the Department of Agriculture.

Liability for errors, etc.

No member or alternate member of any program committee nor any employee thereof shall be held liable individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member or employee, except for acts of dishonesty.

Acreage adjustment payments

(f) For the purpose of providing for the adjustment of production of any agricultural commodity by means of tree or

vine pulling, the program committee may receive applications from growers for acreage adjustment payments. The program committee shall, upon proper review and certification, make such acreage adjustment payments on an equitable basis from funds collected for such purpose on a uniform basis from all commercial growers of such agricultural commodity in this State, or from funds received from Federal, State or other agencies for such purpose.

No program of production adjustment adopted hereunder shall authorize payments for the removal of acreages of trees or vines of the species, variety or varieties specified in the program which have, during the three years immediately preceding the date of application, produced an annual yield per acre in excess of the comparably computed average yield from bearing trees or vines of the same species, variety or varieties for the State as a whole, such yields and averages to be determined by the director from statistical data compiled by State or Federal agencies or such other data as the director deems to be representative and reliable.

Stats 1939, p. 2499

SEC. 4. Section 21 of the Agricultural Prorate Act is hereby amended to read as follows:

Fees

Sec. 21. The zone agent for each marketing program shall collect, either for each primary certificate or for each secondary certificate or for both such kinds of certificates issued to producers, a reasonable and proportional fee to be fixed by the program committee, subject to the approval of the director, so calculated as to provide an amount adequate to defray the necessary expenses of instituting and carrying out such marketing program and a proper proportion of the cost of the maintenance of the commission and of the Department of Agriculture in the performance of duties required by this act. The proportion of the fees payable to the commission and to the Department of Agriculture may vary upon a seasonal basis for each program according to the estimated expense to be incurred by the director and the commission in administering such program; provided, that the amount so required shall not exceed fifteen per cent (15%) of the certificate fees collected by the zone agent specifically for administrative purposes and in addition such proportion of fees collected for any trade stimulation or sales promotion program as may be required by the commission and the director to administer such program which shall in no event exceed five per cent (5%) of the fees collected for such purpose, unless the payment of a larger proportion of such funds is approved by the program committee for such marketing program.

Upon request of any program committee of any marketing program, the commission shall confer with said committee or its representatives prior to fixing the amount or proportion of any fees of said marketing program payable to the Department of Agriculture for maintenance of the commission and the department in the performance of the duties required by this act.

All such fees shall be deposited promptly by the zone agent in a bank or banks approved by the Director of Finance, and shall be accounted for forthwith to the Director of Agriculture. Such deposit shall be made in the name of the zone under which such funds are collected and shall be disbursed by the director, pursuant to rules and regulations prescribed by the director, and approved by the commission, only for the expenditures incurred by the program committee in carrying out the specific purposes and provisions of such marketing program, including all necessary expenses incurred in the formulation, administration and enforcement of such marketing program. Deposit and disbursement

The proportionate amount of fees payable, as determined herein, to the Department of Agriculture shall be withdrawn from such funds monthly by the director and paid into the Department of Agriculture Fund in the State Treasury and shall be used only for the support of the commission and of the Department of Agriculture in carrying out their duties as required by this act. Amount payable to Department of Agriculture

At the end of any marketing season as designated in each marketing program, after proper provision has been made for the payment of all necessary expenses incurred in connection therewith, any funds remaining to the credit of the program committee shall be refunded upon a pro rata basis to all persons from whom such funds were collected; provided, that, if the program continues in effect, such refund may be deferred for a period not to exceed six months from the date of the close of the next preceding marketing season so as to permit the program committee to use such residual funds to meet operating expenses in such succeeding season until sufficient funds have been collected to enable such committee to make such refund and to defray current operating expenses. At the time such refund is made, the program committee shall file with the director a claim for such refund to growers entitled thereto; provided, however, that, if the director finds that the amounts so returnable are so small as to make impractical the computation and remitting of such pro rata refund to such persons, the director may authorize the retention of such funds to the credit of the program committee for subsequent use in carrying out such marketing program; provided further, that on or after the effective date of this act the director may authorize the transfer of any balances remaining from previous seasons to the fund available for the then current season and any balances so transferred shall be used for carrying out the marketing program in such current season or the next succeeding season. Surplus funds Refund Claim

No agent or employee of the program committee shall have or receive any funds collected pursuant to the provisions of this act until such agent or employee has filed with the director a bond in such form and in such penal sum as the director may prescribe. Bond

CHAPTER 1151

Stats 1937, p 1229, amended

An act to amend Sections 18603, 18636, 18673, 18674, 18676, 18680, 18681, 18690, 18691, 18711, 18731, 18734, 18735, 18736, 18737, 18741, 18746, 18749, 18763 and 18781 of, and to add Sections 18738.5, 18752 and 18781.5 to, the Business and Professions Code, relating to the regulation of boxing and wrestling.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 632

SECTION 1. Section 18603 of the Business and Professions Code is hereby amended to read as follows:

Amateur boxing contest

18603. An amateur boxing contest or sparring match is one in which no contestant has received or will receive, directly or indirectly, any money, prize, reward or compensation either for the expenses of training for such contest or for taking part therein, except as provided in this chapter.

Stats 1941, p 634

SEC. 2. Section 18636 of the Business and Professions Code is hereby amended to read as follows:

Report to Legislature

18636. The commission shall biennially make to the Legislature on the first Monday of January in each odd numbered year a full report of its proceedings for the then current biennium and it may submit, with the report recommendations pertaining to its affairs. The report made by the commission in 1943 shall cover the period between December 1, 1940, and July 1, 1941.

Stats 1941, p 635

SEC. 3. Section 18673 of the said code is hereby amended to read as follows:

Licenses: Clubs, etc

18673. The commission may license clubs to conduct, hold, or give, and may license physicians, referees, matchmakers, announcers, ticket sellers, doormen, ushers, corporation treasurers, box-office employees, and timekeepers to participate in, or be employed in connection with, professional or amateur boxing contests or sparring or wrestling matches or exhibitions.

No club may conduct, hold, or give, and no physician, referee, announcer, ticket seller, doorman, usher, corporation treasurer, box-office employee, or timekeeper may participate in, or be employed in connection with, any such boxing contests or sparring or wrestling matches or exhibitions unless the club or person has been licensed for that purpose by the commission.

SEC. 4. Section 18674 of the said code is hereby amended to read as follows: Stats 1941, p 635

18674. The commission may license professional boxers, professional wrestlers, and booking agents, managers, trainers, and seconds of each. Boxers, etc

No such person shall participate in any boxing contest or sparring or wrestling match or exhibition or serve in the capacity of a boxing agent, manager, trainer or second, unless he has been licensed for that purpose by the commission.

SEC 5. Section 18676 of the said code is hereby amended to read as follows: Stats 1941, p 636

18676. The commission shall not issue any license to conduct, hold, or give boxing contests or sparring or wrestling matches or exhibitions, where an admission fee is received, to any club unless the club holds a lease for a term of at least six months of the premises in which the contest, match, or exhibition is to be held, except where such matches, contests or exhibitions are to be conducted, held, or given in an armory or publicly owned auditorium or hall. Lease required

SEC. 6 Section 18680 of the said code is hereby amended to read as follows: Stats 1941, p 636

18680. Each person who is an applicant for a license shall, before a license is issued by the commission, and annually thereafter during the life of such license, pay to the commission, a license fee as follows: Physician, five dollars ($5); referees, twenty-five dollars ($25); timekeepers, five dollars ($5); professional boxers, five dollars ($5); professional wrestlers, five dollars ($5); managers, twenty-five dollars ($25); trainers, five dollars ($5); seconds, five dollars ($5); matchmakers, twenty-five dollars ($25); wrestling booking agents, fifty dollars ($50); announcers, five dollars ($5). No license fee shall be required of ticket sellers, doormen, ushers, or box-office employees. Fees

SEC. 6.5 Section 18681 of said code is hereby amended to read as follows: Stats 1941, p 636

18681. Licenses issued under this chapter may be suspended or revoked by the commission upon such cause as it deems sufficient. If any license is suspended or revoked said board shall publicly state its reasons for so doing and cause an entry of said reasons to be made on the minute book of the commission. Such action shall be final, except that the propriety of such action is subject to review, upon questions of law only, by the superior court of the county within which such license was to be exercised. The action of the commission shall stand unless and until reversed by the court. Suspension and revocation

Stats 1941, p 637

SEC. 7. Section 18690 of said code is hereby amended to read as follows:

Bonds

18690. Before any license is granted to any club, to conduct, hold or give a boxing contest or a sparring or wrestling match, other than an amateur boxing contest or sparring match, the applicant therefor shall file a bond of two thousand dollars ($2,000) with good and sufficient surety with the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of the taxes herein imposed.

Before any license is granted to any club to conduct, hold or give an amateur boxing contest or sparring match the applicant therefor shall file a bond of not less than one thousand dollars ($1,000) with good and sufficient surety with the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of taxes herein imposed

Stats. 1941, p 637

SEC. 7.5. Section 18691 of said code is hereby amended to read as follows:

Default by club

18691. In case of default in a performance by any club licensed under this chapter, the commission may impose upon the delinquent club a penalty in the sum of not more than one thousand dollars ($1,000) for each offense, which may be recovered by the Attorney General in the name of the people of the State of California in the same manner as other penalties are recovered by law and which shall be paid into the State Treasury to the credit of the appropriation for the Veterans' Home of California.

Stats 1941, p 637

SEC. 8. Section 18711 of the said code is hereby amended to read as follows:

Report by club

18711. Every club licensed under this chapter shall, within 72 hours after the determination of every contest, match or exhibition for which an admission fee is charged and received, furnish to the commission a written report duly verified by one of its officers, showing the number of tickets issued or sold for such contest, match or exhibition, the amount of the gross receipts or value thereof, and such other matters as the commission may prescribe. Such club shall also within the same time pay to the commission a tax, exclusive of any Federal taxes paid thereon, of one cent ($0.01) for each twenty cents ($0.20) or fraction thereof of the amount paid for admission to any boxing contest or wrestling match or exhibition. In the case of persons (except bona fide employees, municipal or county officers on official business, members and employees of the commission) admitted free or at reduced rates to any boxing contest or wrestling match or exhibition at a time when and under circumstances under

which an admission charge is made to other persons, an equivalent tax based on the price so charged to such other persons for the same or similar accommodations shall be collected by the club, holding such contest, match or exhibition from the person so admitted and paid to the commission at the same time and in the same manner as other taxes are paid to the commission.

SEC. 9. Section 18731 of the said code is hereby amended to read as follows: Stats 1941, p 638

18731. All boxing contests, sparring or wrestling matches or exhibitions may be held in any building for which the commission in its discretion may issue a license. Where the contest, exhibition or match is authorized to be held in a State or city owned armory the provisions of the military law in respect thereto must be complied with. Buildings

SEC. 10 Section 18734 of said code is hereby amended to read as follows: Stats 1941, p. 639

18734. No person under the age of 18 years shall participate as a contestant in any boxing contest, or sparring or wrestling match. Age of contestant

Every contestant in an amateur boxing contest or sparring match shall be a registered amateur in the district in which he resides, and shall be examined by a physician immediately before the contest. Registered amateur

SEC. 11. Section 18735 of said code is hereby amended to read as follows: Stats 1941, p 639

18735. No person shall appear as contestant in any amateur boxing contest or sparring match who prior thereto has received any compensation or reward in any form for displaying, exercising or giving any example of his skill in or knowledge of athletic exercises, or for rendering services of any kind to any athletic organization or to any person or persons as trainer, coach, instructor or otherwise, or who shall have been employed in any manner professionally by reason of his athletic skill or knowledge. Nonamateur

SEC. 11.5. Section 18736 of said code is hereby amended to read as follows: Stats 1941, p 639

18736. No boxing contest or sparring match shall be allowed in which the difference in weight of the respective contestants exceeds 12 pounds. This provision shall not apply to boxers who weigh more than 175 pounds. Difference in weights

Stats 1941, p 639

SEC. 12. Section 18737 of the said code is hereby amended to read as follows:

Weight of gloves

18737. During every boxing contest, or sparring match, other than an amateur boxing contest or sparring match, each contestant shall wear gloves weighing not less than five ounces, if such contestant weighs in ring attire 147 pounds or less, and six ounces if such contestant weighs more than 147 pounds.

During every amateur boxing contest or sparring match each contestant shall wear gloves weighing not less than eight ounces, if such contestant weighs in ring attire less than 160 pounds, or 10 ounces if such contestant weighs 160 pounds or more.

New section

SEC. 13. Section 18738.5 is hereby added to said code, to read as follows:

Bandages

18738.5. No contestant in any amateur boxing contest or sparring match shall use any bandage on his hand or arm except soft surgical bandages not over two inches wide and 10 yards in length for each hand or one winding of surgeon's adhesive tape not over one and one-half inches wide placed directly on the hand to protect that part of the hand near the wrist and this may cross the back of the hand twice, but not extend within one inch of the knuckles.

Stats 1941, p 639

SEC. 14. Section 18741 of said code is hereby amended to read as follows:

Rounds

18741. (a) No amateur boxing contest or sparring match shall be more than four rounds, of not more than two minutes each, or three rounds of three minutes each, in length.

(b) The interval between each round shall be one minute.

Stats 1941, p 640

SEC. 15. Section 18746 of the said code is hereby amended to read as follows:

Decision

18746. The referee shall, at the termination of all boxing contests or sparring matches or exhibitions which are of 12 rounds or less render his decision. The commission may require that judges be used in conjunction with the referee at any boxing contest or sparring match or exhibition.

Stats 1941, p 640

SEC. 16. Section 18749 of said code is hereby amended to read as follows:

Medals, etc.

18749. A medal or trophy may be awarded to each contestant in any amateur boxing contest, or sparring match not to exceed in value the sum of thirty-five dollars ($35), which medal or trophy shall have engraved thereon the name of the winner and the date of the event. But no portion of any

admission fee or fees charged or received for any amateur boxing contest or sparring match shall be paid or given to any contestant in such amateur boxing contest, or sparring match either directly or indirectly, nor shall any gift be given to or received by such contestant for participating in such boxing contest, or sparring match, except the medal or trophy.

SEC. 17. Section 18752 is hereby added to said code, to read as follows: New section

18752. No amateur boxing contest or sparring match shall be held in conjunction with vaudeville shows, dances, or entertainments of any sort. Prohibited contests

SEC. 18. Section 18763 of said code is hereby amended to read as follows: Stats 1941, p 641

18763. At every amateur boxing contest or sparring match held in this State, any representative of the commission shall stop such contest whenever it appears to him that the contestants are unevenly matched, that the contestants, or either of them, has been seriously injured, or that there is danger that the contestants, or either of them, will be seriously injured if such contest continues. Such person may call to his assistance in enforcing his order to stop the contest, as many peace officers or male citizens of the State as may be necessary. Officials to stop match

SEC. 19. Section 18781 of said code is hereby amended to read as follows: Stats 1941, p 642

18781. Any contestant who continues to participate in an amateur boxing contest or sparring match after an order to stop the contest is given by a representative of the commission, or who violates any of the regulations herein prescribed for governing amateur boxing contests or sparring matches, is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and be imprisoned in the county jail not less than 30 days nor exceeding one year. Violation by contestant Penalty

SEC. 20. Section 18781.5 is hereby added to said code, to read as follows: New section

18781.5. Unless the written permission of the commission is first obtained, it is a misdemeanor for any person, firm, association, club or corporation staging or holding any amateur boxing contest or sparring match to pay or cause to be paid to any coach, trainer or manager of any amateur boxer participating in such boxing contest, or sparring match any sum of money other than the actual traveling expenses incurred by such coach, trainer or manager and amateur boxer in traveling from their respective places of residence to the Payments made without permission of commission

place of such boxing contest, exhibition or sparring match and return thereto, and a sum of money which shall not exceed five dollars ($5) per day for the actual time spent in traveling, as reimbursement for the other expenses actually incurred by such coach, trainer or manager in attending such amateur boxing contest or sparring match.

CHAPTER 1152

Stats 1939, p 1067, amended

An act to amend Section 4155 of the Public Resources Code, relating to the operation of stationary engines in any woods operation, located in any forest or brush covered land, and limiting the application of the section to wood-burning steam-operated stationary engines.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1148

SECTION 1. Section 4155 of the Public Resources Code is hereby amended to read as follows:

Using steam engine during dry season without fire break

4155. No person, corporation, or company shall use or operate, between May 1st and October 31st of each year, any wood or coal-burning steam-operated donkey or wood-burning steam-operated stationary engine in any woods operation, located in any forest or brush covered land, without first clearing away all inflammable material, including snags, from an area of at least 100 feet in radius about the engine, unless substitute fire prevention measures are adopted that meet with the approval of the State Forester. Loaders may be operated where inflammable material has been removed from an area of 25 feet radius from the machine, and snags have been felled and tops of rotten wood covered with mineral earth within a radius of 50 feet from the loader.

CHAPTER 1153

An act to amend Section 4157 of the Public Resources Code, relating to the operation of steam-operated donkey, stationary engine, locomotive or loader in any forest or brush covered land and excluding the use and operation of internal combustion engines from the provisions of said section.

Stats 1939, p 1067, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4157 of the Public Resources Code is hereby amended to read as follows:

Stats 1939, p 1149

4157. No person, corporation, or company shall use or operate, between May 1st and October 31st of each year, any steam-operated donkey, stationary engine, locomotive or loader in any woods operation located in any forest or brush covered land, without providing such engine with an adequate force pump, or water under pressure equivalent to a pump, and not less than 200 feet of hose of not less than one inch in diameter. Where two stationary or donkey engines are customarily operated within 100 feet of each other, only one engine need be equipped with pump and hose; provided, however, that the provisions of this section shall not apply to internal combustion engines nor to steam locomotives being used in the business of a common carrier by railroad.

Using steam engine or locomotive during dry season without water pump

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CHAPTER 1154

An act to amend Section 4007 of the Public Resources Code, relating to forestry.

Stats 1939, p 1067, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4007 of said code is hereby amended to read as follows:

Stats 1939, p 1142

4007. The State Forester may, for the prevention and suppression of forest fires, enter into cooperative agreements, with the approval of the Department of Finance, with any person, firm, association or corporation owning or controlling any forest, brush, grass or grain lands, under such terms as he deems advisable, and may renew, revise, or terminate such agreements. The expenses incurred under such agreements shall be paid from the appropriations or funds available for forest fire protection.

Agreements with landowners

CHAPTER 1155

Stats 1927, p 822, amended

An act to amend Sections 1, 2, 3, 3a, 4, 5, 7, 11, 12 and 15 of an act entitled "An act to define collection agencies; to provide for the regulation, bonding, supervision and licensing thereof; to provide for the enforcement of said act and penalties for the violation thereof," approved May 14, 1927, relating to collection agencies and the regulation, supervision and licensing thereof.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1927, p 822

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Collection agencies to be licensed

Section 1. No person shall hereafter conduct within this State a collection agency or engage in the business within this State of collecting claims for others, or of soliciting the right to collect or receive payment for another of any claim, or advertise, or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim, or seek to make collection or obtain payment of any claim on behalf of another without having first applied for and obtained a license as hereinafter specified.

Stats 1933, p 2453

SEC. 2. Section 2 of said act is hereby amended to read as follows:

Definitions.

Sec. 2. The following terms as used in this act shall be taken to have the meaning expressed in this section.

"Person"

(a) As used in this act, "person" includes firm, partnership, association or corporation.

"Collection agency"

(b) The term "collection agency" shall mean and include all persons, engaging directly or indirectly and as a primary or secondary object, business or pursuit, in soliciting claims for collection or in the collection of claims owed or due or asserted to be owed or due to another, and any person, when engaged in collecting claims for another, where the employment is for one or more persons, shall be deemed to be engaged in the collection business within the meaning of this act.

Fictitious names

(c) Any person, using a fictitious name in collecting its own claims with the intention of conveying to the debtor that a third party has been employed, and every person, who

Collection systems

shall sell, or offer to sell, forms represented to be a collection system, scheme, or device, intended or calculated to be used to collect claims is engaging in the collection business as contemplated by this act and shall be subject to the provisions hereof.

Exceptions

(d) The term "collection agency" shall not include attorneys at law, persons regularly employed on a regular wage or salary, in the capacity of credit men or in similar capacity, except as an independent contractor, banks, common carriers, abstract companies doing an escrow business, duly licensed

real estate brokers or agents doing a real estate business, nor a merchant-owned nonprofit credit association unless they are conducting a collection agency.

(e) The term "claim" shall mean any obligation for the payment of money or its equivalent and any sum or sums owed or due or asserted to be owed or due to another, for which any person may be employed to demand payment and to collect or enforce payment thereof. "Claim"

(f) The term "customer" shall mean any person, authorizing or employing a collection agency for any of the purposes permitted or authorized by this act. "Customer"

SEC. 3. Section 3 of said act is hereby amended to read as follows: Stats 1939, p 2744

Sec. 3. Application for such license shall be made in writing to the Secretary of State in such form as may be required by him and shall state among other things that may be required the name of the applicant together with the name under which the applicant expects to do business, with full residence address of the applicant, if an individual, including street and number, city and State, the location by street and number, city and State of the office of the business for which such license is sought, and in the case of a partnership the full name and residence address of all partners; and in the case of a corporation or voluntary association the name and residence address of each of the directors and officers thereof. The application shall further disclose that the applicant, if an individual, is a qualified elector, or if a partnership, corporation or voluntary association, that the partner, director or trustee thereof signing the application is a qualified elector of the State. The application shall state that the applicant, if an individual, or the signer thereof, if the applicant is a partnership, voluntary association or corporation, is to be actively in charge of the business for which such license is sought. Such application shall be subscribed and sworn to by the applicant, if an individual, or in the case of a partnership, corporation or voluntary association, by a partner, director, or trustee thereof, on its behalf, and shall be filed with the Secretary of State. Application for license

The application shall be accompanied by sworn statements of three reputable freeholders, each of whom shall certify that he has personally known the person who signed such application, for a period of at least five years prior to the date of execution thereof, that he is not related or connected by blood or marriage to the person concerning whom he is certifying, and that such person is competent to engage in the collection business, is honest, truthful and of good character and reputation. Freeholders' statements

Said application shall also be accompanied by a sworn financial statement of the applicant, showing the assets and liabilities of the applicant and truly reflecting that the applicant's net worth is not less than the sum of two thousand dollars ($2,000), in cash or its equivalent available for use Financial statement

of licensee's business; the information contained in the financial statement shall be deemed confidential and not a public record.

Examination

Any applicant may be examined concerning his competency, experience, character and qualifications by the Secretary of State or by the Superintendent of Collection Agencies, either of whom may take testimony of anyone in regard thereto under oath, which they are hereby empowered to administer.

Stats 1939, p 2745

SEC. 4. Section 3a of the act cited in the title hereof is hereby amended to read as follows:

Qualifications

Sec. 3a. No application for an original license hereunder shall be granted by the Secretary of State unless the applicant shall have met the requirements of this section in addition to all other requirements of this act and any rules and regulations established hereunder.

The applicant, if an individual, or in the case of a partnership, corporation, or voluntary association, a partner, director or trustee thereof, shall be a citizen of the United States, of the age of at least 21 years, of good moral character, who is, and for at least one year prior to the date of the filing of the application continuously has been, a bona fide resident of this State, and who possesses the necessary qualifications of learning and ability and passes the examination herein provided for. Any other person may take such examination upon filing with the Secretary of State an application, in such form as may be required by rules established hereunder, which shall show among other things that he possesses the qualifications herein required.

The Secretary of State, subject to the provisions of this act, shall have the power to fix and determine by rule and regulation the qualifications of applicants applying hereunder for a license, which rules and regulations shall require, among other things, that the educational qualifications of such persons shall be at least the graduation from a four-year high school, or proof satisfactory to the examining board that such persons are possessed of the equivalent of a four-year high school education in point of intellectual competency and achievement, and shall further require proof satisfactory to the examining board that such persons have diligently and in good faith studied the subjects hereinafter specified.

Examining committee

The Secretary of State shall have the power to constitute and appoint an examining board of three members one of whom shall be a licensee hereunder and shall have had at least five years actual collection experience in this State immediately preceding the date of appointment, which board shall have the power to examine all such persons and to certify the names of those persons who fulfill the requirements of this section and successfully pass the examination. Such examining board shall be appointed for a period of three years. Of the members first appointed, one shall be appointed for a term of one year, one for two years and one for three years. Thereafter each appointment shall be for the term of

three years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until his successor has been appointed and qualified. No member of any examining board appointed hereunder shall receive any other compensation than his necessary expenses connected with the performance of his duties as a member of the board, which expenses shall be paid out of the "Collection Agency Fund." The Superintendent of Collection Agencies shall act as the secretary of said board.

Examinations

Examinations shall be held at least every six months, at such times and places as the Secretary of State directs and according to the rules and regulations established by him not inconsistent with this act.

Notice

Public notice of the examination shall be given by publication at least one month prior to the date of each examination in two or more papers of general circulation and one publication circulated among the collectors, all to be selected by the Secretary of State. All of the papers or publications shall be published within the State of California.

Character of examinations

All examinations conducted hereunder shall be practical in character and sufficiently thorough to ascertain the fitness of the persons required to be examined, and both questions and answers shall be written in the English language. Questions on the following subjects may be included: Business mathematics, elementary accounting, business English, economics, psychology, sociology, money and banking, investments and investment analysis, merchandising and salesmanship, credits and credit management, collection methods and practices and the canons of business ethics pertaining thereto as well as the rules and regulations governing collection agencies, and elementary questions in business law, covering such subjects as agency, bankruptcy, contracts, creditors' rights, negotiable instruments, partnership, real and personal property, sales, and securities.

Questions

The examining board shall prepare and submit to the Secretary of State, at least 10 days prior to the examination, all questions for such examination, which may be approved, rejected, changed or altered in any manner by him.

The number of the questions, the method of grading them, the general average to be obtained by the person examined, and other details of the examination not herein covered may be determined by rules and regulations established hereunder by the Secretary of State.

Inspection of papers

The examination papers of any person examined hereunder shall be kept for the period of one year and may then be destroyed, but they shall be open to inspection during such period only by the Secretary of State, the Superintendent of Collection Agencies, members of the examining board, their clerical assistants, and by the applicant or by someone appointed by the latter to inspect them, or by a court of competent jurisdiction in a proceeding where the contents of the papers is properly involved.

Subject to the provisions of this act, any application herein provided for may be executed by any person who has passed such examination.

Stats 1939, p. 2748

SEC. 5. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Surety bond

Sec. 4. The applicant for such license shall file with the Secretary of State within such time after the filing of the application as may be fixed by said Secretary of State by rules and regulations established hereunder a bond in the sum of one thousand dollars ($1,000) which shall run to the people of the State of California. Such bond shall be executed and acknowledged by the applicant as principal, and by a corporation which is licensed by the Insurance Commissioner of this State to transact the business of fidelity and surety insurance, as surety. The bond shall be conditioned that the principal, who shall be the applicant, shall and will, upon demand in writing, pay and turn over to or for the use of any customer from whom any claim is taken or received for collection the proceeds of such collection, in accordance with the terms of the agreement made between the said principal and the said customer, and conditioned that the principal will comply with all requirements of this or any other statute now in force or hereafter enacted and any rules and regulations established hereunder with respect to the duties, conduct, obligations and liabilities of licensees. Such bond shall cover all claims collected or property converted by said licensee during the term of said license so applied for, and liability thereunder shall continue in accordance with the provisions of Section 10. Such bonds shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, as provided in Section 2852 of the Civil Code, unless terminated or canceled by action of the surety as provided by law or as provided herein. The aggregate liability of the surety for any and all claims which may arise under such bond shall in no event exceed the amount of the penalty of such bond.

New bond

Any licensee may at any time file with the Secretary of State a new bond. The Secretary of State shall forthwith cancel the bond of any surety company upon being advised that its license to transact the business of fidelity and surety insurance has been revoked by the Insurance Commissioner and shall forthwith advise any licensee for whom such company acted as surety of the fact of such cancellation, by collect telegram addressed to the licensee at the main office thereof, as shown by his records, whereupon the license of such licensee shall become suspended, subject to the right of such licensee, within 30 days thereafter, to file with the Secretary of State the bond hereinabove provided for, and upon the filing of such new bond the right of such licensee to conduct a collection agency shall forthwith be restored.

Upon the filing of notice with the Secretary of State by any surety company of its withdrawal as the surety of any licensee pursuant to Section 2851 of the Civil Code the Secretary of State shall forthwith give notice to the licensee of such withdrawal which notice shall be by registered mail with request for return receipt and shall be addressed to the licensee, at the main office thereof, as shown by the records of the Secretary of State. The license of any such licensee shall be void upon the termination of the bond of such surety company as provided in said section unless, prior to such termination, a new bond has been filed with the Secretary of State. Withdrawal of surety

SEC. 6. Section 5 of the act cited in the title hereof is hereby amended to read as follows: Stats. 1939, p. 2749

Sec. 5. Upon receiving and filing the application and bond specified in Sections 3 and 4 of this act, and upon a showing by the applicant of compliance with the other prerequisites of this act and any rules and regulations established hereunder, the Secretary of State shall grant and issue a license substantially in the form hereinafter set forth; provided, however, that if upon the filing of an application for a collection agency license, it is found that the applicant was a previous licensee under the provisions of this act, and that his license was revoked under the provisions hereof, or, if the applicant is a partnership, trust, association or a corporation, that any member, partner, trustee, officer, stockholder or employee thereof was a former licensee under the provisions of this act whose license was revoked for cause as provided under the provisions of this act, or, if a certified copy of the record of the conviction of an applicant, or the managing partner, trustee or director thereof, for the crime of fraud, embezzlement or for any crime involving moral turpitude, is filed with the Secretary of State, the latter shall not issue a license to such applicant; provided further, that if upon the filing of said application it is found that the applicant, if an individual, or if a partnership, trust, association or a corporation, that any member, partner, trustee, officer, stockholder or employee thereof, was a former licensee under the provisions of this act against whom there was a complaint filed as provided in Section 11 of this act, and said complaint was not disposed of as provided for in said Section 11 for any reason, the Secretary of State shall not issue a license to such applicant until there has been a hearing upon said complaint and a disposition thereof as provided for in said Section 11 of this act. Issuance of license

Denial of license

Such license when issued shall state the name of the licensee, the name under which the licensee is to operate, and the location by street and number, city, county and State where the licensee is to carry on business, together with the number and the date of such license, and shall further state that it is issued pursuant to this act and the rules and regulations established hereunder, and that the licensee is duly authorized hereunder. Contents of license

Authority of licensees

Upon receipt of such license, the licensee shall have the right to conduct the business of a collection agency, with all the powers and privileges contained in but subject always to all the provisions of this act and any rules and regulations established hereunder.

Aiding unlicensed persons

Sale of collection letters

No collection agency licensed hereunder shall, directly or indirectly, aid or abet any unlicensed person, to engage in the collection business or to receive compensation therefrom. Nor shall anything herein contained be deemed to authorize the licensee to print, publish, or otherwise prepare for distribution, any system of collection letters, demand forms, or other printed matter, upon his stationery, or where the licensee's name shall appear, in such manner as to indicate that a demand is being made by the licensee for the payment of any sum or sums due or asserted to be due, where such forms containing such message are to be sold or furnished and/or to be used by any person, other than the licensee, and to be used by any such persons, at any address different from the address of the licensee as shown on the face of the license issued hereunder.

Sale of claims

"Dead beat" lists

No licensee hereunder shall advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereon, nor agree to do so for the purpose of solicitation of claims. This provision shall not, however, affect any licensee if he is acting as assignee for the benefit of creditors or acting under any order of court. Nor shall a licensee publish or post or cause to be published or posted any lists of debtors, commonly known as "dead beat" lists; nor shall a licensee collect or attempt to collect by the use of any methods contrary to the postal regulations of the United States.

Unfair competition Stats 1913, p 508

The use of unfair methods of competition as defined in the Unfair Practices Act shall be ground for revocation of the license after a hearing as provided in Section 11 of this act.

Commingling money

A licensee hereunder shall not commingle the money of his customers with his own.

Stats 1939, p 2751

SEC. 8. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Change of location or name

Sec. 7. Upon removal from any location or change of name under which any licensee does business, as stated in any license issued hereunder, the licensee shall, within 10 days thereafter, deposit said license with the Secretary of State, accompanying same with written notification of such removal, or change of name and shall pay a fee of ten dollars ($10). Such license, if not deposited with the Secretary of State within such time, shall become and remain suspended until it has been so deposited. The Secretary of State shall note said removal or change of name upon the face of the license, and shall enter in his records, in an appropriate place therefor, a notation of such removal or change of name and shall thereupon return said license to such licensee.

Change of ownership

Whenever there is a change in the ownership of any collection agency licensed hereunder, other than a corporation or voluntary association, the license issued to it shall forthwith become void and its right to conduct business thereunder shall terminate.

Change of stock ownership

Whenever there is a change in the ownership of more than 50 per cent of the stock of any corporation, other than the change in ownership caused by the death of the holder of such stock, or a change in the majority of the membership of a voluntary association, holding a license hereunder, the license issued to it shall forthwith terminate.

Death of licensee

In case of the death of an individual licensee who leaves an established business as part of or all the assets of his estate or the dissolution of a licensed partnership by death or operation of law, the Secretary of State shall issue a license to a representative designated by the executor or administrator of such estate or by a majority of the surviving partners, respectively, notwithstanding the provisions of Sections 3 and 3a of this act, upon the filing by such representative of the bond herein provided for and upon payment of a fee of ten dollars ($10). Such license shall be effective for a period of one year from the date thereof and shall not be renewed. The authority of such licensee is hereby limited to such activities as may be necessary to wind up the business of the former licensee.

Branch office

Application for a license for any branch office or offices may be made by any licensee hereunder. Such application shall state the location and address of such branch office and the name and address of the person to be in charge thereof, who must have passed the examination provided for in Section 3a unless the original license of such licensee was issued prior to May 2, 1941. Such application shall be accompanied by the bond required by Section 4. The fee required by Section 6 shall be paid for filing such application.

Person in charge of branch

Notice of change

The person actively in charge of the main office or any branch office of any licensee whose original license was issued after May 1, 1941, must have passed the examination provided for in Section 3a. Whenever such person ceases to be in such charge the licensee shall so notify the Secretary of State in writing within 10 days from such cessation. If such notice is given the license shall remain in force for a reasonable period to be determined by rules adopted pursuant to the provisions of this act; provided, however, that if such licensee fails to so notify the Secretary of State within such 10 days, at the end of such time the license shall be ipso facto suspended; provided, however, that the license shall be reinstated upon the filing of an affidavit by the licensee, if an individual, or by a partner, trustee or director of the licensee, if a partnership, voluntary association or corporation, respectively, to the effect that the person formerly in charge of such office has been replaced by another person who has passed such examination.

Reinstatement

No person shall be eligible to be in charge of any such office if he was a former licensee under this act and suffered a revocation of his license after a hearing upon a complaint or upon written charges by the Superintendent of Collection Agencies or if he was a partner, trustee or director of a partnership, voluntary association or corporation, respectively, which was a former licensee under this act and which suffered a revocation of its license after such a hearing.

Stats 1939, p 2753

SEC. 10. Section 11 of the act cited in the title hereof is hereby amended to read as follows:

Superintendent of Collection Agencies

Sec. 11. The Secretary of State shall appoint one Superintendent of Collection Agencies whose duties are hereinafter defined, with such salary as may be fixed by the Secretary of State with the approval of the Director of Finance. The Secretary of State shall appoint such clerical, expert, technical and other assistants as may be necessary to carry out the provisions of this act, and one or more assistants to the Superintendent of Collection Agencies who may perform the duties herein delegated to the Superintendent of Collection Agencies under the supervision of the Superintendent of Collection Agencies, and all such persons shall be paid for services rendered from the Collection Agency Fund as provided for in Section 6 hereof.

Qualifications

The qualifications of the Superintendent of Collection Agencies shall be as follows: He must be a resident of the State of California for a period of not less than five years immediately preceding the date of appointment, he must have had at least five years actual collection agency experience in this State immediately preceding the date of appointment.

Duties: Investigations

It shall be the duty of the Superintendent of Collection Agencies, for the purpose of discovering violations of this act, to investigate the business and examine the books, accounts, records and files used therein by the licensee and for such purpose the Superintendent of Collection Agencies shall have free access to the offices and places of business, books, accounts, records, papers, files, safes and vaults of all such persons, firms, voluntary associations and corporations.

Complaints

A verified complaint may be filed with the Secretary of State against a licensee alleging fraud or misrepresentation or any act or omission inconsistent with the faithful discharge of his duties and obligations or in violation of any provisions of this act or rules and regulations established hereunder. The complaint must be accompanied by an affidavit showing service of copy of said complaint upon the licensee personally or by registered mail at the address shown in the records of the Secretary of State.

Investigations may be made by the Superintendent of Collection Agencies without the filing or presentation of any complaint, and he shall have the power to initiate and conduct investigation of all matters affecting or relating to any collection agency or its affairs. The Superintendent of Collection Agencies, after investigation, may

thereupon file written charges against the licensee therein named. The complaint shall be verified, or if not verified by the complainant, the reasons therefor shall be stated. Facts not within the actual knowledge of the person verifying but believed by him to be true may be stated on information or belief.

Charges

Upon the filing of a verified complaint or written charges as herein provided, the Superintendent of Collection Agencies shall designate a time and place of hearing thereon and cause notice to be given thereof to the complainant and the licensee as hereinafter provided. In all cases involving written charges or verified complaints against licensees hereunder, the hearing shall be held either in the county where the principal office of the licensee charged or complained against is maintained, or where said licensee resides or where the alleged offense is committed, as may be determined in the discretion of the Superintendent of Collection Agencies.

Notices, etc

Any licensee against whom a written charge is made, or a verified complaint is filed, as herein provided shall be given reasonable notice and have a reasonable opportunity and right to defend against the charge by the introduction of evidence, and shall have the right to be represented by counsel, to examine and cross-examine witnesses, and to the issuance of subpenas for the attendance of witnesses to appear and testify or to produce books, papers and documents pertaining to the matter under investigation.

Notice of the time and place of said hearing shall be given to the licensee and a true copy of the charge as filed shall be served upon licensee by registered mail at the address shown on the records of the Secretary of State. The licensee shall file with the Secretary of State, at least five days before the date of said hearing, an answer to said charge or verified complaint; provided, however, that upon proper cause shown, time for filing the answer may be extended by the Superintendent of Collection Agencies for a period not exceeding 30 days and the hearing thereof may be continued for not more than 30 days after the filing of the answer.

Answer

Revocation of license

Upon said hearing if it shall appear that the licensee has wilfully violated any of the provisions of this act, or the rules and regulations established under this act by the Secretary of State, or if it shall appear that licensee has been guilty of fraud or misrepresentation, or any act or omission inconsistent with the faithful discharge of his duties or obligations, or has been found guilty of a felony, the license of such licensee shall be revoked. The Superintendent of Collection Agencies shall make written findings and recommendations within 10 days after the hearing. After said written findings and recommendations of the Superintendent of Collection Agencies shall have been filed as herein provided, it shall be the duty of the Secretary of State to file his order either revoking the license of said licensee or dismissing the charge, and to mail a copy of such order to the complainant and to send a copy

Findings

thereof by registered mail to the licensee at the address as shown in the records of the Secretary of State. The order of the Secretary of State revoking any license shall be subject to review by the superior court under the provisions of Chapter 1, Title 1, Part 3 of the Code of Civil Procedure. The party desiring such review shall file his petition therefor in the superior court within 20 days after service upon him of the order. A judgment of revocation of license by the superior court shall be subject to appeal or review in accordance with the provisions of law as to appeal from or review of judgments of superior courts.

Appeal and review

Witnesses

The Superintendent of Collection Agencies shall have authority and power to administer oaths and to take testimony of any witnesses, and to compel the attendance of witnesses and the production of books, papers, documents and other records under their control pertaining to the matter under investigation, or to said trial or hearing, and to issue subpenas requiring such attendance of witnesses and the production of such books, papers, documents and other records.

Contempt

Whenever any person subpenaed to appear and give testimony or to produce such books, papers, documents or other records as required by such subpena, shall refuse to appear or testify before said Superintendent of Collection Agencies, or to answer any pertinent or proper questions, he shall be deemed in contempt of said Superintendent of Collection Agencies, and it shall be the duty of the Superintendent of Collection Agencies to report the fact to the superior court of the State of California, in and for the county or city and county in which said investigation, trial or hearing is being held; thereupon the said court shall issue an attachment in the form usual in said superior court, directed to the sheriff of said county or city and county, commanding said sheriff to attach such person and forthwith bring him before said court. On the return of said attachment, and the production of the person attached, the said superior court shall have jurisdiction of the matter, and the person charged may purge himself of contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted, as in the case of a witness subpenaed to appear and give evidence on the trial of a civil cause before a superior court of the State of California. No witness shall be compelled to attend a hearing outside of the county in which he resides unless the distance be less than 100 miles from his place of residence to the place of hearing. Depositions may be taken and used in the same manner as in civil cases provided for.

Report to superior court.

Attachment of person

Records of hearings

A record of all hearings shall be made and preserved by the Superintendent of Collection Agencies. The Secretary of State shall furnish to any person involved in the proceedings making application therefor a copy of any part thereof, certified by him, upon payment of a fee of twenty-five cents ($0.25) per hundred words so copied. The fee shall be

deposited in the State Treasury to the credit of the "Collection Agency Fund."

Evidence of violation

It shall be the duty of the Superintendent of Collection Agencies to discover violations of this act by persons engaged in the collection business as herein defined who fail to obtain licenses therefor as in this act required and to gather evidence of violations and to furnish the same to prosecuting officers of any city, city and county, or county for the purpose of prosecuting all violations of the provisions of this act occurring within their jurisdiction.

Stats 1939, p 2755

SEC. 11. Section 12 of the act cited in the title hereof is hereby amended to read as follows:

Record

Sec. 12. The Secretary of State shall keep in his office in a suitable record provided for the purpose all applications for licenses, accompanying certificates, statements and documents and all bonds required to be filed hereunder; such record shall state whether or not a license has been issued under such application and bond, and if revoked the date of filing the order of revocation, and if reinstated as herein authorized the date of filing the order of reinstatement. The Secretary of State shall keep a list of all persons, who have had licenses revoked. In such record all licenses issued shall be indicated by their serial numbers as well as by the name and address of the licensee. Such record shall be open for inspection as a public record in the office of the Secretary of State.

Stats 1939, p 2756

SEC. 12. Section 15 of the act cited in the title hereof is hereby amended to read as follows:

Practice of law prohibited

Sec. 15. Nothing in this act shall be construed as authorizing or empowering a collection agency, as herein defined, to practice law either directly or indirectly.

Suit on assigned claim

No collection agency shall bring a suit on any claim assigned to it in its own name as the real party in interest in any court unless it appears by a duly authorized attorney at law; nor shall any appearance be made in any court by a collection agency unless made by a duly authorized and licensed attorney at law.

CHAPTER 1156

Stats. 1935, p 1338, amended

An act to amend Sections 1012, 1018, 1019, 1023, 1025, 1028, 1030, 1034, 1035, 1042 and 1043 of, and to add Section 1046 to, the Military and Veterans Code, relating to veterans, including the administration of estates of incompetent and deceased veterans and the conduct of the Veterans' Home and the powers and duties of the officers thereof.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1969

SECTION 1. Section 1012 of the Military and Veterans Code is hereby amended to read as follows:

Purpose of home

1012. The home is for aged and disabled honorably discharged former soldiers, sailors, marines, and members of the Coast Guard of the United States who have served in the armed forces during a war period as defined by law and/or are eligible for hospitalization or domiciliary care in a veterans' facility in accordance with the rules and regulations of the United States Veterans Administration, and who have been bona fide residents of this State for 10 years immediately preceding the date of application. The property of the home shall be used for this purpose.

Stats 1935, p. 1401

SEC. 2. Section 1018 of said code is hereby amended to read as follows:

Officers of home

1018. The commandant, surgeon, quartermaster, adjutant, finance officer, chaplain, assistant surgeons, dental officers, medical administrative officer, and the engineer who shall be designated as utilities officer in office at the time this amendment takes effect shall remain in office as provided in the State Civil Service Act. Thereafter the board shall appoint, subject to civil service, qualified persons to fill such offices, none of whom shall be members of the board.

Stats 1935, p 1401

SEC. 3. Section 1019 of said code is hereby amended to read as follows:

Oath and bond

1019. Officers of the home shall take the oath of office required of State officers, shall file a bond in form and amount approved by the board, and shall reside at the home. Officers may be removed by the board for cause as provided in the State Civil Service Act.

Stats 1935, p 1402

SEC. 4. Section 1023 of said code is hereby amended to read as follows:

1023. The board may sue and be sued in any of the courts of this State. All property held by the board shall be held in trust for the State and for the use and benefit of the home. The board shall manage the home, and administer its affairs, make by-laws for the government of the board, and adopt rules and regulations for the government of the home, in conformity as nearly as possible, to the rules and regulations of the National Military Homes and the United States Veterans Administration for their facilities. Powers of board

SEC. 5. Section 1025 of said code is hereby amended to read as follows: Stats 1935, p 1402

1025. The home shall be open at any time to the inspection of the Director of the United States Veterans Administration or his authorized representative. Inspection

SEC. 6. Section 1028 of said code is hereby amended to read as follows: Stats 1935, p 1402

1028. The board shall hold stated meetings at least once a month at the time and place announced by the president of the board or his authorized representative. Meetings

SEC. 7. Section 1030 of said code is hereby amended to read as follows: Stats 1935, p. 1402

1030. The board shall report to the Governor before the first day of January of each year stating all receipts and expenditures, the condition of the home, the number of veterans received and discharged during the preceding fiscal year, and such other matters touching upon the management, conduct, and interest of the home as the board deems proper, or as are required by the Governor. Report to Governor

The board shall also make any other reports which the Governor requires. All reports shall be verified by the president of the board, or in his absence by the vice president, and shall be certified by the commandant.

SEC. 8. Section 1034 of said code is hereby amended to read as follows: Stats 1935, p. 1403

1034. Except money received from this State for disbursement, all moneys received by the board or by any officer of the home, including pension and other moneys belonging to veterans and other trust moneys, shall be immediately paid to the finance officer of the home. On or before the tenth day of each month the finance officer of the home shall forward to the State Treasurer all moneys in his possession, except pension and other moneys belonging to veterans, trust moneys, the post funds, and the emergency fund, hereinafter mentioned, together with a statement of the sources from which Disposition of money

the same have been received. The moneys shall be deposited by the State Treasurer to the credit of the General Fund of the State; provided, however, that abatements of support expenditures shall be credited to the support appropriation current at the time of collection.

Stats 1935, p. 1403

SEC. 9. Section 1035 of said code is hereby amended to read as follows:

Money of veteran held by board

1035. Any balance of moneys of any veteran held by the board, or by its authority, shall, upon the death of the veteran, where undisposed of by will, be held as a trust fund, to be paid by the board upon proper proof, directly and without probate, to the heirs of the veteran.

If no heirs are discovered within five years after the death of the veteran, or if the heirs discovered within such time are not entitled to the whole thereof, the moneys not paid to the heirs, and undisposed of by will, shall be paid to the post fund of the home which fund shall be used for the common benefit of the veterans under the direction of the board.

Stats 1935, p 1404

SEC. 10. Section 1042 of said code is hereby amended to read as follows:

Interest

1042. All accrued interest on money turned over to the finance officer and retained by him under this chapter shall be accounted for by him and deposited to the credit of the post fund and used for the common benefit of the veterans.

Stats 1939, p 1730

SEC. 11. Section 1043 of said code is hereby amended to read as follows:

Persons eligible for admittance

1043. With the exception of officers and employees and their families, no person shall be admitted to reside in the home, who is not eligible under Section 1012.

New section

SEC. 12. Section 1046 is hereby added to said code, to read as follows:

Incompetent veterans

1046. If it is reported by the surgeon that a veteran is incompetent, has no guardian and no responsible relative in California entitled thereto, and is the owner of property, and such report is approved by the board, the finance officer of the home may apply for, and is entitled to be issued, letters of guardianship of the estate of such veteran, and to act as such guardian while he is in office as such finance officer.

Administration

If an incompetent veteran dies leaving any estate and having no relatives at the time residing in the State, and there is no executor named in a valid will entitled to letters testamentary, and the public administrator being entitled but making no objection thereto, the finance officer of the home may apply for, and is entitled to be issued, letters of administration, or letters of administration with the will annexed as the

case may be, and to act as such administrator while he is in office as such finance officer.

Upon retiring as such finance officer, such guardian or administrator shall, within 60 days thereafter, file an account with the court and turn over all of the property held as such guardian or administrator to the person who succeeds him as finance officer of the home, who shall by operation of law succeed to all rights, authority, and duties as such guardian or administrator of such estates. Such retiring finance officer shall not be released from liability on his bond until his account has been settled and approved by the court and the bond of the incoming finance officer approved and filed. Retirement of finance officer

The finance officer shall not be entitled to receive or collect any compensation for services as such guardian or administrator, but may pay from the moneys of the estate the premiums required upon his bond in such estate. Compensation

CHAPTER 1157

An act to amend Section 159 of the Code of Civil Procedure, relating to justices of the peace.

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 159 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1933, p 1827

159. Every justice of the peace shall reside in the city, or judicial township, in which his court is held, and no person shall be eligible to the office of justice of the peace unless he shall have been a citizen of the United States and a resident of the county and township in which he is to serve for one year next preceding his election or appointment. Justice of the peace Qualifications

CHAPTER 1158

An act to add Sections 2010, 2011 and 2012 to, and to amend Section 2183 of, the Welfare and Institutions Code, relating to aid to the aged, providing for the payment thereof, and specifying the powers and duties of certain public officers and employees in connection therewith. Stats 1937, p 1005, amended

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2010 is hereby added to the Welfare and Institutions Code, to read as follows: New section

2010. No question, inquiry, or recommendation under the authority of this chapter or the rules of the State Department Political or religious opinions

of Social Welfare shall relate to the political or religious opinions or affiliations of any person, and no grant or denial of aid under this chapter shall be in any manner affected or influenced by such opinions or affiliations.

New section SEC. 2. Section 2011 is hereby added to the Welfare and Institutions Code, to read as follows:

Threats against relatives 2011. No officer or employee of any county shall make any demand upon any person, other than a legally responsible relative, of any applicant for or recipient of aid under this chapter, to contribute a stated amount to the support of the applicant or recipient each month, or to agree so to contribute, or shall threaten any such relative with any legal action against him by or on behalf of the county, or with any penalty whatsoever, unless he agrees so to contribute.

New section SEC. 3. Section 2012 is hereby added to the Welfare and Institutions Code, to read as follows:

Repeated complaints against county officers 2012. Whenever complaints are repeatedly made to the State Department of Social Welfare concerning the conduct or acts of any county officer or employee in connection with the administration of this chapter, the department shall consider such complaints, and if it finds that the conduct or acts complained of are inimical to the purposes and proper administration of this chapter, the department shall report the complaints and its findings relating thereto to the board of supervisors of the county for investigation and appropriate action.

Stats. 1937, p. 1087 SEC. 5. Section 2183 of the Welfare and Institutions Code is hereby amended to read as follows:

Payments 2183. If the application for aid is granted, the clerk of the board of supervisors shall report the fact to the auditor of the county. All payments of aid under this chapter shall be made monthly in advance by the treasurer of the county.

A county shall have a period of 90 days after the date of application within which to determine whether or not the applicant is eligible for assistance, and the aid shall be granted to him from the first day of the month in which the determination is made that he is eligible but in no event shall the aid commence prior to the date of application. If the investigation is not completed at the end of the 90-day period, the investigation shall continue until completed and if eligibility is established, aid shall begin as of the first day of the month following the end of the 90-day period.

Such payment shall be paid by warrant and shall be delivered to the applicant at his residence if he so requests. If the recipient of old age assistance is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, upon recommendation of the board of supervisors and

with the approval of the Department of Social Welfare the aid authorized in this chapter may be paid to any responsible person acceptable to the recipient for the benefit of the recipient of this aid, but it shall be unlawful for the board of supervisors to order any part of the aid granted under this chapter to be paid in the form of merchandise orders for food, rent or otherwise.

CHAPTER 1159

An act to amend Section 202 of the Welfare and Institutions Code, relating to contracts for care of indigents; emergency services authorized; nonemergency services authorized; hospitals with which agreements may be made.

Stats 1937, p 1005, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 202 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p 1016

202. The board shall not let the care, maintenance, or attendance of such indigent sick or dependent poor by contract to any person. However, in cases of unusual difficulty or which require treatment or the use of facilities not immediately available in the county, and in cases of emergency, the board may secure by agreement, for the needy sick, hospital care within or without the county, including medical, surgical, X-ray, laboratory, nursing, and general hospital service, at cost from any hospital maintained and operated by any county or by the State, or by any State college, university or other institution supported in whole or in part by taxation, or exempted in whole or in part from taxation, or by any persons, firms, or corporations in the county. Such agreements shall be made only with those hospitals which are qualified to render and are actually rendering services to the sick, economically and efficiently, and the books of which reflect accurately in monthly statements the per diem cost of medical, surgical, X-ray, laboratory, nursing, and general hospital service to patients.

Contracts for care, etc

The county may also execute contracts with private hospitals to cover the following situation: In cases of medical emergency admitted for treatment in private hospitals if the patient be an indigent such patient may continue to be treated by the private hospital when the emergency ceases to exist; provided, the per diem cost, inclusive of all services of whatsoever nature, shall not exceed the cost of the same type of care in a hospital operated by the county, pursuant to Section 203 of this code.

CHAPTER 1160

Stats 1939, p 49, amended

An act to add Section 10601.5 to the Elections Code, relating to filing of declaration of intention to become a candidate for a judicial office.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 10601.5 is hereby added to the Elections Code, to read as follows:

Declaration of candidate for judicial office

10601.5. Every candidate for a judicial office, not more than 10 or less than five days prior to the first day on which his nomination papers may be circulated and signed or may be presented for filing, shall file in the office in which his nomination papers are required to be filed, a written and signed declaration of his intention to become a candidate for that office.

CHAPTER 1161

Stats 1937, p 185, amended

An act to amend Section 7113 of the Labor Code, relating to safety of employment.

In effect September 13, 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941]

The people of the State of California do enact as follows:

Stats 1937, p. 319

SECTION 1. Section 7113 of the Labor Code is hereby amended to read as follows:

Construction of nets

7113. Nets shall consist of manila rope at least one-half inch in diameter with borders, at least three-quarters of an inch in diameter, and six by six inch mesh. The borders of the nets shall be provided with loops so that they can be readily combined or attached to convenient points on the structural frame.

CHAPTER 1162

An act to add a new section to the Probate Code to be numbered 1020.1 and to repeal Sections 530, 530.1 and 1201a of the Probate Code, all relating to assignments and transfers of an interest in the estate of a decedent by heirs, devisees and legatees.

Stats 1931, p. 587, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Probate Code to be numbered 1020.1 and to read as follows:

New section

1020.1. The court before making distribution of any property of a decedent to any assignee or transferee of any heir, devisee or legatee or before making distribution to any person other than an heir, devisee, or legatee pursuant to any agreement, request or instructions of any heir, devisee or legatee or of any attorney-in-fact of any heir, devisee or legatee may on the motion of any person interested in the estate or on the motion of the public administrator or on its own motion inquire into the consideration for such assignment, transfer, agreement, request or instructions and into the amount of any fees, charges, or consideration paid or agreed to be paid by the heir, devisee or legatee and into the circumstances surrounding the execution of such assignment, transfer, agreement, request or instructions and if it finds that the fees, charges or consideration paid by any such heir, devisee or legatee is grossly unreasonable or that any such assignment, transfer, agreement, request or instructions was obtained by duress, fraud or undue influence it may refuse to make distribution pursuant thereto except upon such terms as it deems just and equitable. Notice of a hearing on any motion made pursuant to this section shall be served personally or by registered mail as the court may direct at least 10 days before the hearing upon the heir, devisee, or legatee executing any such assignment, transfer, agreement, request, or instructions and upon the person or persons claiming thereunder.

Inquiry into consideration for distribution to certain persons

SEC. 2. Sections 530, 530.1 and 1201a of the Probate Code are hereby repealed.

Repeals

CHAPTER 1163

Stats. 1937, p. 1229, amended

An act to repeal Chapter 14, comprising Sections 8500 to 8578, inclusive, of, and to add Chapter 14, comprising Sections 8500 to 8677, inclusive, to, Division 3 of the Business and Professions Code, relating to the regulation of structural pest control.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New chapter

SECTION 1. Chapter 14, comprising Sections 8500 to 8677, inclusive, is hereby added to Division 3 of the Business and Professions Code, to read as follows:

CHAPTER 14. STRUCTURAL PEST CONTROL OPERATORS

Article 1. General Provisions

Construction

8500. Unless the text otherwise requires, the general provisions hereinafter set forth govern the construction of this chapter.

"Director"

8501. "Director" refers to the Director of the Department of Professional and Vocational Standards.

"Board"

8502. "Board" refers to the Structural Pest Control Board.

"Registrar"

8503. "Registrar" refers to the registrar of the Structural Pest Control Board.

"Person"

8504. "Person" includes an individual, firm, partnership, corporation, association or other organization or any combination thereof.

"Pest control"

8505. "Structural pest control" and "pest control" as used in this act are synonymous. It is the identification of infestations or infections, the making of inspections, or the use of insecticides, fumigants or allied chemicals for the purpose of eliminating, exterminating or preventing infestation of ants, bedbugs, carpet beetles, woodboring insects, cockroaches, fleas, moths, mice, rats, silverfish, spiders, termites, infection of fungi, and other such pests which may invade household and other structures, or the submission of bids for any of such work.

"Structural pest control operator"

8506. (a) "Structural pest control operator" is any person licensed by the board to practice structural pest control and who does so for hire as a business.

A structural pest control operator may, in connection with the practice of structural pest control, hire operators and structural pest control field representatives, secure structural pest control work, identify infestations or infections, make inspections, submit bids or otherwise contract for pest control work, and may hire or employ individuals who are not licensed under this act, to work on, and such individuals may work on, pest control jobs under the supervision of an operator or field representative, which work shall be performed only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job.

An operator may enter the employ of another operator and while in such employ may engage in pest control only on behalf of his employer.

(b) As used in this chapter, "operator" refers to "structural pest control operator."

"Structural pest control field representative"

8507. (a) "Structural pest control field representative" is any individual who is licensed by the board to practice pest control.

A structural pest control field representative may secure structural pest control work, identify infestations or infections, make inspections, submit bids or otherwise contract, in behalf of such operator.

A pest control field representative shall not contract for pest control work or perform pest control work in his own behalf.

(b) As used in this chapter, "field representative" refers to "structural pest control field representative."

"Household"

8508. "Household" means any structure and its contents which are used for man and his convenience.

"Branch office"

8509. "Branch office" is any fixed place of business in addition to the location of business stipulated in the license of an operator where records are kept, mail received, statements rendered, money is collected, or requests are received for service or bids, or information is given pertaining to the practice of pest control, other than governmental offices.

"Manufacturer"

8511. "Manufacturer" is a person engaged in the processing of materials used in the practice of pest control, but who does not himself engage in such practice.

"Employer"

8512. "Employer" refers to an operator who hires operators, field representatives and other individuals, the latter not being required to be licensed under this chapter, and who work on pest control jobs under the supervision of an operator or field representative.

Dangerous or lethal chemicals

8513. "Dangerous or lethal chemicals" are any form or combination of the following materials: Hydrocyanic acid gas, sodium cyanide, potassium cyanide, calcium cyanide, methyl bromide, carbon bisulphide, carbon monoxide, carbon tetrachloride, ethylene, dichloride, sulphur dioxide, chloropicrin or any other gas or substance that might cause injury or death when used in concentrates employed in fumigation.

Article 2. Administration

Structural Pest Control Board

8520. There is in the Department of Professional and Vocational Standards a Structural Pest Control Board, which consists of five members appointed by the Governor.

Subject to the jurisdiction conferred upon the Director by Division 1 of this code, the board shall administer the provisions of this chapter.

Membership

8521. The board is composed of five members, three of whom shall be, and shall have been for a period of not less than five years preceding the date of their appointment, operators actively engaged in the business of pest control. Of the other two members, one shall be a licensed contractor and one shall be a licensed structural engineer.

Terms

8522. Members of the board shall be appointed by the Governor for a term of four years, subject to removal by him at his pleasure.

The terms of the members of the board in office when this chapter takes effect shall expire as follows:

Two members, January 15, 1942; one member, January 15, 1943; one member, January 15, 1944; and one member, January 15, 1945.

The terms shall expire in the same relative order as to each member as the terms for which he holds office before this chapter takes effect.

Vacancies shall be filled by the Governor for the unexpired term.

Meetings

8523. The board shall organize and elect a president who shall serve for one year.

The board shall meet annually during the month of July.

Special meetings may be called at any time by the president or by any three members of the board, upon notice for such time and in such manner as the board may provide.

Quorum

8524. Three members of the board shall constitute a quorum for the transaction of business, for the performance of any duty, or the exercise of any power or authority of the board.

A vacancy on the board shall not impair the power of the remaining members to perform all duties and exercise all powers of the board providing the members remaining constitute a quorum.

Rules and regulations

8525. The board, subject to the approval of the director, may adopt and enforce reasonable rules and regulations relating to the practice of pest control and the administration of this chapter.

Such rules and regulations shall become effective after reasonable notice of not less than 30 days has been given to all persons licensed under this chapter.

Compensation

8526. Each member of the board shall serve without compensation but shall be reimbursed for his necessary traveling and other expenses incurred in the performance of his duties.

Seal

8527. The board shall adopt and use a seal. The seal shall have the words "Structural Pest Control Board, State of California," and such other devices as the board may desire, engrossed thereon. The registrar shall have the care and custody of the seal.

Registrar

8528. With the approval of the director, the board shall appoint a registrar, fix his compensation and prescribe his duties.

The registrar is the executive officer and secretary of the board.

Other assistants

8529. The registrar with the approval of the board and of the director, and subject to the provisions of the State Civil Service Act, may appoint and fix the compensation of such other assistants as may be necessary.

Offices

8530. The board, with the approval of the director, may establish the main office of the board, and branch offices of the board in any city of this State.

Records

8531. The registrar shall keep a complete record of the board's actions, and shall maintain at the office of the board and open to public inspection during office hours a complete index record of all applications for licenses issued, licenses renewed, and all revocations, cancellations and suspensions of licenses.

Certification

8532. Copies of all records and papers in the office of the board, certified by the registrar under the seal of the board shall be received in evidence in all courts of this State in all cases equally and with like effect as the originals of such papers and records.

Roster

8533. Whenever funds are available for the purpose, the registrar, at the discretion of the board, may publish, or cause to be published, a roster of the persons licensed under the provisions of this chapter. A copy of such roster may be furnished to operators and such State agencies as the registrar

may select, at such intervals as he deems necessary. Copies of the roster may be sold at a price fixed by the board.

Publication of information

8534. Whenever funds are available for the purpose, the registrar, at the direction of the board, may publish and disseminate to persons licensed under this chapter and to public officials and other persons interested in the practice of pest control, such information relative to the administration and enforcement of this chapter as the registrar deems necessary to carry out its purposes; provided, however, that no information concerning the revocation or suspension of a license shall be disseminated by the board until such revocation or suspension has been adjudicated by the courts or the time for appeal from said suspension or revocation has expired.

Oaths

8535. The registrar, and any member of the board, may administer oaths for the purpose of administering this chapter.

Enforcement

8536. No manufacturer, his agents or employees, nor any person who is a consultant of or connected with any manufacturer, shall be charged with the enforcement or execution of any of the provisions of this chapter.

Report to Governor

8537. Within 30 days prior to each regular session of the Legislature, the board shall submit to the Governor a full and true report of its operations during the preceding biennium, including a complete statement of receipts and disbursements.

Article 3. Application of the Chapter

Unlawful to act unless licensed

8550. It is unlawful for any person to engage or offer to engage in the business of, act in the capacity of, or advertise himself as, or assume to act as, an operator or a field representative unless he is licensed as such under this chapter.

Fumigation

8551. It is unlawful for any unlicensed person to perform fumigation with dangerous or lethal fumigating chemicals in any public structure, including rooming houses, hotels, apartment houses, or any part thereof.

Advertising

8552. It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a person licensed under this chapter.

Penalty

8553. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Necessary allegation in action

8554. No person engaged in the business or acting in the capacity of an operator may bring or maintain an action in any court of this State for the collection of compensation for the performance of any act or contract without alleging and proving that he was a duly licensed operator at all times during the performance of such act or contract.

Scope of chapter

8555. This chapter does not apply to:

(a) Public utilities operating under the regulations of the State Railroad Commission, except to work performed upon property of such utilities not subject to the jurisdiction of the Railroad Commission or work done by said utility for hire.

(b) Persons engaged only in agricultural pest control work under permit or license by the State Department of Agriculture or a county agricultural commissioner.

(c) Pest control performed by persons upon property which they own, lease or rent, except that such persons shall be subject to the limitations imposed by Article 3 of this chapter.

(d) Governmental agencies, State, Federal, city, or county officials, and their employees while officially engaged.

(e) Authorized representatives of any educational institution or State agency engaged in research or study of pest control.

(f) Certified architects and registered civil engineers, acting solely within their professional capacity, except that they shall be subject to the limitations imposed by Article 3 of this chapter.

Wood preservatives

8556. Licensed contractors acting in their capacity as such, may apply wood preservatives directly on wood by brush, dip or spray method.

Article 4. Issuance of Licenses

Classification of pest control

8560. The board shall have power to adopt rules and regulations classifying pest control into branches. Under such rules and regulations, licenses issued to operators or field representatives shall be limited to the branch or branches of pest control for which the applicant has qualified by application and examination.

Qualification for license

8561. Any person may apply for an operator's license:

(a) If the applicant is an individual, he shall possess the qualifications and be examined as hereinafter prescribed. If such individual qualifies for an operator's license, as herein prescribed, the board shall issue to him an operator's license.

(b) If the applicant is a partnership, it shall designate a partner to be licensed and such partner shall possess the qualifications and be examined as hereinafter prescribed. If such partner qualifies for an operator's license as herein prescribed, the board shall issue an operator's license to the partnership, naming therein the partner licensed with the partnership. Such partner may engage in pest control on

behalf of the partnership only, so long as he remains a partner thereof.

(c) If the applicant is an association or corporation, it shall designate an officer thereof or a responsible natural person employed or to be employed by it to be licensed. Such officer or responsible natural person shall possess the qualifications and be examined as hereinafter prescribed. If such officer or responsible natural person qualifies for an operator's license as herein prescribed, the board shall issue an operator's license to the association or corporation, as the case may be, naming therein the officer or responsible natural person licensed with such association or corporation. Such officer or responsible natural person may engage in pest control on behalf of the association or corporation only so long as he remains in such capacity for the association or corporation.

Application

8562. To obtain an original operator's license, an applicant shall submit to the registrar an application in writing containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

Form

The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

Contents

(a) The name of the applicant.

(b) If a partnership, the name of the partner to be licensed.

(c) If an association or corporation, the name of the officer or responsible natural person to be licensed.

(d) The proposed location of place of business and the proposed location of branch offices, if any.

(e) Proof of one year's experience by such individual, partner, officer or responsible natural person, as the case may be, in each branch of pest control for which a license is sought.

(f) A statement by two reputable natural persons who have resided in the State of California for at least one year immediately preceding the date of the application and who have known such individual, partner, officer or responsible natural person, as the case may be, for at least one year, certifying to his honesty, truthfulness and good reputation.

(g) The fees prescribed by this chapter.

Field representative's license

8563. Any individual may apply for a license as field representative.

Such applicant shall possess the qualifications and be examined as hereinafter prescribed. If such applicant qualifies for a field representative's license, as herein prescribed, the board shall issue to him a field representative's license.

Application

8564. To obtain an original field representative's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant desires the

issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following: Form

(a) The length of time during which the applicant has engaged in any work relating to pest control. Contents

(b) The name and place of business of the person who last employed him.

(c) The name of the person by whom the applicant is employed.

(d) The name of the operator by whom the applicant is to be employed.

(e) A statement from the operator employing the applicant at the time of the application certifying to the honesty, truthfulness and good reputation of the applicant, or if the applicant has not been previously employed by an operator, a statement by two reputable natural persons who have resided in the State of California for at least one year immediately preceding the date of the application and who have known the applicant for at least one year, certifying to the honesty, truthfulness and reputation of the applicant.

(f) The fees prescribed by this chapter.

If the applicant qualifies therefor, the board shall issue to him a license as field representative in the branch or branches of pest control for which he has qualified.

8565. The board shall ascertain by written examination that an applicant for a license as operator is qualified in the use and understanding of all of the following: Operator's examination

(a) The English language, including reading, writing and spelling.

(b) The building and safety laws of the State and any of its political subdivisions, if the branch or branches of pest control for which he is applying require such knowledge.

(c) The labor laws of the State.

(d) The provisions of this chapter.

(e) Poisons and other dangerous chemicals used in pest control, if the branch or branches of pest control for which he is applying require such knowledge.

(f) The theory and practice of pest control in the branch or branches thereof for which the applicant desires to be licensed.

If the applicant is a partnership, the partner designated in the application shall be examined as in this section prescribed.

If the applicant is an association or corporation, the officer or natural responsible person designated in the application shall be examined as in this section prescribed.

Representative's examination

8566. The board shall ascertain by written examination that an applicant for a license as field representative is qualified in the use and understanding of the following:

(a) The safety laws of the State, if the branch or branches of pest control for which he is applying require such knowledge.

(b) The provisions of this chapter.

(c) Poisons and other dangerous chemicals used in pest control, if the branch or branches of pest control for which he is applying require such knowledge.

(d) The theory and practice of pest control in the branch or branches thereof for which the applicant desires to be licensed.

Notice of change of employment

8567. Should an operator enter the employ of another operator, or being already employed by an operator change his employment, or being employed by another operator, leave such employment and enter the pest control business on his own behalf, he shall notify the registrar in writing, on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, together with a transfer fee of one dollar ($1). Whereupon the registrar shall register the change in his records.

Evidence of good character

8568. The board shall require evidence of the good character of any applicant for a license under this chapter, and it may reject any application if in its opinion good character is not established. Bad character may, in the discretion of the board, be established by showing any of the following:

(a) That the applicant has committed any act which if committed by a licensee under this chapter would be grounds for disciplinary action.

(b) That the applicant has been convicted of a felony.

Partners' licenses

8569. In addition to the partner licensed as operator upon the application of the partnership, if other partners desire to actively engage in pest control in behalf of the partnership each shall be required to qualify for and to be licensed as an operator.

Upon being licensed as an operator, such other partner may engage in pest control only on behalf of the partnership of which he is a member, as long as he remains a partner thereof.

Officers' licenses

8570. In addition to the officer of, or responsible natural person employed by an association or corporation licensed as operator upon the application of the association or corporation, if any other officers desire to actively engage in pest control in behalf of the association or corporation, each shall be required to qualify for and to be licensed as an operator.

Upon being licensed as an operator, such officer may engage in pest control only on behalf of the association or corporation of which he is an officer, so long as he remains an officer thereof.

Notification that partner or officer has left firm

8571. If the partner licensed as operator with the license of a partnership, or if the officer or responsible natural person licensed as operator with the license of an association or corporation, ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the registrar in writing within 10 days from such cessation. If such notice is given the license shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the licensee must submit to the registrar, in writing:

(a) If the licensee is a partnership the name of another partner, who is an operator, who shall replace on its license the operator who has ceased to be connected with it.

(b) If the licensee is an association or corporation, the name of another officer or responsible natural person, who is an operator, who shall replace on its license the operator who has ceased to be connected with it.

If the licensee fails to notify the registrar within the 10-day period, at the end of the period, the license shall be ipso facto suspended. The license shall be reinstated upon the filing of an affidavit, executed by the licensee, and filed with the registrar, to the effect that the operator who ceased to be connected with the licensee has been replaced by another operator who is authorized by this chapter to act in such capacity, and that such operator has not had his license suspended or revoked or that he has not been connected with a licensee who has had his license suspended or revoked.

Licensing without examination

8572. Any individual who at the time this chapter takes effect has done pest control work for the period of one year, equivalent to work authorized to be done under this act by anyone holding a license as operator or as field representative, may register with the board as an operator or as a field representative as the case may be, at any time prior to January 1, 1942, and upon making application therefor upon such forms as shall be prescribed by the board and the payment of license fees prescribed by this chapter, shall be granted a license as operator or as field representative as the case may be, in the branch or branches of pest control in which he has worked, without examination.

Article 5. Renewal of Licenses

Expiration of licenses

8590. All licenses and branch office registrations issued under the provisions of this chapter shall expire on June 30th of each year.

Every operator and every field representative shall pay an annual fee for the renewal of his or its license and for renewal of branch office registrations, if any.

The board shall on or before the first day of June of each year mail to each operator and field representative, addressed to him at his last known address, a notice that his renewal

fee is due and payable and that, if the fee is not paid by the thirtieth of June, a penalty will be added to the renewal fee.

In no case shall the penalty be waived.

Upon the receipt of the fees, the board shall cause the renewal certificate to be issued.

Effect of delinquency

8591. If delinquency in the payment of the fee for renewal of any license issued under this chapter extends beyond three months, said license may not be reinstated and the licensee may be required to obtain a new license in accordance with the provisions of Article 4 of this chapter.

Renewal of license

8592. Any operator or field representative whose license is under suspension may make application for renewal of his license as in this article provided, but the board may not renew his license until such suspension has been lifted.

If such suspension is not lifted within a year from the date it was imposed, the application for renewal shall be denied and the fees tendered returned to the applicant with notice thereof and grounds therefor.

Article 6. Regulation of Licensees

Place of business

8610. Each licensed operator under the provisions of this act, except operators in the employ of another operator, shall be required to have and maintain a definite place of business in this State which shall serve as his office for the transaction of business.

Notice in writing shall be given the registrar, within 30 days, of change of business location of an operator. The change or abandonment of business location without such notification to the registrar shall automatically cancel the license heretofore issued.

Display of license

8612. The licenses of operators shall be prominently displayed in the office of the operator, and no license issued hereunder shall authorize the licensee to do business except from the location stipulated in the license. Each operator having a branch office or more than one branch office shall be required to display his branch office registration prominently in each branch office maintained by him.

When an operator opens a branch office he shall notify the registrar in writing on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, together with the fee for a branch office prescribed by this chapter.

Article 7. Disciplinary Proceedings

Discipline

8620. The board may upon its own motion, and shall upon the verified complaint in writing of any person, investigate the

actions of any person acting as, or making application for a license as, an operator or field representative.

After hearing, the board may temporarily suspend or permanently revoke a license issued under the provisions of this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action.

Charges

8621. Proceedings for the suspension or revocation of a license shall begin with the filing with the board of written charges against the accused. The charges shall be stated in detail and verified by the complainant.

Upon the filing with the board of a verified complaint charging a licensee with the commission within two years prior to the date of filing of the complaint, of any act which is a ground for disciplinary action, the board or its secretary shall forthwith issue a citation directing the licensee, within 10 days after service of the citation upon him, to appear by filing with the board his verified answer to the complaint, showing cause, if any he has, why his license should not be suspended or revoked.

Service

8622. Service of the citation upon the licensee is fully effected by mailing a true copy, together with a true copy of the complaint, by United States registered mail in a sealed envelope with postage fully prepaid, addressed to the licensee at his latest address of record in the board's office.

Service of the citation is complete at the time of deposit in accordance with the provisions of the Code of Civil Procedure relating to service by mail.

Failure to answer

8623. Failure of the licensee to answer may be deemed an admission by him of the commission of the act or acts charged in the complaint and his license shall be suspended forthwith pending any hearing of the cause which the board at its discretion may order.

The board may, in the event of failure to answer, suspend or revoke the license without any further evidence than the verified complaint in the case.

Suspension and revocation

8624. The suspension or revocation of an operator's license has the same effect on each branch office registration issued under the name of the operator.

No violation of any of the provisions of this chapter on the part of any licensee shall cause the revocation or suspension of the license of the employer of such licensee whether such employer be an operator, copartnership or corporation, unless it shall appear upon a hearing had in accordance with the provisions of this chapter, that said employer, operator, copartnership, or corporation had guilty knowledge of such violation.

Jurisdiction

8625. The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee, or to render a decision suspending or revoking such license.

Notice of hearing

8626. Upon the filing of the answer, the board shall fix a time and place for the hearing and give the licensee and the complainant not less than five days' notice.

The notice may be served by depositing by registered mail in the United States mail a true copy of the notice inclosed in a sealed envelope with postage fully prepaid, and addressed to the licensee and to the complainant respectively, at his last known address.

With the notice to the complainant there shall be attached or inclosed a copy of the answer.

Hearing

8627. The licensee has the right to appear personally or by counsel, to cross-examine witnesses and to produce witnesses in his defense.

The board may compel the attendance of witnesses and the production of necessary papers and documents, and take testimony under oath.

Same

8628. Upon the hearing, the board shall receive all relevant and competent evidence material to the issues.

The board may continue the hearing from time to time as in its judgment may be necessary or proper.

Decision

8629. After conclusion of the hearing and submission of the matter, the board shall render its decision in writing, suspending or revoking the license or dismissing the complaint, with a brief statement of its reasons.

It shall give to the complainant and the licensee, or their respective attorneys, notice of the decision, by mail, in the same manner as notice of hearing is given.

Service of process

8630. Any citation, notice, or other process or any paper or document provided by this article to be served on any party may be personally served under the provisions of the Code of Civil Procedure, relating to the service of notices, with the same effect as if served by mail under the provisions of this article.

Effective date of decision

8631. The decision of the board suspending or revoking a license shall take effect immediately upon the service of the notice of decision. The board may grant a stay of execution of the decision suspending or revoking a license, pending the filing by the licensee of an action in the courts regarding the decision.

Suspension by court

8632. The suspension or revocation of license as in this chapter provided may also be ordered in any action otherwise proper in any court involving the licensee's performance of his legal obligation as a licensee under this chapter.

Hearing by board or referee

8633. Whenever any hearing before the board is authorized by this chapter, such hearing may be heard by the board, or a referee designated by the board.

In any investigation, proceeding or hearing which the board is empowered to institute, conduct or hold, the board, or any subordinate authorized by it to conduct any such investigation, proceeding, or hearing, may administer oaths, certify to official acts, issue subpenas for the attendance of witnesses and the production of books, papers or records.

If such hearing is not heard by the board, a report of the proceedings shall be prepared by the referee conducting such hearing and such report shall be presented to the board for final decision. Only the board may make such final decision.

Review

8634. Any decision of the board disciplining an individual licensed under this chapter is subject to review by the courts of this State. The individual petitioning for such review may make a demand in writing for a certified transcript of all the papers on file in the office of the board affecting or relating to such decision and all the evidence taken on the hearing and pay twenty cents ($0.20) for each 100 words of the transcript of the record and one dollar ($1) for the certification thereof. Thereupon the registrar shall within 30 days make and certify such transcript.

Wilful departure from plans

8635. Wilful and prejudicial departure from, or disregard of, plans or specifications in any material respect, without consent of the owner or his duly authorized representative, and without the consent of the person entitled to have the particular construction project or operation completed in accordance with such plans and specifications is a ground for disciplinary action.

Wilful disregard of laws

8636. Wilful and deliberate disregard and violation of the building laws of the State, or of any of its political subdivisions, or of the safety laws, labor laws or compensation insurance laws of the State is a ground for disciplinary action.

Misrepresentation

8637. Misrepresentation of a material fact by the applicant in obtaining a license is a ground for disciplinary action.

Failure to fulfill contract

8638. Failure in a material respect on the part of a licensee to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action.

Abetting unlicensed person

8639. Aiding or abetting an unlicensed person to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate, or otherwise, of an unlicensed person with the intent to evade the provisions of this chapter is a ground for disciplinary action.

Unfair competition

8640. The use of unfair methods of competition is a ground for disciplinary action.

Violation of rules

8641. Failure in any material respect to comply with the provisions of this chapter, or any rule or regulation adopted by the board, is a ground for disciplinary action.

Injury to another

8642. The doing of any wilful or fraudulent act by the licensee as a pest control operator or field representative in consequence of which another is substantially injured is a ground for disciplinary action.

Negligent use of poison

8643. The wilful or negligent handling or use of any poisonous exterminating agent without due respect to public safety is a ground for disciplinary action.

Fraud

8644. Wilful fraud and misrepresentation, after inspection, by any person engaged in pest control work of any type of infestation found in property or structures is a ground for disciplinary action.

Impersonation

8645. Fraudulent impersonation of any State, county or city inspector or official is a ground for disciplinary action.

Violation of fumigation laws

8646. Wilful and deliberate disregard and violation of fumigation or extermination laws of the State or of any of its political subdivisions is a ground for disciplinary action.

Violation of economic poison laws

8647. Failure to comply in the sale or use of insecticides with the provisions of Article 3, Chapter 7, Division 5 of the Agricultural Code is a ground for disciplinary action.

False advertising

8648. Knowingly authorizing, directing, conniving at or aiding in the publication, advertisement, distribution or circulation of any material by false statement or representation concerning his business is a ground for disciplinary action.

Conviction of felony

8649. Conviction of a felony committed after the issuance of a license under this chapter is a ground for disciplinary action.

Misusing license

8650. Acting in the capacity of a licensee under any of the licenses issued hereunder except:

(a) In the name of the licensee as set forth upon the license, or

(b) At the address and location or place or places of business as set forth in the license or as later changed as provided in this chapter is a ground for disciplinary action.

Performing unlicensed acts

8651. The performing, soliciting or inspecting of structural pest control work in other branches of pest control than those for which the operator or field representative is licensed is a ground for disciplinary action.

Article 8. Revenue

"Original operator's license"

8670. As used in this chapter, "original operator's license" means an operator's license that is not a renewal license.

"Renewal operator's license"

8671. As used in this chapter, "renewal operator's license" means either of the following:

(a) On or before June 30, 1942, a license issued to a person who was licensed by the board on the effective date of this chapter; or

(b) Subsequent to June 30, 1942, a license issued to a person who had an operator's license unrevoked and unsuspended on the preceding June 30th.

"Original field representative's license"

8672. As used in this chapter, "original field representative's license" means a field representative's license issued to an individual who did not have such a license on the preceding June 30th.

For the purpose of this chapter, a renewal field representative's license means a field representative's license issued to an individual who had a field representative's license on the preceding June 30th.

Payment of fees

8673. License fees shall not be prorated. All license fees shall be paid in advance of the issuance of the license, and all examination fees shall be paid in advance of the examination.

Amount of fees

8674. The amount of the fees prescribed by this chapter is that fixed by the following schedules:

Operator's examination	$10.00
Original operator's license	5.00
Renewal operator's license	15.00
Original branch office registration	5.00
Renewal branch office registration	5.00
Field representative's examination	5.00
Original field representative's license	2.50
Renewal field representative's license	5.00
Duplicate license	1.00
Change of name	.50

8675. The fee for a renewal of any license and any branch office registration issued under this chapter applied for after

Delinquency penalty the expiration date of the license or branch office registration shall be double the fee required for the renewal of such license or registration applied for before such expiration date.

Disposition of funds 8676. The department shall receive and account for all moneys collected under this chapter at the end of each month, and shall pay it into the Treasury to the credit of the Structural Pest Control Fund.

The money in this fund shall be expended for the pro rata cost of administration of the department and for the purpose of carrying out the provisions of this chapter.

Continuation of former licenses 8677. All operators holding a license under Chapter 823 of the Statutes of 1935 or Chapter 14 of the Business and Professions Code as enacted by Chapter 40 of the Statutes of 1939 may continue to engage in the practice of structural pest control under the provisions of this chapter, and all renewals of such licenses shall be made in accordance with this chapter.

Effect of repeal SEC. 2. The repeal of Chapter 14 of the Business and Professions Code, as enacted by Chapter 40 of the Statutes of 1939, shall not constitute a bar to the indictment, information or punishment of any crime committed thereunder nor to the institution of any disciplinary proceeding nor to the disciplining of any person for any act committed against that repealed chapter.

Stats 1939, p 424 SEC. 3. Chapter 14 of Division 3 of the Business and Professions Code, comprising Sections 8500 to 8578, inclusive, as enacted by Chapter 40 of the Statutes of 1939, is hereby repealed.

CHAPTER 1164

Stats 1939, p 49, amended *An act to add Article 3, comprising Sections 1801 to 1806, inclusive, to Chapter 3 of Division 4 of the Elections Code of the State of California, relating to elections, and the amendment of freeholders' charters.*

In effect September 13, 1941 [Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New article SECTION 1. Article 3, comprising Sections 1801 to 1806, inclusive, is hereby added to Chapter 3 of Division 4 of the Elections Code, to read as follows:

Article 3. Freeholders' Charter Amendments

Scope of article 1801. This article is applicable only to amendments to freeholders' charters adopted pursuant to Section 8 of Article XI of the Constitution of this State.

Amending freeholders' charters

1802. The procedure for amending freeholders' charters is prescribed in Section 8 of Article XI of the State Constitution.

Petition

1803. The petition signed by voters proposing an amendment to a charter shall set forth in full the text of the proposed amendment.

Sections of petition

1804. The petition may be circulated in sections, but each section shall contain a correct copy of the text of the proposed amendment.

Signatures

1805. Each signer of the petition shall sign it in the manner prescribed by Section 45 of this code.

Form

1806. The petition shall be in substantially the following form:

PETITION FOR SUBMISSION TO ELECTORS OF PROPOSED AMENDMENT TO THE CHARTER OF THE CITY (OR CITY AND COUNTY) OF_____

To the city council (or other legislative body) of the city (or city and county) of_____:

We, the undersigned, registered and qualified electors of the State of California, residents of the city (or city and county) of _____, pursuant to Section 8 of Article XI of the Constitution of this State, present to the city council (or other legislative body) of the city (or city and county) this petition and request that the following proposed amendment to the charter of the city (or city and county) be submitted to the registered and qualified electors of the city (or city and county) for their adoption or rejection at an election on a date to be determined by the city council (or other legislative body).

The proposed charter amendment reads as follows:

First. (setting forth text of amendment)_____
_____(etc.)

(Signed)

Name of signer	Residence	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____

CHAPTER 1165

Stats. 1933, p. 60, amended

An act to amend Section 1083 of the Agricultural Code, relating to commercial feeding stuffs.

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats. 1941, p. 2244

SECTION 1. Section 1083 of the Agricultural Code is hereby amended to read as follows:

Label

1083. Every lot or parcel of commercial feeding stuffs sold or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement certifying:

(a) The net weight of the contents of the lot or parcel.

(b) The name, brand or trade-mark.

(c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market.

(d) The minimum per cent of crude protein.

(e) The minimum per cent of crude fat.

(f) The maximum per cent of crude fiber.

(g) The maximum per cent of ash.

(h) The recognized official name of each ingredient used in its manufacture.

(i) The per cent of such ingredients as corn cobs, oat hulls, barley hulls, rice hulls, ground light rice, or similar materials, when such constitute a portion of the lot or parcel.

(j) The maximum per cent of mineral matter it contains.

(k) In the case of mixed feeds containing more than 5 per cent of mineral ingredients, the minimum percentage of calcium (Ca), of phosphorus (P), of iodine (I), and the maximum percentage of salt if the same be added.

(*l*) The maximum percentage of salt in any mixed feeds if more than 2 per cent of salt is added.

(m) In the case of commercial feeding stuffs for which special qualities are claimed, such as, vitamin potency or protein quality, a definite guarantee relative to such quality; provided, however, the director may by rule and regulation permit the deletion of any such guarantees as may not be pertinent to a specific commodity.

(n) In cases where simple animal protein concentrates are sold or distributed the quality index of such protein may be certified to in addition to the minimum per cent of crude protein.

Whenever a manufacturer, processor, or mixer of feeding stuffs makes a claim or guarantee on or with the package in addition to those required by law, he shall be responsible for maintaining such claim or guarantee, and he may be required to submit information and records pertinent to such claim or guarantee.

CHAPTER 1166

An act to repeal Sections 22.5 and 24.5 of, and to add Sections 22.5 and 24.5 to, the Unemployment Insurance Act, relating to a system of unemployment insurance.

Stats 1935, p 1226, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 22.5 of the act cited in the title hereof is hereby repealed.

Stats 1939, p 1409

SEC. 2. Section 22.5 is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 22.5. Notwithstanding any requirements of other sections of Article 3, the commission shall, prior to whichever is the later of (1) 30 days after the close of the 1939 Session of the Legislature or (2) July 1, 1939, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in the "Unemployment Trust Fund," established and maintained pursuant to Section 904 of the Social Security Act as amended, to the Railroad Unemployment Insurance Account, established and maintained pursuant to Section 10 of the Railroad Unemployment Insurance Act, an amount hereinafter referred to as the preliminary amount; and shall, prior to whichever is the later of (1) 30 days after the close of the 1939 Session of the Legislature or (2) January 1, 1940, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in said "Unemployment Trust Fund" to said Railroad Unemployment Insurance Account an additional amount, hereinafter referred to as the liquidating amount. The Social Security Board shall determine both such amounts after consultation with the commission and the Railroad Retirement Board. The preliminary amount shall consist of that proportion of the sum of the balances in the Unemployment Fund and the Benefit Fund, as of June 30, 1939, as the total amount of contributions collected from "employers" and "employees" (as the terms "employer" and "employee" are defined in Sections 1 (a) and 1 (d), respectively, of the Railroad Unemployment Insurance Act) and credited to the Unemployment Fund bears to all contributions theretofore collected under this act and credited to the Unemployment Fund. The liquidating amount shall consist of the total amount of contributions collected from "employers" and "employees" (as the terms "employer" and "employee" are defined in Sections 1 (a) and 1 (d), respectively, of the Railroad Unemployment Insurance Act), pursuant to the provisions of this act after June 30, 1939.

Transfer of funds

U S C, Tit 42, Sec. 1104

U S C, Tit 45, Sec 360

Preliminary amount

Liquidating amount

SEC. 3. Section 24.5 of the act cited in the title hereof is hereby repealed.

Stats 1939, p 1410

New section SEC. 4. Section 24.5 is hereby added to the act cited in the title hereof, to read as follows:

Railroad Retirement Board receipts Sec. 24.5. Moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said board by the commission shall be deposited in the Unemployment Administration Fund.

CHAPTER 1167

Stats 1935, p 1226, amended *An act to amend Section 20, and repeal Section 24 of, the Unemployment Insurance Act, relating to a system of unemployment insurance.*

In effect September 13, 1941 [Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p. 3016 SECTION 1. Section 20 of the act cited in the title hereof is hereby amended to read as follows:

Administration Sec. 20. The State Treasurer shall be ex officio the treasurer and custodian of the Unemployment Fund, and shall administer such fund in accordance with the directions of the commission. There shall be maintained within the fund three

Accounts separate accounts:

(1) A clearing account,

(2) an Unemployment Trust Fund account, and

(3) a benefit account.

Disposition of moneys, etc. All contributions and amounts payable to the fund, upon receipt thereof by the commission, shall be forwarded to the Treasurer who shall, after proper clearance, immediately deposit them in the clearing account. Refunds payable pursuant to Section 45.11 of this act and the balance of any judgment recovered against the department in accordance with Section 45.10 of this act may be paid from the clearing account or from the benefit account with respect to any moneys erroneously deposited therein, upon warrants issued by the Controller under the direction of and in accordance with rules and regulations as may be prescribed by the commission. There is hereby continuously appropriated without regard to fiscal years such sums as may be necessary for such refunds. Immediately after clearance thereof, all other moneys in the clearing account shall be deposited in or invested in the obligations of the Unemployment Trust Fund of the United States of America or its authorized agent to the credit of this State, any provisions of law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding. The amounts so deposited or invested shall be entered in the Unemployment Trust Fund account.

The benefit account shall consist of all moneys requisitioned from this State's account in the Unemployment Trust Fund,

and any moneys so requisitioned shall be transferred out of the Unemployment Trust Fund account into the benefit account. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the commission, in any bank or public depositary in which public funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and benefit accounts shall not be commingled with other State funds, but shall be maintained in a separate account on the books of the depositary. Such moneys shall be secured by said bank or public depositary to the same extent and in the same manner as required by the General Depositary Law of the State and collateral pledged shall be maintained in a separate custody account. The official bond of the State Treasurer shall cover the faithful performance of his duties as treasurer of the Unemployment Fund. The Unemployment Fund shall be administered by the commission without liability upon the part of the State beyond the amounts paid into and earned by the fund.

SEC. 2. Section 24 of the act cited in the title hereof is hereby repealed. Stats 1939, p. 3018

CHAPTER 1168

An act to amend Section 672 of the Welfare and Institutions Code, relating to the establishment and maintenance of public schools in detention homes. Stats 1937, p. 1005, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 672 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1937 p 1030

672. The board of supervisors of the county shall agree with the governing board of each of the respective districts in which the detention home is located to transfer from the general fund of the county to the current expense fund of such districts such sums in excess of the amount of money received from the State and county school funds by each district as are necessary to maintain its school in the detention home. Transfer of funds

CHAPTER 1169

Stats 1937, p 2085, amended

An act to amend Sections 59, 90, 125 and 172 of, and to add Section 151 6 to, the State Civil Service Act, relating to State civil service.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2710

SECTION 1. Section 59 of the State Civil Service Act is hereby amended to read as follows:

Payments by State agencies for costs of administration

Sec. 59. Every State agency which is supported in whole or in part otherwise than by appropriations from the General Fund shall pay monthly to the board that proportion of the cost of administering the State Civil Service Act which that part of the State agency's pay roll, paid out of appropriations from a fund other than the General Fund and paid to civil service employees, bears to that part of the total pay rolls of all State agencies which is paid to civil service employees.

Charge

The pro rata share of the cost of administering the State Civil Service Act due monthly from any State agency under the provisions of this section shall constitute a charge against any appropriation made for the support of that State agency.

Claim

The board may file a claim against any appropriations made for the support of a State agency for the pro rata share of the cost of administering the State Civil Service Act when the State agency refuses to pay such pro rata share, and the State Controller shall draw his warrant in accordance with law upon the claim in favor of the board.

The board shall pay into the State Treasury all moneys received pursuant to the provisions of this section. The moneys shall be credited to the General Fund.

Certification and statements

The Department of Finance shall determine monthly the amounts due from State agencies under the provisions of this section, and shall certify such amounts to the board. The board shall submit to each State agency a statement of the amount certified by the Department of Finance.

Stats 1937, p 2100

SEC. 2. Section 125 of the State Civil Service Act is hereby amended to read as follows:

Positions subject to reinstatement of other persons

Sec. 125. Every person accepts and holds a position in the State civil service subject to reinstatement of another person thereto in accordance with Section 124 or from leave of absence or by the board or by order of a court of competent jurisdiction, in which case the status of the person displaced shall be determined by the board, but in no event shall such person be deprived of his earned position on the eligible list from which he was certified.

SEC. 3. Section 172 of the State Civil Service Act is hereby amended to read as follows: Stats 1941, p 1795

Sec. 172. (a) Whenever it is necessary because of lack of work or lack of funds or whenever it is advisable in the interests of economy to reduce the staff of any State agency, the appointing power may lay off employees according to the procedure set forth in this act and the rules of the board. Lay-off

(b) The duties performed by the employee or employees so laid off may be assigned to any other employee or employees in the State agency holding positions in appropriate classes.

(c) With the approval of the board, only the employees of a designated geographical, organizational or functional subdivision of a State agency need be considered for layoff, and in such event reemployment lists shall be established for such subdivision, which lists shall take priority over the departmental and other reemployment or employment lists.

(d) Layoff shall be made in accordance with the relative efficiency and seniority of the employee or employees of the class in which the layoff is to be made as determined by seniority and by performance reports on file with the board. In determining seniority two points shall be allowed for each complete year of State service performing work which would fall in the series of classes related to the employee's present class.

(e) The employee or employees in the class under consideration having the lowest combined score or scores for efficiency and seniority, up to the number of positions to be abolished or discontinued, shall be laid off, but as between two or more such employees who have the same score, their respective performance rating or ratings shall be considered, and such employee or employees having the lowest performance rating or ratings shall be the first laid off.

(f) When an employee has previously served the State with permanent status in any class below that of the class under consideration or its equivalent in any previous classification, the employee shall be afforded the option of being demoted to the lower class in lieu of being laid off to replace the employee in said lower class having the lowest score for efficiency and seniority; provided, such score is lower than that of the employee being demoted.

(g) Any employee replaced by such demotion who has previously served the State with permanent status in the class or its equivalent in any previous classification below that in which he was serving at the time of replacement shall have the same option of demotion as though his position were abolished or discontinued, and under the conditions provided in this act may replace the employee in said lower class.

Any employee demoted pursuant to the provisions of subdivisions (f) or (g) shall receive the maximum of the salary range of the class to which such employee is demoted.

(h) The names of employees thus laid off or demoted shall be placed upon the reemployment list for the subdivision

Lay-off from which they were laid off, if such a subdivision was created pursuant to paragraph (c) of this section, upon the departmental reemployment list for the class from which they were laid off or demoted and also upon the general reemployment list for such class, and for such other appropriate classes as the board may determine. Any employee certified to a position from any reemployment list for a class different than that held by him when laid off shall serve a probationary period before attaining permanent status in such position. Any employee who is recertified to a position in a class after layoff, or demotion in lieu of layoff, from a position in said class shall receive the same salary as such employee previously received in said position prior to such layoff or demotion.

(i) Whenever any employee accepts a voluntary demotion under the provisions of Section 147, or is demoted to a lower class by reason of a layoff or replacement in accordance with subdivision (f) or (g), his performance rating in such lower class shall be the same as his last previous rating in such class, if any, and shall continue to be for all purposes until the first regular date, next following such demotion, for making and submitting performance ratings.

(j) All employees compensated on a monthly basis who are to be laid off under the provisions of this act shall be given 15 days' notice of such layoff prior to the effective date thereof.

Appeal (k) Any employee may appeal to the board within 30 days of receiving notice of layoff on the grounds that the procedure herein prescribed has not been complied with or that the layoff has not been made in good faith or was otherwise improper. The board shall within 30 days of such Hearing appeal hold such hearing or investigation as it may deem necessary. The board may also conduct any such hearing or investigation within 30 days of receiving a notice of layoff on its own motion. In rendering a decision as a result of any hearing or investigation held pursuant to this subdivision the board may order the reinstatement of the employee with or without pay if it appears that the proper procedure has not been followed or that the layoff was not made in good faith or was otherwise improper.

New section SEC. 4. A new section to be numbered 151.6 is hereby added to the State Civil Service Act, to read as follows:

Absence because of compensable injury Sec. 151.6. No period of time during which an employee is required to be absent from his position by reason of an injury or disease for which he is entitled to receive compensation under the provisions of Division 4 of the Labor Code shall be considered a break in his continuous service for the purpose of his right to salary adjustments, sick leave, vacation, or seniority.

Stats 1937, p 2097 SEC. 5. Section 90 of the State Civil Service Act is hereby amended to read as follows:

Duration of lists Sec. 90. Eligible and promotional lists shall remain in force for at least one year from the date of establishment and

thereafter until exhausted or replaced by a more recently prepared list; provided, that any such list may be continued in force after the expiration of one year and may be supplemented, at the discretion of the board, by adding thereto in the order of their relative percentages, the names of such persons who successfully pass an appropriate examination for the class for which such list is established.

CHAPTER 1170

An act to add Section 222 to the Welfare and Institutions Code, relating to the payment of county warrants issued for aid to indigents, needy children, to the needy blind and the needy aged.

Stats 1937, p 1005, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 222 is hereby added to the Welfare and Institutions Code, to read as follows:

New section

222. No county warrant issued for the giving of aid to an indigent, a needy aged person, a needy child or a needy blind person shall be paid by the county treasurer unless such warrant is presented to him for payment within six months after the date of its issuance.

Time for presenting county warrant for payment

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the State Constitution, and as such it shall take effect immediately. The following is a statement of the facts constituting such necessity:

Urgency

The Federal Social Security Act provides for quarterly payments to eligible States for use in aiding the needy aged, the needy blind and needy dependent children; such payments being based in part on State reports of estimated needs filed at the commencement of each quarterly period, and in part on semiannual investigations and audits conducted by Federal agents. In the case of California, which is one of the States eligible for payments, serious administrative difficulties have been experienced in connection with these reports and audits for the reason that under the existing law warrants issued by county auditors for the extension of aid need not, and frequently are not, presented for payment within a period of six months after their issuance. Unless this situation is corrected there is danger of a withholding by the Federal Government of Social Security funds to which this State is justly entitled. This act provides the remedy and, if made to take effect at the earliest time possible, will ward off all possibility of such withholding.

CHAPTER 1171

Stats 1939, p 1067, amended

An act to add Article 2.5, comprising Sections 5135 to 5138, inclusive, to Chapter 2 of Division 5 of the Public Resources Code, relating to local art galleries and museums, authorizing counties and cities to accept title to real property therefor and to permit buildings therefor to be erected on public lands, providing for the delegation of authority thereover, and permitting the appropriation of moneys therefor.

In effect September 13 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New article

SECTION 1. Article 2.5, comprising Sections 5135 to 5138, inclusive, is hereby added to Chapter 2 of Division 5 of the Public Resources Code, to read as follows:

Article 2.5. Local Art Galleries and Museums

Acceptance and use of realty

5135. Every city and every county may accept title to real property for museum or art gallery purposes, or permit the erection of buildings and improvements for such purposes on lands owned by the city or county.

Delegation of management

5136. Whenever any donation of real property has been made to a city or county for museum or art gallery purposes, or any building or improvements therefor have been erected upon public lands by an individual or corporation without cost to the city or county, the governing body of the city or county may delegate the management, operation, maintenance and regulation thereof to the donor or his successors, or to boards of trustees or directors nominated by the donor and appointed by the governing body of the city or county, upon such terms and conditions as the governing body may prescribe.

Conditions of delegation

5137. In every instance of such delegation of power the governing body of the city or county shall require:

(a) That all members of the public shall be admitted to the gallery or museum at reasonable times, which times shall be specifically approved by the governing body of the city or county.

(b) That no charges for admission to the gallery or museum shall be made other than such charges as may be determined by the governing body of the city and county to be necessary to defray the cost of operation and maintenance of the gallery or museum; and that all accounts and financial records of the donor or the board of directors or managers nominated by him relating to the operation, management, or maintenance of the

gallery or museum shall be subject to such inspection and audit as may be directed by the governing body of the city or county; and

(c) That all questions involving the determination of policy or the exercise of discretion in the management, operation, maintenance, or regulation of the gallery or museum shall be referred to the governing body of the city or county, together with the recommendations of the donor or the board of directors or managers thereon, for determination by the governing body of the city or county.

Appropriations and expenditures

5138. The governing body of the city or county may appropriate and expend funds for the improvement, operation, expansion and support of any such art gallery or museum, and shall have, in addition to the powers specified in this article, the same powers in respect thereto that a county board of supervisors has in respect to a county museum under the provisions of Article 2 of this chapter.

CHAPTER 1172

An act to amend Section 2.446 of, and to add Section 2.447 to, the School Code, relating to school districts.

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Stats 1931, p 2375

SECTION 1. Section 2.446 of the School Code is hereby amended to read as follows:

Districts in union district may hold separate elections

2.446. If such election is held in consequence of two or more school districts having been formed into a union or joint union elementary school district, and if such election results in the new union or joint union elementary school district not becoming a part of a high school district, then elections may be held in the separate districts which form the union or joint union elementary school district as such elections are provided for in Article 7 of Chapter 9 of this part.

New section

SEC. 2. Section 2.447 is hereby added to the School Code, to read as follows:

High school district boundaries unchanged

2.447. Whenever an elementary school district situated in a high school district is annexed or admitted, to a union elementary school district situated in another high school district, the boundaries of the high school districts shall not thereby be changed.

CHAPTER 1173

Stats. 1921, p. 1727, amended

An act to amend the "California Water Storage District Act," being Statutes of 1921, Chapter 914, as amended, by amending Sections 4, 6 and 17 of said act, and by adding thereto a new Section 25(a), relating to formation, organization and powers of water storage districts, and authorizing such districts to cooperate and contract with the United States under the provisions of any Federal laws now in force, or hereafter to be enacted, for a water supply or for acquisition, purchase, construction, extension, operation or maintenance of works for irrigation, storage, flood control or drainage or for the assumption by the district of indebtedness to the United States and to describe the provisions which may be included in any such contract and to provide for the levy, apportionment and collection of assessments to meet any payments required by such contract.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats. 1929, p. 390

SECTION 1. Section 4 of the act cited in the title hereof is hereby amended to read as follows:

Petition to State Engineer

Sec. 4. In order to propose the organization of a water storage district, a petition signed as provided in the preceding section setting forth generally the boundaries of the proposed district or describing the lands situated therein, and the proposed source or sources of water supply, the location proposed for the storage of water to be used for such irrigation, if storage is proposed, any drainage or reclamation connected therewith, and any incidental development of hydroelectric energy, and the nature of the proposed works, and praying that the territory embraced within said proposed district may be organized as a water storage district under the provisions of this act, shall be presented to the State Engineer.

Bond for costs

The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the State Engineer, in double the amount of the probable cost of organizing such district as estimated by said State Engineer, conditioned that the sureties shall pay all of said costs in case said organization shall not be finally effected, and said State Engineer shall have power to require the furnishing of any additional undertaking, or undertakings, or payments of money, in case he should deem the same necessary. Upon the presentation and

Time and place of hearing

filing of said petition and undertaking in the office of the said State Engineer the said Engineer shall forthwith fix a time and place at which he will hear said petition, which place shall be either the office of the State Engineer at Sacramento or some place within the county, or one of the

counties, within which any portion of the lands of said proposed district are situated and which time shall be not less than 30 nor more than 60 days after the presentation and filing of said petition. Said petition, together with a notice stating the time and place of the hearing so fixed by said Engineer, shall be published in each county in which any of the lands of said proposed district are situate by said State Engineer once a week for three successive weeks before said hearing. Said notice shall be issued by said State Engineer, shall refer to said petition, and shall be directed to the persons named as petitioners therein, and to all other persons holding title or evidence of title to any lands included within the water storage district proposed in said petition, and to all other persons who may be interested in or affected by the project contemplated in said petition, and shall be substantially in the following form:

Publication of petition and notice

Before the State Engineer, State of California.

Form of notice

To the persons named as petitioners in the foregoing petition, to all persons holding title or evidence of title to lands included within the water storage district proposed therein; and to all other persons who may be interested in or affected by the project contemplated in said petition:

You, and each of you, are hereby notified that the foregoing petition was filed with the State Engineer on the _____ day of _____ and will be heard by said Engineer at _____ on the _____ day of _____ at the hour of _____ m. of that day, at which time and place said Engineer will hear and receive evidence in support of said petition or any objections which may be presented thereto, and will hear and determine the right of all parties holding title or evidence of title to lands not included in the water storage district proposed in said petition, but which lands are already irrigated or susceptible of irrigation from the same common source and by the same system of storage and irrigation works as are particularly referred to and described in said petition, to have said lands included in said district.

This notice is given pursuant to the provisions of an act, approved June 3, 1921, and known as California Water Storage District Act, to which said act particular reference is hereby made.

Dated_____

_____

State Engineer

When contained upon more than one instrument one copy only of said petition need be published but the names attached to all said instruments must appear in such publication. Signatures to the petition may be withdrawn at any time before the publication is commenced as in this section required by filing a declaration signed by the petitioner, with the State Engineer, stating that it is the intention of the petitioner to withdraw therefrom, which declaration shall be acknowledged

Withdrawal of signatures

in the same manner as conveyances of real estate are required to be acknowledged.

Time for commencing publication

The notice herein in this section provided to be published, shall not be published until five days after the presentation and filing of said petition and undertaking in the office of said State Engineer as herein provided.

Stats 1923, p 945

SEC. 2. Section 6 of the act cited in the title hereof is hereby amended to read as follows:

Order of State Engineer

SEC. 6. Upon the final hearing of said petition the State Engineer shall make an order reaffirming his conclusions as to the genuineness and sufficiency of the petition, affirming the regularity and sufficiency of the notice of hearing thereon, and determining the practicability, feasibility, and utility of the proposed project. The said Engineer shall also in his said order establish the boundaries of the proposed district or describe the lands included therein, specify the location proposed for the storage, if any, of water to be used for any of the purposes of this act, the proposed source or sources of water supply, and provide an estimate of the probable cost of the proposed project. The said State Engineer shall also in his said order divide said proposed district into five, seven, nine, or eleven divisions in such manner as to segregate into separate divisions lands possessing the same general character of water rights or interests in and to the waters of such common source, which divisions shall be numbered first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, or eleventh, according to the number of such division. The order of said State Engineer, made as in this section provided, shall be signed by him and entered in full upon the records kept by him. A copy of such order certified by said State Engineer, together with a map showing the exterior boundaries of the district and indicating the lands if any excluded therefrom, shall forthwith be filed for record in the office of the county recorder of each county in which any of the lands within the said district are situated. The finding of said State Engineer in favor of the genuineness and sufficiency of the petition and the regularity and sufficiency of the notice of hearing thereon shall be final and conclusive against all persons except the State of California upon suit commenced by the Attorney General. Any such suit must be commenced within 90 days after the date of first filing in the office of any county recorder of such certified copy of said order as hereinabove required.

Division of proposed district

Recording of order

Stats 1929, p 392

SEC. 3. Section 17 of the act cited in the title hereof is hereby amended to read as follows:

Examination and study of proposed project

SEC. 17. The board of directors shall upon the organization of a water storage district as in this act provided, proceed to make or cause to be made, all such examinations, surveys, detailed plans and specifications, and estimates of costs for the acquisition, appropriation, diversion, storage, conservation and distribution of water, any drainage or reclamation works connected therewith, and the generation of hydroelectric

energy incident thereto, and the sale and distribution thereof, as may be necessary or requisite to enable said board of directors to ascertain and estimate the requirements and works necessary as aforesaid, for the purpose of said water storage district, and the probable cost and expense thereof, and to make a report thereof as hereinafter provided, in which connection said board may use and adopt all previous estimates, surveys, reports and other data it may have acquired or which are available to it, adapted to that purpose, and may employ all necessary engineers, attorneys and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project, and such board may issue warrants therefor, which shall be payable out of the funds of said district and may be included in any bond issue authorized for the purposes of said district.

Report of proposed acquisitions

If the board of directors proposes to acquire any property of any kind or character, or any interest or easement therein for the purposes or use of said water storage district by purchase or lease, or in any manner other than by condemnation proceedings, that fact shall be stated in their said report and a true copy or copies of any instrument or instruments evidencing such proposed acquisition of such property, interest or easement therein, or the right to acquire same shall be made a part of said report.

Property of water corporation

Except where it is proposed to be acquired by eminent domain proceedings no property of any kind or interest therein belonging to any water corporation which is a public utility, shall be acquired by a water storage district, nor shall any such properties of such public utility be included in the report of the directors in this paragraph provided for, unless and until the Railroad Commission of California shall have first made its order authorizing such sale and such abandonment or curtailment of service by such public utility as would result from the acquisition by said water storage district of said properties of such public utility.

Authorization by Railroad Commission

A certified copy of any order of authority so made by the said Railroad Commission shall be made a part of and filed with said report of said board of directors and unless such order of the Railroad Commission in effect finds and declares that such sale and such abandonment or curtailment of service of such public utility through the acquisition of such properties by the water storage district will be to the interest of the consumers of such public utility and that the terms and conditions of such acquisition of such properties of such public utility by the water storage district is fair, just and equitable to the consumers of such public utility, such report shall be deemed insufficient for any of the purposes of this act.

Division of costs

Said board of directors may at their option segregate and divide the plans, specifications and estimates of cost into one or more units of construction, and may in said plan provide that one or more individual units of construction shall not be

entered upon immediately, but shall be authorized and undertaken in such order and at such future time as the board of directors shall thereafter determine. Upon the completion of said examination and study of the proposed project by the said board of directors, the said board shall prepare and file in the office of the State Engineer, and a true copy thereof in the office of the secretary of said board, a report thereof, in which said report shall be set forth in full and in detail the character and nature of the proposed works, a description of the rights both to waters and lands it will be necessary to acquire to carry said project to completion, accompanied by detailed plans and specifications, and a detailed estimate of the cost of said project, including the acquisition of all rights, necessary to the completion and operation thereof. The board of directors shall attach to said report a recommendation that said projects shall be carried out in accordance with the plans and specifications in said report contained, or that said project be abandoned. Such report when completed shall be signed by a majority of the board of directors, and entered in full upon the minutes of said board. If said board shall determine to segregate and divide the plans, specifications and estimates into more than one unit of construction, such plans, specifications, and estimates shall be complete as to each unit, and the board shall in its report specify the particular unit or units the construction of which shall be immediately entered upon and the particular unit or units reserved for future action.

Report to State Engineer

Abandonment by failure to file report

If the board of directors of any district organized under this act shall fail, neglect, or refuse to complete and file its said report within ten (10) years from the date of the filing of the order of the State Engineer declaring said district duly organized as provided in Section 11 hereof, the project of said district shall be deemed abandoned and the board of directors thereof shall within ninety (90) days thereafter, pay all outstanding debts and claims against said district and shall within said time remit to the assessment payers of said district in proportion to the amount paid by said assessment payers on the last call or assessment levied by said board of directors, the balance of any funds then remaining with the treasurer of said district or to its credit with the county treasurer or county treasurers within which the lands of said district are situated; provided, however, that the State Engineer on hearing and after good cause shown, may extend the time to complete and file the report for an additional period or periods of time which shall not exceed five years altogether. Nothing herein contained shall affect, impair, modify or invalidate in any way any report which has already been adopted or approved at an election within the district; and the district and the directors thereof may proceed with such report as so originally adopted.

SEC. 4. A new section is hereby added to the act cited in the title hereof, to be numbered 25 (a) and to read as follows: New section

Sec. 25 (a). Any water storage district heretofore or hereafter organized is authorized and empowered to cooperate and contract with the United States whether under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or under any other act of Congress heretofore or hereafter enacted authorizing or permitting such cooperation or contract, for purposes of construction of works, whether for irrigation, drainage, storage or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for any or all thereof, or for the assumption as principal or guarantor of indebtedness to the United States, and to carry out and perform the terms of any contract so made; provided, that any such contract made between any water storage district and the United States may designate and describe the lands which are to be served with water from the water works or system contemplated under such contract and, in that case, only said lands may be charged with any of the assessments mentioned in this section. Contract with U S

The term "United States" as used in this act shall include besides the United States any board, bureau, agency, officer or officers, department or corporation of the United States. "United States" defined

The board of directors shall generally perform all such acts as shall be necessary to carry out the enlarged powers in this section enumerated. Said board may enter into any obligation or contract with the United States for the aforesaid purposes and may provide therein for the delivery and distribution of water for the lands of such district under any acts of Congress and under any rules and regulations established thereunder. Before entering into any such contract on behalf of the district, the board of directors shall make a report thereon complying with the provisions of Section 17 of this act and setting forth the substantial terms and provisions of such proposed contract, which report may be either the original report of the board of directors or a supplemental or additional report, and which may embody other features in addition to such proposed contract. Thereupon the same proceedings for the adoption or rejection of such report, and in case of the adoption thereof, for the levying, apportionment and collection of any assessment or assessments which may be necessary to meet any payments in the nature of capital charges required by such contract, and the other costs of the project described in said report, and for the issuance of bonds, shall be taken with respect to such report as are hereby provided to be taken in connection with the acquisition or construction of works contemplated by an original project. Powers of board of directors Report

If such contract, in addition to payment of capital charges, also requires the payment by the district of periodic service charges the amount thereof shall be levied from time to time Assessment for periodic service charges

as an assessment on lands in the district on the same basis as any assessment of capital charges shall already have been levied pursuant to the provisions of this section; and such assessment shall thereafter be collected as provided in Section 21 of this act.

Apportionment rolls

If such contract does not provide for any payment or payments in the nature of capital charges, the assessment commissioners appointed under Section 19 hereof shall determine the portion of the total benefits to accrue to the district under such contract which will be realized by each parcel of land in separate ownership in the district, which determination shall be stated in apportionment rolls to be prepared, certified and filed and substantially in form and manner as provided in Section 19, except that the apportionment of benefits shall be stated in percentages of benefits to the district as a whole, or in such other manner as may be determined upon by the commissioners; and thereafter all assessments levied in order to meet the payments due or to become due under such contract shall be apportioned among the respective tracts of land in accordance with said rolls.

Transfer of bonds to U S

In case any contract is made with the United States, bonds of the district which have been authorized either under Section 23 or Section 24 of this act may be transferred to, or deposited with, the United States if so provided by said contract, at not less than their par value, to the amount to be paid by the district to the United States or to any part thereof; and the interest or principal, or both, of said bonds, may be regularly paid to the United States and applied as provided in said contract but said bonds may call for the payment of such interest not exceeding 6 per cent per annum, may be of such denomination, and may call for the repayment of the principal at such times as shall be specified in said

Installment payments

contract. The contract with the United States may likewise call for the payment of the amount or amounts to be paid by the district to the United States or any part thereof at such times and in such installments and with such interest charges not exceeding the aforesaid rate, as may be provided in said

Appointment of district as fiscal agent of U S

contract. The board may accept on behalf of the district appointment of the district as fiscal agent of the United States or authorization of the district by the United States to make collection of moneys for and on behalf of the United States and to assume the duties and liabilities incident to such action, and said board shall have full power to do any and all things required by the Federal statutes now or hereafter enacted in connection therewith and all things required by any rules or regulations now or hereafter established under any said Federal statutes.

Distribution of water

All water, the right to use of which is acquired by the district under any contract with the United States, may be distributed and apportioned by the district in accordance with the acts of Congress applicable thereto and any rules or regulations thereunder; and provision may be made in the

contract between the district and the United States for the refusal of water service to any or all lands which may become delinquent in the payment of any assessment levied for the purpose of carrying out any contract between the district and the United States.

Conveyances to U. S.

As partial consideration for any privileges obtained by the district under any said contract with the United States any rights of way or rights to water or other property owned or acquired by the district may be conveyed by the board to the United States in so far as the same may be needed for the construction, operation and maintenance of works by the United States for the benefit of the district under any contract that may be entered into with the United States pursuant to the provisions hereof.

Dissolution, boundary changes

Where a contract shall have been entered into between the district and the United States the contract may provide that the district shall not be dissolved nor shall the boundaries be changed except upon written consent of a specified official of the United States filed with the official records of the district. If such consent be given and lands be excluded the areas excluded shall be free from all liens and charges for payments to become due to the United States under any such contract.

CHAPTER 1174

An act to amend Section 2576, to repeal Sections 2577 and 2578 and to amend and renumber Section 2579 of the Welfare and Institutions Code, relating to aid and relief to indigents and providing for reimbursement to the county from responsible relatives.

Stats 1937, p. 1005, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2576 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1937, p. 1099

2576. All aid rendered by the county under this chapter shall be a charge against the spouse, parent and adult child of the recipient thereof and the county rendering aid shall be entitled to reimbursement therefor.

Responsibility of kindred

The board of supervisors of the county rendering aid shall determine if the spouse, parent or adult child, or any of them have financial ability to support or contribute to the support of the recipient and were pecuniarily able to support or contribute to the support of the recipient during the time aid was rendered. If in the opinion of the board of supervisors pecuniary ability existed when the aid was given and exists when the matter comes before the board of supervisors, the board

shall request the district attorney or other civil legal officer of the county granting aid to proceed against such responsible relative or relatives.

Upon such request the district attorney or other civil legal officer shall maintain an action on behalf of the county granting aid against said relative or relatives to recover for the county the aid rendered and to secure an order requiring the payment of any sums which may become due in the future.

The board of supervisors shall, in the case of aid granted by institutional care, fix a reasonable charge therefor, which shall be the measure of reimbursement to the county, and the existence of the order fixing the charge shall constitute prima facie evidence of its reasonableness.

Repeals

SEC. 2. Sections 2577 and 2578 of said code are hereby repealed.

Stats 1937, p 1100

SEC. 3. Section 2579 of said code is hereby renumbered 2577 and amended to read as follows:

Enforcement of order

2577. In any case where a person so ordered to make such payments fails so to do, the court may by order require him to show cause for such failure and may otherwise enforce this order to make such payments by such order or orders as in its discretion it deems necessary from time to time and such order or orders may be modified, altered or revoked at the discretion of the court.

CHAPTER 1175

Stats 1937, p 1005, amended

An act to amend Section 2160 of the Welfare and Institutions Code, relating to aid to the aged.

In effect September 13, 1941

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2240

SECTION 1. Section 2160 of the Welfare and Institutions Code is hereby amended to read as follows:

Persons eligible for aid

2160. Aid shall be granted under this chapter to any person who comes within all of the following descriptions:

(a) Who has attained the age of 65 years; provided, that if, when and during such time as the Federal Government shall provide or make available to this State grants in aid to persons who have attained the age of 60 years, the age contained in this subdivision shall be reduced to 60 years and persons who have attained the age of 60 years and who come within all of the descriptions hereinafter contained shall be eligible for aid under this chapter;

(b) Who is a citizen of the United States;

(c) Who possesses either of the following residence qualifications: Residence

(1) Who resides in the State and has so resided continuously for at least 15 years immediately preceding the date of application, but continuous residence in the State shall not be deemed to have been interrupted by any period of absence therefrom if the total of such periods does not exceed three years; or who has so resided for a period of 40 years at least five of which have immediately preceded this application;

(2) During such time as grants in aid are provided by the United States Government for such aid in this State and accepted by this State, however, aid may be granted under this chapter to any person who resides in the State and has so resided continuously for at least one year immediately preceding the date of application and for at least five years within the nine years immediately preceding the date of application.

(d) Who resides in the county in which the application is made and has so resided continuously for at least one year immediately preceding the date of application; any person otherwise qualified who has resided in the State for the required period and who has no county residence may file his application in the county in which he resides, and the aid, if granted to him, shall be paid entirely by the State until the first day of the first month beginning after the date upon which he gains such county residence, unless the day upon which he gains county residence is the first day of the month in which event the county shall assume its share of the costs thereon;

(e) Who is not, at the time of receiving such aid an inmate of any public home for the aged, or any public home, or any public institution of a custodial, correctional, or curative character, except in the case of temporary medical or surgical care in a public hospital not exceeding 60 days in duration. Any such inmate, however, may make an application for aid under this chapter and have his application investigated and acted upon without delay, in the same manner as applications of other persons are acted upon, while he is such an inmate, and, if he is otherwise qualified under the terms of this chapter, such application shall be approved. Payment of the aid granted shall commence within one month following such approval and the applicant may remain an inmate until he receives his first monthly payment, whereupon he shall cease to be such inmate. Persons who are inmates of a boarding home or other institution not supported in whole or in part by public funds shall be granted aid but no such aid shall be granted if such persons are cared for under a contract for a period of time exceeding one month; Inmates of public homes, etc

(f) Who is not receiving adequate support from a husband or wife, or child able and responsible under the laws of this State to furnish such support;

(g) Who has not made any voluntary assignment or transfer of property for the purpose of qualifying for such aid.

CHAPTER 1176

Stats 1937, p. 1005, amended

An act to add Section 2163.5 to the Welfare and Institutions Code, relating to real property as defined for the purposes of aid to the aged.

In effect September 13 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2163.5 is hereby added to the Welfare and Institutions Code, to read as follows:

Estates for years

2163 5. For the purposes of this chapter, estates for years, when used for the purpose of providing a place of residence for the owners thereof and when such estate is for a period of not less than 10 years, shall be considered real property.

CHAPTER 1177

Stats 1929, p. 1805, amended

An act to add Section 8.5 to an act entitled "An act to provide for the establishment of master and official plans in cities, cities and counties, and counties and for the adoption of ordinances pursuant thereto; prescribing the manner of adoption of such plans, portions thereof, amendments thereto and the composition and effects thereof; providing for the appointment of planning commissions by cities, cities and counties, and counties, and for the creation of regional planning districts and the establishment of regional planning commissions; prescribing the powers and duties of such commissions; providing for the levy of a special tax for the support of a planning commission and making certain expenditures legal charges against the funds of cities, cities and counties, and counties; making certain acts misdemeanors; and repealing other acts in conflict herewith," approved June 17, 1929, relating to local planning.

In effect September 13, 1941

[Approved by Governor July 14, 1941 Filed with Secretary of State July 16, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 8.5 is hereby added to the act cited in the title hereof, to read as follows:

Contracts with other counties, etc

Sec. 8.5. Any counties or municipalities which are included in a regional planning district may enter into contracts with any other counties or municipalities in the district for the

preparation of master and official plans or the performance of other planning functions, as provided in an act entitled "An act providing for the joint exercise of powers by counties, by municipalities or by municipalities and counties," approved May 20, 1921. Stats. 1921, p. 542

CHAPTER 1178

An act to add Sections 115 and 116 to the Cemetery Brokerage Act, relating to persons licensed as cemetery brokers and cemetery salesmen entering the Military Service of the United States, declaring the urgency thereof, and providing that the act shall take effect immediately. Stats. 1937, p. 1633, amended

[Approved by Governor July 14, 1941. Filed with Secretary of State July 16, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 115 is hereby added to the Cemetery Brokerage Act, to read as follows: New section

Sec. 115. Any person who while licensed under this act has heretofore entered or enters the Military Service of the United States and who notifies the Real Estate Commissioner of that fact within two months of the effective date of this act or within two months of such entry, shall not be required for the period of military service to renew his license under this act, and said license shall remain in full force and effect for the period of military service and until the termination of the license period during which his period of military service terminates. If his period of military service terminates during the last two months of the license period, the time for filing such applications shall be extended for two months after termination of the license period. Licensees in military service

SEC. 2. Section 116 is hereby added to the Cemetery Brokerage Act, to read as follows: New section

Sec. 116. As used in this act, the terms "military service," "period of military service" and "person in the Military Service of the United States" have the meanings ascribed to them by Section 101 of the "Soldiers' and Sailors' Civil Relief Act of 1940." Definitions U. S. C., Tit. 50, Sec. 101

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

Under the present provisions of the Cemetery Brokerage Act persons licensed to engage in the business, act in the capacity of, advertise or assume to act as cemetery brokers or cemetery salesmen, who have been or will be called into the Military Service of the United States in the present emergency, will

forfeit their licenses and suffer loss of their business. By providing for the preservation of the licenses of such persons during such military service, this act will contribute to the public peace, health and safety. It is essential that a change be made before the renewal license period begins in order to avoid such harsh results which appear to be inevitable under the present law.

CHAPTER 1179

An act to amend Section 758 of the Political Code, and to add thereto Section 758b, relating to the creation and establishment of one additional division of the District Court of Appeal for the Second Appellate District and making an appropriation therefor.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Stats 1927, p 655

SECTION 1. Section 758 of the Political Code is hereby amended to read as follows:

Employees of courts of appeal

758. The Third District Court of Appeal may employ and appoint the following officers of the court, whose salaries shall be as follows: One clerk at four thousand dollars ($4,000) per annum; one deputy clerk at three thousand dollars ($3,000) per annum; one phonographic reporter as provided in Section 759, and one bailiff at two thousand four hundred dollars ($2,400) per annum.

The First District Court of Appeal may appoint the following officers of the court whose salaries shall be as follows: One clerk at four thousand dollars ($4,000) per annum; two deputy clerks at three thousand dollars ($3,000) each per annum; two phonographic reporters as provided in Section 759; and two bailiffs at two thousand four hundred dollars ($2,400) each per annum; one deputy clerk, one phonographic reporter and one bailiff to be assigned to each division of this court.

The Second District Court of Appeal may employ and appoint the following officers of the court whose salary shall be as follows: One clerk at four thousand dollars ($4,000) per annum; two deputy clerks at three thousand dollars ($3,000) each per annum; two phonographic reporters as provided in Section 759; and one bailiff at two thousand four hundred dollars ($2,400) per annum.

New section

SEC. 2. A new section is hereby added to the Political Code, to be numbered 758b and to read as follows:

Divisions of Second District Court

758b. The District Court of Appeal for the Second Appellate District shall consist of three divisions, each of which shall have and exercise all of the powers of the said district court of appeal.

Appropriation

SEC. 3. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of

seventy-one thousand two hundred twenty-six dollars ($71,226) for the support of the third division of the Second District Court of Appeal during the Ninety-third and Ninety-fourth Fiscal Years.

CHAPTER 1180

An act to amend Section 21, to repeal Sections 12901, 12902 and 12906 of the Insurance Code, and to add Sections 12901, 12902 and 12906 thereto, relating to the administration of the laws pertaining to insurance.

Stats 1935, p 496, amended

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 21 of the Insurance Code is hereby amended to read as follows:

Stats 1935, p 498

21. "Division," and "department," in reference to the Government of this State, means the Department of Insurance of this State.

"Division", "department"

SEC. 2. Section 12901, 12902 and 12906 of the Insurance Code are hereby repealed.

Repeals

SEC. 3. Section 12901 is hereby added to the Insurance Code, to read as follows:

New section

12901. The commissioner shall be a person competent and fully qualified to perform the duties of the office. Neither the commissioner nor any deputy or employee shall during his or their tenure of office be an officer, agent or employee of an insurer or directly or indirectly interested in any insurer or licensee under this code, except (a) as a policyholder, or, (b) by virtue of relationship by blood or marriage to any person interested in any insurer or licensee.

Qualifications

If the commissioner or any deputy or employee holds any license or permit issued under this code, he shall surrender it for cancellation within 10 days after appointment and qualification. Upon termination of his office or employment such license or permit shall be reissued for the balance of the then current license or permit year without fee or penalty.

SEC. 4. Section 12902 is hereby added to the Insurance Code, to read as follows:

New section

12902. The annual salary of the commissioner is ten thousand dollars ($10,000).

Salary

New section SEC. 5. Section 12906 is hereby added to the Insurance Code, to read as follows:

Division of Insurance redesignated Department of Insurance 12906. The governmental agency heretofore known as the Division of Insurance of the Department of Investment is hereby designated the Department of Insurance and is not a part of the Department of Investment. The Department of Insurance remains under the control of the Insurance Commissioner to the same extent as it was under his control prior to the taking effect of this section. The change in name and removal from the Department of Investment of the governmental agency heretofore known as the Division of Insurance, effected by this section, shall not affect in any manner the deputies or employees of such governmental agency and their emp oyments and positions are hereby expressly continued in existence. The Insurance Commissioner shall remain a member of the Board of Investment and is not a head of a department within the meaning of Section 349 of the Political Code.

CHAPTER 1181

Stats 1937, p 2204, and Stats 1937, p 2206, amended *An act to amend Sections 1, 2, 4 and 6 of, and to add Section 8 to an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts," approved July 1, 1937, and to amend Section 5 of, and to add Section 9 to, an act entitled "An act creating a special fund to be known as the 'Judges' Retirement Fund,' providing for disbursements therefrom, and to make appropriations therefor," approved July 1, 1937, relating to retirement of judges.*

In effect September 13, 1941 [Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2772 See also Stats 1941, p 2940 SECTION 1. Section 1 of an act entitled "An act to provide for the retirement, with retirement allowances, of justices of the Supreme Court and of the district courts of appeal, and judges of the superior courts," approved July 1, 1937, is hereby amended to read as follows:

Retirement for service Section 1. (a) Every justice of the Supreme Court, or of a district court of appeal, or judge of a superior court

(1) Who has attained the age of 70 years and who has been a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts, for 10 years in the aggregate within the period of 15 years immediately preceding, or

(2) Who has attained the age of 65 years, and who has been a judge or justice of the Supreme Court, a district court

of appeal or superior court, or any two or more of said courts, for 20 years in the aggregate within the period of 24 years immediately preceding, may retire by filing written notice of retirement with the Secretary of State, and a successor shall thereupon be appointed to fill the vacancy.

(b) Every justice of the Supreme Court, or of a district court of appeal, or judge of a superior court

(1) Who has attained the age of 70 years and who has been a judge of a municipal court or a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts, for 10 years in the aggregate within the period of 15 years immediately preceding, having served over six years of that period as a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts, or

(2) Who has attained the age of 65 years, and who has been a judge of a municipal court or a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts for 20 years in the aggregate within the period of 24 years immediately preceding, having served over six years of that period as a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts, may retire if he pays into the Judges' Retirement Fund a sum equal to the amount he would have paid had he been a judge or justice of the Supreme Court, a district court of appeal or superior court during the time he was a judge of the municipal court during the 15- or 24-year period. Any sums paid into any State Retirement Fund under any existing law or under any law hereafter adopted for the retirement of judges of a municipal court, shall be deemed paid into the fund for the retirement of judges or justices of the Supreme Court, a district court of appeal or superior court if such funds are transferred to the fund for the retirement of such judges or justices.

Any justice or judge who has served 30 days less than the aggregate number of years required for retirement shall be deemed to have been a justice or judge for such aggregate number of years within the meaning of this section.

Any justice or judge whose term of office expires within 30 days before he shall have attained the age required for his retirement, shall be deemed to have attained such age within the meaning of this section at any time during the 30-day period immediately preceding his actual attainment of such age.

SEC. 2 Section 2 of an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts," approved July 1, 1937, is hereby amended to read as follows: Stats 1937, p 2205

Sec. 2. Every justice or judge retiring as provided in Section 1 of this act, shall, during the remainder of his life, Allowance

receive an allowance equal to one-half the salary which he last received as the incumbent of a judicial office to which he was elected by the people. Said allowance shall be paid by the State at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

Stats 1937, p 2205

SEC. 3. Section 4 of an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts," approved July 1, 1937, is hereby amended to read as follows:

Allowance

Sec. 4. Every justice or judge retired for disability shall receive a retirement allowance payable in the same manner as the allowance above provided, which shall be computed as follows:

(a) If eligible to retire under the provisions of Section 1, he shall receive the allowance provided in Section 2.

(b) Except as provided in Section 5, if he is not eligible to retire under the provisions of Section 1, he shall receive an allowance equal to one-half of the salary which he last received as the incumbent of a judicial office to which he was elected by the people, which allowance shall be paid to him for five years from the date of his retirement, and thereafter for a period of time equal to the period, if any, by which his aggregate service as a justice or judge of one or more of said courts exceeds five years.

Stats 1937, p 2206

SEC. 4. Section 6 of an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts," approved July 1, 1937, is hereby amended to read as follows:

Assignment after retirement

Sec. 6. Justices and judges retired under the provisions of this act, so long as they are entitled by its provisions to receive a retirement allowance, shall be judicial officers of the State, but shall not exercise any of the powers of a justice or judge except while under assignment to a court as hereinafter provided. Any such retired justice or judge may, with his own consent, and upon stipulation of all the counsel in the case or cases to which he is assigned to sit, be assigned by the chairman of the judicial counsel to sit in any court; and while so assigned shall have all the powers of a justice or judge thereof. If assigned to sit in a court, he shall be paid while sitting therein from funds provided for that purpose in addition to his retirement allowance the difference, if any, between the retirement allowance and the compensation of a judge of the position to which he is assigned. When assigned to sit in a county other than that in which he resides, he shall also be allowed his necessary expenses for travel, board and lodging incurred in the discharge of the assignment, payable out of any funds available for similar expenses of judges assigned under the provisions of Section 1a of Article VI of the Constitution.

SEC. 5. Section 8 is hereby added to an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts," approved July 1, 1937, to read as follows: New section

Sec. 8. This act is known and may be cited as the "Judges' Retirement Act." Short title

SEC. 8. Section 5 of the act entitled "An act creating a special fund to be known as the 'Judges' Retirement Fund,' providing for disbursements therefrom, and to make appropriations therefor," approved July 1, 1937, is hereby amended to read as follows: Stats 1937, p 2207 See also Stats 1941, p 2941

Sec. 5. Should any justice or judge of any of the said courts die, resign or cease to be a justice or judge of any of the said courts prior to the time he shall have been retired as provided by law, the amount of his accumulated contribution shall be paid to his beneficiary nominated by written designation duly filed with the Secretary of State, or to him, as the case may be. Payments to beneficiary

SEC. 9. Section 9 is hereby added to an act entitled "An act creating a special fund to be known as the 'Judges' Retirement Fund,' providing for disbursements therefrom, and to make appropriations therefor," approved July 1, 1937, to read as follows: New section

Sec. 9. This act is known as and may be cited as the "Judges' Retirement Fund Act." Short title

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CHAPTER 1182

An act to amend the title and Section 1 of an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts," approved July 1, 1937, and to amend Sections 2, 4 and 5 of, and to add Section 4.5 to, an act entitled "An act creating a special fund to be known as the 'Judges' Retirement Fund,' providing for disbursements therefrom, and to make appropriations therefor," approved July 1, 1937, relating to retirement of judges. Stats 1937, p 2204, and Stats 1937, p 2206, amended

[Approved by Governor July 15, 1941 Filed with Secretary of State July 17, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The title of an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts," approved July 1, 1937, is hereby amended to read as follows: Stats 1937, p 2204

An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district Title

courts of appeal, and of judges of the superior courts and municipal courts.

Stats 1941, p 2936

SEC. 1.5. Section 1 of an act entitled "An act to provide for the retirement with retirement allowance, of justices of the Supreme Court and of the district courts of appeal, and of judges of the superior courts," approved July 1, 1937, is hereby amended to read as follows:

Retirement for service

Section 1. (a) Every justice of the Supreme Court, or of a district court of appeal, or judge of a superior court or municipal court

(1) Who has attained the age of 70 years and who has been a judge or justice of the Supreme Court, a district court of appeal or superior court or municipal court, or any two or more of said courts, for 10 years in the aggregate within the period of 15 years immediately preceding, or

(2) Who has attained the age of 65 years, and who has been a judge or justice of the Supreme Court, a district court of appeal or superior court or municipal court, or any two or more of said courts, for 20 years in the aggregate within the period of 24 years immediately preceding, may retire by filing written notice of retirement with the Secretary of State, and a successor shall thereupon be appointed to fill the vacancy.

(b) Every justice of the Supreme Court, or of a district court of appeal, or judge of a superior court

(1) Who has attained the age of 70 years and who has been a judge of a municipal court or a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts, for 10 years in the aggregate within the period of 15 years immediately preceding, having served over six years of that period as a judge or justice of the Supreme Court, a district court of appeal, superior court, or any two or more of said courts, or

(2) Who has attained the age of 65 years, and who has been a judge of a municipal court or a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts for 20 years in the aggregate within the period of 24 years immediately preceding, having served over six years of that period as a judge or justice of the Supreme Court, a district court of appeal or superior court, or any two or more of said courts, may retire if he pays into the Judges' Retirement Fund a sum equal to the amount he would have paid had he been a judge or justice of the Supreme Court, a district court of appeal or superior court during the time he was a judge of the municipal court during the 15- or 24-year period. Any sums paid into any State Retirement Fund under any existing law or under any law hereafter adopted for the retirement of judges of a municipal court, shall be deemed paid into the fund for the retirement of judges or justices of the Supreme Court, a district court of appeal or superior court or municipal court if such funds are transferred to the fund for the retirement of such judges or justices.

Any justice or judge who has served 30 days less than the aggregate number of years required for retirement shall be deemed to have been a justice or judge for such aggregate number of years within the meaning of this section.

Any justice or judge whose term of office expires within 30 days before he shall have attained the age required for his retirement, shall be deemed to have attained such age within the meaning of this section at any time during the 30-day period immediately preceding his actual attainment of such age.

SEC. 2. Section 2 of an act entitled "An act creating a special fund to be known as the 'Judges' Retirement Fund,' providing for disbursements therefrom, and to make appropriations therefor," approved July 1, 1937, is hereby amended to read as follows: Stats 1937, p 2206

Sec. 2. From and after the effective date of this act the State Controller shall at the end of each month ascertain the aggregate amount of the annual salaries of all the justices of the Supreme Court and of the district courts of appeal and all judges of the superior courts, and municipal courts, and out of the moneys in the State Treasury not otherwise appropriated there shall be paid monthly into the said Judges' Retirement Fund a sum equal to 2½ per centum of one-twelfth of said aggregate amount of salaries, and the State Controller shall thereupon transfer said required sum from the General Fund of the State to the said Judges' Retirement Fund. Transfer of moneys

SEC. 3. Section 4 of an act entitled "An act creating a special fund to be known as the 'Judges' Retirement Fund,' providing for disbursements therefrom, and to make appropriations therefor," approved July 1, 1937, is hereby amended to read as follows: Stats 1937, p 2207

Sec. 4. From and after the effective date of this act the auditor of each county shall deduct 2½ per cent from the portion paid by such county of the monthly salary of each judge of the superior court and municipal court, and cause the same to be paid into the Judges' Retirement Fund. Contributions From counties

SEC. 4. Section 4.5 is hereby added to an act entitled "An act creating a special fund to be known as the 'Judges' Retirement Fund,' providing for disbursements therefrom, and to make appropriations therefor," approved July 1, 1937, to read as follows: New section

Sec. 4.5. From and after the effective date of this act the auditor or other disbursing officer of any city, whether chartered or otherwise, which pays any portion of the salary of any municipal court judge, shall deduct 2½ per cent from the portion paid by such city of the monthly salary of each such municipal court judge and cause the same to be paid into the Judges' Retirement Fund. Same From cities

SEC. 5. Section 5 of an act entitled "An act creating a special fund to be known as the 'Judges' Retirement Fund,' Stats 1941, p 2939

providing for disbursements therefrom, and to make appropriations therefor," approved July 1, 1937, is hereby amended to read as follows:

Payments to beneficiaries

Sec. 5. Should any justice or judge of any of the said courts die, resign or cease to be a justice or judge of any of the said courts, except in the event of his appointment or election to a court of higher rank, prior to the time he shall have been retired as provided by law, the amount of his accumulated contribution shall be paid to his beneficiary nominated by written designation duly filed with the Secretary of State, or to him, as the case may be.

CHAPTER 1183

Stats 1937, p 1229, amended

An act to amend Section 6102 of the Business and Professions Code, relating to attorneys convicted of crimes involving moral turpitude.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Stats. 1939, p. 357

SECTION 1. Section 6102 of the Business and Professions Code is hereby amended to read as follows:

Procedure

6102. Upon the receipt of the certified copy of the record of conviction of an attorney of a crime involving moral turpitude, the court shall suspend the attorney until the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal. The court shall order the attorney disbarred when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such attorney to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation or information.

The other provisions of this article providing a procedure for the disbarment and suspension of an attorney do not apply to an attorney convicted of a crime involving moral turpitude, unless expressly made applicable.

CHAPTER 1184

An act to add Section 555 to the Labor Code, relating to days of rest of officers and employees of cities of the first class. Stats 1937, p 185, amended

[Approved by Governor July 15, 1941 Filed with Secretary of State July 17, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 555 is hereby added to the Labor Code, to read as follows: New section

555. Sections 550, 551, 552 and 554 of this chapter are applicable to cities of the first class and to the officers and employees thereof. Application to cities of first class

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CHAPTER 1185

An act approving and adopting the report of the Department of Public Works on the coordinated plan for the development of the water resources of the State.

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The coordinated plan for the conservation, development and utilization of the water resources of the State as set forth in the report thereon formulated and prepared by the Department of Public Works and transmitted to the Forty-ninth Session of the Legislature pursuant to Chapter 832 of the Statutes of 1929, is hereby approved and adopted. Approval of coordinated plan for water development

SEC. 2. This act does not repeal any of the provisions of the Central Valley Project Act of 1933, and to the extent there may be any inconsistency or conflict, said act shall prevail over the provisions of this act. Construction

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CHAPTER 1186

An act to amend Sections 23 and 24 of the Agricultural Prorate Act, relating to the marketing of agricultural products, the termination and suspension of proration programs, and violations of the act. Stats 1933, p 1969, amended

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 23 of the Agricultural Prorate Act is hereby amended to read as follows: Stats 1941, p 2050

Sec. 23. After the institution of any proration program, such proration program shall be terminated when there is filed Termination of program

Application with the commission an application for its termination signed by not less than 40 per cent of the producers and by the owners of 40 per cent of the producing factors of the industry within the zone in which the program is effective. The signatures of the producers and owners upon the application shall be those of the producers and owners whose names appear on the list or lists provided for in Section 11 or on any corrected list which the commission shall have had prepared during the existence of the program, or their successors in interest. Each petitioner shall upon affixing his signature thereto write in the date of signing, and no signature to such petition shall be valid for any purpose if affixed thereto more than six months prior to the filing of such application with the commission.

Undertaking Such petition shall be accompanied by a good and sufficient undertaking in an amount equal to the probable cost of con-

Hearing ducting said hearing. A hearing must be held upon the petition to determine the sufficiency of the signatures thereto, which hearing must be held within 30 days after the presentation of the petition. If upon such hearing, it shall be established that the petition to terminate is signed by said required 40 per cent of such producers and by the owners of 40 per cent of the producing factors, the commission shall thereupon terminate the program; provided, that any program on a seasonal crop shall not be terminated except at the end of its marketing season.

Costs of hearing In such case the cost of conducting such hearing shall be paid from the funds of the program to the extent that they are available and thereafter from the undertaking. In the event the petition be found insufficiently signed, the entire cost of conducting such hearing shall be paid from the undertaking. In the event of the termination of a program, any funds remaining for the use of the program committee not otherwise disposed of by the provisions of this act shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund.

The director, on behalf of the commission, may at any time initiate an investigation to determine whether or not the facts specified in Section 10 hereof continue to exist. Upon a finding that any one or more of the prerequisite facts no longer exist, the commission shall terminate or suspend said program. In no case shall any program on a seasonal crop be terminated or suspended except at the end of its marketing season.

Stats 1939, p 2502 SEC. 2. Section 24 of the Agricultural Prorate Act is hereby amended to read as follows:

Injunction Sec. 24. Any person who shall possess, market, handle or transport any commodity in violation of any provision of an original or modified proration program approved and made effective or in violation of any rule or regulation adopted by any program committee and approved by the director may be enjoined by the director or by the zone affected with the approval of the director in an action brought in the superior court for the county in which any of such violations is alleged

to be occurring. There may be enjoined in the same proceeding any number of defendants alleged to be violating the same program although their actual violations of the program may be separate and distinct and occur in different counties. In any action for injunction brought hereunder, the procedure shall be governed by the provisions of Chapter 3, Title 7, Part 2 of the Code of Civil Procedure of the State of California.

CHAPTER 1187

An act to revise an act entitled "An act defining industrial loan companies; providing for their incorporation, powers and supervision; and regulating the rates of interest and other charges of industrial loan companies and brokers or third party negotiators in connection with loans made by such companies," approved May 18, 1917, as amended, so as to define industrial loan companies, provide for their incorporation, powers and supervision and regulate the rates of interest and all other charges of industrial loan companies and brokers or third party negotiators in connection with loans made by such companies; to prohibit devices and subterfuges to evade this act; to provide for exemptions from this act; to provide for the administration of this act and the issuance of rules and regulations thereunder; to authorize the making of examinations and investigations; to provide for the suspension, surrender and revocation of permits; and to prescribe penalties for the violation of this act.

Stats. 1917, p. 658, revised "Industrial Loan Act"

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

The act cited in the title hereof is hereby revised to read as follows:

Revision of act

SECTION 1. The term "industrial loan company" as used in this act means any corporation which in the regular course of its business loans money and issues its own installment investment certificates with loans under the provisions of this act.

"Industrial loan company"

SEC. 2. Corporations may be incorporated under and by virtue of this act in the same manner as corporations under and by virtue of Chapter 2 of Title 1 of Part 4, Division 1 of the Civil Code, except as otherwise herein provided; but there shall be set forth in the articles of incorporation a statement that such corporation is incorporated under and by virtue of this act.

Incorporation

SEC. 3. The capital stock of any corporation incorporated under the provisions of this act shall not be less than twenty-five thousand dollars ($25,000) when such corporation is transacting business in any city having population of 25,000 inhabitants or more, and less than 50,000; and shall not be less than

Capital stock

fifty thousand dollars ($50,000) when such corporation is transacting business in any city having 50,000 or more inhabitants, and less than 100,000; and shall not be less than one hundred thousand dollars ($100,000) when such corporation is transacting business in any city having 100,000 or more inhabitants, according to the last official census. The capital stock of any such corporation transacting business in more than one city shall not be less than the aggregate capital stock required for the transaction of business by separate corporations in each of such cities. The capital stock of any such corporation transacting business in more than one city, however, shall not be required to exceed in the aggregate one hundred thousand dollars ($100,000). The establishment and operation of an office outside of an incorporated city area within five miles of the city limits of an incorporated city or cities shall require the same minimum capital for such outside office as would be required if said office were located within such incorporated city or cities. The capital stock

Shares

of any such corporation shall be divided into shares of the par value of one hundred dollars ($100) each. Before the articles of incorporation of any corporation, incorporated under the provisions of this act, are filed, there must be

Capital stock paid

paid in cash for the benefit of the corporation to a treasurer, elected by the subscribers, not less than 25 per cent of the amount of the minimum capital stock required under the provisions of this section; the balance of the capital stock shall be paid in cash to the corporation at the rate of not less than 10 per cent per month, following the initial payment. No corporation organized hereunder shall create more than one class of stock.

Powers: Loans

SEC. 4. Every corporation under the provisions of this act shall have power: Subject to the supervision and control of the Corporation Commissioner of the State of California:

First—To loan money on personal property security, including the pledge of its installment investment certificates, or without security other than the pledge of its installment investment certificates, or on real property security or loans over three hundred dollars ($300) with or without the pledge of its installment investment certificates, and to charge and deduct interest therefor in advance at the rate of 6 per cent per annum, or less. A certificate of investment shall be issued

Installment investment certificates

with each loan, except that the issue of installment investment certificates with real estate loans or loans over three hundred dollars ($300) shall be optional with the industrial loan company. Such certificates of investment shall require uniform weekly, semimonthly or monthly payments over the period of the loan, final payment not to be payable until the maturity date of the loan. Such certificates of investment shall be purchased by the borrower simultaneously with each loan transaction, of a face value not exceeding the face amount of the loan, and shall be pledged with the corporation as security for said loan.

Second—To sell or negotiate investment certificates either in certificates, or in receipt book form, in addition to the sale of installment investment certificates with loans, for the payment of money at any time, either fixed or uncertain, and to receive payments therefor in installments or otherwise, with or without an allowance of interest upon such installments. Nothing herein contained shall be construed to authorize corporations hereunder to receive deposits or to issue certificates of deposit. The investment certificates herein authorized shall bear the indorsement on the face of the instrument, "this is not a certificate of deposit." Sale of investment certificates

Third—In addition to the interest rate charged, to charge and deduct in advance, the sum of two dollars ($2) or less on every fifty dollars ($50) or fraction thereof loaned, for fees, bonuses, commissions, brokerage, discounts, expenses and other forms of costs charged, contracted for or received by an industrial loan company and all other persons from the borrower in connection with the investigating, arranging, negotiating, procuring, guaranteeing, securing, making, and servicing of a loan or forbearance of money, credit, goods or things in action, or for any other service or services rendered in relation thereto, except as hereinafter provided. Fees, brokerage, etc

In the event that any borrower shall be in default for a period of more than 15 days in the payment of any loan or in the payment upon any installment investment certificate issued in connection with such loan, the industrial loan company, in addition to the interest and charges permitted by this act and deducted in advance, may charge and collect for enforcing and collecting such loan, including attorneys' fees, a sum which when added to the interest, brokerage and all other charges deducted in advance or otherwise charged, contracted for or received, shall not exceed the maximum rates hereinafter provided. Attorney's fees, etc

However, it is hereby provided that the interest, brokerage and all other charges by an industrial loan company, broker and all other persons on any loan, forbearance of money, credit, goods or things in action under this act, shall not exceed in the aggregate 2½ per cent per month on that portion of the unpaid principal balance up to, including but not in excess of one hundred dollars ($100), 2 per cent per month on that portion of the unpaid principal balance in excess of one hundred dollars ($100) up to, including but not in excess of three hundred dollars ($300), and 10 per cent per annum on that portion of the unpaid principal balance in excess of three hundred dollars ($300). If, however, in connection with any loan, insurance is taken in favor of the industrial loan company, the total amount which may be contracted for and received for interest, brokerage and all other charges shall not exceed in the aggregate 2 per cent per month on that portion of the unpaid principal balance up to, including but not in excess of three hundred dollars ($300) and 10 per cent per annum on that portion of the unpaid principal balance in Limitation

excess of three hundred dollars ($300). All payments made by the borrower on the installment investment certificates purchased by the borrower in connection with the making of the loan shall be regarded as payments on the loan and shall be applicable, first, to interest and all other charges within the maximum statutory rate provided in this paragraph and, secondly, to reduction of the unpaid principal of the loan advanced to the borrower in determining the "unpaid principal balance" as hereinabove referred to.

Other charges

However, it is provided that nothing in this section denies the right to the industrial loan company in addition to interest, brokerage and all other charges herein provided to contract for, collect and receive at the time of making the loan or at any time thereafter, the statutory fee paid by it to any public officer for acknowledging, filing, recording or releasing in any public office any instrument securing the loan or executed in connection therewith. Also, nothing in this section prohibits the lender from collecting in addition to the interest, brokerage and all other charges herein provided the costs for insurance, of tangible personal or real property offered as security for a loan, reasonably insured against loss for a reasonable term considering the circumstances of the loan; provided, such insurance is sold at standard rates through a duly licensed insurance agent.

Costs of collection

Nothing in this section shall deny the right to any industrial loan company in the enforcing and collecting of a delinquent loan of an unpaid principal balance in excess of three hundred dollars ($300):

(a) To collect and receive the court costs and reasonable attorneys' fees allowed by a court in a judgment against a defaulting debtor;

(b) To contract for, collect and receive the bona fide expenses actually incurred and paid by the industrial loan company, not exceeding 10 per cent of the unpaid principal balance of the loan where no judgment at law is sought.

No charge shall be collected unless a loan shall have been made. Whenever the interest and/or charges deducted in advance shall exceed the maximum provided by this section, by reason of subsequent repayment of the loan or any portion thereof prior to maturity or prepayment of installments on the investment certificate purchased with the loan, such excess shall be refunded to the borrower or credited on any balance owing by the borrower to the company.

Establishment of offices

Fourth—To establish offices or places of business within the county in which its principal place of business is located and elsewhere within and without the county within a radius of 100 miles from its principal place of business.

Sales of commercial paper

Fifth—To purchase, sell or discount bona fide trust receipts, choses in action, secured or unsecured, chattel mortgages or conditional sales contracts, which shall have a maturity within two years from the date of said purchase and such purchase, sale or discount shall be subject to the maximum rates of

interest, discount, brokerage and all other charges provided in this act, as between the seller of said chose in action, chattel mortgage, trust receipt or conditional sales contract and the industrial loan company, for which not more than three hundred dollars ($300) is paid by the industrial loan company.

In addition to the powers herein enumerated, every corporation under the provisions of this act shall have the general powers conferred upon corporations by Chapter 10, Title 1, Part 4, Division 1 of the Civil Code except as herein otherwise provided.

SEC. 5. No corporation under the provisions of this act shall:

Limitation on corporate powers

(a) Hold at any one time the obligation or obligations of any person, firm or corporation, as primary debtor, in excess of 5 per cent of the amount of the capital stock of such industrial loan company actually paid in and unimpaired and 5 per cent of its unimpaired surplus fund; provided, however, that the limitation upon obligations secured by collateral of a market value at no time less than 115 per cent of the face amount of said obligations shall be not to exceed 20 per cent of such capital and surplus.

(b) Make any loan, under the provisions of this act, for a longer period than two years from the date of making said loan.

(c) Deposit any of its funds with any other moneyed corporation, unless such corporation has been designated as such depositary by a vote of the majority of the directors or of the executive committee, exclusive of any director who is an officer, director or trustee of the depositary so designated.

(d) Invest any of its funds, otherwise than as herein authorized, except in such investments as are by law legal investments for savings banks, or in the choses in action issued by any other corporation organized under this act.

(e) Have outstanding at any time its investment certificates in an aggregate sum in excess of 10 times the aggregate amount of its paid-up capital, exclusive of those hypothecated with the company issuing them.

Holding and conveying real estate

SEC. 6. Every corporation, under the provisions of this act, may purchase, hold and convey real estate for the following purposes, but for no other:

First—Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business.

Second—Such as it shall purchase at sale under judgments, decrees or mortgage foreclosures or foreclosures of or trustees' sales under deeds of trust under securities held by it, but no such corporation shall bid at any such sale a larger amount than shall be necessary to satisfy its debt and costs.

Third—Such as shall be necessary as premises for the transaction of its business; but no company shall invest directly or indirectly an amount exceeding one-third of its paid-up capital and surplus in the lot and building in which the business of the

company is carried on, furniture and fixtures, and vaults necessary and proper to carry on its business; and hereafter the authority of a three-fourths vote of all the directors shall be necessary to authorize the purchase of such lot and building or the construction of such building.

Real estate shall be conveyed under the corporate seal of such corporation and the hand of its president or vice president and manager or treasurer. No real estate acquired in the cases contemplated by subsection first and second hereof shall be held for a longer period than five years.

Dividends

SEC. 7. The directors of every corporation, under the provisions of this act, may at certain times and in such manner as its by-laws prescribe, declare and pay dividends to the stockholders of such corporation, of so much of the net profits of the corporation as may be appropriated for that purpose under its by-laws, but before any such dividend is declared, not less than 10 per cent of the net profits of such corporation for the preceding half year, or for such period as is covered by the dividend, shall be carried to its surplus until such surplus shall equal the amount of the paid-up capital stock.

Reduction of capital stock

SEC. 8. No company organized hereunder shall reduce its capital stock to an amount less than is required by this act to be maintained by such company or less than any indebtedness of such company other than its investment certificates.

Taxation

SEC. 9. All corporations herein mentioned shall be taxed in the same manner and at the same rates as other corporations are taxed pursuant to Section 16 of Article XIII of the Constitution of this State.

Subject to Corporate Securities Act

Stats 1917, p 673

SEC. 10. Corporations under the provisions of this act shall be subject to the provisions and regulations of "An act providing for the regulation and supervision of companies, brokers, agents and sales of securities as same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a State Corporation Department and the office of 'Commissioner of Corporations'" approved May 18, 1917, as amended.

Not subject to Personal Property Brokers Act

Stats 1909, p 969

Corporations under the provisions of this act shall not be subject to the provisions or regulations of an act entitled "An act to define personal property brokers and to regulate their charges and business," approved April 16, 1909, as amended.

Stats 1939, pp 2679 and 2886

Corporations under the provisions of this act shall not be subject to the provisions or regulations of acts entitled "California Small Loan Act," approved July 21, 1939, and July 24, 1939

The commissioner shall have the power to establish such rules and regulations as may be reasonable or necessary to carry out the purposes and provisions of this act.

Order to discontinue violations

SEC. 11. If it shall appear to the Commissioner of Corporations that any company hereunder has violated or failed to comply with the provisions of its articles of incorporation, or

any law of this State, or whenever it shall appear from the report of any company hereunder, or the commissioner shall have reason to conclude, that the capital of any company hereunder is impaired or reduced below the amount required by law, he may, by an order under his hand and official seal, addressed to such company, direct such company to discontinue such violation and to comply with the law, or to make good the deficiency or impairment of capital alleged by him to exist within 60 days after the date of such requisition; or

Same: Unsafe practices

If it shall appear to the commissioner that such company is conducting business in an unsafe or injurious manner, he may, in like manner, direct the discontinuance of any such unsafe or injurious practices. Such orders shall require such company to show cause, before the commissioner, at a time and place to be fixed by him, why said order should not be observed. If upon such hearing it shall appear to the commissioner that such order should be made final he shall proceed to do so, and such company shall immediately comply with such order made by the Commissioner of Corporations.

Suit to restrain enforcement

Such company shall have 10 days after any such order is made final in which suit may be commenced to restrain enforcement of such order and unless such action be so commenced and enforcement of such order be enjoined within 10 days by the court in which such suit is brought, then such company shall comply with such order.

Commissioner of Corporations may take possession of property

Upon failure of any company to comply with such order or if any such company shall refuse to submit its books, papers and concerns to the inspection or examination of the Commissioner of Corporations, or to anyone authorized by him to make such examination, or if any officer of such company shall refuse to be examined upon oath touching the concerns of such company, or if any such company shall neglect or refuse to observe any order made by the Commissioner of Corporations pursuant to his supervision as authorized by this act, the Commissioner of Corporations may forthwith take possession of the property and business of such company and retain such possession until such company shall resume business or its affairs be finally liquidated. On taking possession of the property and business of any such company, the Commissioner of Corporations may proceed to liquidate the same in the manner provided by the Bank Act.

Suspension of payment

SEC. 11a. The Corporation Commissioner whenever it may appear that such action is necessary for the protection of the interests of the investment certificate holders, stockholders, investors or any other creditors of any industrial loan company or to protect such company itself which is organized and/or operating under this act or that such action is in the public interest, order such company or companies forthwith to suspend as herein set forth the payment in lawful money of the liabilities of such company or limit the payment of same in such manner as he may prescribe. Such order shall become effective upon receipt by such company of notice hereof and

shall continue in full force and effect until rescinded or modified by the Corporation Commissioner in writing and delivered to the manager or executive officer thereof. Whenever in the judgment of the Corporation Commissioner the condition of any such company warrants such action, the liabilities, the payment of which has been so suspended, may be paid in lawful money by such company in whole or pro rata in part upon such terms and conditions as the Corporation Commissioner may prescribe.

Nothing herein contained shall affect the right of any such company to pay its current operating expenses and liabilities incurred during such period of suspension or limitation.

After such order of suspension or limitation and until such order of suspension or limitation shall be rescinded, no assignment or hypothecation shall be made by such company of any indebtedness due to it from an investor without first crediting thereon the investment liability of the company to such investor-borrower.

Powers of commissioner

The Corporation Commissioner is hereby authorized and empowered to prescribe such rules and regulations as he may deem necessary to carry out the provisions of this act.

Nothing herein contained shall be construed to limit the powers of the commissioner pursuant to this act or any other laws now in effect.

The authority herein contained is in addition to the other powers provided in this act, and in the discretion of the commissioner, may be exercised by him in conjunction therewith or independently thereof.

Violation

Whenever the commissioner shall believe from evidence satisfactory to him that any company, director, officer, agent or employee thereof has violated or is about to violate any of the provisions of this act, or any order, license, permit, decision, demand or requirement of the commissioner, or any part or provision thereof, he may bring an action in the name of the people of the State of California in the superior court of the State of California against such company, director, officer, agent or employee thereof to enjoin such company, director, officer, agent or employee thereof from continuing such violation or engaging therein or the attempt to violate said act or doing any act or acts in furtherance thereof. In said action an order or judgment may be entered awarding such preliminary or final injunction as may be proper.

Powers of Commissioner of Corporations not affected

SEC. 12. Nothing in this act contained shall be deemed or construed as a limitation or restriction of or as in any way affecting the power or discretion of the Commissioner of Corporations under the Corporate Securities Act or any other statute now or hereafter in effect, to issue a permit authorizing any corporation under the provisions of this act to issue and dispose of choses in action, including certificates of investment to be used in connection with loan transactions, in such amount and upon such terms and conditions as he may in such permit provide and to impose such conditions as he

may deem necessary to the issue of such securities and to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit and from time to time for cause to amend, alter or revoke any permit issued by him or to refuse to issue such permit or otherwise authorize the issue of such securities.

Bond

SEC. 13. At the time of filing an application for a permit to issue securities, the applicant shall file with the Commissioner of Corporations a bond to be approved by the commissioner in which the applicant shall be the obligor, in the sum of one thousand dollars ($1,000) with one or more sureties, to be approved by the commissioner, whose liability as such sureties need not exceed the said sum in the aggregate. The said bond shall run to the State for the use of the State and of any person or persons who may have cause of action against the obligor of said bond under the provisions of this act. Such bond shall be conditioned that the said obligor will faithfully conform to and abide by the provisions of this act and of the Corporate Securities Act, and of all rules and regulations lawfully made by the commissioner under either of said acts, and will pay to the State and to any such person or persons any and all moneys that may become due or owing to the State or to such person or persons from said obligor under and by virtue of the provisions of this act and of the Corporate Securities Act.

Stats 1917, p 673

Additional bond

If the commissioner shall find at any time that the bond is insecure or exhausted in whole or in part or otherwise doubtful, an additional bond to be approved by him, with one or more sureties to be approved by him and of the character specified in this section, in the sum of not more than one thousand dollars ($1,000), shall be filed by the industrial loan company within 10 days after written demand upon the industrial loan company by the commissioner.

If a bond or additional bond as hereinabove required is already on file, no further bond may be required to be filed with subsequent applications. This provision, however, does not prevent the commissioner from requiring additional bonds as above provided in connection with or without any relation to any application to sell and issue securities.

Contents of application for permit to issue securities

SEC. 14. In addition to the matters and information required by the Corporate Securities Act, applications for permits to issue securities made by corporations organized under this act shall set forth therein:

(a) The addresses of all offices at which business is proposed to be transacted;

(b) The names, residence addresses and business addresses of all officers and directors;

(c) The names and addresses of subscribers to its capital stock, the amount of capital stock subscribed, the amount paid thereon, the balance due and copies of the subscription agreements;

(d) Statements as to the experience, character, general fitness and financial responsibility of the officers, directors and managers.

The application shall set forth such further information as the commissioner may require.

Investigation

In addition to the duty of the commissioner to examine the application pursuant to the provisions of the Corporate Securities Act, it shall be his duty to investigate the matters and facts set forth in the application as required by this act and to conduct such further investigation as he may deem necessary, and if he shall find that the financial responsibility, experience, character and general fitness of the applicant, and of the officers and directors thereof, are not such as to command the confidence of the community and to warrant the belief that the business will be operated honestly, fairly and efficiently within the purposes of this act, he shall deny the application and refuse the permit.

The existence of any fact or condition which, if it had existed at the time of filing the application for a permit, would have warranted the commissioner in refusing to issue such permit shall be ground for the amendment, alteration, revocation or suspension of such permit in addition to the grounds specified by the Corporate Securities Act.

Examination of business, books, etc.

SEC. 15. For the purpose of discovering violations of this act or securing information lawfully required by him hereunder, the commissioner may at any time, either personally or by a person or persons duly designated by him, investigate the loans and business and examine the books, accounts, records and files used therein, of every corporation which shall be engaged in the business of an industrial loan company or broker, whether such corporation shall act or claim to act as principal or agent, or under or without the authority of this act. For that purpose the commissioner and his duly designated representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such corporations. The commissioner shall have authority to require the attendance of witnesses and to examine under oath all persons whomsoever whose testimony he may require relative to such loans or such business or to the subject matter of any examination, investigation, or hearing.

The commissioner shall make such an examination of the affairs, business, office and records of each industrial loan company at least once each year. The actual cost of that examination shall be paid to the commissioner by every industrial loan company so examined, and the commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

Cost

Prosecution

Whenever, after an examination, investigation or hearing under this act, the commissioner deems it of public interest or advantage, he may certify a record to the proper prosecuting official of the county, city and county, or city in which the act or acts complained of, examined or investigated, occurred.

Books, accounts, and records

SEC. 16. Each industrial loan company shall keep and use in its business such books, accounts and records as will enable the commissioner to determine whether such industrial loan company is complying with the provisions of this act and with the rules and regulations lawfully made by the commissioner hereunder. Every industrial loan company shall preserve such books, accounts and records, including cards used in the card system, if any, for at least two years after making the final entry on any loan recorded therein.

Annual report

Each industrial loan company shall annually on or before the fifteenth day of March file a report with the commissioner giving such relevant information as the commissioner reasonably may require concerning the business and operations during the preceding calendar year of each place of business conducted by such industrial loan company within the State. Such report shall be made under oath and shall be in the form prescribed by the commissioner, who shall annually make and file with the Division of Corporations as a public record a composite of such reports and any comments thereon that he may deem to be in the public interest.

Misleading advertising

SEC. 17. No industrial loan company or other person shall advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever any statement or representation with regard to the rates, terms, or conditions for making or negotiating loans, which is false, misleading, or deceptive, or which refers to the supervision of such business by the State of California or any department or official thereof The commissioner may order any industrial loan company to desist from any conduct which he shall find to be a violation of the provisions of this act or of the Corporate Securities Act or of the rules of the commissioner under said acts.

The commissioner may require that rates of charge or discount, if stated by an industrial loan company, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers.

Advertisement of rates

If any industrial loan company or other person engaged in the business regulated by this act shall in any advertising refer to rates of interest or discount or charges or costs of loans, the commissioner shall require that such rates or costs be stated fully and clearly in such manner as he may deem necessary in order to give adequate information to prospective borrowers; and if the rates or costs advertised do not apply to loans of all classes made or negotiated by such industrial loan company or other person, this fact shall be clearly indicated therein. No such advertising copy shall be used after the use thereof has been disapproved by the commissioner and the industrial loan company notified in writing of such disapproval. The commissioner may require the industrial loan company to maintain a file of all advertising copy for a period of 90 days from the date of its use, to be available to the commissioner upon request.

Conduct of other businesses in same premises

No industrial loan company shall conduct the business of making loans under this act within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized in writing by the commissioner upon his finding that the character of such other business is such that the granting of such authority would not facilitate evasions of this act or of the rules and regulations lawfully made hereunder.

Use of other name

No industrial loan company shall transact such business or make any loan provided for by this act under any other name than that set forth in the articles of incorporation or amended articles of incorporation as filed with the Commissioner of Corporations. Nor shall any industrial loan company transact such business or make any loan provided for by this act at any other place of business than that designated in its application filed with the Commissioner of Corporations, without having obtained the prior written approval of the commissioner.

No industrial loan company shall take any confession of judgment or any power of attorney, except a power of attorney taken to effectuate the transfer of the ownership of any motor vehicle or the transfer of the ownership of securities, at the time of making the loan. No industrial loan company shall take any note, promise to pay, or security that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge nor any instrument in which blanks are left to be filled in after execution.

Splitting loans, etc.

SEC. 18. No industrial loan company shall induce or permit any borrower to split up or divide any loan. No industrial loan company shall induce or permit any person, nor any husband and wife jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same time, with the result of obtaining a higher rate of charge than would otherwise be permitted by this act.

Duties of companies

SEC. 19. Every industrial loan company hereunder shall:

(1) Deliver or cause to be delivered to the borrowers, or any one thereof, at the time the loan is made, a statement in the English language showing in clear and distinct terms the name and address of such industrial loan company and the broker, if any; the date, amount and maturity of the loan contract, how and when repayable, the nature of the security, if any, for the loan, and the agreed rate of charge.

(2) Obtain from the borrower a signed statement as to whether any person has performed any act as a broker in connection with the making of the loan, and if such statement discloses a broker or other person has participated, then a full statement of all sums paid or payable to the broker or other person shall be obtained and kept by the industrial loan company for a period of two years from and after the date the

loan has been paid in full or has matured according to the terms thereof or has been charged off.

(3) Permit payment to be made in advance in any amount on any contract of loan at any time, but the industrial loan company must apply such payment first to all interest and charges due at the agreed rate up to the date of such payment, not to exceed the maximum rate herein permitted.

(4) Deliver or cause to be delivered to the person making any payment in person in cash at any office of the industrial loan company, at the time each such payment is made on account of any loan, a plain and complete receipt showing the total amount received and identifying the loan contract upon which such payment is applied, and showing the unpaid principal balance, if any, of such loan.

(5) Upon repayment of any loan in full, cancel or plainly mark "paid" and return to the borrower or person making final payment, the note evidencing such loan; and if such borrower is not otherwise obligated to such industrial loan company, release all security for such loan, indorse and return any certificate of ownership, and return to the borrower any chattel mortgage, assignment or order signed by the borrower, except such as are a part of the court record in any action, or such as have been delivered to a third person for the purpose of carrying out the terms thereof.

Every industrial loan company shall display prominently in each place of business a full and accurate schedule, to be approved by the commissioner, of the maximum charges to be made and the method of computing the same.

Transactions considered loans

SEC. 20. The payment of money, credit, goods or things in action as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall, for the purposes of regulation under this act, be deemed a loan secured by such assignment, and the amount by which such assigned compensation exceeds the amount of such consideration actually paid shall, for the purposes of regulation under this act, be deemed interest and charges upon or for such loan from the date of such payment to the date such compensation is payable. Such transaction shall be governed by and subject to the provisions of this act. Nothing contained in this section shall be construed as modifying or affecting existing statutes governing wage assignments in the State of California, or as authorizing such assignments.

Collateral agreements prohibited

SEC. 21 No industrial loan company or any other person in connection with or incidental to the making of any loan, may require the borrower to contract for, purchase, or agree to purchase any other thing in connection with the loan, other than an installment investment certificate of a face value equal to the face amount of the loan, and no industrial loan company or any other person in connection with or incidental to the making of such loan shall require the borrower to enter into any collateral sales agreement or contract, other than a

contract of pledge, assignment or mortgage, or a deed of trust or trust receipt relating to real or personal property by the borrower as security for the repayment of the loan and interest and charges thereon. However, reasonable insurance, considering the circumstances of the loan, shall not be deemed such collateral sale, purchase, or agreement when the policy is payable to the borrower or any member of his family, even though the customary mortgage clause is attached or the industrial loan company is made a coassured; provided, that such insurance is sold at standard rates through duly licensed insurance agents.

Any profit or advantage of any kind whatsoever that any industrial loan company or broker or any other person may contract for, collect, receive or in any wise obtain by a collateral sale, purchase or agreement, in connection with the negotiating, arranging, making or otherwise in connection with any loan, except commissions received as a licensed insurance agent or broker on insurance sold at standard rates, shall be deemed to be charges for the purpose of regulation under this act. Such transactions shall be governed by and subject to the provisions of this act.

Penalty

SEC. 22. Any person and the several members, officers, directors, agents, and employees thereof, who shall wilfully violate or wilfully participate in the violation of any of the provisions of the rules, orders and regulations of the commissioner, or of this act, shall be guilty of a misdemeanor.

Void contracts

Any contract of loan in the making or collection of which an amount in excess of the charges permitted by this act, including interest, is charged, contracted for or received, shall be void, and neither the industrial loan company nor any other person shall have any right to collect or receive any principal, interest or charges whatsoever.

Review of orders

SEC. 23. Every order, decision, license or other official act of the commissioner shall be subject to review in accordance with law. Upon such review, the burden of proof shall lie upon the appellant, and the court shall receive and consider any pertinent evidence which was introduced in the formal hearing before the commissioner, whether oral or documentary, concerning the action of the commissioner under review, but shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the commissioner in making such order, decision, finding, requirement, or rule.

Constitutionality

SEC. 24. If any clause, sentence, section, provision, or part of this act is adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect, or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

Prospective operation

SEC. 25. Nothing in this act impairs or affects any loan contract entered into between any industrial loan company and a borrower prior to the effective date of this act.

SEC. 26. Short Title. This act shall be known as the "Industrial Loan Act." Short title

SEC. 27. Any corporation heretofore or hereafter organized under any other law of this State and not expressly stated in its articles of incorporation to be incorporated under the act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, may be brought under the provisions of said act as amended or revised by amending its articles of incorporation in the manner prescribed by Title 1, Part 4, Division 1 of the Civil Code, to expressly state in its articles of incorporation that it is thereafter subject to the provisions of the aforesaid act as amended or revised, and thereupon it shall be deemed to be organized and existing under and entitled to the benefits of and subject to the provisions of the aforesaid act as amended or revised for all purposes and as fully as though it had been originally organized thereunder; provided, it shall comply with the provisions of this act. Inclusion of corporations under Stats 1917, p 658

CHAPTER 1188

An act to add Chapter 7.5, comprising Section 1126, to Part 3, Division 2, of the Labor Code, relating to enforceability of collective bargaining contracts. Stats 1937, p 185, amended

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Chapter 7.5 is hereby added to Part 3, Division 2, of the Labor Code, to read as follows: New chapter

CHAPTER 7.5. COLLECTIVE BARGAINING AGREEMENTS

1126. Any collective bargaining agreement between an employer and a labor organization shall be enforceable at law or in equity, and a breach of such collective bargaining agreement by any party thereto shall be subject to the same remedies, including injunctive relief, as are available on other contracts in the courts of this State. Enforcement of collective bargaining agreements

CHAPTER 1189

Stats 1935, p 1123, amended

An act to add Section 7.2 to the Alcoholic Beverage Control Act, relating to licenses for the sale of alcoholic beverages.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 7.2 is hereby added to the Alcoholic Beverage Control Act, to read as follows:

Transfer of license

Sec. 7.2. No license issued under this act and limited in numbers shall be subject to transfer and the board shall refuse to transfer any such license unless:

Recordation of notice of intended transfer

1. At least seven days before the filing of the transfer application with the board the licensee or the intended transferee shall record in the office of the county recorder of the county or counties in which the premises to which said license has been issued are situated, a notice of the intended transfer, stating the name and address of the licensee, the name and address of the intended transferee, the kind of license or licenses intended to be transferred, the address or addresses of the premises to which the license or licenses have been issued, the date when and the place where the purchase price or consideration for the transfer of the license or licenses, if any there be, is to be paid and the amount of such purchase price or consideration, if any there be; and

Establishing escrow

2. At least seven days before the filing of a transfer application with the board the licensee and the intended transferee shall establish an escrow with some person, corporation or association, not a party to the transfer, acting as escrow holder, and said intended transferee shall deposit with said escrow holder the full amount of the purchase price or consideration, if any there be, to be paid in connection with said transfer, and said licensee and intended transferee shall also enter into an agreement, which agreement shall be deposited with said escrow holder, directing said escrow holder, out of said purchase price or consideration, to pay the claims of such of the bona fide creditors of the licensee as shall file their said claims with said escrow holder within said period of seven days after the recording of the notice provided for in Subdivision 1 of this section or if such purchase price or consideration shall not be sufficient to pay said claims in full, to distribute said consideration pro rata to said creditors of said licensee; said agreement shall also provide that said escrow holder shall make such payment or distribution within a reasonable time after the completion of the transfer of said license. A certified copy of the recorded notice of intended transfer and a copy of said escrow agreement certified by the escrow holder to be a true and correct copy thereof shall be filed with the board together with any transfer application.

The provisions of this section shall not apply to any transfer of a license made by an executor, administrator, guardian, trustee, receiver or other person acting in the legal or proper discharge of official duty, or in the discharge of any trust imposed upon him by law, nor to any transfer or assignment, statutory or otherwise, made for the benefit of creditors. Exceptions

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CHAPTER 1190

An act relating to review of decisions of administrative boards, commissions and officers, providing for a thorough study and report thereon and the formulation of a comprehensive and detailed plan in respect thereto and defining the powers and duties of the Judicial Council in relation thereto.

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The increasing complexity of economic relationships has resulted in a rapid extension of the field of administrative law, and a growing need for the development of an administrative procedure, particularly including the review of administrative decisions, that assuredly will afford adequate protection to the citizen without impairment of expedition in the transaction of the public business. Much research in relation to the method and manner of the review of such decisions has been done by the State Bar of California, the American Bar Association, the American Law Institute, the National Conference of Commissioners on Uniform State Laws, and other agencies and groups. It is timely that the results of this research be correlated and applied to the problem as it exists in California and an adequate and comprehensive plan formulated for submission to the Legislature for its consideration and action. Need for development of administrative procedure

SEC. 2. The Judicial Council is authorized and directed to make a thorough study of the subject, in all its aspects, of review of decisions of administrative boards, commissions and officers in this and other jurisdictions, formulate a comprehensive and detailed plan by the council found suitable to the needs of this State, and report thereon with its recommendations not later than the tenth legislative day of the Fifty-fifth Regular Session of the Legislature, to the Governor and the Legislature, the report to include drafts of such legislative measures as may be calculated to carry out and effectuate the plan. The council may include in its report recommendations as to changes in administrative procedure which may not require legislation as well as those which will require legislation for their effectuation. Judicial Council to study and report on review of administrative decisions

Assistance

SEC. 3. All departments, commissions, boards, agencies, officers and employees of the State shall give the Judicial Council ready access to their records and full information and reasonable assistance in any matter of research requiring recourse to them or to data within their knowledge or control.

CHAPTER 1191

An act to amend Section 631 of the Code of Civil Procedure, relating to waiver of jury trial.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 1875

SECTION 1. Section 631 of the Code of Civil Procedure is amended to read as follows:

Waiver of jury trial

631. Trial by jury may be waived by the several parties to an issue of fact in manner following:

1. By failing to appear at the trial;

2. By written consent filed with the clerk or justice;

3. By oral consent, in open court, entered in the minutes or docket;

4. By failing to announce that a jury is required, at the time the cause is first set upon the trial calendar if it be set upon notice or stipulation, or within five days after notice of setting if it be set without notice or stipulation; provided, that in justices' courts such waiver may be made by failure of either party to demand a jury within two days after service upon him of the notice provided for in Section 594 of this code; provided further, that in any superior court action if a jury is demanded by either party in the memorandum to set cause for trial and such party thereafter by announcement or by operation of law waives a trial by jury, then in said event any and all adverse party or parties shall be given 10 days' written notice by the clerk of the court of such waiver, whereupon, notwithstanding any rule of the court to the contrary, such adverse party or parties shall have not exceeding five days immediately following the receipt of such notice of waiver, within which to file and serve a demand for a trial by jury and deposit advance jury fees for the first day's trial whenever such deposit is required by rule of court, and if it is impossible for the clerk of the court to give such 10 days' notice by reason of the trial date, or if for any cause said notice is not given, the trial of said action shall be continued by the court for a sufficient length of time to enable the giving of such notice by the clerk of the court to such adverse party.

Regardless of anything contained in the foregoing to the contrary, the court may in its discretion, upon such terms as may be just, allow a trial by jury to be had, although there has been a waiver of such a trial.

5. By failing to deposit with the clerk, or justice, a sum equal to the amount of one day's jury fees payable under the law, as provided herein. In justices' courts such deposit must be made two days prior to the date set for trial or prior to the date to which the trial has been postponed because of the demand for a jury trial; in other courts such deposit must be made 10 days prior to the date set for trial.

6. By failing to deposit with the clerk or justice, promptly after the impanelment of the jury, a sum equal to the mileage or transportation (if any be allowed by law) of the jury accrued up to that time;

7. By failing to deposit with the clerk or justice, at the beginning of the second and each succeeding day's session a sum equal to one day's fees of the jury, and the mileage or transportation, if any there be.

The court may, in its discretion upon such terms as may be just, allow a trial by jury to be had although there has been a waiver of such a trial.

CHAPTER 1192

An act to amend the article heading of Article 1 of Chapter 1 of Title 1, and Sections 2000, 2001, 2003, 2004, 2008, 2009, 2040, 2710, 2711, 2712, 2870, 2875, 3765, 4534, 4573 and 4700, of the Penal Code, relating to prisons and prisoners.

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The article heading of Article 1 of Chapter 1 of Title 1 of Part 3 of the Penal Code is hereby amended to read as follows: Stats. 1911, p. 1083

Article 1. California Institution for Men

SEC. 2. Section 2000 of said code is hereby amended to read as follows: Stats. 1941, p. 1083

2000. There is and shall continue to be a State prison to be known as the California Institution for Men. California Institution for Men

SEC. 3. Section 2001 of said code is hereby amended to read as follows: Stats. 1941, p. 1083

2001. The California Institution for Men shall be located at Chino, San Bernardino County, California. Location

Stats 1941, p 1084

SEC. 4. Section 2003 of said code is hereby amended to read as follows:

Construction

2003. The board shall erect and construct, the first unit of the California Institution for Men upon such lands as have heretofore been acquired or as shall hereafter be acquired for such purpose, in accordance with this article.

Stats 1941, p 1076

SEC. 5. Section 2004 of said code is hereby amended to read as follows:

Appropriation

2004. The sum of two million dollars ($2,000,000), appropriated by Chapter 378 of the Statutes of 1937, shall be expended in accordance with law by the board in the erection and construction of the first unit of the California Institution for Men, including the purchase of land therefor.

Stats 1941, p 1084

SEC. 6. Section 2008 of said code is hereby amended to read as follows:

Purpose

2008. The primary purpose of the California Institution for Men shall be for the imprisonment of male offenders who, in the opinion of the board, seem capable of moral rehabilitation and restoration to good citizenship.

Stats 1941, p 1084

SEC. 7. Section 2009 of said code is hereby amended to read as follows:

Transfer of prisoners

2009. The board may remove any prisoner imprisoned in the California Institution for Men to any other State prison for males for further imprisonment.

Stats 1941, p 1097

SEC. 8. Section 2711 of said code is hereby amended to read as follows:

Employment of inmates

2711. The board shall cause to be included in the original plans and specifications of the California Institution for Men adequate provision for the employment and useful occupation of the maximum number of men capable of being confined in the institution, as planned. Such employment shall be designed to reduce the cost of maintaining the institution to the lowest figure consistent with good management and with the beneficial training, education and discipline of the prisoners confined therein.

Stats 1941, p 1097

SEC. 9. Section 2712 of said code is hereby amended to read as follows:

Earnings

2712. The board may allow to prisoners at the California Institution for Men such proportion of their earnings above the cost of their maintenance as the board may deem proper.

Stats 1941, p 1102

SEC. 10. Section 2870 of said code is hereby amended to read as follows:

Stamp on articles manufactured

2870. Each and every article manufactured under the provisions of Section 2701 and Section 2702 of this code shall have plainly marked or stamped thereon either the words "San Quentin Prison" or the words "Folsom Prison," or "California Institution for Men," according as such article may be manufactured at one or the other of said prisons.

Stats 1941, p 1102

SEC. 11. Section 2875 of said code is hereby amended to read as follows:

Products to go to public agencies

2875. Products of the California Institution for Men shall so far as possible be supplied for State, county, municipal,

school or other public use, and the prison shall collect or be credited with the fair market price therefor. No manufactured product shall be supplied, sold, exchanged or given away for private use or profit.

SEC. 12 Section 2040 of said code is hereby amended to read as follows: Stats 1941, p 1084

2040. As used in all chapters of this title, except Chapter 8, the word "board" shall mean the State Board of Prison Directors. "Board"

SEC. 13. Section 3705 of said code is hereby amended to read as follows: Stats 1941, p 1118

3705. If there is good reason to believe that a female against whom a judgment of death is rendered is pregnant, such proceedings must be had as are provided in Section 3701, except that instead of a jury, as therein provided, the court may summon three disinterested physicians, of good standing in their profession, to inquire into the supposed pregnancy, who shall, in the presence of the court, but with closed doors, if requested by the defendant, examine the defendant and hear any evidence that may be produced, and make a written finding and certificate of their conclusion, to be approved by the court and spread upon the minutes. The provisions of Section 3702 apply to the proceedings upon such inquiry. Pregnancy of prisoner

SEC. 14. Section 4534 of said code is hereby amended to read as follows: Stats 1941, p 1125

4534. Any person who wilfully assists any paroled prisoner whose parole has been revoked, any escape, any prisoner confined in any prison or jail, or any person in the lawful custody of any officer or person, to escape, or in an attempt to escape from such prison or jail, or custody, is punishable as provided in Section 4533 of the Penal Code. Assisting escape

SEC. 15. Section 4573 of said code is hereby amended to read as follows: Stats 1941, p 1126

4573. Any person, not authorized by law, who brings into any State prison or prison road camp or any jail or any county road camp in this State or within the grounds belonging or adjacent to any such institution, any narcotic, the possession of which is prohibited by Division 10 of the Health and Safety Code, or any alcoholic beverage, is guilty of a felony. Bringing in narcotics

SEC. 16. Section 4700 of said code is hereby amended to read as follows: Stats 1941, p 1126

4700. Whenever a trial is had of any person under any of the provisions of Sections 4530 and 4531 of this code, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any prisoner in the State prison, whenever a prisoner in the State prison is tried for any crime committed therein, and whenever a trial or hearing is had on the question of the insanity of any such prisoner, the county clerk of the county where such trial or hearing is had must make out a statement of all the costs Costs of trial, reimbursement of counties

incurred by the county for the investigation, and the preparation of the trial, and actual trial of such case, or of the hearing on the return of such writ, and all guarding and keeping of such prisoner, and of the execution of the sentence of such prisoner, exclusive of the cost of any report or statement required by Section 1192a of the Penal Code, properly certified to by a judge of the superior court of such county, which statement must be sent to the State Board of Prison Directors for its approval; and after such approval, said board must cause the amount of such costs to be paid out of the money appropriated for the support of the State prison, to the county treasurer of the county where such trial or hearing was had.

CHAPTER 1193

An act to amend Section 2931a of the Civil Code, relating to making the State of California a party to certain actions pertaining to real property.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 1521

SECTION 1. Section 2931a of the Civil Code is hereby amended to read as follows:

State as party in actions relating to real property

2931a. In all actions brought to determine conflicting claims to real property, or for partition of real property under the provisions of Chapter 4, Title 10, Part 2 of the Code of Civil Procedure, or to foreclose a deed of trust, mortgage, or other lien upon real property upon which exists a lien to secure the payment of taxes or other obligations, to the State of California, other than taxes upon such real property, the State of California may be made a party, and in such action the court shall have jurisdiction to determine the priority and effect of the liens described in the complaint in or upon the property, but the jurisdiction of the court in such action shall not include a determination of the validity of the tax giving rise to the lien or claim of lien. The complaint in such action shall contain a description of the lien sufficient to enable the tax or other obligation, payment of which it secures, to be identified with certainty. Services of process in such actions shall be made upon the Secretary of State or his assistant, or any of his deputies, and upon the Attorney General or any of his deputies, and a copy of the complaint shall be delivered to the officer, board, commission, department or division or other body charged with the collection of the tax or obligation. It shall be the duty of the Attorney General to represent the State in all such actions.

CHAPTER 1194

An act to add Section 7c to an act entitled "An act authorizing the establishment of municipal courts, prescribing their constitution, regulation, government, procedure and jurisdiction, and providing for the election and appointment of the judges, clerks and other attaches of such courts, their terms of office, qualifications and compensation and for the selection of jurors therein," approved May 23, 1925, relating to municipal court attaches.

Stats 1925, p 648, amended

[Approved by Governor July 15, 1941 Filed with Secretary of State July 17, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7c is hereby added to the act cited in the title hereof, to read as follows:

New section

Sec. 7c. The judges of the municipal court in cities of the first and one-half class shall appoint as many commissioners, not exceeding four, as the business of the court may require, each of whom shall possess the same qualifications as are required by law to be possessed by a judge, and who shall, within the jurisdiction of the court, exercise all of the powers and perform all of the duties authorized by law to be performed by like officers in any court of this State. Such commissioners shall hold office at the pleasure of the judges. The clerk and any of his deputies, if they possess the same qualifications as are required by law to be possessed by a judge, shall be eligible for appointment as such commissioner and may perform the duties of said office in addition to, or in lieu of, his duties as such clerk or deputy, but shall receive no additional compensation therefor. Such appointment shall in no way affect or prejudice the status, tenure, or right to compensation of such clerk or deputy with respect to his position as such clerk or deputy.

Court commissioners

CHAPTER 1195

An act to add Section 1432.1 to the Penal Code, relating to the procedure in a justice's court when a complaint is filed against the justice of said court.

[Approved by Governor July 15, 1941 Filed with Secretary of State July 17, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1432.1 is hereby added to the Penal Code, to read as follows:

New section

1432.1. When a complaint is filed in a justice's court against a justice thereof, a certificate of that fact must be

Complaint against justice

transmitted by the clerk of the court, or, if there be no clerk of the court, then by the district attorney of the county, to the chairman of the judicial council, who shall thereupon designate and assign another justice of the peace or police judge of the same county to preside at the trial of said complaint and to hear and determine all pleas and motions affecting the defendant thereunder before and after judgment.

CHAPTER 1196

Stats 1933, p 394, amended

An act to amend Section 1063 of the Fish and Game Code, relating to grades of fish and fish products.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 485

SECTION 1. Section 1063 of the Fish and Game Code is hereby amended to read as follows:

Grades

1063. The commission may establish grades for different varieties of fish or fishery products, which grades must be conformed to by persons who take or use sardines for bait or who deliver fish or other fishery products to packers or to fresh fish dealers. Every packer of fish, or fish dealer, or manufacturer of fish products, must conform to the grades established by the commission.

CHAPTER 1197

Stats 1933, p 60, amended

An act to amend the Agricultural Code by adding a new section thereto to be numbered Section 796.2, by amending Section 829.5 thereof and by repealing Section 795.5, and to require uniformity of size, regularity of packing and the use of lidded standard containers in connection with the marketing of citrus fruit.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Legislative finding

SECTION 1. It is hereby found and declared that the citrus industry of California is a permanent industry upon which the prosperity of the State in a large measure depends; that the citrus industry is now, and has for several years been, threatened with severe losses because of low prices received for fruit in markets outside of the State of California and resulting low returns to producers; that unless such conditions are remedied recurring losses in the future are likely to occur; that the effect thereof is to seriously imperil the citrus

industry; that such low prices are in part caused by demoralization of out-of-state markets through the use in the marketing and shipment of citrus fruits from California of deceptive packs and packing containers; that the packing of oranges, lemons or grapefruit in loose or "jumble" packed containers, unlidded, permits the filling of an otherwise standard package with a deceptively small quantity of irregularly sized fruit as compared to the standard package in competition with which it is sold; that these conditions are not so prevalent in markets within the State of California because transportation conditions are such as to cause the greater portion of the fruit sold in such markets to be in loose form; that certain small consumer packages designed for sale in unbroken packages to the consumer do not have at this time these same deceptive or demoralizing tendencies.

SEC. 2. A new section is hereby added to the Agricultural Code to be numbered Section 796.2, and to read as follows: New section

796.2. All oranges, grapefruit or lemons intended for shipment out of the State of California, before being so shipped, shall be regularly packed throughout in lidded standard containers, as specified in this code for such fruit, and shall be uniform in size. As used in this section the term "regularly packed throughout" means that the individual fruits shall be packed in the container in straight rows; and the term "uniform in size" shall mean that not more than 5 per cent, by count, of the fruits in any one container may be more than 15 per cent larger or smaller in diameter than the average diameter of the fruit in the container as marked on the outside end thereof, and that none thereof may be more than 20 per cent larger or smaller in diameter than such average diameter as so marked. Packing of citrus fruit for out-of-State shipment

The provisions of this section shall not apply to (1) the sale, marketing or transportation for sale or marketing of oranges, grapefruit or lemons for charitable purposes, unemployment relief or for use by the United States Government or its agencies for relief distribution, or (2) the sale, marketing or transportation for sale or marketing of oranges, grapefruit or lemons in closed containers intended for sale to the consumer in their unbroken form and the net contents of which do not exceed 15 pounds. Exceptions

SEC. 3. Section 829.5 of the Agricultural Code is amended to read as follows: Stats 1937, p 1195

829.5. Nothing in this chapter prohibits the preparation, packing, shipment or sale of fruits, nuts or vegetables in any experimental type of containers not conforming to the standards prescribed in this chapter, if: Experimental containers

(a) Each such container is conspicuously marked, in letters not less than one-half inch in height, "Experimental Container"; and

(b) Notice of intention to use such containers, stating the quantity intended to be shipped, is given to the director by the person intending to use the same at least 15 days before shipment; and

(c) The quantity of any particular fruit, nut or vegetable shipped in any such experimental type of container in any one calendar year by any person does not exceed 1 per cent of the total car lot quantity of such fruit, nut or vegetable shipped in all types of containers by such person in the preceding calendar year.

Any type of container which is uniformly marked as provided in paragraph (a) of this section and which is not used for shipping fruits, nuts and vegetables in excess of the quantities permitted by paragraph (c) of this section shall be deemed an experimental type of container within the meaning of this section.

Stats 1939, p 1860

SEC. 4. Section 795.5 of the Agricultural Code is hereby repealed.

CHAPTER 1198

An act to appropriate funds to the State Department of Education for the support of the California State Historical Association.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Appropriation. California State Historical Association

SECTION 1. The sum of five thousand dollars ($5,000) is hereby appropriated out of any money in the State Treasury not otherwise appropriated to be expended by the State Department of Education during the Ninety-third and Ninety-fourth Fiscal Years for the support of the California State Historical Association.

CHAPTER 1199

An act to amend Sections 5.792 and 5.796 of the School Code, relating to the merit system of noncertificated employees.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Stats. 1935, p. 1745

SECTION 1. Section 5.792 of the School Code is hereby amended to read as follows:

Adoption of article

5.792. In any school district having an average daily attendance of 850 or more except school districts lying wholly

within a city or city and county which provides in its charter for a merit system of employment for employees not employed in positions requiring certification qualifications the governing board may, by affirmative vote of a majority of its members, adopt the procedure set forth in this article. In any district in which such procedure has been adopted the governing board shall have power and it shall be its duty to employ, pay, and otherwise control the services of persons in positions not requiring certification qualifications only in accordance with the provisions of this article unless otherwise directed by a majority vote of the qualified electors voting thereon at a general election for member or members of the governing board of the school district or districts concerned.

The measure to terminate the merit system instituted under this article shall be placed on the ballot only on petition of not less than 10 per cent of the voters within a given district as determined by the number voting in the last election for member or members of the governing board.

The procedure set forth in this article may also be adopted by a majority vote of the electors of such school districts assenting to such a plan after it has been placed on the ballot at a special or regular election upon the written petition of not less than 10 per cent of the qualified electors as determined by the number voting in the last election for a member or members of the governing board.

SEC. 2. Section 5.796 of the School Code is hereby amended to read as follows: Stats 1935, p 1748

5.796. The commission shall appoint a personnel director within 90 days after the adoption of a merit system pursuant to this article, from an eligibility list established from a competitive examination given under the auspices of the commission. He shall be responsible to the commission for carrying out all procedures in the administration of the classified personnel in conformity with the provisions of this article and the rules of the commission. He shall also act as secretary of the commission and shall prepare, or cause to be prepared, an annual report which shall be sent by the commission to the governing board. Personnel director

CHAPTER 1200

Stats 1937, p 2085, amended

An act to add a new section to the State Civil Service Act, to be numbered 57.5, relating to the officers and employees of the State engaged in the performance of the administration and enforcement of the laws and rules governing persons paroled from the State prisons.

In effect September 13 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 57.5 is hereby added to the State Civil Service Act, to read as follows:

Application of civil service to prison officers and employees

Sec. 57.5. The provisions of Article XXIV of the State Constitution and of this act shall apply to, and the term "State civil service" shall include State officers and employees, except the State Parole Officer, appointed or employed by or under the State Board of Prison Directors or any warden of a State prison or the State Board of Prison Terms and Paroles, and who are engaged exclusively in the administration or enforcement, or the performance or discharge, of the laws, rules or regulations, or the powers or duties thereunder, governing persons paroled or on parole from a State prison.

CHAPTER 1201

An act to add Section 288.1 to the Penal Code, relating to punishment for crimes against children.

In effect September 13, 1941

[Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 288.1 is hereby added to the Penal Code, to read as follows:

Psychiatrist's report required for suspending sentence or paroling offenders

288.1. Any person convicted of committing any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years shall not have his sentence suspended until the court obtains a report from a reputable psychiatrist as to the mental condition of such person, and such person shall not be paroled from prison until a report is received from the prison psychiatrist setting forth the mental condition of the prisoner and stating that the prisoner was under observation while confined in prison.

CHAPTER 1202

An act to amend Section 9704 of the Elections Code and Sections 752 and 760 of "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, relating to officers of fifth class cities, the election and qualification of such officers and the dates of meetings of boards of trustees.

Stats 1939, p 49, and Stats 1883, p 93, amended

[Approved by Governor July 15, 1941 Filed with Secretary of State July 17, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 9704 of the Elections Code is hereby amended to read as follows:

Stats 1939, p 276

9704 A general municipal election shall be held in all cities of the fifth class on the second Tuesday in April, 1943, and on the second Tuesday in April of each fourth year thereafter.

Fifth class cities

SEC. 2. Section 752 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1903, p 40

Sec. 752. The members of the board of trustees, and of the board of education, and the city clerk, city attorney, assessor, marshal, treasurer, and recorder shall be elected by the qualified electors of said city at a general municipal election, to be held therein on the second Tuesday in April, 1903, and on the second Tuesday in April of each fourth year thereafter and shall hold office for the period of four years from and after the Tuesday next succeeding the day of such election, and until their successors are elected and qualified; provided, that a general municipal election shall be held in said city on the second Tuesday in April, 1905, for the election of successors to the members of the board of trustees and of the board of education whose terms of office expire during said year, and said successors shall hold office for the period of two years from and after the Tuesday next succeeding the day of such election, and until their successors are elected and qualified. The board of trustees may in their discretion appoint a poundmaster, also a superintendent of streets, and a city engineer, all of whom shall hold office during the pleasure of the board.

Municipal officers, election and term

Appointive officers

SEC. 3. Section 760 of said act is hereby amended to read as follows:

Stats 1931, p 1104

Sec. 760. The board of trustees shall meet on the Tuesday next succeeding the date of said general municipal election, or special election, shall take the oath of office, shall choose one of their number president, and shall hold regular meetings at least once in each month, at such times as they shall fix by

Meetings of board of trustees

ordinance. Special meetings may be called at any time by the president of the board or by three trustees, by written notice delivered to each member at least three hours before the time specified for the proposed meeting. All meetings of the board of trustees shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

CHAPTER 1203

Stats 1939, p 49, amended

An act to amend Sections 2101, 2103, 2104, 2105, 2106, 2110, 2150, 2153, 2156, 2200, 2201, 2205, 2206, 2250, 2251, 2253, 2304, 2350, 2353, 2400, 2401, 2420, 3871, 3878, 3879 and 3880 of, and to amend the article heading of Article 10, Chapter 1, Division 5 of, to add Sections 2420.5, 3709.5 and 3873 to, and to repeal Sections 2109, 2151, 2154, 2202, 2257, 2302, 2303, 3873, 3874, 3875, 3876 and 3877 of, the Elections Code, relating to presidential primaries, including the election and appointment of presidential delegates, presidential primary ballots, and lists of candidates for delegate.

In effect September 13, 1941

[Approved by Governor July 15, 1941 Filed with Secretary of State July 17, 1941]

The people of the State of California do enact as follows:

Stats 1939, p 100

SECTION 1. Section 2101 of the Elections Code is hereby amended to read as follows:

Nomination papers, time for filing

2101. Nomination papers properly prepared, circulated, signed and verified shall be left with the county clerk of the county in which they are circulated for examination, at least 40 days prior to the presidential primary. Upon the filing of nomination papers pursuant to this chapter, the persons named in such papers shall be voted upon as delegates to the respective National conventions of the several political parties, but their names shall not be printed upon the ballots of their respective parties.

Names not printed on ballot

Stats 1939, p 101

SEC. 2. Section 2103 of the Elections Code is hereby amended to read as follows:

Filing with Secretary of State

2103. When a nomination paper or sections thereof have been received which contain a number of signatures equal to 2 per cent of the vote constituting the basis of percentage, the Secretary of State shall not receive or file further sections of the nomination paper for the group of candidates named therein.

Stats 1939, p 101

SEC. 3. Section 2104 of the Elections Code is hereby amended to read as follows:

Maximum signatures

2104. No more signatures shall be secured for any group of candidates than a number equal to 3 per cent of the vote

constituting the basis of percentage. If through miscalculation or otherwise more signatures are secured than the 3 per cent, all sections of the nomination paper containing signatures in excess of 3 per cent shall be sent to the group of candidates. Before any nomination paper is filed, the candidates shall notify each person who has signed the excess sections that his name has not been used. Notification to signers on excess sections

SEC. 4. Section 2105 of the Elections Code is hereby amended to read as follows: Stats 1939, p. 101

2105. Each signer of a nomination paper may sign only one paper. He shall declare his intention to support the group of candidates for nomination, and shall add his place of residence, and give his street and number if any. His election precinct shall also appear on the paper just preceding his name, and he shall write the date of his signature at the end of the line just after his residence. Contents

SEC. 5. Section 2106 of the Elections Code is hereby amended to read as follows: Stats 1939, p. 101

2106. Any nomination paper may be presented in sections. Each section shall contain the names of the candidates comprising the group and state that they are candidates for delegates. Each section shall bear the name of the city, if any, and also the name of the county in which it is circulated. Only voters of the county registered as intending to affiliate with the political party by which the nominations are to be made are competent to sign. Any section circulated within an incorporated city may be signed only by voters of that city. Nomination paper in sections

SEC. 6. Section 2109 of the Elections Code is hereby repealed. Stats 1939, p 102

SEC. 7. Section 2110 of the Elections Code is hereby amended to read as follows: Stats 1939, p 103

2110. A candidate for delegate shall file a statement in which he enrolls himself with other delegates in expressing his preference for the same person as candidate for presidential nominee. Filing candidate's statement

SEC. 8. Section 2150 of the Elections Code is hereby amended to read as follows: Stats 1939, p 104

2150. A group of candidates for delegate may appoint verification deputies to serve within the county in which the deputies reside in securing signatures to the nomination paper of the group of candidates. The verification deputies thus appointed are the duly authorized verification deputies to secure signatures to the nomination paper of the group of Appointment of verification deputies

Filing of form of appointment

candidates in that county. The form on which the verification deputies are appointed shall be filed with the county clerk of the county in which the verification deputies reside, at or before the time the nomination paper of the group of candidates is left with the county clerk for examination.

Additional deputies

Additional verification deputies may be appointed in the same manner as the original verification deputies were appointed.

Stats 1939, p 105

SEC. 9. Section 2151 of the Elections Code is hereby repealed.

Stats 1939, p 106

SEC. 10. Section 2153 of the Elections Code is hereby amended to read as follows:

Nomination committee

2153. Any five voters of any county who are registered as intending to affiliate with the same political party may join as a committee in proposing the nomination of a group of candidates for delegate, and in appointing verification deputies to serve within the county in securing signatures to the nomination paper of the group of candidates. The signatures of the members of the committee shall be verified free of charge before any officer authorized to administer oaths. The form containing their signatures shall be filed with the county clerk of the county in which the members reside, at or before the time the nomination paper of the group of candidates is left with the county clerk for examination. In the form, the members shall make affidavit that the group of candidates therein named have given consent to be thus proposed for nomination to the office of delegate. The form shall also state that the verification deputies therein appointed are voters of the county. The verification deputies therein appointed are the duly authorized verification deputies to secure signatures to the nomination paper of the group of candidates in the county. Additional verification deputies may be appointed in the same manner as the original verification deputies were appointed.

Appointment of verification deputies

Filing of forms

Contents

Additional deputies

Stats 1939, p 106

SEC. 11. Section 2154 of the Elections Code is hereby repealed.

Stats. 1939, p 109

SEC. 12. Section 2156 of the Elections Code is hereby amended to read as follows:

Time limits for obtaining signatures

2156. Verification deputies may obtain signatures to the nomination paper of the group of candidates by whom or for whom they were appointed, at any time not more than 65 nor less than 40 days prior to the presidential primary.

Stats 1939, p 109

SEC. 12.5. Section 2200 of the Elections Code is hereby amended to read as follows:

Maximum number on nomination paper

2200. The number of candidates for delegates grouped on a nomination paper shall be equal to the total number of delegates to be elected by the party.

SEC. 13. Section 2201 of the Elections Code is hereby amended to read as follows: Stats 1939, p 109

2201. The names of the grouped candidates shall be so selected that the smallest number of candidates who reside in any one congressional district shall not be less than the integer of the quotient obtained by dividing the number of the names of candidates appearing upon the same nomination paper by the total number of congressional districts of the State, and that the largest number of candidates who reside in any one congressional district shall not be greater than twice that integer. If the names are not so selected, the names shall not be certified by the county clerk to the Secretary of State. Residence requirements

SEC. 14. Section 2202 of the Elections Code is hereby repealed. Stats 1939, p 109

SEC. 15. Section 2205 of the Elections Code is hereby amended to read as follows: Stats 1939, p 111

2205. No candidates for delegate not indorsed by the candidate for presidential nominee or by his State campaign committee shall be represented on the ballot by a group-heading favoring a candidate for presidential nominee. Failure to obtain endorsement

SEC. 16. Section 2206 of the Elections Code is hereby amended to read as follows: Stats 1939, p 111

2206 Any candidate whose nomination paper is filed in more than one group shall be considered as a part of that group which has had the indorsement first filed. Filing in more than one group

SEC. 17. Section 2250 of the Elections Code is hereby amended to read as follows: Stats 1939, p 111

2250. Each section of a nomination paper, after being verified, shall be returned by the verification deputy who circulated it to one of the five voters by whom the verification deputy was appointed. All the sections circulated in any county shall be collected by those five voters and shall be by them arranged and left with the county clerk for examination. If the verification deputy was appointed directly by the group of candidates, the collecting, arranging, and leaving for examination shall be done by the group of candidates or on their behalf, instead of by the five voters. Sections to be returned after verification

SEC. 18. Section 2251 of the Elections Code is hereby amended to read as follows: Stats 1939, p 111

2251. Prior to filing, the sections of a nomination paper for any group of candidates shall be numbered in order and fastened together by cities or portions of the county not included in cities, substantially in the manner required for the binding of affidavits of registration. Fastening together of sections

Stats 1939, p 112

SEC. 19. Section 2253 of the Elections Code is hereby amended to read as follows:

Form of index

2253. The index to the nomination papers of candidates for delegate shall be in substantially the following form:

INDEX TO NOMINATION PAPERS OF CANDIDATES FOR DELEGATE

Names of Candidates
1. _____
2. _____
Etc. _____
Party _____
Sections 1 to_____, inclusive, containing_____signatures, circulated as follows:
Sections 1 to _____, inclusive, in_____
(Designate city or town or outside territory)
Sections _____ to _____, inclusive, in_____
(Designate city or town or outside territory)
Etc.

_____
(Designate city or town)

Name or Number of Precinct	Numbers of Sections Containing Voters of Precincts
1 _____	Sec. 1 (__ times); Sec. 2 (__ times); Etc.
2 _____	Sec. 1 (__ times); Sec. 2 (__ times); Etc.
Etc.	Etc. Etc. Etc.

_____
(Designate outside territory)

Name or Number of Precinct	Numbers of Sections containing Voters of Precincts
1 _____	Sec.__ (__ times); Sec.__ (__ times); Etc.
2 _____	Sec.__ (__ times); Sec.__ (__ times); Etc.
Etc.	Etc. Etc. Etc.

Stats 1939, p 113

SEC. 20. Section 2257 of the Elections Code is hereby repealed.

Stats 1939, p 115

SEC. 21. Sections 2302 and 2303 of the Elections Code are hereby repealed.

Stats 1939, p. 115

SEC. 22. Section 2304 of the Elections Code is hereby amended to read as follows:

Delegate's statement

2304. Each candidate for delegate shall file the following:

DELEGATE'S STATEMENT

"I personally prefer _____ as nominee of my political party for President of the United States, and hereby declare to the voters of my party in the State of California that if elected as delegate to their National party convention, I shall, to the best of my judgment and ability, support _____ as nominee of my party for President of the United States.

And I hereby enroll myself in the expression of preference for _____ for presidential nominee, as one of the group of the following named candidates for delegate:

_____ _____ _____
_____ _____ _____
_____ _____ _____

Etc.

(the blanks immediately following the word "delegate" being filled in by the printed or typewritten names of all the candidates for delegate, including the signer, whose names appear upon the same nomination paper, pursuant to this article).

(Signed)_____."

SEC. 23. Section 2350 of the Elections Code is hereby amended to read as follows: Stats 1939, p. 116

2350. At least 30 days before a presidential primary the Secretary of State shall transmit to each county clerk a certified list containing the names and addresses of the candidates for delegate for whom nomination papers have been filed and who are entitled to be voted for at the presidential primary. The certified list shall be in substantially the following form: Certified list of candidates Form

CERTIFIED LIST OF CANDIDATES FOR DELEGATE.
DEPARTMENT OF STATE

To the County Clerk of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name and post-office address of each person for whom nomination papers have been filed in my office and who is entitled to be voted for at the presidential primary to be held on Tuesday, the _____ day of May, 19___, as delegate to the next National convention of that party under which his name hereinafter appears; I further certify that in the list under the name of each party, and under the name of the person for whom a preference as nominee of the party for President has been expressed, there is stated the name of each candidate for delegate who has filed a statement of preference for that person and who has been indorsed as required by law, and who may be voted for as one of a group.

LIST OF CANDIDATES

----------Party

Candidates Preferring	Candidates Preferring	Candidates Preferring	
Name Address Top of Group	Name Address Top of Group	Name Address Top of Group	
1----------	1----------	1----------	
2----------	2----------	2----------	
3----------	3----------	3----------	
etc.----------	etc.----------	etc.----------	

----------Party

(etc., as above with each political party.)

Dated at Sacramento, California, this----------day of----------, 19----.

(Seal)

Secretary of State.

Stats 1939, p. 117

SEC. 24. Section 2353 of the Elections Code is hereby amended to read as follows:

Form of notice by county clerk

2353. The notice of the list of candidates published by the county clerk shall be in substantially the following form:

NOTICE BY COUNTY CLERK OF TIME AND PLACE OF PRESIDENTIAL PRIMARY ELECTION, POLITICAL PARTIES ENTITLED TO PARTICIPATE THEREIN, AND NAMES AND ADDRESSES OF CANDIDATES FOR DELEGATE

Notice is hereby given that a presidential primary election is to be held in the County of ------ on Tuesday the ------ day of May, 19---, and that hereinafter under the designation of each of the political parties entitled to participate therein there is stated the name and address of each person for whom nomination papers have been filed in the office of the Secretary of State and who is entitled to be voted for, at the election, as delegate to the next National convention of that party under which his name appears; and that under the name of each party, and under the name of the person for whom a preference as nominee of that party for President has been expressed, there is stated the name of each of those candidates for delegate who has filed a statement of preference for that person and has been indorsed as required by law, and who may be voted for as one of a group:

LIST OF CANDIDATES

----------Party

Candidates Preferring	Candidates Preferring	Candidates Preferring	
Name Address	Name Address	Name Address	
Top of Group	Top of Group	Top of Group	
1----------	1----------	1----------	
2----------	2----------	2----------	
3----------	3----------	3----------	
etc.----------	etc.----------	etc.----------	

----------Party

--------(etc., as above with each political party.)

Notice is also hereby given that at the presidential primary the polls will be open from the hour of 6 o'clock a.m. to the hour of 7 o'clock p.m on the day thereof, and that during those hours the election will be held at the legally designated polling places in each precinct in the county, which are as follows:

City of----------

(Name or number of precinct) (Location of Polling Place)

Precinct----------

Precinct----------

Town of----------

Precinct ----------

---------- Township (outside of city)

Precinct ----------

Dated this -------- day of --------, 19----.

----------, County Clerk.

SEC. 25. Section 2400 of the Elections Code is hereby amended to read as follows: Stats 1939, p 119

2400. The Secretary of State shall, not later than the twenty-first day after the election, compile and file in his office a statement of the canvassed returns filed with him by the county clerks. Statement of returns

The compiled statement shall show for each group both the total of the votes received and the votes received in each congressional district, and the names of the candidates comprising that group. Votes for each candidate

SEC. 26. Section 2401 of the Elections Code is hereby amended to read as follows: Stats 1939, p 119

2401. Immediately after he has compiled the returns of the votes for delegates, the Secretary of State shall issue a Certificates of election to be issued to delegates

certificate of election as to each party to each person who is a member of the group which received the largest vote cast for any group of that party, such person thereby being elected as delegate to his National party convention.

Stats 1939, p 120

SEC. 26.3. The article heading of Article 10, Chapter 1, Division 5 of the Elections Code is hereby amended to read as follows:

Article 10. Substitute and Alternate Delegates

Stats 1939, p 120

SEC. 26.6. Section 2420 of the Elections Code is hereby amended to read as follows:

Meeting to select alternates and chairman

2420. The delegates to each National party convention elected at the presidential primary shall, before leaving the State to attend the convention, meet together and select a chairman of the group. At the meeting they shall also select alternates to the convention.

New section

SEC. 26.8. Section 2420.5 is hereby added to the Elections Code, to read as follows:

Substitute delegates

2420.5. In the event a vacancy exists in the group, the chairman shall designate a person to fill that vacancy and serve as delegate. Such person shall be selected from the congressional district of the delegate whose place he has been appointed to fill. If such substitute delegate is unable to attend the convention, then his alternate shall attend the convention in his place.

Stats 1939, p 181

SEC. 27. Section 3871 of the Elections Code is hereby amended to read as follows:

Arrangement of ballot in parallel columns

3871. The names of the candidates for delegate of any political party shall not appear upon the ballot. In lieu thereof the names of the persons preferred for President by each group of candidates shall be arranged upon the ballot of the party in parallel columns. The person preferred by that group of candidates which first files its nomination paper with the Secretary of State shall be entitled to the first or left hand column; the person preferred by the group which next files it nomination paper shall be entitled to the second column; and similarly for all other persons preferred by other groups.

Repeals

SEC. 28. Sections 3873, 3874, 3875, 3876 and 3877 of the Elections Code are hereby repealed.

New section

SEC. 29. A new Section 3873 is hereby added to the Elections Code, to read as follows:

Contents of column

3873 In the center of each column so headed and not less than one inch or more than two inches below the line separating the heading from the rest of the column, there shall be a

voting square one-half of an inch square. Immediately under the square there shall be printed across the width of the column in heavy face, 12-point, gothic type, these instructions, "A cross (+) stamped in this square shall be counted as a vote for all candidates preferring _____" (The blank being filled in with the name of the candidate for presidential nominee heading the column.)

SEC. 30. Section 3878 of the Elections Code is hereby amended to read as follows: Stats 1939, p 182

3878. At the top of the ballot shall be printed "Official presidential primary election ballot." and the instructions to voters shall be as follows: "To vote for the group of candidates preferring a person whose name appears on the ballot, stamp a cross (+) in the square in the column headed by the name of the person preferred." Instructions at top of ballot

SEC. 31. Section 3879 of the Elections Code is hereby amended to read as follows: Stats 1939, p 182

3879. There shall be printed in heavy face, 12-point, gothic type, across the page above the columns of groups of candidates for delegates, the words, "For delegates to National convention. Vote for one group only." Instructions above columns

SEC. 32. Section 3880 of the Elections Code is hereby amended to read as follows: Stats 1939, p 182

3880. The ballot shall be printed substantially in the following form: Form of ballot

Official Presidential Primary Election Ballot

REPUBLICAN PARTY

Third Assembly District, May——, 19—

To vote for the group of candidates preferring a person whose name appears on the ballot stamp a cross (+) in the square in the column headed by the name of the person preferred.

For Delegates to National Convention Vote for one group only			
Candidates Preferring JOHN P MONROE	Candidates Preferring WILLIAM ADAMS	Candidates Preferring HENRY JACKSON	Candidates Preferring JOE BLACK
☐	☐	☐	☐
A cross (+) stamped in this square shall be counted as a vote for all candidates preferring John P Monroe	A cross (+) stamped in this square shall be counted as a vote for all candidates preferring William Adams	A cross (+) stamped in this square shall be counted as a vote for all candidates preferring Henry Jackson	A cross (+) stamped in this square shall be counted as a vote for all candidates preferring Joe Black

New section SEC. 33. Section 3709.5 is hereby added to the Elections Code, to read as follows:

List of candidates for delegate 3709.5. At the time the county clerk prepares sample ballots for each political party at the presidential primary, he shall also prepare a list of candidates for delegate for each political party. The list shall be printed upon a sheet of paper separate from the sample ballot. The names of the candidates for delegate of any political party shall be arranged upon the list of candidates for delegate of that party in parallel columns under their preference for President. The order of groups on the list shall be the same as the order in which the names of the persons they prefer appear upon the ballot. Each column shall be headed in heavy face 10-point, gothic type as follows: "The following delegates are pledged to _____." (The blank being filled in with the name of that candidate for presidential nominee for whom the members of the group have expressed a preference.) The names of the candidates for delegates shall be printed in 8-point, roman capital type.

Distribution with sample ballot One copy of the list of candidates for delegate of the party to which the voter belongs shall be mailed to each voter entitled to vote at the presidential primary at the same time and together with the sample ballot. Copies of the list of candidates for delegate of each party shall also be submitted by the county clerk to the chairman of the county committee of that party, and the county clerk shall post a copy of each list in a conspicuous place in his office.

CHAPTER 1204

Stats 1935, p 1123, amended *An act to repeal Section 55.8 of the Alcoholic Beverage Control Act.*

In effect September 13, 1941 [Approved by Governor July 15, 1941. Filed with Secretary of State July 17, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 2174 SECTION 1. Section 55.8 of the Alcoholic Beverage Control Act, as cited in the title hereof, is hereby repealed.

CHAPTER 1205

An act to add Section 7377 to the Business and Professions Code, relating to cosmetology.

Stats 1937, p. 1229, amended

[Approved by Governor July 15, 1941 Filed with Secretary of State July 17, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7377 is hereby added to the Business and Professions Code, to read as follows:

New section

7377. Every person who, on the effective date of Section 7457, was a licensed hairdresser and cosmetician or cosmetologist, and who has had one year of teaching experience in a majority of the branches of cosmetology within the five years preceding such effective date, and who applied to the board within 90 days after such effective date, either by formal application or by other written communication, shall receive an instructor's permit without examination. No fee shall be charged.

Instructor's permit

CHAPTER 1206

An act to amend Sections 19008, 19009, 19010, 19016, 19018, 19050, 19053, 19057, 19060, 19070, 19071, 19080, 19081, 19082, 19084, 19085, 19086, 19090, 19095, 19096, 19124, 19125, 19127, 19151, 19157, 19159, 19170, 19173, 19202, 19203, 19207 and 19208, to add Sections 19007.5, 19010.5, 19012.5, 19049, 19065, 19080.5, 19089.5, 19123.4, 19123.5, 19123.6, and to repeal Sections 19130, 19152, 19156, of the Business and Professions Code, relating to the regulation of the business of manufacturing, selling, repairing, renovating and sterilizing bedding and upholstered furniture.

Stats 1937, p. 1229, amended

[Approved by Governor July 15, 1941 Filed with Secretary of State July 17, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION. 1. Section 19007.5 is hereby added to the Business and Professions Code, to read as follows:

New section

19007.5. "Filling material" means cotton, wool, kapok, feathers, downs, hair, or any other material, or any combination thereof, loose or in batting, pads, or any other prefabricated form, concealed or not concealed to be used or that could be used in articles of bedding or upholstered furniture.

"Filling material"

Stats 1941, p. 644

SEC. 2. Section 19008 of the Business and Professions Code is hereby amended to read as follows:

"Secondhand"

19008. "Secondhand" means any material or article of which prior use has been made, and includes shoddy made of either new or used defabricated material, thread, yarn, or dyed or stripped fibers, and sweepings not otherwise classed as new in this chapter.

Any article of upholstered furniture or bedding is secondhand if it contains any secondhand material in whole or in part.

Any article of upholstered furniture or bedding on sales floors in a private residence or room, which is not separated from living quarters, is secondhand furniture or bedding.

Stats 1941, p. 644

SEC. 3. Section 19009 of the Business and Professions Code is hereby amended to read as follows:

"Manufacturer"

19009. "Manufacturer" means a person who either by himself or through employees or agents, makes any article of upholstered furniture or bedding in whole or in part, or who does the upholstery or covering of any structural unit thereof, using either new or secondhand material.

Stats 1941, p. 644

SEC. 4. Section 19010 of the Business and Professions Code is hereby amended to read as follows:

"Wholesaler"

19010. A "wholesaler" is a person who sells any article or thing to another for the purpose of resale, but shall not include an affiliate or a subsidiary corporation where the ownership is identical, and which is the exclusive sales outlet of such a manufacturing plant.

New section

SEC. 4.5. Section 19010.5 is hereby added to said code, to read as follows:

"Retailer"

19010.5. A "retailer" is a person who sells any article or thing to a consumer or user of the article as purchased.

New section

SEC. 5. Section 19012.5 is hereby added to the Business and Professions Code, to read as follows:

"Supply dealer"

19012.5. "Supply dealer" means a person licensed by the bureau to manufacture, process or sell at wholesale any felt, batting, pads, or loose material in bags or containers, concealed or not concealed, to be used or that could be used in articles of bedding or upholstered furniture.

Stats. 1941, p. 645

SEC. 6. Section 19016 of the Business and Professions Code is hereby amended to read as follows:

"Slip cover"

19016. "Slip cover" means any casing or cover without filling material and meeting any of the following requirements:

(a) Which is for use, or is, or is to be placed, on or over any completely manufactured article of upholstered furniture or bedding.

(b) Which covers or conceals the upholstered furniture or bedding in whole or in part.

(c) Which is closed or held in place by snaps, or hooks and eyes, or lacing so that it may be removed without the use of tools or instruments.

(d) Which is not permanently attached by tacking, sewing, or in any other manner.

(e) Any person engaged exclusively in the manufacture of slip covers shall not be required to have a license under the provisions of this chapter.

SEC. 7. Section 19018 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 646

19018. "Sweepings" means materials which are refuse, and which are salvaged from gins, furniture and bedding factories, textile plants or plants using fibers or materials made therefrom. New material which is free from refuse, dirt or other contamination shall not be classified as sweepings, but sweepings shall be classified as secondhand material. "Sweepings"

SEC. 7.5. Section 19049 is hereby added to said code, to read as follows: New section

19049. It shall be unlawful for any person to engage in a business regulated by this chapter unless he has first obtained the proper license as required by this chapter. License required

SEC. 8. Section 19050 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 646

19050. Except as otherwise provided in this chapter, any person who advertises, solicits, or contracts to manufacture, repair, or renovate upholstered furniture or bedding, and who either does the work himself or has others do it for him, shall secure the particular license required by this chapter for the particular type of work that he solicits or advertises that he will do, regardless of whether he has a shop or factory. License for particular types of work

SEC. 9. Section 19053 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 647

19053. Every person repairing upholstered furniture or sterilizing any article of upholstered furniture or bedding, unless he holds a furniture manufacturer's license, shall annually obtain a furniture repairer's license from the bureau, bearing a serial number assigned by the bureau. Furniture repairer's license

Stats 1941, p 647

SEC. 10. Section 19057 of the Business and Professions Code is hereby amended to read as follows:

Supply dealer's license

19057. Every person manufacturing, processing or selling at wholesale, any felt or batting or any pads or loose material in bags or containers for use in bedding or upholstered furniture, unless he holds a bedding manufacturer's or an upholstered furniture manufacturer's license, shall annually procure a supply dealer's license from the bureau bearing a serial number assigned by it. Each and every branch house is likewise subject to this license provision.

Stats 1941, p. 647

SEC. 11. Section 19060 of the Business and Professions Code is hereby amended to read as follows:

Separate licenses for branches

19060. Every person in any class shall secure a separate license for each branch house; but one whose manufacturing plant is located in another State or foreign country, and who is licensed to manufacture upholstered furniture or bedding for sale in California, may have one wholesale outlet covered by the license issued to the factory.

Any person who sells either directly or indirectly to any person either at wholesale or retail any merchandise subject to this chapter by means of a car, catalog, office or in any other manner, shall secure the proper license for each such method of sale or distribution.

New section

SEC. 12. Section 19065 is hereby added to the Business and Professions Code, to read as follows:

Applicant to set forth class of business

19065. The bureau shall require an applicant for license under the provisions of this chapter to clearly set forth the particular class or classes of business in which he proposes to engage.

The licensee shall notify the bureau of any change of class after the issuance of any license provided for in this chapter.

Stats 1941, p. 648

SEC. 13. Section 19070 of the Business and Professions Code is hereby amended to read as follows:

Where chapter inapplicable

19070. This chapter shall not apply to upholstered furniture or bedding manufactured, repaired or renovated which is for sale without the borders of this State, except that if such articles when manufactured, repaired, or renovated, contain, in whole or in part, secondhand materials, such articles shall be sterilized in accordance with this chapter.

Stats 1941, p 648

SEC. 14. Section 19071 of the Business and Professions Code is hereby amended to read as follows:

Sterilization of secondhand material

19071. Secondhand upholstered furniture or bedding, or secondhand filling materials to be used or that could be used in

upholstered furniture or bedding, received from outside of this State shall comply with all the sterilization provisions of this chapter before it is accepted, sold or delivered, either directly or indirectly by any person.

SEC. 15. Section 19080 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 649

19080. A person shall not, at wholesale or retail, or otherwise, directly or indirectly, make, repair, renovate, or sell any article of new or secondhand upholstered furniture or bedding for use in any household, or place of abode, or which can be used by human beings, if it is made of any new or secondhand material which is hidden or concealed by fabric, or any other covering unless such article is plainly and indelibly stamped, or labeled as provided in this chapter and approved by the bureau. Stamping or labeling

SEC. 16. Section 19080.5 is hereby added to the Business and Professions Code, to read as follows: New section

19080.5. A person shall not, at wholesale or retail, or otherwise, directly or indirectly, make, process, prepare, felt, or sell any filling material to be used or that could be used in upholstered furniture or bedding, unless such material is plainly and indelibly labeled with a tag or other marking as provided in this chapter and approved by the bureau. Same

SEC. 17. Section 19081 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 649

19081. A person shall not, directly or indirectly, sell in this State at wholesale or retail any article of upholstered furniture or bedding, or any filling materials to be used or which could be used in upholstered furniture or bedding, manufactured out of the State unless it is labeled in accordance with the provisions of this chapter and fully complies with all the requirements of this chapter. Same

SEC. 18. Section 19082 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 619

19082. If any secondhand upholstered furniture or bedding is not repaired or renovated before being offered for sale, it is not required to be labeled in order to be sold. Same Exceptions

If the secondhand upholstered furniture or bedding is repaired or renovated, it shall be labeled as required by this chapter before being sold.

Articles or materials required by this chapter to be sterilized shall not be affected by this section.

Stats 1941, p. 649

SEC. 19. Section 19084 of the Business and Professions Code is hereby amended to read as follows:

Content of label

19084. The label shall show or state:

(a) Whether the concealed materials are new or secondhand. If the materials are wholly new, the heading shall read "All New Material." If the materials are in whole or in part secondhand, the heading shall read "Secondhand Material."

(b) The kind and grade of each filling material used, and the quantity of each expressed in percentages arrived at on a basis of the avoirdupois weight of such filling materials only. "Filling materials" as used in this section does not include metal springs or parts.

(c) A statement that "This label is attached as required by law as a certification that this article is as represented."

(d) The serial number of the manufacturer, assigned by the bureau.

(e) If desired, the label may describe the frame, cover and style of the article.

Stats 1941, p. 650

SEC. 20. Section 19085 of the Business and Professions Code is hereby amended to read as follows:

Bedding label

19085. In addition to the contents of a label required by other provisions of this chapter, the bedding label shall show:

(a) The finished size expressed in linear measure, clearly indicating its length and breadth.

(b) The gross weight of mattresses, including springs or metal construction.

Stats 1941, p. 650

SEC. 21. Section 19086 of the Business and Professions Code is hereby amended to read as follows:

Comforter labels

19086. Comforter labels shall show the cut size and net weight of the filling material. The bureau shall by regulation establish a reasonable tolerance from the cut size measurements as shown on the label.

New section

SEC. 22. Section 19089.5 is hereby added to the Business and Professions Code, to read as follows:

Labeling of material

19089.5. Before being offered or exposed for sale any material to be used, or that could be used in upholstered furniture or bedding, which consists wholly of new material shall be labeled "all new material" in black ink. All other such material shall be labeled "secondhand material" in red ink.

Stats 1941, p. 650

SEC. 23. Section 19090 of the Business and Professions Code is hereby amended to read as follows:

Prefabricated material

19090. Before being sold, offered or exposed for sale, cotton, wool, kapok, feathers, downs, or any other material, or

any combination thereof, loose, in batting, pad or any other prefabricated form, concealed or not concealed, to be used, or that could be used, in articles of bedding or upholstered furniture shall be labeled with a tag or other device setting forth its true contents in accordance with this chapter.

SEC. 24. Section 19095 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 651

19095. The "owner's material" label shall be securely attached to the article or filling material at the factory, or shop, and it shall be fixed in position so that it may be conveniently examined. "Owner's material" label

SEC. 25. Section 19096 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 651

19096. The "owner's material" label shall show or state: Same· Contents

(a) This article or filling material not for sale.

(b) This article or filling material is repaired, renovated, reconditioned or refelted under the provisions of the Furniture and Bedding Inspection Act and this label is attached as required by the act as a certification that this article or filling material is as represented.

(c) That this article or filling material contains the same material as it did when it was received from the owner.

(d) In the space provided, the kind and quantity of any material added, which shall be new material.

(e) The date repaired or renovated, together with the name and address of the owner, which shall be either stamped or written in ink.

(f) The serial number of the repairer or renovator, assigned by the bureau.

SEC. 26. Section 19123.4 is hereby added to the Business and Professions Code, to read as follows: New section

19123.4. Newly manufactured articles of upholstered furniture and bedding which contain any secondhand filling material shall be sterilized before they are offered or exposed for sale. Articles containing secondhand filling material

SEC. 27. Section 19123.5 is hereby added to the Business and Professions Code, to read as follows: New section

19123.5. Every article of upholstered furniture and bedding and all filling material, repaired, renovated, reconditioned or refelted for resale or repaired or renovated for an owner but subsequently designed for sale shall be sterilized before being offered or exposed for sale. Repaired and renovated articles

New section SEC. 28. Section 19123.6 is hereby added to the Business and Professions Code, to read as follows:

Same 19123.6. Every article of upholstered furniture or bedding repaired, renovated, or reconditioned, and all filling material to which has been added secondhand material from any source, shall be sterilized in accordance with the provisions of this chapter.

Stats 1941, p 653 SEC. 29. Section 19124 of the Business and Professions Code is hereby amended to read as follows:

Sterilization label 19124. Every person who at wholesale or retail or otherwise receives for sterilization any upholstered furniture or bedding, or filling material to be used or that can be used in upholstered furniture or bedding, for resale shall sterilize all such articles and material in accordance with this chapter and shall affix a sterilization label, approved by the bureau, immediately after the sterilization has been completed. The label shall be securely attached to the article or material at the sterilizing plant as evidence that the article has been sterilized by a process approved by the California State Department of Public Health. Such label shall be fixed in position where it may be conveniently examined.

All articles or materials required to be sterilized shall bear the sterilization label required by this chapter.

Stats 1941, p. 653 SEC. 30. Section 19125 of the Business and Professions Code is hereby amended to read as follows:

Contents 19125. The sterilization label shall show or state:

(a) That the article or filling material has been sterilized by a process approved by the California State Department of Public Health.

(b) The lot number and label number of the attached sterilization label.

(c) The kind of article or filling material sterilized, and a statement as to the cushions, pads and pillows belonging to or forming a part of it.

(d) The name of the person for whom sterilized.

(e) The date sterilized.

(f) The name, address and serial number of the sterilizing plant, assigned by the bureau.

Stats 1941, p 653 SEC. 31. Section 19127 of the Business and Professions Code is hereby amended to read as follows:

Form, printing, etc., of labels 19127. The form for sterilization labels shall be approved by the bureau. All sterilization labels shall be printed on

paper approved by the bureau. Such labels shall be sold only to licensed sterilizers under this chapter. Illegal possession of any sterilization label is a violation of this chapter.

Void or mutilated labels shall be returned to the bureau.

SEC. 32. Section 19130 of the Business and Professions Code is hereby repealed. Stats 1941, p 654

SEC. 33. Section 19151 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 655

19151. It is unlawful to use in the statement concerning any upholstered furniture, bedding or filling material the word "hair" unless the material so named is entirely manufactured of animals' hair. Use of "hair"

SEC. 34. Section 19152 of the Business and Professions Code is hereby repealed. Stats 1941, p 655

SEC. 35. Section 19156 of the Business and Professions Code is hereby repealed. Stats 1941, p 655

SEC. 36. Section 19157 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 655

19157. The bureau shall establish grades, specifications and tolerances on the kinds and qualities of materials which are used or intended to be used, or that could be used, in the manufacture of upholstered furniture or bedding, and may approve or adopt standard designations and rules for the proper labeling of articles filled with these materials not in conflict with any provisions of this chapter. All grades, specifications, tolerances and labeling rules shall be enforced by all inspectors. Establishment of grades, specifications, etc

No rule, regulation, grade, specification or tolerance promulgated by the bureau shall be operative or in effect until the rule, regulation, grade, specification or tolerance has been approved by the director.

SEC. 37. Section 19159 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 656

19159. A person shall not, directly or indirectly, sell any upholstered furniture, bedding or filling materials made, repaired, renovated, or sterilized in violation of this chapter. Prohibition

Stats 1941, p 656

SEC. 38. Section 19170 of the Business and Professions Code is hereby amended to read as follows:

Annual fees

19170. The annual fee imposed for each license granted under this chapter shall be ascertained by reference to the following table:

Furniture manufacturer's license	$30.00
Wholesale furniture dealer's license	$30.00
Bedding manufacturer's license	$30.00
Wholesale bedding dealer's license	$30.00
Supply dealer's license	$30.00
Furniture repairer's license	$20.00
Bedding renovator's license	$20.00
Sterilizer's license	$20.00
Retail furniture dealer's license	$5.00
Retail bedding dealer's license	$5.00

Stats 1941, p 656

SEC. 39. Section 19173 of the Business and Professions Code is hereby amended as follows:

Renewal fees, delinquency

19173. Renewal license fees, which are not paid before September 1st, shall become delinquent, and there shall be added to the requisite fee a penalty of 20 per cent. If such fee and delinquent penalty is not paid on or before October 1st the licensee shall be subject to such further penalties as provided elsewhere in this chapter.

Stats 1941, p 657

SEC. 40. Section 19202 of the Business and Professions Code is hereby amended to read as follows:

Condemnation or seizure of unlawful articles

19202. The bureau may condemn, seize or destroy any upholstered furniture or bedding which is found to be in violation of this chapter.

The bureau may condemn, seize or destroy any filling material, units or other constructural parts, intended to be used, or that could be used, in the manufacture, repair or renovation of upholstered furniture or bedding in violation of this chapter.

Stats 1941, p 657

SEC. 41. Section 19203 of the Business and Professions Code is hereby amended to read as follows:

Tag on condemned article

19203. The tag to be affixed to any article of condemned upholstered furniture or bedding, or any material by an inspector shall be a red tag and shall contain such information as may be required by the chief.

Stats 1941, p 658

SEC. 42. Section 19207 of the Business and Professions Code is hereby amended to read as follows:

Notification of violations

19207. Any inspector having knowledge of a violation of any of the provisions of this chapter shall notify the chief of the violation.

SEC. 43. Section 19208 of the Business and Professions Code is hereby amended to read as follows: Stats 1941, p 658

19208. The chief, or any inspector, may cite any person engaged in manufacturing, repairing, renovating, sterilizing or selling any upholstered furniture or bedding or materials intended to be used, or that could be used, in its manufacture, repair, or renovation, to a hearing before the chief or the inspector to show cause why he should not be subject to disciplinary action or prosecution for any act or omission in violation of this chapter. Citation for violations

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CHAPTER 1207

An act to amend Section 663b of the Political Code, relating to the collection of taxes and other moneys and empowering the State Board of Control to discharge certain State departments, boards, commissions, officers or employees from accountability for the collection of taxes and other moneys, the amount of which does not justify the cost of their collection.

[Approved by Governor July 12, 1941. Filed with Secretary of State July 18, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 663b of the Political Code is hereby amended to read as follows: Stats 1937, p 523

663b. Any State department, board, commission, officer or employee charged by law with the collection of any State taxes, licenses, fees, or moneys owing to the State for any other reason, which are due and payable, where the amount is not in excess of fifty dollars ($50) may file a verified application with the State Board of Control for a discharge from accountability for the collection of any of such taxes, licenses, fees, or moneys owing to the State for any other reason, which are so small in amount as not to justify the cost of their collection; provided, however, that this section shall apply to amounts in excess of fifty dollars ($50) whenever the Attorney General in writing advises that the amount is too small to justify the cost of collection. The application for discharge shall include a statement of the nature and amount of such taxes, licenses, fees, or other moneys, the names of the person, firm, or corporation liable therefor, the estimated cost of their collection, and any other fact warranting the discharge, except where said board determines that the circumstances do not warrant the furnishing of detailed information. Discharge from accountability for collection of money

If it is satisfied that the matters contained in such application are true and that it will be to the advantage of the State to grant the relief requested, the State Board of Control shall

make an order discharging the applicant from further accountability for the collection of the taxes, licenses, fees, or other moneys specified in the application, and authorizing the applicant to close his or its books in regard to such items.

Construction

Nothing in this section shall be construed as releasing any person, firm, or corporation from the payment of any taxes, licenses, fees, or other moneys which are due and owing to the State.

CHAPTER 1208

An act to provide for the construction of a dam and appurtenant works, including conveyance and distribution facilities; said dam and appurtenant works to impound the waters of Rector Creek in Napa County, to provide a supply for State institutions in Napa County and the Veterans' Home and to provide for the beneficial utilization of any surplus water which may be impounded; to authorize the Department of Finance to construct said dam and appurtenant works, to acquire the lands and other property necessary therefor, and to contract and otherwise cooperate with the Federal Government and any of its departments or agencies and with any department or agency of the State for the construction of said dam and appurtenant works, and for the acquisition of the lands or property necessary therefor; to make an appropriation therefor; and to declare the urgency thereof and to provide it take effect immediately.

In effect immediately

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Purpose of act

SECTION 1. It is the purpose of this act to provide for the supplying of water to State institutions in Napa County and the Veterans' Home and the beneficial utilization of any surplus of water impounded for that purpose.

Department of Finance to construct dam on Rector Creek

SEC. 2. The Department of Finance shall determine the best method of impounding the waters of Rector Creek in Napa County, and of constructing a dam and appurtenant works, including conveyance and distribution facilities necessary to serve State institutions in Napa County and the Veterans' Home, to provide for the beneficial utilization of any surplus water which may be impounded. Upon the determination of the method of constructing said dam and appurtenant works, the Department of Finance is authorized and directed to construct same in accordance with law.

Acquisition of necessary property, etc

SEC. 3. The Department of Finance is empowered in the name of the State to acquire any lands or other property required for the construction, maintenance or operation of

said dam and appurtenant works by gift, purchase or condemnation. The right of way is hereby given, dedicated, and set apart for the location, construction, and maintenance of said dam and appurtenant works over and through any of the lands which are now or may be the property of the State; provided that any State-owned public works on any of such property required for the dam or reservoir site shall be replaced or a substitute provided out of the appropriation made by this act. Any use of State highway right of way for any pipe lines or other facilities connected with the project shall be subject to the provisions of Chapter 3 of Division 1 of the Streets and Highways Code.

Contracts with U. S.

SEC. 4. The Department of Finance may contract or otherwise cooperate with the Federal Government and any of its departments or agencies and with any department or agency of the State for the construction of said dam and appurtenant works, acquisition of the lands or other property, or utilization of the impounded waters.

Appropriation

SEC. 5. Out of any money in the State Treasury not otherwise appropriated, there is hereby appropriated the sum of seven hundred and fifty-seven thousand dollars ($757,000) plus the amount remaining unexpended under Chapter 4 of the Statutes of the Second Extraordinary Session of 1940, to be expended by the Department of Finance for the purposes of this act, which appropriation shall not lapse pursuant to the provisions of an act entitled, "An act to provide for the reversion of unexpended balances of certain appropriations," approved May 18, 1921.

Stats. 1921, p. 155

Site free from sewage

SEC. 6. No site or part thereof for a dam or reservoir or both shall be purchased pursuant to this act until the Director of Public Health has reported in writing to the Department of Finance that no sewage water flows or is emptied on, in, or under the site, or that adequate facilities for the treatment or disposal of the sewage water have been constructed which insure that the sewage water will not contaminate any water to be impounded in the reservoir.

Urgency

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution, and shall therefore take effect immediately. The following is a statement of facts constituting such necessity:

The water supply of the Veterans' Home of California and other State institutions in Napa County is inadequate. In order to provide an adequate water supply for the State institutions for domestic, irrigation and fire protection uses, it is necessary that immediate measures be taken to construct a dam and appurtenant works. Therefore it is necessary that this act take effect immediately.

CHAPTER 1209

Stats 1935, p 1123, amended

An act to amend Sections 51a, 51c, 51g and 52 of the Alcoholic Beverage Control Act, relating to alcoholic beverages.

In effect September 13, 1941

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 2166

SECTION 1. Section 51a of the act cited in the title hereof is hereby amended to read as follows:

Seizure of stills, implements, etc.

Sec. 51a. The board or its employees shall also have the power to seize any unlicensed still, whether in actual operation or not, and whether assembled for operation or dismantled and also any parts of such stills, and also any materials or supplies capable of being used for the manufacture of alcoholic beverages which are found on or about the premises where any such unlicensed still or parts thereof are found. The board or its employees may also seize any implements, instruments, vehicles and personal property whatsoever, in the place or building, or within any yard or inclosure where any such unlicensed still or parts thereof are found.

Stats 1939, p 3014

SEC. 2. Section 51c of the act cited in the title hereof is hereby amended to read as follows:

Summary destruction

Sec. 51c. (a) Alcoholic beverages manufactured in this State by any person other than a licensed manufacturer, when seized for forfeiture under this act, may be disposed of by the board, its officers or employees, by summary destruction.

Return of property illegally or erroneously seized

(b) Any alcoholic beverages or other property seized for forfeiture under this act, except automobiles or other vehicles seized under Sections 51a or 51g of this act, may be disposed of by the board, its officers or employees, upon order of the board made not less than 15 days after the date of seizure. Any person whose alcoholic beverages or other property, except automobiles or other vehicles seized under Sections 51a or 51g of this act, have been seized for forfeiture under this act, may, within 10 days after such seizure, petition the board to return such alcoholic beverages or other property, upon the grounds that such alcoholic beverages or other property were illegally or erroneously seized. Any petition filed hereunder shall be considered by the board within 60 days after filing, and an oral hearing granted the petitioner if requested. Notice of the decision of the board shall be served upon the petitioner. The board may order the alcoholic beverages or other property seized under this act disposed of, or returned to the petitioner if illegally or erroneously seized.

Turning property over to State departments

(c) Any beverage or other property seized by the board may be turned over to any State department or institution. The person in charge of any State department or institution may file with the board a request that beverages or other property of a kind specified in the request be turned

over to the department or institution. No beverage or property for which a request has been made by a State department or institution shall be destroyed until all requests of State departments and institutions for the type or kind of beverage or property have been complied with.

SEC. 3. Section 51g of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p 2167

Sec. 51g. It shall be unlawful for any person to use any automobile or other vehicle to conceal, convey, carry, or transport any alcoholic beverages which are subject to seizure under the provisions of this act or any stills or parts thereof subject to seizure under Section 51a of this act or any materials or supplies capable of and intended for use in the manufacture of alcoholic beverages with the design to evade the excise taxes or license fees imposed by this act; except that the provisions of this section shall not apply to any person who uses an automobile or other vehicle to transport distilled spirits for lawful use in the trades, professions or industries. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. Unlawful use of vehicles

Any automobile or other vehicle used to conceal, convey, carry or transport alcoholic beverages, still, materials or supplies in violation of this section shall be forfeited to the State of California. Forfeiture

SEC. 4. Section 52 of the act cited in the title hereof is hereby amended to read as follows: Stats 1937, p 2167

Sec. 52. (a) Any peace officer of this State upon seizing any alcoholic beverages or other property may hold the same as evidence until a forfeiture has been declared, a release ordered as provided in this section, or other disposition has been made in accordance with the provisions of this act. All forfeitures under this act are hereby declared to be statutory forfeitures. Forfeiture procedure

(b) If disposition of seized property is not made under the provisions of Section 51c of this act, notice of the seizure and of the intended forfeiture proceeding shall be filed with the county clerk and shall be served on all persons, firms or corporations having any right, title or interest in the alcoholic beverages or other property seized; and when the owner or owners are unknown or can not be found then notice of the seizure and intended forfeiture proceedings shall be made upon such owners by one publication in a newspaper of general circulation in the county where such seizure was made. Notice

(c) Within 20 days after service of the notice of seizure and intended forfeiture proceedings, or within 20 days after the date of publication, the owner or owners of the alcoholic beverages or other property so seized may file a verified answer to the fact of the alleged unlawful use of the alcoholic beverages or other property; provided, however, that the claimant Answer

of any right, title or interest in said alcoholic beverages or other property so seized may make a verified answer to establish his claim as provided in subdivision (f) of this section. No extensions of time shall be granted for the purpose of making the verified answer above required.

When answer is not filed

(d) If at the end of 20 days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of unlawful use and shall, upon proof thereof, order the alcoholic beverages or other property forfeited to the State of California.

Hearing

(e) If a verified answer has been filed, then the forfeiture proceeding may be set for hearing on a day within 30 days therefrom, and notice of this proceeding shall be given to the owner or owners filing verified answers.

(f) At the time set for the hearing any of the owners who have verified answers on file may show by competent evidence that the alcoholic beverages or other property were not in fact used contrary to the provisions of this act. The claimant of any right, title or interest in said alcoholic beverages or other property under a lien, mortgage or conditional sales contract which is officially of record may prove that such lien, mortgage or conditional sales contract is bona fide and was created after a reasonable investigation of the moral responsibility, character and reputation of the lienor, mortgagor or vendee and without any knowledge that such alcoholic beverages or other property was being, or was to be, used contrary to the provisions of this act.

Release

(g) In the event of such proof, the court shall order said alcoholic beverages or other property released to such lienholder, mortgagee or vendor if the amount due to such person shall be equal to, or in excess of, the value of the alcoholic

Sale

beverages or other property. If the amount due to such person shall be less than the value of said alcoholic beverages or other property then such alcoholic beverages or other property shall be sold at public auction by the board and the remainder of the proceeds of such sale, after payment of the balance due on the purchase price, mortgage, or lien, shall be deposited in the State Treasury.

Should the fact be determined that the alcoholic beverages or other property were not used contrary to the provisions of this act, the court shall order the alcoholic beverages or other property released to the owner or owners thereof.

Payment to innocent lienholder

(h) In any case the State Department of Finance shall have the right, within 30 days after judgment, to pay the balance due to such bona fide or innocent purchaser, lienholder, mortgagee or vendor and to purchase the alcoholic beverages or other property for the State.

Exemptions

(i) Nothing contained herein shall apply to common carriers or to an employee acting within the scope of his employment under this act.

CHAPTER 1210

An act to amend Sections 26209, 26243, 26251 and 26271 of, and to add Section 26200.5 to, the Health and Safety Code, relating to the adulteration, mislabeling, misbranding, advertising and sale of drugs and devices, and to the powers of the State Department of Public Health in relation thereto.

Stats 1939, p 482, amended

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 26200.5 is hereby added to the Health and Safety Code, to read as follows:

New section

26200.5. Any concentrated substance represented for use by man because of its vitamin content when medicinal claims are made on the label, shall, on its label and in its advertising, bear the common or usual name of each vitamin on which such use is based. If such use is based on the content of Vitamin A, Vitamin B1 or thiamin, Vitamin C or ascorbic acid, Vitamin D, riboflavin or nicotinic acid, the label or advertising shall bear or contain a statement of the proportion of such vitamin expressed as International Units, Pharmacopoeia, or other accepted standard units.

Labels of concentrated substances

SEC. 2. Section 26209 of said code is hereby amended to read as follows:

Stats 1939, p 968

26209. The term "advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Advertisement"

SEC. 3. Section 26243 of said code is hereby amended to read as follows:

Stats 1939, p 970

26243. A drug shall be deemed to be misbranded if it is not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, antipyrine, atropine, hyoscine, hyoscyamine, codeine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, barbituric acid, or any derivative or preparation of any such substances, contained therein.

Designation of drug

Stats 1939, p 972

SEC. 4. Section 26251 of said code is hereby amended to read as follows:

Amidopyrine, cinchophen, or sulfanilamide

26251. A drug shall be deemed to be misbranded if it is a drug sold at retail for use by man, and contains any quantity of amidopyrine, cinchophen, sulfanilamide, or any of its preparations, compounds or derivatives, unless it is sold on a written prescription signed by a member of the medical, dental or veterinary profession who is licensed by law to administer such drug, and its label bears the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental or veterinary profession. Prescriptions containing amidopyrine, cinchophen or sulfanilamide, their compounds, preparations or derivatives issued under this section can not be refilled without the written order of the physician, dentist or veterinarian who prescribes the same.

Stats 1939, p 973

SEC. 5. Section 26271 of said code is hereby amended to read as follows:

Represented as having effect in certain diseases

26271. The advertisement of a drug or device shall be deemed to be false if the drug or device is represented to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, cataracts, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, dental caries, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, alcoholism, erosion, periodontal diseases, epilepsy, goiter, scarlet fever, sexual impotence, sinus infection, smallpox, encephalitis, tumors, typhoid, uremia, venereal disease, whooping cough, tuberculosis, ulcers of the stomach, and varicose ulcers.

CHAPTER 1211

Stats 1935, p 1226, amended

An act to amend Section 27 of, repeal Section 23 of, and add Section 23 to, the Unemployment Insurance Act, relating to a system of unemployment insurance.

In effect September 13, 1941

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 3004

SECTION 1. Section 23 of the act cited in the title hereof is hereby repealed.

New section

SEC. 2. Section 23 is hereby added to the act cited in the title hereof, to read as follows:

Unemployment administration fund

Sec. 23. There is hereby created in the State Treasury a special fund to be known as the Unemployment Administration Fund. All moneys which are deposited or paid into this

fund are hereby continuously appropriated and made available to the commission without regard to fiscal years. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this act, and for no other purpose whatsoever, and all moneys received from the Social Security Board for the fund pursuant to Section 302 of the Social Security Act shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board for the proper and efficient administration of this act. The fund shall consist of all moneys appropriated by this State for the purpose of administering this act, and all moneys received from the United States of America, or any agency thereof, including the Social Security Board, the Railroad Retirement Board and the United States Employment Service, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury; except that the commission may draw, without at the time furnishing vouchers and itemized statements, sums not to exceed in the aggregate twenty-five thousand dollars ($25,000), said sum so drawn to be used as a revolving fund where payment of compensation earned, traveling expense advances, or other cash payments are necessary, and at the close of each fiscal year or at any other time, upon the demand of the Department of Finance, the moneys so drawn must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller. Moneys in this fund shall not be commingled with other State funds, but shall be maintained in a separate account on the books of the depositary. Such moneys shall be secured by the depositary in which they are held to the same extent and in the same manner as required by the General Depositary Law of the State, and collateral pledged shall be maintained in a separate custody account. Any balances in this fund shall not lapse at any time, but shall be continuously available to the commission for expenditure consistent with this act. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the unemployment administration fund provided for under this act Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on the official bond for losses sustained by the Employment Administration Fund shall be deposited in said fund. Moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said board shall be deposited in this fund. All moneys in the Unemployment Administration Fund, in excess of current requirements, and

not otherwise invested, may be deposited by the State Treasurer in banks and otherwise held and invested by him in the same manner as provided by law in the case of other special funds in the State Treasury, and under the same rules and regulations that govern the deposit of other public funds.

Stats 1939, p 3019

SEC. 3. Section 27 of the act cited in the title hereof is hereby amended to read as follows:

Unclaimed refunds

Sec. 27. Any amounts determined by the commission or its authorized representatives to be payable to employing units or workers as refunds of contributions erroneously paid or to claimants as benefits in accordance with the provisions of this act, which are unclaimed by the employing unit, worker, claimant, or other person entitled thereto within three years from such determination shall revert to that account in the Unemployment Fund from which the amounts are payable, and the commission shall by regulation prescribe the manner in which the retransfer of such funds shall be accomplished. The employing unit or person entitled to such payment shall not thereafter maintain any claim, action or proceeding with respect to such amounts. Whenever any warrant is drawn on the clearing account of the Unemployment Fund or on the Unemployment Administration Fund by the State Controller and same remains unclaimed after three years the amount thereof shall revert to the clearing account of the Unemployment Fund or the Unemployment Administration Fund as the case may be.

CHAPTER 1212

Stats 1933, p 394, amended

An act to amend Sections 697.5, 720, 860 and 881 of, to repeal Section 865 of, and to add Section 865 to, the Fish and Game Code, relating to the use of nets and the taking and disposal of salmon, shad, and striped bass, declaring the urgency of this act, to take effect immediately.

In effect immediately

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 422

SECTION 1. Section 697.5 of the Fish and Game Code is hereby amended to read as follows:

Districts 12B and 12C

697.5. Any striped bass taken in shad nets or salmon nets in Districts 12B or 12C must be liberated from the nets by the fishermen. Striped bass necessarily taken aboard a boat to free them from a net shall be returned to the water immediately. A holder of a commercial fishing license may, however, have in his possession not more than one such striped bass of legal size at any time during the period that netting operations are permitted in said districts. The doing of anything

required by this section shall not constitute waste or deterioration of fish under Section 1061 or 1064.

SEC. 2. Section 720 of said code is hereby amended to read as follows: Stats 1933, p 460

720. Between June 10th and March 14th, the bag limit on shad is five per day, and between said dates, not more than one daily bag limit may be possessed by any person during one day. Shad

SEC. 3. Section 860 of said code is hereby amended to read as follows: Stats 1933, p 472

860. In District 12B, salmon may be taken with nets allowed to be used in said district, as follows: Salmon

(a) Between November 15th and June 15th.

(b) Until August 1, 1943, between August 1st and September 23d.

(c) On and after August 1, 1943, between August 1st and September 16th.

SEC. 4. Section 865 of said code is hereby repealed. Stats 1935, p 1445

SEC. 5. Section 865 is hereby added to said code, to read as follows: New section

865. Unless otherwise provided, it is unlawful to use any net except a gill net or a trammel net to take shad. Such nets may be used to take shad only as follows: Use of nets to take shad

(1) They may be used in District 12B, excluding all sloughs except Broad Slough, between March 15th and May 31st.

(2) Until May 16, 1941, they may be used in District 12C, excluding all sloughs, between February 15th and May 15th

(3) They may not be used between sunrise Saturday and sunset of the following Sunday.

SEC. 6. Section 881 of said code is hereby amended to read as follows: Stats 1933, p 475

881. In District 12C, drift gill nets may be used, subject to the restrictions contained in this chapter, and the following restrictions: Use of drift gill nets

(a) The cork line must not be submerged more than two fathoms below the surface of the water, the lines attaching the buoys or floats to the cork lines must not be more than two fathoms in length, and the points of attachment of said lines on the cork line must not be more than 10 fathoms apart.

(b) The meshes of any gill net must be at least seven and one-half inches in length, except that until May 16, 1941, during the period between February 15th and May 15th the meshes of such nets may be not less than five and one-half inches in

length. The meshes must be approximately the same size and must not vary in length more than two inches.

Construction

SEC. 7. Section 865 of said code as added by this act shall be construed as a new enactment and not as a continuation of any existing law.

Urgency

SEC. 8. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of this State and therefore shall take effect immediately. The following is a statement of the facts constituting such necessity:

The taking of fish for commercial purposes in the districts affected by this act utilizes a natural resource of this State and supplies a valuable food to the people of the State and at the same time furnishes a livelihood to a number of residents. Under the present law such commercial fishing is seriously impeded because of restrictions imposed for the protection of sport fishing. The provisions of this act are necessary in order to permit a reasonable utilization of the fish resources of the State and the conservation of the supply of both commercial and sporting fish, and in order that such benefits will become available during the current and impending fishing seasons it is necessary that this act take immediate effect.

CHAPTER 1213

An act to amend Section 5.722 of the School Code, relating to sabbatical leaves.

In effect September 13, 1941

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1810

SECTION 1. School Code Section 5.722 is hereby amended to read as follows:

Leave of absence

5.722. The governing board of any school district, of any type or class, including junior college districts, shall have the power, subject to the provisions of this section, to grant any employee of the district employed in a position requiring certification qualifications, a leave of absence for not to exceed one year for the purpose of permitting study or travel by said employee which will benefit the schools and pupils of the district.

Rules and regulations

No leave of absence shall be granted to any employee under this section who has not rendered service to the district for at least seven consecutive years preceding the granting of such leave, and not more than one such leave of absence shall be granted in each seven-year period. The governing board

granting said leave of absence shall have the power, subject to the rules and regulations of the State Board of Education, to prescribe the standards of service which shall entitle the employee to such leave of absence. Said leave of absence shall not be considered as a break in the continuity of service toward retirement under this code except that such leave of absence shall not be counted as a year of service toward retirement under this code.

Compensation during leave

Every employee granted a leave of absence under the provisions of this section may be required to perform such services and may receive such compensation during such leave as the governing board of the district, with the approval of the county superintendent of schools, and the employee may agree upon in writing, but such compensation shall be the difference between the salary of the employee on leave and the salary of a substitute employee in the position which the employee held prior to the granting of such leave; provided, however, that the governing board of any district which has adopted a rule governing the payment of salaries to employees absent from duty because of illness may, at its option, agree to pay, and pay, to employees taking leaves of absence under the provisions of this section, compensation at the same rate as provided by such rule governing absences because of illness.

Installments

Such compensation as may be granted by the governing board to said employee on leave may be paid in two equal annual installments during the first two years of service rendered in the employ of said governing board following the return of the employee from said leave of absence; provided, however, that said compensation shall be paid said employee while on said leave of absence in the same manner as if the said employee was teaching in the district, upon the furnishing by the employee of a suitable bond indemnifying the governing board of the district against loss in the event that the said employee fails to render at least two years' service in the employ of said governing board following the return of the employee from said leave of absence, but such bond shall be exonerated in event the failure of such employee to return and render such two years' service is caused by the death or physical or mental disability of the employee; provided further, that if the governing board finds and by resolution declares that the interests of the district will be protected by the written agreement of the employee to return to the service of the district and render at least two years' service therein following return of such employee from such leave, such governing board in its discretion may waive the furnishing of such bond and pay the employee on leave in the same manner as though a bond had been furnished.

Bond

At the expiration of the leave of absence of said employee, he shall, unless he otherwise agrees, be reinstated in the position held by him at the time of the granting of the leave of absence.

CHAPTER 1214

Stats 1933, p 60, amended

An act to amend Sections 735.3, 735.4, 736.3, 736.13, 736.14, 737.5, 737.7 and 737.11 of the Agricultural Code, relating to the stabilization and marketing of fluid milk and fluid cream.

In effect September 13, 1941

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2641

SECTION 1. Section 735.3 of the Agricultural Code is hereby amended to read as follows:

Definitions

735.3. As used in this chapter:

(a) "Board" means any local control board created as herein authorized.

(b) "Fluid milk" means any and all whole milk that is produced in conformity with applicable health regulations for market milk of the place where such milk is consumed and for the purpose of this chapter fluid milk may be classified as follows:

Class 1. Any such milk that is supplied to consumers in the form of whole milk, which shall include "raw milk"; "pasteurized milk"; "homogenized milk"; "condensed milk," "evaporated milk," and "modified milk," that is prepared from whole fluid milk and which is not packaged in hermetically sealed containers; fluid milk containing added vitamins or flavoring; that portion of fluid milk used as whole milk in any combination of fluid milk and fluid cream containing a milk-fat content in excess of the minimum statutory requirements for fluid milk and less than the minimum statutory requirement for "cream," and includes milk fat used in the standardization of Class 1 fluid milk;

Class 2. Any such milk or the cream derived therefrom that is sold or disposed of by distributors for consumption as cream, as cream is defined in this code, including cream in any combination of fluid milk and fluid cream containing a milk fat content in excess of 6.0 per cent and less than the minimum statutory requirements for cream;

Class 3. Any such milk or the cream derived therefrom, as cream is defined in this code, that is sold or disposed of by distributors in any form not included in Classes 1, 2 or 4;

Class 4. Any such milk or the cream derived therefrom, as cream is defined in this code, that is used by distributors in the manufacture of butter and cheese other than cottage cheese.

In designating and prescribing or providing methods for designating and prescribing minimum prices to be paid by distributors to producers for Classes 2, 3 or 4 fluid milk, the director may take into consideration the market price of all milk which may be used for the same purposes set forth in such respective classes.

(c) "Fluid cream" means any and all cream defined in this code as cream and which conforms to the health and sanitary regulations of the place where such cream is to be sold or disposed of for human consumption as cream; provided, however, that the cream derived from the separation of Class 2 fluid milk shall not be considered as fluid cream except that such cream when packaged as cream shall be subject to all of the terms and provisions of orders of the director establishing minimum wholesale and minimum retail prices for fluid cream.

(d) "Dairy products" includes any product manufactured from milk or any derivative or product of milk.

(e) "Producer" means any person who produces fluid milk or fluid cream from five or more cows or goats in conformity with the applicable health regulations of the place in which it is sold, and whose fluid milk or fluid cream is received or handled by any distributor. "Producer" includes any association of producers.

(f) "Distributor" means any person, whether or not such person is a producer or an association of producers, who purchases or handles fluid milk or fluid cream for sale, including brokers, agents, copartnerships, cooperative corporations and incorporated and unincorporated associations. The definition of "distributor" shall not include any of the following: (1) Any retail store that is not engaged in processing and packaging fluid milk or fluid cream, (2) any establishment where fluid milk or fluid cream is sold only for consumption on the premises, that is not engaged in processing and packaging fluid milk or fluid cream, (3) any person owned or controlled by one or more retail stores, or owned or controlled by one or more establishments where fluid milk or fluid cream is sold for consumption on the premises which person is not actively and directly engaged in the processing and packaging of fluid milk or fluid cream, (4) any producer who delivers fluid milk or fluid cream only to a distributor.

(ff) "Producer-distributor" means any person who is both a producer and a distributor of fluid milk or fluid cream. For the purposes of this chapter a producer-distributor shall be deemed to be a producer in any transaction involving the delivery of fluid milk or fluid cream produced by him to a distributor, and shall be deemed to be a distributor in any transaction involving the delivery of fluid milk or fluid cream to a person who is not a distributor as defined in this section.

(g) "Retail store" means any person or persons owning or operating a retail grocery store, restaurant, confectionery, or other similar business, where fluid milk or fluid cream is sold to the general public for consumption off the premises.

(h) "Marketing area" is any area within this State declared to be such in the manner prescribed in this chapter.

(i) "Stabilization and marketing plan" means any plan formulated and made effective by the director within the legislative standards provided by this chapter and shall include, among other things the establishing of prices to be paid by

distributors for any or all of the various classes of fluid milk or fluid cream.

(j) "Consumer" means any person who purchases fluid milk, fluid cream or dairy products for consumption.

(k) "Person" means any individual, firm, corporation, association or any other business unit.

Stats 1939, p 2644

SEC. 2. Section 735.4 of the Agricultural Code is hereby amended to read as follows:

Hearings and investigations

735.4. (a) The director shall have and may exercise any or all the powers conferred by Section 353 of the Political Code upon the head of a department of the State with respect to hearings and investigations under this chapter.

Powers of director

(b) The director is hereby declared to be the instrumentality of this State for the purpose of administering and enforcing the provisions of this chapter and to execute the legislative intent herein expressed, and is hereby vested with the administrative authority:

(1) To investigate any and all transactions between producers and distributors or among distributors or between distributors and retail stores or between distributors and consumers or between retail stores and consumers, and for that purpose the director or his authorized agents shall have access to and may enter at all reasonable hours all places where milk is being stored, bottled or manufactured, or where milk or milk products are being bought, sold or handled, or where the books, papers, records or documents relating to such transactions are kept, and shall have power to inspect and copy the same in any place within the State.

(2) To issue licenses to distributors and require the registration of producers.

(3) To formulate any stabilization and marketing plan as prescribed in this chapter and declare the same effective after public hearing and reasonable notice by mail or otherwise to all producers and distributors of record with the director, affected by such plan.

(4) To prescribe minimum prices to be paid by distributors in accordance with a stabilization and marketing plan for fluid milk and classify said milk according to usage by distributors; provided, that the prices so prescribed shall be based upon the economic relationship of the price of fluid milk for the marketing area involved to the price of manufacturing milk, taking into consideration the additional costs incurred in producing and marketing fluid milk over and above such costs incurred in producing and marketing manufacturing milk.

(5) To prescribe minimum prices to be paid by distributors for fluid cream in accordance with a stabilization and marketing plan; provided, that the prices so prescribed shall be based upon the economic relationship of the price of fluid cream for the marketing area involved to the price of manufacturing milk, taking into consideration the additional costs incurred

in producing and marketing fluid cream over and above such costs incurred in producing and marketing manufacturing milk.

(6) (a) To amend or terminate any stabilization and marketing plan, after notice and public hearing as prescribed in Section 736.1, in the event that he finds that such plan is no longer in conformity with the standards prescribed in, or will not tend to effectuate the purposes of, this chapter. Such hearing may be held upon the motion of the director and shall be held upon receipt of a petition signed by producers representing not less than 55 per cent of the total number of all producers and not less than 55 per cent of the total production of all producers who are eligible to petition the director for the formulation of such plan.

(b) To amend, after notice and public hearing called and held in the same manner as provided in Section 736.12, any minimum wholesale and retail prices established under the provisions of Article 2a of this chapter, in the event that he finds that any such price is, or that any such prices are, no longer in conformity with the standards prescribed therefor, or will not tend to effectuate the purposes of this chapter.

(c) To terminate any such minimum wholesale and retail prices without notice or hearing at any time that there is no stabilization and marketing plan in force and effect in such marketing area.

(7) To appoint a local control board for any marketing area, in the event that he deems such board necessary or advisable.

(8) To remove any member from a local control board in the event that he finds such member, after hearing, is guilty of nonfeasance or malfeasance in office.

(9) To appoint a member to fill a vacancy on a local control board.

SEC. 3. Section 736.3 of the Agricultural Code is hereby amended to read as follows: Stats 1937, p. 1989

736.3. Any stabilization and marketing plan shall contain the following provisions: Required provisions

(a) Provisions for prohibiting distributors and retail stores from engaging in the unfair practices hereinafter set forth: Prohibition of unfair practices

(1) The payment, allowance or acceptance of secret rebates, secret refunds, or unearned discounts by any person, whether in the form of money or otherwise.

(2) The giving of any milk, cream, dairy products, services or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of any customer.

(3) The extension to certain customers of special prices or services not made available to all customers who purchase fluid milk or fluid cream of like quantity under like terms and conditions.

Unfair practices

(4) The false or misleading advertising of fluid milk or fluid cream as defined in Section 654a of the Penal Code.

(5) The purchase of any fluid milk in excess of 200 gallons monthly from any producer or association of producers unless a written contract has been entered into with such producer or association of producers stating the amount of fluid milk to be purchased for any period; the quantity of such milk to be paid for as Class 1, and the price to be paid for each of the several classes, but in any marketing area where an equalization pool is a part of a stabilization and marketing plan, such contract need not specify the quantity of milk in any one class. The contract shall also state the date and method of payment, the charges for transportation if hauled by the distributor, and may contain such other provisions as are not in conflict with this chapter, and shall contain a proviso to the effect that the producer shall not be obligated to deliver in any calendar month fluid milk to be paid for at the minimum price for fluid milk that is used for Class 4, as said class is defined in Section 735.3 of this code. A signed copy of such contract shall be filed by the distributor with the director within five days from the date of its execution.

(6) The purchasing, processing, bottling, transporting, delivering or otherwise handling in any marketing area of any fluid milk or fluid cream which is to be or is sold or otherwise disposed of by such distributor at any place in the geographical area within the outer, outside and external boundaries or limits of such marketing area, whether such place is a part of the marketing area or not, at less than the minimum wholesale and minimum retail prices effective in such marketing area.

(7) The payment of a lesser price by a distributor to any producer for fluid milk or fluid cream which is distributed to any person, including agencies of the Federal, State or local government, located upon property within the geographical limits of any marketing area for less than the minimum prices established by the director to be paid by distributors to producers for fluid milk or fluid cream for said marketing area.

(8) The purchasing or receiving of any fluid milk or fluid cream by distributors from producers within a marketing area wherein a stabilization and marketing plan is in effect for less than the minimum prices established in such plan, regardless of whether such milk or cream is subsequently sold or distributed within or without such marketing area, or within or without the jurisdiction of the State of California; provided, however, that if such fluid milk or fluid cream is subsequently sold or distributed in another marketing area within the State of California where a stabilization and marketing plan is in effect, then the distributor shall pay the producer thereof not less than the minimum prices established in such plan in the marketing area wherein such milk or cream is sold or distributed; and provided further, that in the event such fluid milk or fluid cream is subsequently sold or distributed in any

place within the jurisdiction of the State of California where no stabilization and marketing plan is in effect, then such milk or cream may be paid for by the distributor to the producer thereof at not less than the average price paid by distributors to producers for milk or cream of similar grade and quality at the plants in the vicinity where such milk or cream is so sold or distributed, as such prices are determined by the director from contracts required to be filed with him pursuant to this section.

Designation of minimum fluid milk prices

(b) Provisions whereby the director designates and prescribes or provides methods for designating or prescribing minimum prices to be paid by distributors to producers, for fluid milk in one or more of the various classes; provided, however, that the prices so designated or prescribed shall be based upon the economic relationship of the price of fluid milk for the marketing area involved to the price of manufacturing milk, taking into consideration the additional costs incurred in producing and marketing fluid milk over and above costs incurred in producing and marketing manufacturing milk; and provided further, the director finds that such prices will tend to effectuate the purposes and policy of this chapter and will insure consumers a sufficient quantity of pure and wholesome milk.

Optional provisions

Any stabilization and marketing plan may contain the following provisions:

Distributors' reports

(c) Provisions whereby distributors shall report to each producer from whom fluid milk is secured, the volume of fluid milk received from such producer in pounds of milk, the milk fat test of such milk and the amount of fluid milk in milk fat pounds paid for in the several classes and the prices paid for the various classes for each month.

Designation of minimum fluid cream prices

(d) Provisions whereby the director designates and prescribes or provides methods for designating or prescribing minimum prices to be paid by distributors to producers for fluid cream; provided, that the prices so designated or prescribed shall be based upon the economic relationship of the price of fluid cream for the marketing area involved to the price of manufacturing cream, taking into consideration the additional costs incurred in producing and marketing fluid cream over and above costs incurred in producing and marketing manufacturing milk; and provided further, that the director finds that such prices will tend to effectuate the purposes and policy of this chapter and will insure consumers a sufficient quantity of pure and wholesome cream.

Uniform prices

(e) Provisions whereby the director designates or prescribes methods to provide uniform prices to be paid to all producers supplying fluid milk to distributors for pasteurization purposes in the marketing area involved by pooling the returns of all such fluid milk; provided, that no equalization pool shall be established unless the director, after hearing, determines that producers who supply distributors with not less than sixty-five (65) per cent of the total volume of fluid milk

Equalization pool

used for pasteurization purposes and who represent not less than sixty-five (65) per cent of the total number of such producers desire the establishment of such pool, but no hearing shall be necessary if said sixty-five (65) per cent, by volume and production, of such producers petition the director in writing to establish such equalization pool as a part of the plan. If the director finds that an equalization pool is necessary to carry out the provisions of this chapter he shall make provision therefor. The director may designate the local control board for the marketing area as his agency to operate the equalization pool and may permit such local board to employ a pool manager and such other necessary personnel and to incur such expenses incidental to the operation of the pool as the director finds are necessary. The director is hereby empowered to require distributors to make reports to the pool manager at such intervals and in such detail as he finds is necessary for the operation of the pool which reports shall be kept confidential as to any individual distributor but shall be available to the director or his agents and the pool manager, and such employees of the pool as are necessary to the operation of the equalization pool.

Local control board

Reports

Premiums

No provision of any pooling program shall prevent any distributor from paying premiums for quality; provided, all producers supplying fluid milk of like quality to such distributor are paid similar premiums, nor shall any provision prohibit the paying of different prices to producers based on differentials in transportation, adjustments or deductions made by a cooperative association of producers to its members, including the blending of proceeds received from the sale of fluid milk by such cooperative in other markets. Distributors who purchase fluid milk from producers for pasteurization purposes shall deduct from payments due such producers at such time and in such manner such sums as the director determines are sufficient to insure uniform prices to all producers subject to the provisions of the equalization pool, irrespective of the usage of such fluid milk by the distributors. Distributors shall make, in addition to the deductions herein prescribed, such additional deductions per pound milk fat as the director finds necessary to pay all expenses incidental to the operation of the equalization pool, including the establishment of a reserve account to insure prompt payments to producers. The deductions herein prescribed are in addition to any other deductions prescribed by this chapter.

Price differentials

Deductions

Advertising programs

(2) Provision whereby sales stimulation or consumer educational programs may be formulated and administered to increase the consumption of fluid milk and fluid cream, or other dairy products; provided, that such programs shall be carried on without reference to a particular brand or trade name; and provided further, that no such sales stimulation or consumer educational program shall be carried on which shall make use of false or unwarranted claims on behalf of such products or which disparages the quality, value, sale or

use of any fluid milk or fluid cream or any other agricultural commodity authorized by law to be marketed within such marketing area.

Petition

Before any stabilization and marketing plan may provide for sales stimulation and consumer educational programs, not less than 65 per cent of the producers and who produce not less than 65 per cent of the total volume of fluid milk consumed in any marketing area shall petition the director in writing for the inclusion of such a program as part of the stabilization and marketing plan. If such a program is requested by distributors it shall be necessary that not less than 65 per cent of the total number of distributors and who distribute not less than 65 per cent of the total volume of fluid milk for consumption in the marketing area shall petition the director in writing for the inclusion of such a program as part of the stabilization and marketing plan.

The petition shall bear the signatures of petitioners, their addresses and the approximate daily volume of fluid milk handled in gallons and milk fat pounds and the type of product distributed, together with the estimated cost of the program each month and the number of months the program is to continue in operation.

A sales stimulation and consumer educational program instituted by producers shall be financed by all producers supplying fluid milk to the marketing area. Such program, if instituted by distributors, shall be financed by all distributors supplying fluid milk to the marketing area. If such program is instituted by both producers and distributors, both producers and distributors shall finance the program equally.

Assessments

If the program is instituted by producers the director is hereby empowered to require producers to pay assessments of not more than two mills per pound milk fat, or if the program is instituted upon a gallonage basis not more than seven mills for each 10 gallons of fluid milk received by distributor, including the production of distributors who are also producers.

If the program is instituted by distributors the director is hereby empowered to require distributors to pay assessments of not more than two mills per pound milk fat, or if the program is instituted upon a gallonage basis not more than seven mills for each 10 gallons of fluid milk received by distributors, including the production of distributors who are also producers.

If the program is instituted by both producers and distributors, the director is hereby empowered to require both producers and distributors to pay assessments for the purpose of providing funds for formulating, administering, and carrying on such program. The assessments to be paid by distributors shall not exceed two mills per pound milk fat, or if the program is instituted upon a gallonage basis not more than seven mills for each 10 gallons of fluid milk received by distributors including the production of distributors who are

likewise producers. Assessments of not more than two mills per pound milk fat, or if the program is instituted upon a gallonage basis, not more than seven mills for each 10 gallons of fluid milk produced by producers and received by distributors, shall likewise be paid by producers. In no instance shall the combined assessments exceed four mills per pound milk fat, or if the program is instituted upon a gallonage basis not more than 14 mills for each 10 gallons of fluid milk received from producers and processed by distributors for distribution in the marketing area in the form of whole milk, fluid cream, or manufactured dairy products derived from fluid milk.

Hearing Before a program may be instituted a public hearing shall be called by the director, the procedure for which public hearing is to be the same as that required for the institution of a stabilization and marketing plan for fluid milk. At such public hearing testimony and evidence shall be taken to determine the necessity of such a program, the estimated costs of the program, the time during which the program is to be continued, and such other matters as are necessary in the institution of the program.

Order If, after public hearing and consideration of the testimony and evidence presented at said hearing, the director finds that a sales stimulation and consumer educational program will tend to effectuate the purposes of this chapter, he shall issue an order making effective such program. Such order shall state the number of months the program shall continue in operation, the rate of assessment per pound milk fat or per gallon to be paid by those petitioning for the program, the names, addresses and business locations of the persons appointed to administer the program and such order may contain other provisions which are necessary and incidental to the operation of the program.

Administrator The person named in the order to administer the program shall be selected by the director in the following manner and in the following number:

(a) If the program was instituted by producers the director shall name five representative producers from nominations made at the public hearing by the petitioners.

(b) If the program was instituted by distributors the director shall name five representative distributors from nominations made at the public hearing by the petitioners.

(c) If the program was instituted by both producers and distributors the director shall name three representative producers from nominations made at the public hearing by the petitioning producers and three representative distributors from nominations made at the public hearing by petitioning distributors.

(d) Distributors who are also producers shall be eligible to nomination for service on, and may be named by the director to serve on the committee to administer any program for which they will be required to pay assessments, and at least

one of the persons named by the director to serve on any committee to administer any program for which distributors who are also producers will be required to pay assessments shall be a distributor who is also a producer.

All programs shall be administered by the persons named in the order of the director making the program effective, and shall be administered subject to the approval of the director. All amounts required to be paid to the director under this section by producers or distributors shall be paid to such director on or before the fifteenth day of the month following the month during which such fluid milk was received by distributors and all distributors receiving milk from producers in any area where the provisions of this section are in effect whereby the director is empowered to require payments from producers shall deduct and pay to the director such payments provided for under this section from the payments due for such distributors to such producers for fluid milk.

Termination

Upon the termination of any program, if there are any obligations arising thereunder, the final accrual or ascertainment of which requires further acts by any producer or distributor or by the persons appointed to administer the program or by the director, the power or duty to perform such further acts shall continue, notwithstanding such termination.

Deposit of funds

All moneys received by the director pursuant to this section shall be deposited in the Department of Agriculture Fund in the State Treasury allocated to each separate marketing area from which they are collected and disbursed only for the purposes specified subject to the approval of the director.

Any money received by the director in excess of the amount required for any program shall be returned at such time as the director may determine on a pro rata basis to the persons from whom such funds were collected.

SEC. 5. Section 736 13 of the Agricultural Code is hereby amended to read as follows:

Stats. 1937, p 1375

736.13. No distributor shall sell to any retail store, restaurant, confectionery or other place for consumption on the premises, or to any consumer, and no retail store, restaurant, confectionery or other place for consumption on the premises, shall purchase from any distributor or sell to any consumer, any fluid milk or fluid cream, or either of them, at less than the prices as established by the director under the provisions of this article, and the use or attempted use of any method, device or transaction whereby any distributor sells or offers or agrees to sell to any retail store, restaurant, confectionery or other place for consumption on the premises, or consumer or any retail store, restaurant, confectionery or other place for consumption on the premises, buys or offers or agrees to buy from any distributor, or sells or offers or agrees to sell to any consumer fluid milk or fluid cream, or either, at a price less than that established by the director under the

Sale at less than established price prohibited

provisions of this article, whether by discount, rebate, free service, advertising allowance, lease of refrigeration or other equipment, or gift, or otherwise and whether any such discount, rebate, free service, advertising allowance, lease of refrigeration or other equipment, or gift applies directly to fluid milk or fluid cream or is allowed upon or in connection with the sale or handling of any other commodity or product, is hereby prohibited Every distributor in any marketing area wherein an order establishing minimum wholesale and minimum retail prices is in effect shall file with the director schedules and any amendments thereto setting forth the prices at which each such distributor is selling or offering or agreeing to sell fluid milk, fluid cream and dairy products, excluding butter, cheese, cottage cheese, canned milk, powdered milk, casein and ice cream, in such marketing area. Such filings shall be made in such office of the director as he shall designate. Such prices shall not become effective until the fifth day after filing. Evidence of any sale of, or offer or agreement to sell such fluid milk, fluid cream or dairy products by a distributor, made as part of, or in connection with the sale of, or offer or agreement to sell fluid milk and fluid cream, or both, in a marketing area where prices for fluid milk or fluid cream, or both have been established by the director, at less than the prices theretofore filed with the director by such distributor pursuant to the provisions of this section, shall constitute prima facie proof of a violation of this section. Offers and agreements to sell, as used herein shall include offers and agreements which are conditional, or which shall become effective, upon the filing thereafter of amended prices by the distributor making such offer. Upon receipt of such amendments the director shall forthwith date, file, and index the same in such manner that the information therein contained shall at all times be kept current and be readily available to any interested party desiring to inspect the same. Any other distributor in the marketing area may meet any such prices so filed; provided, that such distributor shall file with the director a schedule of prices not exceeding the prices so met by him within 24 hours after meeting the same.

Stats 1937, p. 1375

SEC. 6. Section 736.14 of the Agricultural Code is hereby amended to read as follows:

Fee

736.14. Distributors who are subject to the provisions of this article shall pay to the director on all milk fat contained in fluid milk and fluid cream purchased from producers, including their own production, if any, a fee in mills per pound of milk fat equal to that required to be deducted from the payments due producers of fluid milk under Section 737.6 of this code. The amount so received by the director shall be used in the administration and enforcement of this chapter or any stabilization or marketing plan established by this

chapter. Any amounts in excess of that required for this purpose shall be returned pro rata, at such times as the director may determine, to distributors from whom such sums were collected.

SEC. 7. Section 737.5 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 2649

737.5. (a) After thirty (30) days after the effective date of this chapter no distributor shall deal in fluid milk or fluid cream without first having obtained a license from the director. The special licenses provided in this section are in addition to any and all licenses required by any other section of Division 4, Agricultural Code, or any law or ordinance of any county or municipality of this State. Applications for the licenses herein provided shall be made on forms prescribed by the director and shall state the name and address of the applicant and such details as to the nature of the applicant's business as the director may require. Such applicant shall further satisfy the director of his or its character, responsibility and good faith in seeking to carry on the business stated in the application. Licenses shall be issued for a period of twelve (12) months from the first day of each year or for the remainder of the calendar year from the date of issuance. Application for a new license for the following year by a licensee shall be made at least thirty (30) days prior to the commencement of such year, and if not so made the applicant shall pay an additional sum equal to 50 per cent of the license fee before such license shall be issued. License Application

(b) Every distributor before purchasing any fluid milk or fluid cream from a producer must execute and deliver to the director a surety bond in the minimum sum of one thousand dollars ($1,000), executed by the applicant as principal and by a surety company qualified and authorized to do business in this State as surety. Said bond shall be upon a form approved by the director, and shall be conditioned upon the payment in the manner required by this chapter, of all amounts due to producers for fluid milk and fluid cream purchased by such licensee or applicant during the license year. Said bond shall be to the State in favor of every producer of fluid milk and fluid cream. In case of failure by a distributor to pay any producer or producers for fluid milk or fluid cream in the manner required by this chapter, the director shall proceed forthwith to ascertain the names and addresses of all producer-creditors of such distributor, together with the amounts due and owing to them and each of them by such distributor, and shall request all such producer-creditors to file a verified statement of their respective claims with the director. Thereupon the director shall bring an action on the bond on behalf of said producer-creditors. Upon any action being commenced upon said bond, the director may require the filing of a new bond and immediately upon Bond Action on bond

a recovery in any action upon such bond, such distributor shall file a new bond, and upon failure to file same within ten (10) days in either case, such failure shall constitute grounds for the revocation or suspension of the license of such distributor. In the event that recovery upon the bond is not sufficient to pay all of the claims as finally determined and adjudged by the court, any such amount recovered shall be divided pro rata among said producer-creditors.

Minimum bond

The minimum bond of one thousand dollars ($1,000) shall be required of distributors purchasing an average daily quantity of fluid milk of less than 100 gallons; distributors purchasing an average daily quantity of 100 gallons and less than 200 gallons must post a bond in the amount of two thousand dollars ($2,000); distributors purchasing an average daily quantity of 200 gallons and less than 300 gallons must post a bond in the amount of three thousand dollars ($3,000); distributors purchasing an average daily quantity of 300 gallons or more shall post a bond in the sum of five thousand dollars ($5,000).

The same bond requirements shall apply to purchases of fluid cream, except that for the purposes of computation of the required bond, 10 gallons of fluid cream shall be deemed the equivalent of 100 gallons of fluid milk.

Additional bond

In the event that any distributor so increases his purchases of fluid milk or fluid cream during the license year that said purchases exceed the amount for which said distributor is bonded, said distributor shall forthwith post such additional bond or bonds as may be required to comply with the provisions of this section.

The licenses and bonds provided for in this section shall be required for each distributor, and for the purposes of this section each subsidiary milk plant or branch milk plant whether under one ownership or not shall be considered as an individual distributor.

Failure of any distributor who purchases fluid milk or fluid cream from producers to execute and deliver the bond as herein provided and required shall constitute a violation of this chapter; failure of any such distributor to post such additional bond or bonds as may be required to comply with the provisions of this chapter shall likewise constitute a violation of this chapter.

Stats 1937, p 52

SEC. 8. Section 737.7 of the Agricultural Code is hereby amended to read as follows:

Violations

737.7. (a) The violation of any provision of this chapter, or of any provision of any stabilization and marketing plan or any order of the director establishing minimum wholesale and minimum retail prices for fluid milk or fluid cream formulated under the provisions of this chapter, or of any of the unfair practices set forth in this chapter, is a misdemeanor, and is furthermore ground for revocation or suspension of

license in the manner set forth in this chapter. The unfair practice provisions described in this chapter are hereby declared to apply to all distributors, whether or not a plan is in effect in the area in which a distributor is licensed or carries on business.

(b) Every distributor must pay for fluid milk or fluid cream delivered to him or it at the time and in the manner specified in the contract with the producer; failure to make such payment is hereby declared to be a violation of this chapter, and ground for refusal, suspension or revocation of license in the manner set forth in this chapter.

(c) Any person who violates any provision of a stabilization and marketing plan or any order of the director establishing minimum wholesale and minimum retail prices for fluid milk or fluid cream shall be liable civilly in the sum of five hundred dollars ($500) for each and every violation, such sum to be recovered by the director in any court of competent jurisdiction. All sums recovered under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund.

SEC. 9. Section 737.11 of the Agricultural Code is hereby amended to read as follows: Stats 1939, p 2645

737.11. (a) The director may refuse to grant any license herein provided and may, after due hearing upon a verified complaint signed and filed with the director by any interested person, revoke or suspend any such license as the case may require, when he is satisfied that any applicant or licensee has violated any provision of this chapter, or any provision of any stabilization and marketing plan formulated under the provisions of this chapter, or of any order of the director establishing minimum wholesale and minimum retail prices for fluid milk or fluid cream formulated under the provisions of this chapter. Upon the filing of such a verified complaint, the director shall cause a copy thereof, together with a notice of the time and place of hearing of such complaint, to be served personally or by mail upon the person or persons named as respondent or respondents therein. Such service shall be made at least ten (10) days before said hearing, which shall be held in the city or town in which is situated the principal place of business of the licensee or respondent, or in which the transaction or violation complained of is said to have occurred, or in the county seat of the county in which the transaction or violation complained of is said to have occurred, or in the nearest office of the State Department of Agriculture, at the discretion of the director. At the time and place appointed for such hearing the director or his agents shall hear the parties to said complaint, and shall enter in the office of the director at Sacramento a decision either dismissing such complaint or specifying the facts established on such hearing.

Revocation or suspension of licenses

Notice

Hearing

Decision

A copy of such decision shall be furnished to each, every and all of the respective parties thereto.

(b) Such decision may include an order refusing, revoking or suspending the license applied for or held by the respondent, or affixing such other conditional and probationary orders as may be proper for the enforcement of this chapter or any of the provisions thereof or of any stabilization and marketing plan formulated hereunder.

Enforcement
Order to show cause

(c) At the time of the filing of the verified complaint herein provided, or after any decision as above described, the director may thereupon and in the premises issue to and serve upon said person or respondent, an order directing said person or respondent to show cause why the license of said person or respondent should not be suspended or revoked for the violation complained of in the verified complaint or specified in the decision.

Service

(d) Where the order to show cause is heard separately from the case or hearing set forth in the verified complaint, a copy of the said order to show cause, together with notice of the time and place of hearing upon said order, shall be served personally or by mail upon said person or respondent. Said order shall refer to an attached copy of a verified complaint, or to such other notice, affidavit or official document, in such a way as generally to advise and inform the respondent of the charge or violation upon which said order is based and pursuant to which it is issued. Such service shall be made at least ten (10) days before said hearing, which shall be held in the city or town in which is situated the principal place of business of the respondent, or in which the transaction or violation complained of is said or charged to have occurred, or in the county seat of the county in which the transaction or violation complained of is said or charged to have occurred, or at the nearest office of the State Department of Agriculture, at the discretion of the director.

Hearing

(e) At the time and place appointed for such hearing the director or his agents shall hear the matter set forth in the order, and the showing of the licensee in the premises, and shall enter in the office of the director at Sacramento an order and decision specifying the facts, dismissing the order to show cause or directing the suspension or revocation of the license or licenses held by the licensee, or making such other conditional or probationary orders as may be proper, upon the evidence presented at such hearing. A copy of said order and decision shall be furnished to the licensee. Previous violation by any applicant or by any person connected with said applicant of any provision of this chapter or of any stabilization and marketing plan formulated thereunder or of any order of the director establishing minimum wholesale and minimum retail prices for fluid milk and fluid cream shall be good and sufficient ground for denial, revocation or suspension of a license.

SEC. 10. If any article, section, subsection, sentence, clause or phrase of any provision of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining provisions of said act. The Legislature hereby declares that it would have enacted each article, section, subsection, sentence, clause or phrase of said act irrespective of the fact that one or more other articles, sections, subsections, sentences, clauses or phrases be declared unconstitutional. Constitutionality

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CHAPTER 1215

An act for the protection of the domestic water supplies of cities, towns or districts from pollution by placer mining operations, providing a method of recording information with respect to operators using such methods, and providing penalties for the violation of this act.

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Any person, firm or corporation, other than placer mine operators who hold permits from the California Debris Commission to operate, who has been engaged or who shall engage in the operation of a placer mine on any stream or on the watershed of any stream tributary directly or indirectly to the Sacramento or San Joaquin rivers shall record in the office of the county recorder of the county in which its mine is situate, within 60 days from and after the effective date of this act, or, if operations are commenced after the effective date, then within 30 days after the commencement of such operations, a verified statement verified by the operator or by some one in behalf of the operator, showing: Statement of placer mining operator

(1) A description of the ground proposed to be mined by placer mining methods, described by United States Government subdivisions where possible. Contents

(2) The names and addresses of the owners of the ground.

(3) The names and addresses of the operators of the mine.

(4) The proposed means or method of placer mining operation.

(5) The means which the operator proposes to use to prevent the pollution of any stream by the effluent from such operations.

In the event an owner or operator changes his address, or of a transfer of ownership or change of operator of any such mining property, then within 10 days after any such transfer or change, a notice setting forth the names and addresses of the new owners or operators shall be filed in the office of the county recorder.

Prevention of stream pollution

SEC. 2. No placer mining operator who does not hold a permit to operate from the California Debris Commission shall mine by placer process on any stream or on the watershed of any stream tributary directly or indirectly to the Sacramento or San Joaquin rivers without taking the following precautions to prevent pollution of the stream by the effluent from operations:

(1) Constructing a settling pond or ponds of sufficient size to permit the clarification of water used in the mining processes before the water is discharged into the stream.

(2) Mixing with the effluent from mining operations aluminum sulphate and lime, or an equivalent clarifying substance which will cause the solid material in the effluent to coagulate and thus avoid rendering the water in the stream unfit for domestic water supply purposes.

(3) Notwithstanding the provisions of Subdivision 2 of this section, any placer miner who is operating by dredging process and who desires to transport his dredger across a stream where the expense of constructing settling ponds in the stream itself would, in the opinion of the operator, be unduly heavy, shall have the right to conduct the dredger across the stream without constructing a settling pond under the following procedure: The operator shall give to the clerk or secretary, as the case may be, of each city or district owning or operating a domestic water supply the clarity of which is likely to be affected by the crossing operation, notice of the intent of the operator to cross the stream. Such notice shall be given at least seven days in advance of the date that the operator expects to cross the stream with his dredger. Upon the expiration of the notice the operator may during the following 48 hours conduct his dredger across the stream even though some turbidity may be caused by the crossing operation. Having crossed the stream the operator shall thereupon and thereafter in its further operations observe the provisions of Subdivision 2 of this section.

Violations

SEC. 3. Any person, firm or corporation who fails to record the notice provided for in Section 1, or to install the protective devices or to give the notice provided for in Section 2, or both, shall be guilty of a misdemeanor. The operation of any placer mine on ground not covered by a permit to the operator from the California Debris Commission, without compliance with the provisions of both Sections 1 and 2 hereof, is hereby declared to be a public nuisance which may be enjoined upon suit brought by the district attorney of the county in which the operation has been conducted, or by any city or district whose domestic water supply is rendered unfit or dangerous for human consumption by the acts, or failure to act, of the operator. The superior court of the county in which the operation is conducted shall have jurisdiction to hear and determine the action and to award such relief as may be proper therein. Nothing in this act contained, however,

shall be deemed or construed to deprive the State, any city, city and county, county, district, person, firm or corporation of any right to bring and maintain any action or proceeding, in any jurisdiction, which it was entitled to bring or maintain prior to the enactment of this act, or to receive or obtain in any such action any remedy accorded to it under existing law.

Constitutionality

SEC. 4. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER 1216

An act to amend Sections 653.1, 653.3, 653.5, 653.8, 653.9, 653.14 and 653.15 of the Civil Code, relating to cooperative corporations.

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

Stats 1939, p 2359

SECTION 1. Section 653.1 of the Civil Code is hereby amended to read as follows:

Cooperative corporation

653.1. A cooperative corporation within the meaning of this title shall be deemed to be a corporation composed of ultimate producers and/or consumers in which each shareholder and/or member has one vote and no more, organized for the purpose of conducting any lawful business primarily for the mutual benefit of its shareholders and/or members who may be natural or legal persons, and the earnings, savings or benefits of which are used for the general welfare of the shareholders, members, or patrons or are distributed, whether in the form of cash, stock, or evidences of indebtedness or in goods or services proportionately and equitably among the persons for which it does business upon the basis of the amount of their transactions and/or participation in production; provided, however, that any such corporation may pay out of its net surplus earnings, savings or benefits, not to exceed 5 per centum, interest upon its capital stock. For the purpose of this act, any central organization composed wholly or in part of such corporations also shall be deemed a cooperative corporation.

Stats 1939, p. 2359

SEC. 2. Section 653.3 of the Civil Code is hereby amended to read as follows:

Articles of incorporation

653.3 Five or more persons may form a cooperative corporation for any lawful purpose by filing articles of incorporation which shall contain:

1. The name of the proposed corporation;

2. The purpose or purposes for which it is formed;

3. The total number of shares which the corporation shall have authority to issue and the aggregate par value, if any, of all shares, and (a) the par value of each share, or (b) a statement that all such shares are to be without par value, and/or the number and kind of memberships and the cost thereof, and any limitation on the number of shares or memberships permitted to be owned or held or voted by any one shareholder and/or member at any one time, and the amount of capital with which the association will begin business;

4. If the corporation is to be authorized to issue more than one class of shares, the total number of shares which the corporation shall have authority to issue and the aggregate par value of all shares that are to have a par value, and (a) the number of shares of each class that are to have a par value, and the par value of each share of each such class, and/or (b) the number of shares of each class that are to be without par value and the statement of the preferences, privileges, and restrictions granted to or imposed upon the respective classes of shares and/or upon the holders thereof. Except as to matters and things so stated, no distinction shall exist between said classes of shares or the holders thereof; provided, however, that in lieu of a statement of the dividend rate, the conversion rights, the redemption price or the liquidation preferences of any class, the articles may authorize the board of directors within the limits and restrictions stated therein, to fix the dividend rate, the conversion rights, the redemption price, or the liquidation preferences of any wholly unissued class of shares, or all or any of them;

5. The county in this State where the principal office for the transaction of the business of the corporation is to be located;

6. The number of its directors, not less than five nor more than 25;

7. The names and post-office addresses of the directors, who shall serve until the first annual meeting;

8. The names and post-office addresses of the subscribers for shares or memberships and a statement of the number of memberships or shares of stock which each agrees to take in the corporation.

Stats 1939, p 2360

SEC. 2.5. Section 653.5 of the Civil Code is hereby amended to read as follows:

Applicable law

653.5. The provisions of the Civil Code, Division 1, Part 4, Title 12, relating to nonprofit corporations shall apply to

cooperative corporations formed under this title, except where such provisions are in conflict with those of this title. Corporations formed hereunder shall have and enjoy all rights, powers, and privileges granted generally to corporations by the laws of this State, except as may be inconsistent with the provisions of this title.

SEC. 3. Section 653.8 of the Civil Code is hereby amended to read as follows: Stats. 1939, p 2361

653.8. Any such corporation may amend its articles of incorporation in the manner prescribed by Title 1, Part 4, Division 1 of the Civil Code except that the approval of any amendment by resolution of the board of directors shall not be required and any such amendment shall be approved by the vote or written consent of shareholders and/or members representing at least three-fourths of the voting power. Amendment of articles

SEC. 4. Section 653.9 of the Civil Code is hereby amended to read as follows: Stats. 1939, p 2361

653.9. Any shareholder and/or member shall be entitled to cast one vote and no more, regardless of the number of shares and/or memberships held by him, excepting only that the articles of incorporation and by-laws of a central organization which shall have been formed under the provisions of this title may provide for voting in the affairs of such central organization in proportion to the number of shareholders and/or members entitled to vote in the affairs of each cooperative corporation and/or association which shall be a shareholder or member of such central organization. Certificates of stock shall not be issued to any subscriber until fully paid. The corporation shall have the right to purchase, at book value as conclusively determined by the directors, any share and/or membership offered for transfer, or the stock and/or membership of any deceased shareholder; and the corporation may provide in its by-laws for the purchase of shares and/or memberships held by any shareholder and/or member who shall have failed to patronize the corporation during the preceding corporate year to an amount prescribed in the by-laws. Shareholder's vote

Stocks

There shall be no voting by proxy; provided, that a cooperative corporation covering an area which in the opinion of the shareholders and/or members shall be too large for the convenient assembling of its shareholders and/or members, may provide in its by-laws for the formation of districts, and the holding of district meetings which may elect one or more delegates who shall represent their districts in annual and special meetings of the association, in a manner to be specified in said by-laws. The vote of such delegates shall be taken as representing the votes of all the shareholders and/or members appearing upon the books of the corporation as residing in Proxies

Districts

their respective districts, on all questions not covered by ballots submitted to all shareholders and/or members.

Stats 1939, p 1362

SEC. 5. Section 653.14 of the Civil Code is hereby amended to read as follows:

Reserve fund

653.14. The directors shall apportion the net surplus-savings and/or earnings, if any, by first setting aside at least 10 per centum thereof for a reserve fund until such fund equals 30 per centum of the paid-up shares, and thereafter the directors may continue to set aside 10 per centum of the net surplus-savings for a reserve fund. The directors may

Dividends

then declare a dividend upon the paid-up shares at a rate per annum not to exceed 5 per centum; provided, that no such dividend shall be cumulative. The directors may then set aside such an amount of the remaining surplus-savings or

Educational fund

earnings as may be provided in the by-laws as an educational fund to be used in teaching cooperation. The directors may

Distribution of surplus

distribute all remaining surplus-savings or earnings uniformly to patrons of the association who are shareholders and/or members, and in the discretion of the association, they may also distribute uniform surplus-savings to patrons who are not shareholders, and/or members based in amount upon the volume of business transacted with the association by such patrons, the rate of such distribution, and the ratio of savings returns to shareholders and/or members and nonshareholders and/or nonmembers being determined by resolution of the directors; provided, that the corporation may employ a part or all of such surplus-savings for its general welfare; and provided, that surplus-savings or earnings shall not be distributed to nonshareholders and/or nonmember patrons unless at least 50 per centum of such amount be applied toward purchase of shares and/or memberships in the corporation.

Any savings returns or dividends declared under this section may be in the form of stock or memberships in whole or in part.

Stats 1939, p 2363

SEC. 6. Section 653.15 of the Civil Code is hereby amended to read as follows:

Existing corporations

653.15. Any corporation heretofore or hereafter organized under any other law of this State may be brought under the provisions of this title by amending its articles of incorporation in the manner prescribed by Title 1, Part 4, Division 1 of this code to conform to the provisions of this title, and whenever any corporation shall have amended its articles of incorporation to conform to the provisions of this title, it shall be deemed to be then organized and existing under and entitled to the benefit of and subject to the provisions of this title for all purposes and as fully as though originally organized hereunder.

CHAPTER 1217

An act to amend Section 2182 of, and to add Section 2165a to, the Welfare and Institutions Code, relating to aid to the aged.

Stats 1937, p 1005, amended

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2165a is hereby added to the Welfare and Institutions Code, to read as follows: New section

2165a. In computing value of property under Section 2165, ownership of property located in another State by a spouse not having a legal residence in California, with whom the applicant has not been living for at least five (5) years preceding the application for aid, shall not preclude the applicant from receiving the aid provided in this chapter, unless it appears that the applicant has a present legal interest in such property. Property owned outside of State by spouse

SEC. 2. Section 2182 of the Welfare and Institutions Code is hereby amended to read as follows: Stats 1939, p 2242

2182. If any applicant or recipient is dissatisfied with the action of the board of supervisors, he shall, upon filing a petition with the State Department of Social Welfare, have the right of appeal and shall be accorded an opportunity for a fair hearing. The Social Welfare Department shall set such appeal for hearing before the State Social Welfare Board and shall give all parties concerned written notice of the time and place of such hearing. At such hearing the applicant or recipient may appear in person with counsel of his own choosing or in person and without such counsel. Appeal

The State Social Welfare Board shall consider the appeal, and shall dismiss the appeal or award aid as prescribed in this chapter. The county board of supervisors shall then pay to such aged person the sum awarded, if any, by the State Social Welfare Board, the payments, if awarded, to commence from the date the applicant was first entitled thereto. Decision Award

Payments of aid shall be commenced as of the first day of the month in which the application is granted, unless otherwise directed by the State Social Welfare Board in cases in which an appeal is taken; but in no event shall the aid commence prior to the date of application.

An applicant whose application for aid under this chapter has been rejected may not again apply for such aid until the expiration of one year from the date of the previous application, except with the consent of the county or an order of the State Department of Social Welfare. Renewed application

Judicial review

If the applicant or recipient feels himself aggrieved by any decision of the State Welfare Board, he may file with the superior court of the county in which he resides, a petition, praying for a review of the entire proceedings in the matter, upon questions of law involved in the case.

CHAPTER 1218

Stats. 1937, p. 1005, amended

An act to add Section 2193 to the Welfare and Institutions Code, relating to aid to the aged.

In effect September 13, 1941

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2193 is hereby added to the Welfare and Institutions Code, to read as follows:

Recipients of aid not subject to control, exceptions

2193. No citizen of California receiving such aid shall be considered in the custody of the State of California, or any subdivision thereof, by reason of such aid, or subject to control in his manner of living, by State or county officials or employees of the county in which he shall reside; save when adjudged incompetent to care for himself by proper tribunal or when admitted to a State or county hospital for medical attention, in which case he shall be subject to the rules of the institution in the same degree as other patients. Nothing contained in this section shall prevent the payment of aid to any responsible person acceptable to the recipient for the benefit of the recipient, as provided in Section 2183.

CHAPTER 1219

An act to amend Section 470 of the Civil Code, relating to the use of land of a municipality by railroad corporations.

In effect September 13, 1941

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

1872 Code

SECTION 1. Section 470 of the Civil Code is hereby amended to read as follows:

Not to use streets, alleys, etc., in cities except by vote of city authorities

470. No railroad corporation may use any street, alley, or highway, on any of the land, whether covered by water or otherwise, owned by the municipality within any incorporated city or town, unless the right to so use the same is granted by a two-thirds vote of the town or city authority from which the right must emanate.

CHAPTER 1220

An act to amend the title of the act establishing a Probate Code, approved May 11, 1931, and to add new sections, numbered 1435, 1435.1, 1435.2, 1435.3, 1435.4, 1435.5, 1435.6, 1435.7, 1435.8, 1435.9, 1435.10, to Division 4, Chapter 2, thereof, relating to the management, control and disposition of the community real property and the homestead property of insane or incompetent persons, and to repeal Sections 172b, 172c, 172d, 1269a, 1269b and 1269c of the Civil Code.

Stats. 1931, p. 587, amended

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The title of the act establishing a Probate Code, approved May 11, 1931, is hereby amended to read as follows:

Stats. 1935, p. 1922

An act to revise and consolidate the law relating to probate, including the custody, disposal by will, succession, administration and distribution of estates of decedents, estates of missing persons, the custody and administration of estates of persons, under guardianship, the custody of persons under guardianship, and the management, control and disposition of community real property and homestead property of insane or incompetent persons; and to repeal certain provisions of law therein revised and consolidated and therein specified; and to establish a Probate Code.

Title

SEC. 2. Sections 1435, 1435.1, 1435.2, 1435.3, 1435.4, 1435.5, 1435.6, 1435.7, 1435.8, 1435.9 and 1435.10 are hereby added to Division 4, Chapter 2 of the Probate Code, to read as follows:

New sections

1435. Where real property is held as community property, or real property is held as community or separate property subject to a homestead, and either spouse is insane or incompetent, or both spouses are either insane or incompetent, the spouse not insane or incompetent or the guardian of the estate of the insane or incompetent husband if both are either insane or incompetent, may petition the court for an order permitting the petitioner to sell and convey, to exchange, to mortgage, to lease, or to execute a deed of trust upon such property, to provide for the care and support of either spouse or both spouses, or of their minor children or of such members of the family of such spouses as they are, or either of them is, legally obligated to support and maintain, or to raise moneys to pay taxes or interest or other charges incurred or required to be paid for the protection and preservation of the homestead or community estate, or whenever it appears to be for the advantage or benefit or best interests of the spouses, the

Real property held by insane or incompetent spouse

Petition for order to sell, lease, etc

estate or their dependents or may petition the court for an order permitting the petitioner to transfer such property in compromise, composition or settlement of a mortgage or deed of trust thereon. If the petitioner is the spouse not insane or incompetent, the petition shall be addressed to the superior court of the county in which such real property or any part thereof is situated. If the petitioner is the guardian of the estate of one of the spouses, the petition shall be addressed to the superior court of the county in which the guardianship proceeding is pending and shall be filed in said guardianship proceeding.

Contents

1435.1. Such petition must be subscribed and sworn to by the petitioner and must set forth the name and age of the insane or incompetent spouse; the name and age of the other spouse and, if such other spouse has been adjudged insane or incompetent, the fact of such adjudication; if a guardian of the estate of either spouse has been appointed, the name of said guardian and the county in which said guardianship proceeding is pending; the name and address of the nearest adult relative of the insane or incompetent person resident in this State, if known to the applicant; a description of the premises constituting the homestead or community real property to be sold, conveyed, transferred, exchanged, mortgaged, leased or upon which a deed of trust is to be executed and an averment that said premises are the homestead of the parties, or their community property, as the case may be; the value of said premises; the county in which it is situated; and such facts in addition to the insanity and incompetency of the husband or wife, relating to the circumstances and necessities of the applicant, either spouse, their minor children, such members of the family of such spouses as they are, or either of them is, legally obligated to support and maintain, or of such property, as may be relied upon in support of the petition.

Service of petition and citation

1435.2. Upon the filing of the petition the clerk shall set the same for hearing by the court and shall issue a citation directed to the spouse or spouses not petitioning, setting forth the time and place of hearing, which, with a copy of said petition, shall be personally served on said spouse or spouses at least three weeks before the time of hearing. If a spouse has been adjudicated insane or incompetent in proceedings under Division 4 of this code and has not been restored to competency as in said code provided, a copy of the notice next hereinafter mentioned shall be personally served, at least three weeks before the time of said hearing, upon the guardian of the person or estate of such spouse, appointed, qualified and then acting under appointment in said proceedings, if such guardian is not the petitioner.

Notice of application for order

Notice of the application for such order shall give the name or names of the insane or incompetent person or persons, the

name of the petitioner and the purpose for which the order is sought, referring to the petition for further particulars, and notifying all persons interested to appear at the time and place mentioned in the notice and show cause, if any they have, why the order should not be made; and must be given by publication of the same, in a newspaper published in the county in which the property or some part thereof is situated, if there is a newspaper published therein, once each week for three successive weeks prior to the hearing of such application, and a copy of such notice must also be personally served upon the nearest adult relative or one of the nearest adult relatives of such insane or incompetent spouse resident in this State at least three weeks prior to such hearing; and in case there is no such relative known to the applicant, and no guardian of the person or estate of the spouse upon whom notice can be served as above provided, a copy of such notice must be served upon the public administrator of the county in which the petition is filed, at least three weeks prior to the hearing of said petition, and in such case it shall be the duty of such public administrator to appear and represent the interest of such insane or incompetent spouse. For all such services rendered by the public administrator he may be allowed a reasonable fee, to be fixed by the court, and the same may be taxed as costs against the spouse not insane nor incompetent, or if both spouses are either insane or incompetent the court may order such fee payable out of the proceeds of the transaction authorized, or if there are no proceeds in cash or such proceeds in cash are insufficient, then out of the assets of the estate of which the petitioner is guardian.

Publication

Service on relatives

Service on public administrator

If a spouse has not been adjudicated insane or incompetent in proceedings under Division 4 of this code or, after such adjudication, has been restored to competency as in said code provided, prior to the hearing of the petition, such person, if able to attend, must be produced at the hearing, and if not able to attend by reason of physical inability, such inability must be evidenced by the affidavit and certificate of a duly licensed physician or surgeon, or other duly licensed medical practitioner, unless such alleged insane or incompetent person is a patient at a State hospital in this State, in which case the certificate of the medical superintendent or acting medical superintendent of such State hospital, to the effect that such patient is unable to attend, shall be prima facie evidence of that fact. In proceedings under this section, the provisions of Section 5752 of the Welfare and Institutions Code, if applicable, shall also be complied with.

Spouse not adjudged incompetent must appear

1435.3. If it appears to the court that said property is the homestead or is the community property of the spouses, and if it also appears that a spouse is, or both spouses are, either insane or incompetent, or has or have been adjudicated to be either insane or incompetent, the court shall so adjudge and

Order

may then make an order permitting the petitioner to sell and convey, to exchange, to mortgage, to lease or execute a deed of trust upon such property; or may then make an order permitting the petitioner to transfer such property in compromise, composition or settlement of a mortgage or deed of trust thereon upon such terms and conditions as it may deem just. If the community real property or the homestead property to be exchanged is greater or lesser in value than the property for which it is to be exchanged, the court may authorize the petitioner to pay or accept cash in the amount of the difference in value.

Execution of conveyance, etc

1435.4. The petitioner shall execute, acknowledge and deliver the conveyance, mortgage, lease or deed of trust as directed, setting forth therein that it is made by authority of the order, giving the date of the filing of said order. Any note or notes, mortgages, or deed of trust signed by the petitioning guardian as such, shall create no personal liability against the guardian so signing, unless said guardian is one of the spouses. Any sale, conveyance, mortgage, lease or deed of trust made in pursuance of such order is as valid and effectual as if the property affected thereby was the absolute property of the person making such sale or executing such conveyance, mortgage, lease or deed of trust.

Sale upon credit

1435.5. If a sale of real property is made in pursuance of an order made under the provisions of this chapter, and such sale is made upon a credit, the petitioner must take the note or notes of the person to whom the sale is confirmed for the amount of the unpaid balance of the purchase money, with a mortgage or deed of trust on the said real property, to secure the payment of said unpaid balance.

Appraisal

1435.6. The court may, in its discretion, order real property which is sold, conveyed, transferred, exchanged, mortgaged, leased or upon which a deed of trust is to be executed under the provisions of this chapter to be appraised, but nothing contained in this code shall prevent the court from confirming such sale for an amount less than ninety per centum (90%) of such appraised value. A sale of real property made in pursuance of an order made under the provisions of this chapter must be reported to and confirmed by the court. The court shall have jurisdiction to confirm such sale to the purchaser or the assignee or nominee of the purchaser. Notice of the hearing of such report shall be given as required by Section 1200 of this code.

Confirmation of sales

Vacating order of sale

1435.7. If, after the confirmation of a sale made under the provisions of this chapter, the person to whom the sale was confirmed neglects or refuses to comply with the terms of the sale, the court, on motion of the petitioner, and after citation to the person to whom the sale was confirmed, or the

executor or administrator of the estate of such person, may vacate the order of confirmation and may order a resale of the property. If the amount realized on such resale does not cover the bid and the expenses of the previous sale, such person to whom the sale was confirmed is liable to the spouses for the deficiency. Liability of defaulting purchaser

1435.8. Any money realized upon such sale, transfer, exchange, mortgage, lease, deed of trust, compromise, settlement or composition shall be paid to the spouse not insane nor incompetent. Any note, mortgage, or deed of trust executed under the provisions of this chapter shall be made payable to the spouse not insane nor incompetent. In the event both spouses are either insane or incompetent such money shall be paid to, and such note, mortgage or deed of trust shall be made payable to the petitioning guardian as such or his successor in that office. Any property received upon an exchange shall be taken in the same manner as the property given upon the exchange was held. Payments

1435.9. A petitioning spouse must, before executing any conveyance, mortgage, or deed of trust, give a bond to be approved by the judge of the court, in double the amount of the mortgage or deed of trust, or double the value of the property to be sold or exchanged, conditioned to account for the proceeds of the mortgage, deed of trust, exchange, sale or transaction, and to apply such proceeds only as the court may direct. Bond of petitioner

A petitioning guardian must, before executing any conveyance, mortgage, lease or deed of trust, give a bond to be approved by the court or judge, in the estate of which he is the guardian, conditioned to account in said estate for any money paid to him under the provisions of this chapter and the amount secured by any mortgage, or deed of trust executed under the provisions of this chapter and made payable to such guardian.

If such bond is given by individual persons the penalty thereof must be in an amount not less than twice the value, and if given by an authorized surety company, such bond must be in an amount not less than the value of such money paid to said guardian and the amount secured by any mortgage or deed of trust executed under the provisions of this chapter.

The provisions of Section 1483 of this code relating to new bond and discharge or sureties, and the provisions of Section 1514 of this code relating to deposit with a trust company and reduction of bond, are hereby made applicable to any bond given under the provisions of this section.

1435.10. Any person who has been adjudicated insane or incompetent in proceedings under the foregoing Sections 1435, 1435.1, 1435.2 and 1435.3 or his guardian, or any relative or friend may at any time apply, by petition filed in the same Petition for restoration to capacity

proceeding and by proceedings otherwise pursued substantially as provided in Sections 1470, et seq., of this code, to have the fact of his restoration to capacity judicially determined; and the court, in proceedings under the foregoing sections, aforesaid, shall retain jurisdiction to hear and determine any such petition. If it is found that the person in question is competent to manage and take care of his property, his restoration to capacity must be adjudged; but such restoration shall not prejudice or affect anything theretofore lawfully done pursuant to and in accordance with any prior order made under Section 1435.3.

Repeals Effect

SEC. 3. Sections 172b, 172c, 172d, 1269a, 1269b and 1269c of the Civil Code are hereby repealed, but no action or proceeding commenced under said sections, and no right accrued, is affected by such repeal, and any such action or proceeding may be continued and completed as though such repeal had not taken place.

CHAPTER 1221

Stats 1939, p 49, amended

An act to add Section 2540 5 to the Elections Code, relating to the qualification of political parties for participation in primary election.

In effect September 13, 1941

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2540 5 is hereby added to the Elections Code, to read as follows:

Qualification of party

2540.5. Notwithstanding the provisions of Section 2540, no party shall be qualified to participate in any primary election unless it appears to the Secretary of State, as a result of examining and totaling the statements of registration of voters and their political affiliations transmitted to him by the county clerks 25 days prior to the last preceding primary election, that not less than 2,500 voters declared their intention of affiliating with that party.

CHAPTER 1222

An act to amend Sections 13552, 13600, 13601, 13606, 13607, 13613, 13652, 13655, 13656, 13727 and 13728 of the Health and Safety Code, relating to spotting, sponging and pressing establishments.

Stats 1939, p 482, amended

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 13552 of the Health and Safety Code is hereby amended to read as follows:

Stats 1939, p 812

13552. The State Fire Marshal shall formulate such rules, orders, and regulations as may be necessary to:

Rules and regulations

(a) Promote fire prevention and health protection in spotting, sponging, or pressing establishments, and in private schools or colleges of spotting, sponging, or pressing.

(b) Carry out the provisions of this chapter.

SEC. 2. Section 13600 of said code is hereby amended to read as follows:

Stats 1939, p 813

13600. No person shall establish or operate a cleaning and dyeing shop or store, a spotting, sponging, or pressing establishment, a private school or college of spotting, sponging, or pressing, or an instrumentality, unless he has first made application to and obtained a certificate of registration and a license therefor from the State Fire Marshal.

Certificate of registration and license required

SEC. 3. Section 13601 of said code is hereby amended to read as follows:

Stats. 1939, p 813

13601. No person shall establish or operate an agency of a cleaning and dyeing shop or store, of a spotting, sponging, or pressing establishment, or of a clothes cleaning establishment, unless he has first made application to and obtained a license therefor from the State Fire Marshal.

Agency license

SEC. 4. Section 13606 of said code is hereby amended to read as follows:

Stats 1939, p 814

13606. A certificate of registration, and a license for the license period in which the investigation and examination is made, shall be issued to every applicant who passes the investigation and examination upon the payment of the annual license fee required by this chapter. Any applicant who fails to pass the investigation and examination is eligible for reinvestigation and re-examination after the expiration of 45 days, upon reapplication and payment of the fee for investigation and examination.

Issuance of certificate of registration and license

Stats 1939, p 814

SEC. 5. Section 13607 of said code is hereby amended to read as follows:

Renewal of license

13607. Not later than the first day of July in each year, every person who operates any of the following shall make written application to the State Fire Marshal, upon a blank to be prepared by the latter, for a license:

(a) A cleaning and dyeing shop or store, or any agency thereof.

(b) A spotting, sponging, or pressing establishment, or any agency thereof.

(c) An agency of a clothes cleaning establishment, or any other agency.

(d) A private school or college of spotting, sponging, or pressing.

(e) An instrumentality.

The application shall be accompanied by the annual license fee required by this chapter.

Stats 1939, p 815

SEC. 6. Section 13613 of said code is hereby amended to read as follows:

Suspension or revocation of license

13613. After giving the interested person a five days' notice in writing and affording him an opportunity to be heard, the State Fire Marshal may refuse to issue or renew, or may suspend or revoke, any certificate of registration or license for any of the following causes:

(a) Obtaining, or attempting to obtain, a certificate of registration or license by fraudulent misrepresentations.

(b) Unlawful conduct or practices, including failure to observe the requirements of municipal ordinances concerning dry cleaning or the installation of equipment.

(c) The violation of any of the provisions of this chapter.

Stats 1939, p 815

SEC. 7. Section 13652 of said code is hereby amended to read as follows:

Period covered

13652. Each annual license fee shall cover a license period from the first day of July in any year to the thirtieth day of June in the following year, or any portion of any such license period during which the shop, store, establishment, agency, instrumentality, school, or college is operated, regardless of the date when the fee is paid.

Stats 1939, p 816

SEC. 8. Section 13655 of said code is hereby amended to read as follows:

Fee schedule

13655. The fees required by this chapter are those fixed by the following schedule:

(a) The application fee for investigation and examination is ten dollars ($10).

(b) The annual license fee for each cleaning and dyeing shop or store, and for each spotting, sponging, or pressing establishment, is six dollars ($6).

(c) The annual license fee for each agency or instrumentality is six dollars ($6).

(d) The annual license fee for each private school or college of spotting, sponging, or pressing is two hundred fifty dollars ($250).

(e) The fee for a duplicate certificate of registration, license, or license plate is one dollar ($1).

SEC. 8.5. Section 13656 of the Health and Safety Code is hereby amended to read as follows: Stats 1939, p 816

13656. If the annual license fee required of any person who operates a cleaning and dyeing shop or store, a spotting, sponging, or pressing establishment, an instrumentality, or any agency is not paid on the date when it is due and payable, a penalty shall be added to the fee in accordance with the following schedule: Delinquent payment: Penalty

(a) Fifty cents ($0.50), if it is not paid within a period of 30 days from and after the date it is due and payable but is paid within a period of 60 days from and after such date.

(b) One dollar ($1), if it is not paid within a period of 60 days from and after the date when it is due and payable but is paid within 90 days from and after such date.

(c) One dollar and fifty cents ($1.50), if it is paid subsequent to the expiration of 90 days from and after the date when it is due and payable.

SEC. 9. Section 13727 of said code is hereby amended to read as follows: Stats 1937, p 820

13727. No person shall aid or abet the owner, manager, or operator of a cleaning and dyeing shop or store, of a spotting, sponging, or pressing establishment, of any agency of any such shop, store, or establishment, of any agency of a clothes cleaning establishment, of any other agency, or of an instrumentality, or the owner, manager, or instructors of a private school or college of spotting, sponging, or pressing, in violating any of the provisions of this chapter. Aiding violation

SEC. 10. Section 13728 of said code is hereby amended to read as follows: Stats 1939, p 820

13728. The State Fire Marshal shall submit to the district attorney any evidence relating to: Report of violations

(a) A violation of any provision of this chapter.

(b) Aiding or abetting any owner, manager, or operator of a cleaning and dyeing shop or store, of a spotting, sponging, or pressing establishment, of any agency of any such

shop, store, or establishment, of any agency of a clothes cleaning establishment, of any other agency, or of any instrumentality, or the owner, manager, or instructors of a private school or college of spotting, sponging, or pressing to violate any provision of this chapter.

CHAPTER 1223

Stats 1933, p 394, an ended

An act to amend Section 781 and 786.5 of the Fish and Game Code, relating to lobsters.

In effect September 13, 1941

[Approved by Governor July 17, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats. 1933, p. 463

SECTION 1. Section 781 of the Fish and Game Code is hereby amended to read as follows:

"Spiny lobster"

781. As used in this article, "spiny lobster" refers to any species of the genus Panulirus.

Stats. 1939, p 1571

SEC. 2. Section 786.5 of the Fish and Game Code is hereby amended to read as follows:

Unlawful to sell lobsters cooked outside of State; exception

786.5. It is unlawful to sell, expose for sale, offer to sell, barter, trade, or have in possession any spiny lobster which has been cooked or otherwise prepared for human consumption outside of the State of California. This section shall not apply to any canned lobster or other shellfish prepared under the supervision of the Department of Agriculture or the corresponding department of any other State or nation.

CHAPTER 1224

Stats 1935, p. 248, amended

An act to repeal Section 981 and to amend Sections 980 and 1029 of the Streets and Highways Code, relating to public roads and highways and the powers and duties of county boards of supervisors, county surveyors, and county road commissioners in relation thereto.

In effect September 13, 1941

[Approved by Governor July 17, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 310

SECTION 1. Section 981 of the Streets and Highways Code is hereby repealed.

SEC. 2. Section 1029 of the Streets and Highways Code is hereby amended to read as follows: Stats 1935, p 312

1029. The board of supervisors of any county at their option may appoint the county surveyor or other person qualified in road construction to act as road commissioner of and for any or all road districts in the county. The board of supervisors may consolidate the existing road districts into one road district which shall comprise all of the territory lying within the county excepting incorporated areas. The duties of the road commissioner shall be those outlined in Sections 1021 and 1024 of this code. Appointment of road commissioner Consolidation of road districts

In the event that such road district consolidation is effected, it shall be without prejudice to the legal requirement that all supervisorial road district taxes collected in any one such district shall be expended in that district. Effect

SEC. 3. Section 980 of the Streets and Highways Code is hereby amended to read as follows: Stats 1935, p 310

980. The board of supervisors shall cause to be prepared, either by the county surveyor or by the county planning commission or by some other qualified person selected by the board of supervisors, a classification of all publicly owned roads and highways, but not including State highways in the county. Such classification shall include mileage, character of improvement and traffic density. Such classification shall be corrected annually or as often as the board of supervisors may consider necessary. Classification of public highways

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CHAPTER 1225

An act to amend Section 724.5 of the Fish and Game Code, relating to catfish in District 2¼. Stats 1933, p 394, amended

[Approved by Governor July 17, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 724.5 of the Fish and Game Code is hereby amended to read as follows: Stats 1939, p 2433

724.5. In District 2¼ it is unlawful to take catfish less than nine inches in length. The bag limit on catfish nine inches in length or over is 50 pounds live, or 25 pounds dressed, per day, and not more than one daily bag limit may be possessed by any one person during one day. Catfish

No catfish taken in District 2¼ may be sold, or transported or carried out of this district for the purpose of sale or for other commercial purposes.

CHAPTER 1226

Stats 1935, p 1090, amended

An act to amend Sections 2, 4, 7, 8, 9.2, 9.3, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 26, 28, 30, 32, 33 and 34 of The Personal Income Tax Act, relating to taxes upon the incomes of individuals, estates and trusts and to provide that this act shall take effect immediately.

In effect immediately

[Approved by Governor July 18, 1941 Filed with Secretary of State July 19, 1941]

The people of the State of California do enact as follows:

Stats 1937, p 1831 See also Stats 1941, p 3220

SECTION 1. Section 2 of The Personal Income Tax Act is hereby amended to read as follows:

Sec. 2. For the purposes of this act and unless otherwise required by the context—

Definitions

(a) The word "commissioner" as used in this act and the word "commissioner" as used in the "Revenue Act of 1936," when any part of that act is incorporated herein by reference, mean the Bank and Corporation Franchise Tax Commissioner.

(b) The word "taxpayer" includes any individual, fiduciary, estate, or trust subject to the tax imposed by this act.

(c) The word "individual" means a natural person.

(d) The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, estate or trust.

(e) The word "person" includes individuals, fiduciaries, partnerships and corporations.

(f) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(g) The word "corporation" includes joint-stock companies or associations, insurance companies, business trusts or so-called "Massachusetts trusts."

(h) The words "taxable year" mean the calendar year or the fiscal year, upon the basis of which the net income is computed under this act; if no fiscal year has been established they mean the calendar year.

"Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this act or under regulations prescribed by the commissioner, the period for which such return is made.

(i) The words "fiscal year" mean an accounting period of 12 months ending on the last day of any month other than December.

(j) The words "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this act.

(k) Every natural person who is in the State of California for other than a temporary or transitory purpose is a resident and every natural person domiciled within this State is a resident unless he is a resident within the meaning of that term as herein defined of some other State, Territory or country. Every natural person who spends in the aggregate more than nine months of the taxable year within the State or maintains a permanent place of abode within this State shall be presumed to be a resident. The presumption may be overcome by satisfactory evidence that such person is in the State for a temporary or transitory purpose. Any natural person who is or shall become a resident of this State shall continue to be a resident even though temporarily absent from the State. Every natural person other than a resident is a nonresident.

(*l*) The words "foreign country" mean any jurisdiction other than one embraced within the United States. The words "United States," when used in a geographical sense, include the States, the Territories of Alaska and Hawaii, the District of Columbia and the possessions of the United States. The word "State" shall include the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States.

(m) The words "Revenue Act of 1936" mean the act of Congress of the United States, approved June 22, 1936, and known and cited as the "Revenue Act of 1936."

(n) The words "trade or business" include the performance of the functions of a public office.

(o) The words "State board" mean the State Board of Equalization.

SEC. 2. Section 4 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1939, p 2528

Sec. 4. (a) Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make a return for any of the following individuals, estates or trusts, taxable hereunder, for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this act: Fiduciary returns

(1) Every individual having a net income for the taxable year of one thousand dollars ($1,000) or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of two thousand five hundred dollars ($2,500) or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of five thousand dollars ($5,000) or over, regardless of the amount of his net income;

(4) Every estate the net income of which for the taxable year is one thousand dollars ($1,000) or over;

(5) Every trust the net income of which for the taxable year is one hundred dollars ($100) or over;

(6) Every estate or trust the gross income of which for the taxable year is five thousand dollars ($5,000) or over, regardless of the amount of the net income;

(7) Every decedent, for the year in which death occurred, and for prior years, if returns for such years should have been filed but have not been filed by the decedent, under such rules and regulations as the commissioner may prescribe.

(b) Under such rules and regulations as the commissioner may prescribe, a return filed by one of two or more joint fiduciaries shall be sufficient compliance with the above requirement. Such fiduciary shall state under oath (1) that he has sufficient knowledge of the affairs of the individual, estate, or trust, for which the return is made, to enable him to make the return, and (2) that the return is, to the best of his knowledge and belief, true and correct.

(c) Any fiduciary required to make a return under this act shall be subject to all the provisions of this act which apply to individuals.

Stats 1939, p 2529

SEC. 3. Section 7 of The Personal Income Tax Act is hereby amended to read as follows:

Gross income

Sec. 7. (a) Gross income includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, and includes any salary, wages or compensation of any officer or employee of this State, or any political subdivision, district or municipality thereof, and any compensation of officers and employees of the United States or agencies or instrumentalities thereof to the extent the collection of State taxes thereon is not prohibited by the terms of the "Public Salary Tax Act of 1939," (it being hereby declared to be the policy of this State to comply with the provisions of said act) and all other gains, profits and income which the State may now or hereafter constitutionally tax.

Exemptions

(b) The following items shall not be included in gross income and shall be exempt from taxation under this act:

Life insurance

(1) Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income);

(2) Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year

under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per centum of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this act in respect of such annuity increased by the amount which would have been excluded from gross income in respect of such annuity had this act been in effect continuously from and after the date at which payments under such annuity were first received equals the aggregate premiums or consideration paid for such annuity. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph;

(3) The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);

(4) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness; Accident or health insurance

(5) The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(6) Wages, fees, or salary of an employee of a foreign country (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such country:

(A) If such employee is not a citizen of the United States; and

(B) If the services are of a character similar to those performed by employees of the United States in foreign countries; and

(C) If the foreign country and political subdivisions thereof do not tax the wages, fees or salaries of employees of the United States performing similar services in such foreign country.

(7) Income which this State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

(c) (1) Whenever in the opinion of the commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by Inventories

Inventories

such taxpayer upon such basis as the commissioner may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

(2) (A) A taxpayer may use the following method (whether or not such method has been prescribed under Subdivision (1)) in inventorying goods specified in the application required under paragraph (B): (1) Inventory them at cost; (2) Treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year; and (3) Treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

(B) The method described in paragraph (A) may be used (1) only in inventorying goods (required under Subdivision (1) to be inventoried) specified in an application to use such method filed at such time and in such manner as the commissioner may prescribe; and (2) only if the taxpayer establishes to the satisfaction of the commissioner that the taxpayer has used no procedure other than that specified in (2) and (3) of paragraph (A) in inventorying (to ascertain income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) such goods for any period beginning with or during the first taxable year for which the method described in paragraph (A) is to be used.

(C) The change to, and the use of, such method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

(D) In determining income for the taxable year preceding the taxable year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

(E) If a taxpayer, having complied with paragraph (B), uses the method described in paragraph (A) for any taxable year, then such method shall be used in all subsequent taxable years unless with the approval of the commissioner a change to a different method is authorized; or the commissioner determines that the taxpayer has used for any period beginning with or during any subsequent taxable year some procedure other than that specified in (2) of paragraph (A) in inventorying (for ascertaining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) the goods specified in the application, and requires a change to a method different from that prescribed in paragraph (A) beginning with such subsequent taxable year or any taxable year thereafter. In either of the above cases, the change to, and the

use of, the different method shall be in accordance with such regulations as the commissioner may prescribe as necessary in order that the use of such method may clearly reflect income.

Gain or loss on sale

(d) In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in Sections 9.1, 9.2 and 9.3 of this act.

Gain on sale of capital assets

(e) In the case of sales or exchanges of capital assets, the gain shall be taken into account in computing net income to the extent provided in Section 9.4 of this act.

Gross income of nonresidents

(f) In the case of taxpayers other than residents the gross income includes only the gross income from sources within this State. Gross income from sources within this State shall include rentals or royalties from property located in this State or from any interest in such property, including rentals or royalties for the use of, or for the privilege of using in this State, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property. Gross income from sources within and without this State shall be allocated and apportioned under rules and regulations to be prescribed by the commissioner.

Income of nonresidents from stocks, bonds, notes, or other intangible personal property shall not be considered income from sources within this State unless the property has acquired a business situs in this State, except that if a nonresident buys or sells such property in this State or places orders with brokers in this State to buy or sell such property so regularly, systematically, and continuously as to constitute doing business in this State, the profit or gain derived from such activity is income from sources within this State irrespective of the situs of the property.

Income of nonresident beneficiaries from estates or trusts is income from sources within this State only if distributed or distributable out of income of the estate or trust derived from sources within this State.

Dividends

(g) (1) The term "dividend" when used in this act means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913, or out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(2) For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax free distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 9.3 (b).

Distributions on complete liquidation of corporation

(3) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under Section 9.1, and shall be recognized only to the extent provided in Section 9.2. Notwithstanding the provisions of Section 9.4, 100 per centum of the gain so recognized shall be taken into account in computing net income, except in the case of amounts distributed in complete liquidation of a corporation. For the purpose of the preceding sentence, "complete liquidation" includes any one of a series of distributions made by a corporation in complete cancellation or redemption of all of its stock in accordance with a bona fide plan of liquidation and under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding from the close of the taxable year during which is made the first of the series of distributions under the plan (1) three years, if the first of such series of distributions is made in a taxable year beginning after December 31, 1940, or (2) two years if the first of such series of distributions was made in a taxable year beginning before January 1, 1941 In the case of amounts distributed (whether before or after the effective date of this amendment) in partial liquidation (other than a distribution within the provisions of Subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of Subdivision (7) of this subsection of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of Subdivision (2) of this subsection for the purpose of determining the taxability of subsequent distributions by the corporation.

(4) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in Section 9.3 (b) of this act, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(5) (A) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the

Sixteenth Amendment to the Constitution of the United States. Distributions

(B) Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (i) in its stock or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under paragraph (A), or (ii) in money or any other property (including its stock or rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (A)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(6) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(7) The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(A) If no gain to such distributee from the receipts of such stock or securities was recognized under the provisions of the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution, or

(B) If the distribution was not subject to tax in the hands of such distributee under the Federal Revenue Act of 1936 or prior Federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution of the United States or because exempted to him under Section 115 (f) of the Federal Revenue Act of 1934, or a corresponding provision of a prior Federal revenue act.

As used in this subsection, the term "stock or securities" includes rights to acquire stock or securities.

(8) As used in this subsection the term "amount distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(9) If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

Distributions (10) The gain or loss realized from the sale or other disposition (after February 28, 1913) of property by a corporation for the purpose of the computation of earnings and profits of the corporation for any period beginning after February 28, 1913, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where in determining the adjusted basis used in computing such realized gain or loss the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, then the latter adjustment shall be used in determining the increase or decrease above provided.

Where a corporation receives (after February 28, 1913) a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of such distribution shall not increase the earnings and profits of the first corporation in the following cases:

(A) No such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(B) No such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such stock and the property received.

For the purposes of this subdivision, the words "law applicable to the year" shall be deemed to refer to the State act or the United States Revenue Act in force for the year in which the sale or other disposition was made.

(11) (A) If any increase or decrease in the earnings or profits for any period beginning after February 28, 1913, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its March 1, 1913, value, then, except as provided in paragraph (B), an increase (properly reflecting such difference) shall be made in that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

(B) If the application of Subdivision (10) to a sale or other disposition after Feburary 28, 1913, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after February 28, 1913, then, notwithstanding Subdivision (10) and in lieu of the rule provided in paragraph (A) of this subdivision, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss,

exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Cancellation of debt

(h) If the indebtedness of a taxpayer is canceled or forgiven in whole or in part without payment, the amount so canceled or forgiven shall constitute income to the extent the value of the property of the taxpayer exceeds his liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so canceled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness, such reduction to be made in accordance with regulations prescribed by the commissioner.

If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered canceled or forgiven within the meaning of this subsection unless it can be established that the period of limitation has been extended by a new promise in writing.

Excess value on purchase or exchange

(i) Where property is acquired in a transaction purporting to be a purchase or an exchange (including transactions described in Section 9.2, relating to the nonrecognition of gain, but excluding foreclosures or repossessions of properties held for security), and the value thereof is substantially in excess of the value of the money or property surrendered or agreed to be surrendered as a condition of such acquisition, the excess value shall be considered ordinary income taxable under the provisions of this act, unless it can be established (a) that the sole consideration for the acquisition of the property was the money or property surrendered or agreed to be surrendered, or (b) that the excess value was a gift or (c) that for some other reason the excess value does not constitute income or the gain represented thereby is not recognized.

Construction

(j) The repeal in 1937 of Sections 2 (o) and 34 of The Personal Income Tax Act of 1935 shall not be construed to sanction double taxation of income.

Stats 1939, p 2534

SEC. 4. Section 8 of The Personal Income Tax Act is hereby amended to read as follows:

Deductions from gross income:

Sec. 8. In computing net income there shall be allowed as deductions:

Business expenses

(a) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

In the case of any taxpayer the deductions permitted by this subsection shall not be allowed if, and to the extent that they are connected with the production of income not taxable under this act, and proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations to be prescribed by the commissioner.

Interes. on debts

(b) All interest paid or accrued within the taxable year on indebtedness of the taxpayer; provided, however, in the case of any taxpayer the deduction permitted by this subdivision shall not be allowed if, and to the extent that such deduction is connected with income not taxable under this act; and provided further, no such deduction shall be allowed or taken for interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations, the interest upon which is wholly exempt from taxes imposed by this act. The proper apportionment and allocation of such deductions with respect to taxable and nontaxable income shall be determined under rules and regulations to be prescribed by the commissioner.

Taxes or licenses

(c) Taxes or licenses paid or accrued during the taxable year, other than taxes paid or accrued to the State under this act, and other than taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of (1) the Government of the United States or any foreign country, (2) any State, Territory, county, city and county, school district, municipality or other taxing subdivision of any State or Territory, and other than estate, inheritance, legacy, succession and gift taxes, and other than taxes computed as an addition to, or as a percentage of taxes which are not deductible hereunder and other than taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this shall not exclude the allowance as a deduction of so much of said taxes assessed against local benefits as is properly allocable to maintenance or interest charges. Taxes or licenses paid or accrued to this State or its political subdivisions which are deductible under the provisions of this subsection shall be deductible by nonresidents even though not connected with income from sources within this State.

Losses

(d) Losses sustained during the taxable year and not compensated for by insurance or otherwise:

(1) If incurred in trade or business; or

(2) If incurred in any transaction entered into for profit, though not connected with the trade or business; or

(3) Of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft.

The basis for determining the amount of deduction for losses sustained, to be allowed under this subsection shall be the adjusted basis provided in Section 9.3 (b) of this act for

determining the loss from the sale or other disposition of property.

(e) Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions. Wagering losses

(f) (1) Debts ascertained to be worthless within the taxable year and charged off (or in the discretion of the commissioner a reasonable addition to a reserve for bad debts) and when satisfied that a debt is recoverable only in part, the commissioner may allow such debt as a deduction, in an amount not in excess of the amount ascertained to be worthless in the taxable year and charged off; provided, however, that if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt ascertained in any prior year to be worthless, regardless of whether charged off or claimed as a deduction in such prior year. This paragraph shall not apply with respect to a debt evidenced by a security as defined in paragraph (3) of this subsection. Worthless debts

(2) If any securities (as defined in paragraph (3) of this subsection) are ascertained to be worthless within the taxable year and are charged off and are capital assets, the loss resulting shall be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

(3) As used in this subsection, the term "securities" means bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including those issued by a government or political subdivision thereof) with interest coupons or in registered form.

(g) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law) or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed. If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the commissioner. Loss from disposition of securities

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under the rules and regulations prescribed by the commissioner.

Loss from sale or exchange of capital assets

(h) (1) Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in Section 9.4 of this act.

(2) If any securities (as defined in paragraph (3) of this subsection) become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this act, be considered as a loss from the sale or exchange, on the last day of the taxable year, of capital assets.

(3) As used in this subsection, the term "securities" means (A) shares of stock in a corporation, and (B) rights to subscribe for or to receive such shares.

Obsolescence, etc

(i) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

Depletion

(j) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the commissioner. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each. The percentage of depletion allowable under this subsection shall be computed in accordance with the provisions of Section 9.5 (b) (3) and (4) of this act.

(k) The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in Section 9.5 of this act.

(*l*) In the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of: Gifts

(1) The United States, any State, Territory or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;

(3) The special fund for vocational rehabilitation authorized by Section 12 of the World War Veterans' Act, 1924;

(4) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(5) A fraternal society, order, or association; operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

The deductions under this subsection shall be allowed to an amount which in all the above cases combined does not exceed 15 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowed as deductions only if verified under rules and regulations prescribed by the commissioner. Limitation

In the case of an individual if in the taxable year and in each of the 10 preceding taxable years the amount of the contributions or gifts described in this subsection plus the amount of income, war profits, or excess profits taxes paid during such year in respect of preceding taxable years, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of this subsection then the 15 per centum limit imposed herein shall not be applicable.

In the case of a taxpayer other than a resident the deductions under this subsection shall be allowed only as to contributions or gifts to corporations or associations incorporated by or organized under the laws of this State or to the vocational rehabilitation fund above mentioned or to this State or any political subdivision thereof for exclusively public purposes.

(m) An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees (if such trust is exempt from tax under subsection (f) of Section 12, relating to trusts created for the exclusive benefit of employees) shall be allowed as a deduction (in Pension trust

addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of 10 consecutive years beginning with the year in which the transfer or payment is made.

Nonresidents

(n) In the case of a taxpayer other than a resident the deductions allowed by this section shall unless otherwise provided in this section be allowed only if and to the extent that they are connected with the income arising from sources within this State and taxable under this act to a nonresident taxpayer, and the proper apportionment and allocation of the deductions with respect to sources of income within and without the State shall be determined under rules and regulations to be prescribed by the commissioner.

Stats 1939, p 2541

SEC. 5. Section 9.2 of The Personal Income Tax Act is hereby amended to read as follows:

Recognition of gain or loss

Sec. 9.2. (a) Upon the sale or exchange of property the entire amount of the gain or loss, determined under Section 9.1, shall be recognized, except as hereinafter provided in this section.

(b) (1) No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange. Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the

amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (i) it is not to be considered as "other property or money") shall be considered as stock or securities received by such transferor.

(5) No gain or loss shall be recognized to a shareholder from a distribution of stocks or securities in liquidation of a corporation made pursuant to an order of the Federal Securities and Exchange Commission under authority vested in it by that act of Congress known as the Public Utility Holding Company Act of 1935, as amended prior to January 1, 1939. U S C, Tit 15, Sec 79, et seq

(c) (1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (4) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(d) If an exchange would be within the provisions of subsection (b) (1) to (4), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(e) If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the commissioner, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(f) As used in this section and Section 9.3:

"Reorganization" (1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: Of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

"Party to a reorganization" (2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

"Control" (g) As used in this section the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

(h) In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after the date of the enactment of this act) described in subsection (b) (3) or (4), or described in so much of subsection (c) as refers to subsection (b) (3) or (4), or described in subsection (d), a corporation created or organized in a foreign country shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income or franchise taxes.

(i) Where upon an exchange the taxpayer receives as part of the consideration property which would be permitted by subsection (b) (4) of this section to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of subsections (c) and (d) of this section and shall not prevent the exchange from being within the provisions of subsection (b) (4) except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it

appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid State tax on the exchange, or, if not such purpose, was not a bona fide business purpose, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange. In any suit or proceeding where the burden is on the taxpayer to prove that such assumption or acquisition is not to be considered as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence.

SEC. 6. Section 9.3 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1939, p 2543

Sec. 9.3. (a) The basis of property shall be the cost of such property; except that: Basis of property

(1) If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that for the purpose of determining loss the basis shall be the basis so determined or the fair market value of the property at the time of the gift, whichever is lower. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the commissioner as of the date or approximate date at which, according to the best information that the commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition.

(5) If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of such acquisition. In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor Bequests, devises, etc

at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death. For the purpose of this paragraph property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising such power by bequest or devise.

Exchanges (6) If the property was acquired, after February 28, 1913, upon an exchange described in Section 9.2 (b) to (d), inclusive, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by Section 9.2 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange.

(7) If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in Section 9.2 (e), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under Section 8 (g) of this act, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by

the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(9) If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Federal Revenue Act of 1932 was prescribed by Section 113 (a) (6), (7), or (9) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1932.

(10) If the property was acquired after February 28, 1913, by a partnership and the basis is not otherwise determined under any other paragraph of this subsection, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. If the property was distributed in kind by a partnership to any partner, the basis of such property in the hands of the partner shall be such part of the basis in his hands of his partnership interest as is properly allocable to such property.

(11) In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(12) If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof, for the purposes of the Federal Revenue Act of 1934 was prescribed by Section 113 (a) (6), (7), or (8) of such act, then for the purposes of this act the basis shall be the same as the basis therein prescribed in the Federal Revenue Act of 1934.

(13) In the case of stocks or securities received by a taxpayer on or after January 1, 1939, under circumstances described in Section 9.2 (b) (5) the basis of such stocks or securities shall be the same as that of the stocks or securities for the surrender of which they were acquired.

Stock rights

(14) (A) If the property was acquired by a shareholder in a corporation and consists of rights to acquire stock in such corporation acquired by him after February 28, 1913, in a distribution by such corporation, and (1) the right to acquire such stock was acquired in a taxable year beginning before January 1, 1937 (except as provided in subparagraph (B)), or (2) the right to acquire such stock was acquired in a taxable year beginning after December 31, 1936, and its distribution did not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution of the

Stock rights United States, then the basis of the stock in respect of which the rights were declared and the right to acquire stock, respectively, shall, in the shareholder's hands be determined by allocating between the stock and the right to acquire stock the adjusted basis of the stock, such allocation to be made under regulations which shall be prescribed by the commissioner.

(B) If a stock right was acquired prior to January 1, 1935, and it constituted income within the purview of the Sixteenth Amendment to the Constitution of the United States, the basis of the stock in respect of which the rights were declared shall not be affected and the basis of the right shall be its fair market value as of the date of its acquisition.

(C) Where the shareholder acquired the right to acquire such stock in a taxable year beginning before January 1, 1941, and sold the same, and there was included in the gross income for such year of sale the entire amount of the proceeds of such sale, then if before the effective date of the 1941 amendments to this act the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such rights should be excluded from gross income for the year of its sale, the basis of the stock shall be determined without regard to paragraphs (A) and (B), and no part of the proceeds of the sale of such rights shall ever be excluded from the gross income for the year of such sale.

(b) The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) Proper adjustment in respect of the property shall in all cases be made:

(A) For expenditures, receipts, losses, or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) For exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained prior to January 1, 1935, and for periods thereafter to the extent allowed (but not less than the amount allowable) under this act;

(C) In the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

(2) The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section, providing that the basis shall be determined: "Substituted basis"

(A) By reference to the basis in the hands of a transferor, donor, or grantor, or

(B) By reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 7. Section 12 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1939, p. 2549

Sec. 12. (a) The taxes imposed by this act upon individuals shall apply to, and be imposed upon, the income of estates or of any kind of property held in trust (other than so-called Massachusetts trusts), including: Tax on income of estates and trusts

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(b) For the purposes of this section the word "settlor" shall mean and include every creator of a trust and every decedent and where in this section the settlor is spoken of as a resident or a nonresident the same shall be taken to include a decedent who upon his or her death is a resident or a nonresident as the case may be.

(c) Except as otherwise provided in subsections (d), (g) and (h) of this section, the income of an estate or trust shall be taxable to the estate or trust. The tax shall apply to the entire net income if, in the case of an estate, the decedent was a resident, regardless of the residence of the fiduciary or beneficiary, and in the case of trusts, if the fiduciary or beneficiary is a resident, regardless of the residence of the settlor.

Where the taxability of income under this subsection depends on the residence of the fiduciary and there are two or more fiduciaries for the trust, the income taxable under this

subsection shall be apportioned according to the number of fiduciaries resident in this State, such apportionment being determined according to rules and regulations prescribed by the commissioner.

Where the taxability of income under this subsection depends on the residence of the beneficiary and there are two or more beneficiaries for the trust, the income taxable under this subsection shall be apportioned according to the number and interest of beneficiaries resident in this State, such apportionment being determined according to rules and regulations prescribed by the commissioner.

Taxes on income of an estate or trust which is taxable to the estate or trust shall be a charge upon the estate or trust and shall be paid by the fiduciary.

If, for any reason, the taxes imposed on income of a trust which is taxable to the trust because the fiduciary or beneficiary is a resident of this State are unpaid when due and remain unpaid when such income is distributable to the beneficiaries, or in case such income is distributable to the beneficiaries before the taxes are due, if such taxes are unpaid when due, such income shall be taxable to the beneficiaries when distributable to them except that in the case of nonresident beneficiaries such income shall be taxable only to the extent provided in subsection (f) of Section 7 of this act.

Computation of net income.

(d) The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that:

Deductions

(1) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by Subsection (1) of Section 8), any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in Subsection (1) of Section 8 or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit;

(2) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. For the purpose of this paragraph amounts currently distributable to beneficiaries are distributable out of income of the estate or trust for the taxable year if there is income of the estate or trust for the taxable year out of which such distributions may be

made and if, under the terms of the will or trust instrument, the distributions may be made out of such income, regardless of the fact that the will or trust instrument provides that the distributions may be made out of the corpus of the estate or trust. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under paragraph (3) of this subsection in the same or any succeeding taxable year. In the case of the income of a beneficiary, not a resident, derived through such an estate or trust, such income will be taxable only to the extent provided in subsection (f) of Section 7 of this act;

(3) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir or beneficiary. In such cases the income of the legatee, heir, or beneficiary, not a resident, shall be taxable only to the extent provided in subsection (f) of Section 7 of this act.

(e) If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under subsection (d) (2) of this section, to include in computing his net income, shall be based upon the income of the estate or trust for any taxable year of the estate or trust ending within or with his taxable year.

(f) A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, employee, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but the amount actually distributed or made available to any distributee shall be taxable to him in the taxable year in which so distributed or made available to the extent that it exceeds the amounts paid in by him; provided, however, where the combined normal annual contributions of the employer and employee to one or more trusts for the benefit of any employee exceed five thousand dollars ($5,000) in any taxable year of the employee, the income of the trust from contributions by the employee shall be taxable as provided in subsection (h) of this section and the contributions of the employer and the income of the trust therefrom shall be taxable to the employee when the employee's right to receive such amounts (whether immediately or in the future) becomes certain and not subject to forfeiture.

(g) Where the title to any part of the corpus of the trust may at any time revest in the grantor without the consent of any person having a substantial adverse interest in any part of the corpus or the income therefrom, and the revesting is not contingent upon the death of all the beneficiaries, then the income of such part of the trust shall be included in computing the net income of the grantor if the grantor is a resident. If the grantor is a nonresident, such income shall be included in computing his income only to the extent derived from sources within this State; the balance of such income shall be taxable either to the trust or to the beneficiaries in accordance with the provisions of subsections (c) and (d) of this section.

(h) Where any part of the income of a trust:

(1) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be held or accumulated for future distribution to the grantor; or

(2) May, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in Subsection (1) of Section 8, relating to the so-called "charitable contribution" deduction); then such part of the income of the trust shall be included in computing the net income of the grantor if the grantor is a resident. If the grantor is a nonresident, such income shall be included in computing his income only to the extent derived from sources within this State; the balance of such income shall be taxable either to the trust or to the beneficiaries in accordance with the provisions of subsections (c) and (d) of this section.

"In the discretion of the grantor"

(i) As used in subsections (g) and (h) of this section the term "in the discretion of the grantor," means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question."

Stats 1935, p 1107

SEC. 8. Section 14 of The Personal Income Tax Act is hereby amended to read as follows:

Time, place and method of paying tax

Sec. 14. (a) The tax imposed under this act is not a surtax, and such tax shall be paid on the fifteenth day of April following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the fourth month following the close of the fiscal year unless on or before such date the taxpayer elects to pay the tax in three equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on the

fifteenth day of the fourth month, and the third installment on the fifteenth day of the eighth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of tax unpaid shall be paid upon notice and demand from the commissioner.

(b) The tax imposed under this act, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(c) The tax, and any additions thereto, imposed by this act, shall be paid to the commissioner at Sacramento, or to his authorized representatives at any branch office. Remittances may be in the form of uncertified check, payable to the State Treasurer, during such time and under such regulations as the commissioner may prescribe, but if a check so received is not paid by the bank on which it is drawn, the taxpayer by whom such check is tendered shall remain liable for the payment of the tax, and all additions thereto, the same as if such check had not been tendered.

SEC. 9. Section 15 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1939, p 2553

Sec. 15. (a) (1) If any taxpayer fails to make and file a return required by this act on or before the due date of the return or the due date as extended by the commissioner, then, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, 5 per centum of the tax shall be added to the tax for each 30 days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total addition shall not exceed 25 per centum of the tax. The amount so added to the tax shall be due and payable upon notice and demand from the commissioner. Interest and additions to the tax. Failure to file return

(2) If any taxpayer, upon notice and demand by the commissioner, fails or refuses to make and file a return required by this act, the commissioner is authorized to make an estimate of the net income and to compute and levy the amount of the tax due under this act from any available information, and in such case 25 per centum of the tax (in addition to the amounts added under the provisions of paragraph (1) of this subsection) shall be added to the tax and shall be due and payable upon notice and demand from the commissioner.

If any taxpayer fails or refuses to furnish any information as requested in writing by the commissioner, the commissioner may add a penalty of 25 per centum of the amount of any additional tax assessed by the commissioner concerning the determination of which such information was required.

(b) (1) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected, and paid in the same manner as if it were a deficiency. Penalties for certain deficiencies

(2) If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency and other additions provided in this section) shall be assessed, collected and paid in the same manner as if it were a deficiency.

Interest

(c) (1) If the tax imposed by this act (whether determined by the commissioner or the taxpayer) or any installment or portion thereof is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate of 6 per centum per year from the date prescribed for its payment until it is paid.

(2) If the time for the payment of the tax or any installment thereof is extended under the provisions of Section 13 of this act, or collection of a jeopardy assessment is stayed under Section 18 of this act, there shall be collected as part of such tax interest thereon at the rate of 6 per centum a year from the date upon which such payment should have been made if no extension had been granted or collection had not been stayed until the date the tax is paid.

(3) Interest upon the amount determined as a deficiency shall be assessed and paid at the same time as the deficiency at the rate of 6 per centum per year from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed; provided, however, if any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

(4) Where a deficiency, or any interest or additional amounts assessed in connection therewith under subsections (a) (1) and (b) and (c) (3) of this section, or any addition to the tax in case of delinquency provided for in subsections (a) (1) and (2) of this section, is not paid in full within 10 days from the date of notice and demand from the commissioner, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per centum a year from the date of such notice and demand until it is paid. If any part of such amount prorated to any unpaid installment is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per centum a year from such date until it is paid.

Overpayment Credit on deficiency

(d) (1) Where an overpayment is made by any taxpayer for any year, and a deficiency is owing from the husband or wife of the taxpayer for the same year, and both husband and wife notify the commissioner in writing prior to the expiration of the time within which credit for the overpayment may be allowed, that the overpayment may be credited against the deficiency, no interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

(2) When the correction of an erroneous inclusion or deduction of an item in the computation of income of any year results in an overpayment for one year and a deficiency for another year, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency, if the period within which the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded as provided in Section 20. No interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

(3) Notwithstanding the provisions of Section 20, no interest shall in any case be allowed on any overpayment to the extent credited on deficiencies pursuant to the provisions of paragraphs (1) and (2) of this subsection.

SEC. 10. Section 16 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1939, p 2555

Sec. 16. (a) The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in Section 2 (i) or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. Computation of tax Accounting period

(b) If a taxpayer, with the approval of the commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31st. If the change is from calendar year to the fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. Change in accounting period

(1) Where a separate return is made under subsection (b) of this section on account of a change in the accounting period, and in all other cases where a separate return is required or permitted, by regulations prescribed by the commissioner, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

(2) If a separate return is made under subsection (b) of this section, on account of a change in the accounting period, the net income, computed on the basis of the period for which

separate return is made, shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of 12 months.

(c) In the case of a return made for a fractional part of a year, except a return made under subsection (b), on account of a change in the accounting period, the personal exemption and the credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to 12 months.

(d) The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the methods of accounting permitted under subsection (a) of this section, any such amounts are to be properly accounted for as of a different period. In the case of the death of the taxpayer there shall be included in computing net income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect of such period or a prior period.

(e) The deductions and credits provided for in this act shall be taken for the taxable year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis of which the net income is computed, unless in order clearly to reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer there shall be allowed as deductions and credits for the taxable period in which falls the date of his death, amounts accrued up to the date of his death (except deductions under Subsection 8(*l*)) if not otherwise properly allowable in respect of such period or a prior period.

Change in law applicable to tax computation

(f) The tax for any period beginning in one calendar year (hereinafter in this section called "first calendar year") and ending in the following calendar year (hereinafter in this section called "second calendar year") where the law applicable to the computation of taxes for taxpayers reporting on a calendar year basis differs for the second calendar year from the law applicable to the first calendar year, shall be the sum of: (1) the same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

Any tax that has been paid under the law applicable to the first calendar year if in excess of the tax imposed by this section shall be refunded or credited to the taxpayer as provided in Section 20. Any tax in addition to that paid under the law applicable to the first calendar year made necessary by this section shall be immediately due and payable upon notice and demand from the commissioner.

Change in status of taxpayer

(g) When the status of a taxpayer changes from resident to nonresident, or from nonresident to resident, there shall be included in determining income from sources within or without this State, as the case may be, income and deductions accrued prior to the change of status even though not otherwise includible in respect of the period prior to such change, but the taxation or deduction of items accrued prior to the change of status shall not be affected by the change.

Stats 1937, p 1848

SEC. 11. Section 18 of The Personal Income Tax Act is hereby amended to read as follows:

Jeopardy assessments

Sec. 18. (a) If the commissioner finds that the assessment or the collection of a tax or a deficiency for any year, current or past, will be jeopardized in whole or in part by delay, he may mail or issue notice of such finding to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy (including interest, penalties and additions thereto). In the case of a tax for a current period, the commissioner may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated, including therein income accrued and deductions incurred up to such date of termination if not otherwise properly includible or deductible in respect of such period, and such tax shall be immediately due and payable whether or not the time otherwise allowed by law for filing the return and paying the tax has expired.

(b) The jeopardy assessments provided for in this section shall be immediately due and payable and proceedings for collection may be commenced at once; provided, that the taxpayer may stay collection and prevent the jeopardy assessment from becoming final by filing, within 10 days after the date of mailing or issuing the notice of jeopardy assessment, a petition for reassessment, accompanied by a bond or other security in such amount as the commissioner may deem necessary, not exceeding double the amount (including interest, penalties, and additions thereto) as to which the stay is desired. The commissioner shall consider such petition for reassessment, and notify the taxpayer of his decision thereon, which decision shall be final. If the taxpayer has so requested in its petition, it shall be the duty of the commissioner to grant said taxpayer, or its authorized representative, an oral hearing. If petition for reassessment, accompanied by bond or other security, is not filed within the 10-day period, the assessment shall become final.

Jeopardy assessments

(c) In any proceedings brought to enforce payment of taxes made due and payable by virtue of the provisions of this section, the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence that the assessment or collection of the tax or the deficiency was in jeopardy. A certificate of the commissioner of the mailing or issuing the notices specified in this section shall be presumptive evidence that such notices were mailed or issued.

(d) If any taxpayer fails to file a return, or files a false or fraudulent return with intent to evade tax, for any taxable year, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(e) Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the commissioner in respect of a tax imposed by this act upon such taxpayer may be immediately assessed. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the State board; but no petition for any such redetermination shall be filed with the State board after the adjudication of bankruptcy or the appointment of the receiver. Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the commissioner after termination of such proceeding and may be collected in the manner provided in this act for the collection of delinquent taxes at any time within six years after termination of such proceeding.

(f) The commissioner is hereby authorized to prescribe such rules and regulations as may be necessary properly to carry out the provisions of this section.

SEC. 12. Section 19 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1939, p 2557

Sec. 19. As soon as practicable after the return is filed, the commissioner shall examine it and shall determine the correct amount of the tax. If the commissioner determines that the tax disclosed by the original return is less than the tax disclosed by his examination he shall mail notice or notices to the taxpayer of the deficiency proposed to be assessed. Each notice shall set forth the details and computation of such deficiency. Assessment of deficiency tax Notice

In the case of a joint return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the commissioner has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, duplicate originals of the joint notice shall be sent by mail to each spouse.

Within 60 days after mailing of said notice the taxpayer may file with the commissioner a written protest against the levy of the proposed deficiency, specifying therein the grounds upon which the protest is based. The protest must be under oath. Protest

If no such protest is so filed the amount of the deficiency shall be final upon the expiration of said 60-day period. If a protest is so filed it shall be the duty of the commissioner to reconsider the computation and levy of the deficiency complained of, and, if the taxpayer has so requested in his protest, it shall be the duty of the commissioner to grant said taxpayer, or his authorized representatives, an oral hearing.

The commissioner's action upon the protest shall be final upon the expiration of 30 days from the date when he mails notice of his action to the taxpayer, unless within that 30-day period the taxpayer appeals in writing from the action of the commissioner to the State board. The appeal must be addressed and mailed to the State Board of Equalization at Sacramento, California, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento, California. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination, and the reasons therefor. Such determination shall be final upon the expiration of 60 days from the time of such determination unless within such 60-day period the determination is modified in which event it shall become final upon the expiration of 60 days from the time it is modified. Appeal

When a deficiency has been determined and the tax has become final under the provisions of this section, the commissioner shall mail notice and demand to the taxpayer for the payment thereof, and such tax shall be due and payable at the expiration of 10 days from the date of such notice and demand, unless the taxpayer has elected to pay the tax Notice and demand

in installments, in which case the deficiency shall be prorated to the three installments. Except as provided in Section 18 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment, the date for payment of which has not arrived, shall be collected at the same time as, and as part of, such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived shall be due and payable at the expiration of 10 days from the date of such notice.

A certificate by the commissioner or of said board, as the case may be, of the mailing of the notices specified in this section shall be prima facie evidence of the computation and levy of the deficiency in tax and of the giving of said notices.

Time for mailing notice

Except in the case of a fraudulent return, every notice of a proposed deficiency tax shall be mailed to the taxpayer within four years after the return was filed and no deficiency shall be assessed or collected with respect to the year for which such return was filed unless such notice is mailed within such period; provided that, in the case of any taxpayer who shall agree with the United States Commissioner of Internal Revenue for an extension (or renewals thereof) of the period for proposing and assessing deficiencies in Federal income taxes for any year, the period for mailing notices of proposed deficiency tax pursuant to this section shall be four years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in Federal income tax, whichever period expires the later. For the purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

Extension of assessment period

Where before the expiration of the time prescribed in this section for the assessment of the tax, the taxpayer has consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Any amount of tax in excess of that disclosed by the return, due to a mathematical error, notice of which has been mailed to the taxpayer, shall not be considered a deficiency assessment within the meaning of this section. The taxpayer shall have no right of protest or appeal as herein provided, based on such notice, nor shall such assessment or collection be prohibited by any of the provisions of this section.

Stats 1939, p 2558

SEC. 13. Section 20 of The Personal Income Tax Act is hereby amended to read as follows:

Credits and refunds

Sec. 20. If, in the opinion of the commissioner, or the State board, as the case may be, there has been an overpayment of tax, penalty or interest by a taxpayer for any year for any reason, the amount of such overpayment shall be credited against any taxes then due from the taxpayer under this act,

Claim

and the balance refunded to the taxpayer. No such credit or

refund shall be allowed or made until approved by the State Board of Control. No such credit or refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period a claim therefor is filed by the taxpayer, or unless before the expiration of such period the commissioner has certified the overpayment to the State Board of Control for approval of the refunding or the crediting thereof. A refund claim upon which action has become final shall not thereafter be considered a refund claim within the meaning of the foregoing provision except to the extent allowed. Every claim for refund must be in writing under oath and must state the specific grounds upon which the claim is founded.

Disallowance Notice

If the commissioner disallows any claim for refund, he shall notify the taxpayer accordingly. At the expiration of 90 days from the mailing of such notice, the commissioner's action upon the claim shall be final unless within such 90-day period, the taxpayer appeals in writing from the action of the commissioner to the State Board of Equalization. If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and appeal to said board. Appeals must be addressed to the State Board of Equalization at Sacramento, California, and a copy of the appeal addressed and mailed at the same time to the commissioner at Sacramento, California. Said board shall hear and determine the same and thereafter shall forthwith notify the taxpayer and the commissioner of its determination. Such determination shall be final upon the expiration of 60 days from the time of such determination unless within such 60-day period the determination is modified in which event it shall become final upon the expiration of 60 days from the time it is modified.

Appeal

Interest

Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of 6 per centum per annum as follows:

(1) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this act.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the commissioner.

Recovery of erroneous refund

Any refund or any portion thereof which is erroneously made, and any credit or any portion thereof which is erroneously allowed, may be recovered, together with interest at the rate of 6 per centum per annum from the date the refund was made or the credit allowed, in an action brought by the commissioner in a court of competent jurisdiction in the County of

Sacramento in the name of the people of the State of California, and such action shall be tried in the County of Sacramento unless the court with the consent of the prosecutor, orders a change of place of trial. The Attorney General or the counsel for the commissioner must prosecute such action, and the provisions of the Code of Civil Procedure, relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for.

In the event that a tax has been illegally levied against a taxpayer, the commissioner shall set forth on his records the reasons therefor and thereafter shall authorize the cancellation of such tax.

Stats 1939, p 2560

SEC. 14. Section 21 of The Personal Income Tax Act is hereby amended to read as follows:

Action to recover tax paid

Sec. 21. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin the assessment or collection of any tax under this act, but any taxpayer claiming that the tax computed and levied against him pursuant to Sections 18 and 19 of this act is void in whole or in part may bring an action against the commissioner for the recovery of the whole or any part of the amount paid. Such action must be filed within four years from the last date prescribed for filing the return or within one year from the date the tax was paid, whichever period expires the later; provided, however, no action shall be filed for the recovery of a deficiency assessment unless the taxpayer has made protest to the commissioner of the computation and levy complained of under the provisions of such section.

Limitation

Within 90 days after the mailing of the notice of the commissioner's action upon any refund claim, or in case of an appeal to the State Board of Equalization, from the disallowance of any refund claim, within 90 days after the mailing of the notice of the board's determination of the appeal the taxpayer may bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment. If the commissioner fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and bring an action against the commissioner on the grounds set forth in such claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Interest

In any judgment of any court rendered for any overpayment in respect of any tax imposed by this act, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund

warrant by not more than 30 days, such date to be determined by the commissioner.

Substitution

In all actions now pending against the State Treasurer under the provisions of this act, the commissioner shall be substituted for the State Treasurer by the court wherein the action is pending. This substitution shall not in any way affect the rights of the plaintiff in said action.

Service of papers

Whenever under the provisions of this section an action is commenced against the commissioner, a copy of the complaint and the summons must be served upon the commissioner or the assistant commissioner. A second copy of the complaint and the summons must be furnished to the commissioner, but this requirement shall not be considered jurisdictional. At the time the commissioner demurs or answers, he may demand that the action be tried in the Superior Court of the County of Sacramento, which demand must be granted. The Attorney General or the counsel for the commissioner of the State of California must defend the action. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes.

If judgment is rendered against the commissioner, the amount thereof shall first be credited against any taxes and interest due from the taxpayer under this act and the remainder refunded to the taxpayer by the State Treasurer on warrants drawn by the Controller.

Stats 1935, p 1116

SEC. 15. Section 22 of The Personal Income Tax Act is hereby amended to read as follows:

Partnership not taxable

Sec. 22. (a) An individual carrying on business in partnership shall be liable for income tax only in his individual capacity and shall include in his gross income the distributive share of the net income of the partnership received by him or distributable to him during the taxable year.

(b) The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual, except that the deduction provided for in Subsection 8 (*l*) shall not be allowed to the partnership, but each partner shall be considered as having made payment, within his taxable year, of his distributive share of any contribution or gift, payment of which was made by the partnership within its taxable year, of the character which would be allowed as a deduction to the partnership under such subsection if this exception had not been enacted.

(c) Every partnership shall make a return for each taxable year, stating specifically the items of gross income and the deductions allowed by this act, and shall include in the return the names and addresses of the individuals, whether residents or nonresidents, who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

(d) If the taxable year of a partner is different from that of the partnership, the distributive share of the net

income of the partnership to be included in computing the net income of the partner for his taxable year shall be based upon the net income of the partnership for any taxable year of the partnership ending within or with the taxable year of the partner.

Stats 1939, p 2561

SEC. 16. Section 23 of The Personal Income Tax Act is hereby amended to read as follows:

Information and withholding at source

Sec. 23. (a) Every individual, partnership, corporation, joint stock company or association, insurance company, business trust, or so-called Massachusetts trust, being a resident or having a place of business in this State, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers and all officers and employees of this State or any political subdivision of this State, having the control, receipt, custody, disposal or payment of interest (other than interest coupons payable to bearer), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income amounting to one thousand dollars ($1,000) or over, paid or payable during any year to any taxpayer, shall make complete return thereof under oath, to the commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him.

(b) Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, (2) in the case of dividends paid by corporations, and (3) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(c) When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) The provisions of this section shall not apply to the payment of interest obligations not taxable under this act.

(e) (1) The commissioner may, by regulation, require any person including any officer or department of the State or any political subdivision or agency of the State to withhold from payments of interest (other than interest coupons payable to bearer), dividends, rent, prizes, winnings, and compensation for personal services, including bonuses, an amount equal to the tax that would be imposed by this act upon such payments if they, together with all similar payments since the beginning of the calendar year, represented net income and the only net income of the payee and to transmit the amounts withheld to the commissioner at such

time as he may designate. Any person who fails to withhold from any payments and transmit to the commissioner any amounts required by the commissioner pursuant to this paragraph to be withheld and transmitted shall be liable for any taxes due from the taxpayer to whom such payments are made for the year in which made to an extent not in excess of the amounts required to be withheld, unless it is shown that such failure was due to reasonable cause.

(2) The commissioner may by notice served personally or by registered mail require any person, including any officer or department of the State or any political subdivision or agency of the State, to withhold from any payments of any nature to any taxpayer the amount of any tax, interest or penalties due from the taxpayer under this act and to transmit the amount withheld to the commissioner at such times as he may designate. Any person failing to withhold the tax due from any taxpayer and transmit the same to the commissioner as required by the commissioner pursuant to this paragraph shall be liable for such tax.

(3) Any person required to withhold and transmit any amount pursuant to this section must comply with such requirement without resort to any legal or equitable action in a court of law or equity, and any person paying to the commissioner any amount required by him to be paid pursuant to paragraphs (1) and (2) of this subsection shall not be liable therefor to the person from whom withheld unless the amount withheld is refunded to the withholding agent.

(4) Any taxpayer from whom a tax has been collected by withholding under this section shall be entitled to the remedies set forth in Sections 20 and 21 of this act; provided, however, that any refund of such tax under Section 20 shall be made to the withholding agent instead of directly to the taxpayer, if requested in writing by the withholding agent at the time the amounts refundable were transmitted to the commissioner.

SEC. 17. Section 26 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1939, p 2562

Sec. 26. (a) If the value of the assets of an estate at the death of decedent exceeds twenty thousand dollars ($20,000), and if any beneficiary lives outside this State, the final account of the fiduciary shall not be allowed by the probate court unless the fiduciary obtains from the commissioner and files with the court a certificate to the effect that all taxes imposed by this act upon the estate or decedent which have become payable, have been paid, and that all taxes which may become due are secured by bond, deposit or otherwise. Within 30 days after receiving a request for a certificate, the commissioner shall either issue the certificate or notify the person requesting the certificate of the amount of tax that must be paid or the amount of bond, deposit or other security that must be furnished as a condition of issuing the certificate. The certificate of the commissioner Tax upon settlement of fiduciary's account

shall not relieve the estate for whom the fiduciary acts of liability for any taxes due and unpaid at the time the certificate is issued or which may become due from said decedent or estate under this act after the issuance of the certificate nor shall it relieve the fiduciary of the liability imposed by subsection (b) of this section.

(b) Every fiduciary who pays, in whole or in part, any claim, other than claims for taxes, expenses of administration, funeral expenses, expenses of last illness, and family allowance, against the person, estate or trust for whom or for which he acts, or who makes any distribution of the assets of such person, estate or trust, before he satisfies and pays taxes, including all increases, interest and penalties, except penalties due from a decedent, imposed by this act on the person, estate or trust for whom or for which he acts, or which constitute a claim against such person, estate or trust, or which are a lien or charge on or against the assets of such person, estate or trust, shall be personally liable therefor to the extent of such payments and distributions.

In the case of income received or accrued during the lifetime of a decedent, or by his estate during the period of administration, or by a trust, notices proposing to assess the tax shall be mailed, and any proceeding in court without assessment for the collection of the tax shall be begun, within 18 months after written request therefor (filed after the return is made) by the fiduciary of the estate or trust or by any other person liable for the tax or any portion thereof.

(c) Any person acting in a fiduciary capacity shall assume the duties, and, upon notice to the commissioner, shall assume the rights and privileges of the taxpayers in respect of any tax imposed by this act (except as otherwise specifically provided), until notice is given that the fiduciary capacity has terminated. Notice under this section shall be given in accordance with rules and regulations prescribed by the commissioner.

Stats 1941, p 94

SEC. 18. Section 28 of The Personal Income Tax Act is hereby amended to read as follows:

Enforcement of tax: Certificate of delinquency

Sec. 28. In any case in which any tax or any portion or installment thereof, interest or penalty imposed under this act is not paid when due, the commissioner may file in the office of the County Clerk of Sacramento County, or any other county, a certificate specifying the amount of the tax, penalty and interest due, the name and last known address of the taxpayer liable for the same, that the commissioner has complied with all the provisions of this act in relation to the computation and levy of the tax and a request that judgment be entered against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate. The county clerk immediately upon the filing of such certificate shall enter a judgment for the people of the State of California against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate. The judgment may be filed

by the county clerk in a loose-leaf book entitled "Personal Income Tax Judgments."

An abstract of such judgment or a copy thereof may be recorded with the county recorder of any county and from the time of such recording, the amount of the taxes, penalty and interest therein set forth shall constitute a lien upon all property of the taxpayer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien and shall continue for five years from the date of the recording of the judgment by the county clerk unless sooner released or otherwise discharged. Within five years from the date of the recording of the judgment by the county clerk, or within five years from the date of the last extension of the lien in the manner herein provided, the lien may be extended by recording in the office of the county recorder of any county an abstract or copy of the judgment, and from the time of such recording the lien shall be extended to the property in such county for five years unless sooner released or otherwise discharged. Execution shall issue upon such a judgment upon request of the commissioner in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section the commissioner shall be authorized to act on behalf of the people of the State of California.

Tax lien

Extension

In any case in which any tax, interest or penalty imposed under this act is not paid when due, the commissioner may file in the office of any county recorder a certificate specifying the amount of the tax, interest and penalty due, owing and/or unpaid, the name and last known address of the taxpayer liable for the same, and that the commissioner has complied with all provisions of this act in relation to the computation and levy of the tax. From the time of such recording the amount of the tax, interest and penalty therein set forth shall constitute a lien upon all property of the taxpayer in such county, owned by him or which he may afterwards and before the lien expires acquire, which lien shall have the force, effect and priority of a judgment lien and shall continue for five years from the date of the recording of the certificate by the county clerk unless sooner released or otherwise discharged. Within five years from the date of the recording of the certificate by the county clerk, or within five years from the date of the last extension of the lien in the manner herein provided, the lien may be extended by recording in the office of the county recorder of any county a new certificate, and from the time of such recording the lien shall be extended to the property in such county for five years unless sooner released or otherwise discharged.

Recordation of tax delinquency certificate

Tax lien

Extension

A warrant may be issued by the commissioner or his duly authorized representative for the collection of any tax, interest or penalty and for the enforcement of any lien, directed

Warrant

to any sheriff, constable or marshal; and shall have the same force and effect as a writ of execution. It may and shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution. The sheriff, constable or marshal shall receive upon the completion of his services pursuant to said warrant and the commissioner is authorized to pay to said sheriff, constable or marshal the same fees, commissions and expenses in connection with services pursuant to said warrant as are provided by law for similar services pursuant to a writ of execution; provided, that fees for publication in a newspaper shall be subject to approval by the commissioner rather than by the court; said fees, commissions and expenses shall be an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant or in any other manner provided in this act for the collection of a tax.

Release from lien

The commissioner may, at any time, release all or any portion of the property subject to the lien from the lien or subordinate the lien to other liens if he determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of such taxes. A certificate by the commissioner to the effect that any property has been released from the lien or that such lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Action to recover tax

The commissioner may, at any time, bring an action in a court of competent jurisdiction, in the name of the people of the State of California, to recover the amount of any taxes, penalties, and interest due under this act. The Attorney General or the franchise tax counsel for the commissioner of this State must prosecute such action and such action shall be tried in the County of Sacramento unless the court with the consent of the prosecutor, orders a change of place of trial. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required. In such action a certificate by the commissioner showing the delinquency shall be prima facie evidence of the levy of the tax, of the delinquency and of compliance by the commissioner and the State board with all the provisions of this act in relation to the computation and levy of the tax.

The commissioner may bring an appropriate action (whether in the form of a common law action of debt or indebitatus assumpsit, or a code or other action), in any court of competent jurisdiction in the United States or in a foreign country, in the name of the people of the State of California, to recover the amount of any taxes and interest due under this act. The Attorney General or the franchise tax counsel for the commissioner of this State must prosecute such action.

Remedies cumulative

It is expressly provided that the foregoing remedies of the State shall be cumulative and that no action taken by

the commissioner shall be or be construed to be an election on the part of the State or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this act.

SEC. 19. Section 30 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1939, p 2565

Sec. 30. Any person who, with or without intent to evade any requirement of this act or any lawful requirement of the commissioner thereunder, shall fail to file any return or to supply any information required by or under the provisions of this act, or who, with or without such intent, shall make, render, sign or verify any false or fraudulent return or statement, or shall supply any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars ($1,000), to be recovered by the Attorney General or the counsel for the commissioner in the name of the people, by action in any court of competent jurisdiction, and shall also be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars ($1,000) or be imprisoned not to exceed one year, or both, at the discretion of the court. Penal provisions

The prosecutor shall have the power, with the consent of the commissioner, to compromise any penalty for which he is authorized to bring action under this section. The penalties provided by this section shall be additional to all other penalties in this act provided. Compromise

The certificate of the commissioner to the effect that a return has not been filed, or that information has not been supplied as required by the provisions of this act, shall be prima facie evidence that such return has not been filed or that such information has not been supplied. Certificate

Any action or prosecution under this section shall be instituted within four years after the commission of the offense. Limitation of action

SEC. 20. Section 32 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1937, p 1859

Sec. 32. (a) The commissioner shall administer and enforce the tax herein imposed, for which purpose he may divide the State into a reasonable number of districts, in each of which a branch office or offices may be maintained during all or such part of the time as may be necessary. In the establishment of such districts and offices due consideration shall be given by the commissioner to the matter of economy of administration and service to the taxpayers. Commissioner to administer tax

(b) The commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income of any taxpayer, shall have power to examine or cause to be examined by any agent or representative designated by him for that purpose, any books, papers, records or memoranda, bearing upon the matters required to be included in the return, and may require the attendance of the taxpayer or of any other person having knowledge in the premises, and may take testimony and

require proof material for his information, with power to administer oath to such person or persons.

Assistants (c) The commissioner may appoint and remove, in the manner provided by law, such officers, agents, branch office income tax deputies, and other employees as he may deem necessary, such persons to have such duties and powers as the commissioner may from time to time prescribe. The commissioner may appoint one or more deputies or assistants to conduct hearings, prescribe regulations or to perform any other duties imposed by this act or other laws of the State upon the commissioner. Any temporary appointments of branch office income tax deputies and other branch office employees shall be made from eligible residents of the district in which such branch office or offices are located. The salaries of the personnel required by the commissioner shall be such as he may prescribe, in the manner provided by law, and the commissioner and such personnel shall be allowed reasonable and necessary traveling and other expenses incurred in the performance of their duties. The commissioner may require such of the officers, agents, deputies and other employees as he may designate, to give bond for the faithful performance of their duties in such sum and with such sureties as he may determine, and all premiums on such bonds shall be paid by the commissioner out of moneys appropriated for the administration of this act.

Administer oaths (d) The commissioner and such officers and employees, as he may designate, shall have the power to administer an oath to any person or to take the acknowledgment of any person in respect of any return or report required by this act or the rules and regulations of the commissioner.

Stats 1939, p. 2565 SEC. 21. Section 33 of The Personal Income Tax Act is hereby amended to read as follows:

Unlawful to divulge information Sec. 33. (a) Except in accordance with proper judicial order in cases or actions instituted for the enforcement of the provisions of this act or for the prosecution of violations of this act and except as otherwise herein provided, it shall be unlawful for the commissioner, any deputy, agent, clerk or other officer or employee, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this act;

Exception provided, however, that such information may upon request of a committee appointed by either the Assembly or the Senate be furnished to such committee, but it shall be unlawful for such committee or any member, clerk or other officer or employee thereof to divulge or make known in any manner, any particulars of the information so furnished except to law enforcement officers for the purpose of aiding the detection or prosecution of crimes committed in violation of this act.

Publication of statistics Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the

inspection by the Attorney General or other legal representatives of the State, of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this act. Reports and returns shall be preserved for four years and thereafter until the commissioner orders them to be destroyed.

(b) Any offense against this section shall be a misdemeanor. Inspection by Federal and other tax agencies

(c) Notwithstanding the provisions of subsection (a), the commissioner may permit the Commissioner of Internal Revenue of the United States, or other tax officials of this State, or the proper officer of any State imposing an income tax or a tax measured by income, or the authorized representative of either such officer, to inspect the income tax returns of any individual, estate, trust or partnership, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return, or disclosed by the report of any investigation of the income or return of income of any taxpayer; but such permission shall be granted or such information furnished to such officer or his representative, only if the statutes of the United States or of such other State, as the case may be, grant substantially similar privileges to the proper officer of this State charged with the administration of this act. The information furnished or secured pursuant to this subsection shall be used solely for the purpose of administering the tax acts administered by the person or agency obtaining it, and unwarranted disclosures or uses of the information by such person or agency, or the employees and officers thereof, shall be subject to the penalty provisions of this section.

(d) Whenever under this act, or any act heretofore or hereafter enacted, the commissioner is required or permitted to disclose information, to furnish abstracts, or to permit access to his records, to or by any official, department, bureau, or agency of this State (including its political subdivisions), or any other State, or the United States, he may charge such official, department, bureau, or agency for the reasonable cost of such services. Charge for services

SEC. 22. Section 34 of The Personal Income Tax Act is hereby amended to read as follows: Stats 1937, p 1861

Sec. 34. The commissioner shall prescribe all necessary rules and regulations for the enforcement of this act, and may prescribe the extent, if any, to which any ruling or regulation relating to this act shall be applied without retroactive effect. Rules and regulations

SEC. 23. If any section, subsection, clause, sentence or phrase of this act which is reasonably separable from the remaining portions of this act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it Constitutionality

would have passed the remaining portions of this act, irrespective of the fact that any such section, subsection, clause, sentence or phrase of this act be declared unconstitutional.

Tax levy

SEC. 24. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately. With the exception of the amendments to Subsections 9.2 (b), 9.2 (f), the addition of Subsection 9.2 (i), and the amendment to Subsection 9.3 (a), which shall be retroactive, the provisions of this act effecting changes in the computation of taxes shall be applied only in the computation of taxes for taxable years ending after December 31, 1940, and the remaining provisions of this act shall become effective on the effective date of this act. Provisions effecting changes in the computation of taxes shall mean those affecting income, deductions, rates, methods of calculating tax, exclusions, exemptions and credits. An amendment to any section of The Personal Income Tax Act shall not, of itself, be taken as an indication that a change of meaning is intended.

Operative dates

CHAPTER 1227

Stats 1939, p 1067, amended

An act to repeal Article 2, comprising Sections 4051 to 4060, inclusive, of Chapter 1 of Division 4 of the Public Resources Code, relating to private fire patrols of forest lands, and making an appropriation.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Repeal

SECTION 1. Article 2, comprising Sections 4051 to 4060, inclusive, of Chapter 1 of Division 4 of the Public Resources Code is hereby repealed.

Appropriation Division of Forestry

SEC. 2. The sum of one hundred thousand dollars ($100,000) or so much thereof as may be necessary is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the additional support of the Division of Forestry, Department of Natural Resources during the Ninety-third and Ninety-fourth Fiscal Years to carry out the additional duties and functions imposed upon it under Article 1 of said chapter by the repeal of Article 2 thereof. The amount herein appropriated shall be transferred to Item No. 149 of the Budget Act of 1941.

CHAPTER 1228

An act authorizing suits against the State of California to establish the boundaries of, and to quiet title to, lands purchased from the State, and regulating the procedure therein.

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. In any case where the State of California has sold lands acquired by it as swamp and overflowed lands, the person or persons claiming or deraigning title to any lands through or under any purchase thereof from the State of California is and are hereby authorized to bring suit against the State of California in any court of competent jurisdiction of said State to establish the boundaries of and to quiet title to said land or any portion or portions thereof, and to prosecute such suit to final judgment. The complaint in any such action must contain a plat of the property described therein, which plat must show the location of said property in respect to a section corner, the location of which is shown on an approved United States Government township plat, or in respect to a monument which has been established by reference to any such section corner. Action to determine boundaries of and to quiet title to swamp and overflowed land

SEC. 2. Service of summons in such suits shall be made upon the Chairman of the State Lands Commission and upon the Attorney General, and it shall be the duty of the Attorney General to represent the State in all such suits. Service of summons

SEC. 3. No costs against the State shall be allowed in any such suit. Costs

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CHAPTER 1229

An act making an appropriation for construction, improvements and equipment for the Chico State College and providing that this act shall take effect immediately.

[Approved by Governor July 19, 1941, with the reduction hereunder noted. Filed with Secretary of State July 19, 1941.] In effect immediately

I object to the appropriation of $18,000 and hereby reduce the sum to $12,000 and with this reduction I approve the bill.

CULBERT L. OLSON
Governor of California

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of eighteen thousand dollars ($18,000) for construction, improvements and equipment of a pumping plant for the Appropriation Chico State College

Chico State College during the Ninety-third and Ninety-fourth Fiscal Years

Current expenses

SEC. 2. This act, inasmuch as it provides for an appropriation for the usual current expenses of the State, shall, under the provision of Section 1, Article IV of the Constitution of the State of California, take effect immediately.

CHAPTER 1230

An act to amend Section 411 of the Code of Civil Procedure, and Section 373 of the Civil Code, relating to service of summons.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 1403

SECTION 1. Section 373 of the Civil Code is hereby amended to read as follows:

Designation of person upon whom process may be served

373. Every domestic corporation other than a bank, trust company, insurance company or a corporation subject to the jurisdiction of the Railroad Commission may file with the Secretary of State a certificate by the secretary or an assistant secretary thereof, designating a natural person residing within the State as its agent for the purpose of service of process and stating the complete business and residence address of such agent and the name and complete business and residence address of its president or other head, vice president or vice presidents, secretary, assistant secretary or assistant secretaries and general manager and the location and address of its principal office. The person named in the certificate as such agent may but need not be one of such officers.

Service where no designation

Service of any process against any such domestic corporation which has not filed such a certificate may be made by delivering a copy thereof to the Secretary of State or to any person employed in his office in the capacity of assistant or deputy.

Any corporation may file with the Secretary of State a certificate by the secretary or an assistant secretary thereof, stating the complete new business and/or residence address of any officer or agent named in its certificate on file with the Secretary of State and/or the name and complete business and residence address of the successor of any such officer or agent and/or the new location and address of its principal office.

Service on officer or agent

The delivery of a copy of any process against such corporation to any person who is shown by the certificate or certificates on file with the Secretary of State to be such an officer or agent thereof shall constitute valid service on such corporation.

If personal service of process against such domestic corporation can not be made with the exercise of due diligence as hereinabove provided and the fact appears by affidavit to the satisfaction of the court or a judge thereof, such court or judge may make an order that the service be made upon such corporation by delivering to the Secretary of State, or to any person employed in his office in the capacity of assistant or deputy, one copy of such order and one copy of such process for each defendant to be served. Service in such manner shall be and constitute personal service upon such corporation. Order of service

Upon the delivery, to the Secretary of State or to an assistant or deputy, of any such copy or copies pursuant to this section, the Secretary of State shall forward the same to the corporation by registered mail, with request for return receipt, addressed to the corporation at its principal office in this State, as shown by such certificate or certificates on file in his office or, if such certificate has not been filed, as shown by any other document on file in his office disclosing the location and address of such principal office, otherwise addressed to such corporation in care of the county clerk of the county in which its principal office or place of business is located. The defendant shall appear and answer within 30 days after delivery of such copies to the Secretary of State. Mailing papers to corporation served

The Secretary of State shall keep a record of all copies delivered to him or to an assistant or deputy under this title and shall record therein the date of such delivery and his action with reference thereto. Record

SEC. 2. Section 411 of the Code of Civil Procedure is hereby amended to read as follows: Stats 1931, p 1836

411. The summons must be served by delivering a copy thereof as follows: Service of summons

1. If the suit is against a domestic corporation: To the president or other head of the corporation, a vice president, a secretary, an assistant secretary, general manager, or a person designated for service of process or authorized to receive service of process, if the corporation is an insurance company or is subject to the jurisdiction of the Railroad Commission; if such corporation is a bank or trust company, to any of the foregoing officers or agents thereof, or to a cashier or an assistant cashier thereof; otherwise, pursuant to Section 373 of the Civil Code. Suit against domestic corporation

2. If the suit is against a foreign corporation, or a nonresident joint stock company or association, doing business in this State; in the manner provided by Section 406a of the Civil Code. Foreign corporations

3. If against a minor, under the age of 14 years, residing within this State: To such minor, personally, and also to his father, mother, or guardian; or if there be none within this State, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. Minors

Incompetent persons

4. If against a person residing within this State who has been judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian has been appointed: To such person, and also to his guardian.

City or county

5. If against a county, city or town: To the president of the board of supervisors, president of the council or trustees, or other head of the legislative department thereof.

Corporation whose charter is forfeited

6. In all cases where a corporation has forfeited its charter or right to do business in this State, or has dissolved, by delivering a copy thereof to one of the persons who have become the trustees of the corporation and of its stockholders or members; or, in a proper case, as provided in Section 402a of the Civil Code.

All other cases

7. In all other cases to the defendant personally.

CHAPTER 1231

An act authorizing the State Lands Commission to transfer by deed or other instrument certain tidelands and submerged lands belonging to the State of California situate in or adjacent to the County of San Diego, State of California.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Transfer to U. S. of "Coronado Beach"

SECTION 1. The State Lands Commission is hereby authorized and empowered to transfer by deed to the United States of America all or a portion of those tidelands and submerged lands of the State of California lying southwesterly of that certain military reservation, known as "Coronado Beach," which reservation is a portion of Lot 40, T. 17 S., R. 3 W., S. B. B. & M., as described in deed dated February 9, 1897, recorded in Book 262 of Deeds, page 145, records of County of San Diego, and map of which is recorded in Book 18 of Maps, No. 837, Records of County of San Diego, upon such terms and conditions as may appear to the State Lands Commission to be in the public interest.

Exchange of same for land

SEC. 2. The State Lands Commission is likewise authorized and empowered to exchange all or a portion of the lands described in Section 1 hereof for other similar lands of the United States of America, upon such terms and conditions as may appear to the State Lands Commission to be in the public interest.

Conveyances

SEC. 3. All such deeds or other instruments necessary to pass title to the United States Government shall be in the name and by the authority of the people of the State of California, and upon receipt of a resolution of the State Lands Commission approving such conveyance or other instrument,

shall be executed by the Governor, countersigned by the Secretary of State, sealed with the great seal of the State, and delivered to an authorized agent of the United States of America. The Governor is likewise empowered to accept for and in behalf of the State of California a deed or other instrument transferring tidelands and submerged lands from the United States of America upon receipt of a resolution of the State Lands Commission that the requirements herein contained have been satisfied.

CHAPTER 1232

An act to amend Section 1250 of, and to add Section 1346 to, the Fish and Game Code, relating to antelope.

Stats 1933, p 394, amended

[Approved by Governor July 19, 1941 Filed with Secretary of State July 19, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1250 of the Fish and Game Code is hereby amended to read as follows:

Stats 1937, p. 468

1250. It is unlawful to take or possess the following mammals, or any part thereof: female deer, spotted fawn, spike buck, female antelope, mountain sheep, Sierra hare (Lepus Campestris sierrae), tree squirrel, sea otter and in District 1¾, forked-horn deer.

Fully protected mammals

SEC. 2 Section 1346 is hereby added to the Fish and Game Code, to read as follows:

New section

1346. Male antelope may be taken between May 20th and June 20th but only as provided in this section. Commission to determine all applications, pursuant to this section, shall be filed with the commission, prior to the first day of the month of May, of each year. If 500 applications, or any lesser number of applications, are filed, the commission shall grant special permits to each application. If more than 500 applications are filed, the commission shall grant permits by lot. In no event, however, shall more than one permit in any calendar year be given to any one person. The fee for each permit issued shall be five dollars ($5). The fees provided herein shall be deposited in the Fish and Game Preservation Fund and shall be expended in addition to moneys provided in the budget for salaries of the Division of Fish and Game for the expense of enforcing the provisions of Section 1346 of the Fish and Game Code. The commission may make such regulations not in conflict with this section as it deems desirable and may authorize the taking of male antelope pursuant to this section and such regulations in any district or area in this State, including game refuges.

Male antelope

Permits

Fees

CHAPTER 1233

Stats 1939, p 49, amended

An act to amend Sections 5900, 5901, 5902 and 5904 of, to add Section 5930 5 to, and to repeal Section 5882 of, the Elections Code, relating to absent voting.

In effect September 13, 1941

[Approved by Governor July 19, 1941 Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 221

SECTION 1. Section 5900 of the Elections Code is hereby amended to read as follows:

When absentee ballot may be cast

5900. Any voter who expects to be absent from his election precinct or who will be unable to vote therein by reason of physical disability on the day on which any election is held may cast a ballot upon complying with the provisions of this chapter.

Stats 1939, p 221

SEC. 2. Section 5901 of said code is hereby amended to read as follows:

Application

5901. Not more than 20 nor less than five days before any election any voter who expects to be absent from his election precinct or unable to vote therein on the day of such election may file, either in person or by mail, his written application with the clerk where he resides for an absent voter's ballot. The application shall be signed by the applicant, shall show his place of residence, and shall make clear to the clerk the applicant's right to a ballot.

Stats 1939, p 221

SEC. 3. Section 5902 of said code is hereby amended to read as follows:

Comparing of signature and residence

5902. Upon receipt of an application for an absent voter's ballot within the proper time the clerk receiving it shall file it and then compare the signature thereon with the signature upon the original affidavit of registration and the place of residence as given in the application with that in the affidavit of registration. If it appears that the signature on the application is that of the person who signed the original affidavit of registration and that the place of residence as shown thereon is in the same precinct as appears on the affidavit, he shall deliver to the applicant personally, or by mail at the mailing address given in the application, an official ballot of the precinct of the applicant, an identification envelope, and a return envelope.

Issuance of ballot

Stats. 1939, p 222

SEC. 4. Section 5904 of said code is hereby amended to read as follows:

Refusal of ballot

5904. Before delivering or mailing any ballot the clerk shall satisfy himself of the applicant's right to a ballot, and may refuse in a proper case to deliver or send it.

SEC. 5. Section 5882 of said code is hereby repealed. Stats 1939, p 221

SEC. 6. Section 5930 5 is hereby added to said code, to read as follows: New section

5930.5. In any county in which voting machines are used the clerk may provide in his office one voting machine for each Assembly district in the county on which a voter desiring to vote an absent voter's ballot may record his vote. An absent voter's board of three persons shall be appointed by the clerk to conduct the voting. One member of the board shall act as inspector for the period during which an absent voter's ballot may be voted. The inspector shall record on the absent voter's application the voter's public counter number and the date on which the vote was cast and shall sign his name thereon. He shall also keep a daily record of the number of the seals used in sealing the voting machines and the total readings of the public counter. Absent voting on machines

The provisions of Chapter 6 of Division 8 of this code in so far as applicable shall govern voting by absent voters and the certification of the results, except that the voting compartments of the voting machines shall be sealed against scrutiny from the time that the voting commences until after the day of election. Provisions applicable

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CHAPTER 1234

An act to amend Sections 2835 and 2836 of the Elections Code, relating to the election of county central committees. Stats 1939, p 49, amended

[Approved by Governor July 19, 1941 Filed with Secretary of State July 19, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 2835 of the Elections Code is hereby amended to read as follows: Stats 1939, p 156

2835. In any county containing more than five and less than 20 Assembly districts, the county central committee of each party shall be elected by each Assembly district and shall consist of five members from each Assembly district therein. County central committees—5 to 20 Assembly districts

SEC. 2. Section 2836 of the Elections Code is hereby amended to read as follows: Stats 1939, p 156

2836. In all counties except a city and county, containing five Assembly districts the county central committee of each party shall be elected by Assembly districts and shall consist of one member for each 700 votes or fraction thereof cast in each such Assembly district for that party's candidate for Governor at the last gubernatorial election. —5 Assembly districts

CHAPTER 1235

Stats 1933, p 60 and Stats 1925, p 931, amended

An act to add Sections 762.5 and 763.5 to, and to amend Sections 762, 763 and 766 of, the Agricultural Code, and to amend Section 1 of an act entitled "An act to regulate the conduct of canneries, to create a Division of Cannery Inspection to carry on such regulation, to provide rules regulating the proper sanitation of canneries, under the State Board of Health," approved May 23, 1925, relating to raw tomatoes, and the delivery, inspection, grading and canning thereof and the rights and obligations of parties contracting in relation thereto, declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section to be numbered 762.5 is hereby added to the Agricultural Code, to read as follows:

Inspection of all deliveries of tomatoes for canning purposes

762.5. The director shall inspect all deliveries of tomatoes for canning purposes, except those accompanied by a certificate issued in accordance with Chapter 1 of this division. Such inspection shall be conducted at the point of delivery specified in the contract between the producer and the canner or if no such point is specified at the cannery to determine if the tomatoes delivered are suitable for canning purposes as required by Section 762; and the director shall issue a rejection order if found unsuitable in accordance with Section 763. If upon inspection the director finds the tomatoes being delivered conform with the standards established in this chapter, he shall issue a certificate showing the percentage of tomatoes suitable for canning purposes for each delivery and separately the percentage of tomatoes in each delivery which are not suitable for canning under subsection (a), under subsection (b), under subsections (c) to (f) inclusive, of Section 762 and those suitable for canning which are "well colored" and "fairly well colored."

Rules and regulations

Said director may promulgate and enforce such rules and regulations as may be necessary for the enforcement of this chapter and may adopt a schedule of uniform fees to defray

Fees and inspection costs

the cost of the required inspection and of certification. Each canner receiving deliveries of tomatoes for canning purposes is hereby designated as the authorized agent of the director to collect the inspection and certification fees chargeable to him and to each producer delivering such tomatoes. The cost of such inspection shall be borne equally by both the canner and the producer, but the total cost of such inspection shall in no event exceed 20 cents ($0.20) per ton. Moneys collected under the provisions of this section shall be remitted to the director weekly during the tomato canning season for deposit

into the Department of Agriculture Fund to be used in carrying out the purposes of this chapter. Any money so collected and not used for the purposes of this chapter shall be returned to the canners and producers from whom it was received.

SEC. 2. Section 763.5 is hereby added to the Agricultural Code, to read as follows: New section

763.5. Each load of tomatoes offered for delivery by a grower to a canner in accordance with the terms of a contract between them shall be given such inspection as may be required without undue delay and within a reasonable time after such load arrives at the cannery or other point specified for such inspection. Time for inspection

Any load of tomatoes so offered for inspection and delivery that is rendered unsuitable for canning purposes as a direct result of unwarranted delay in inspection, wilfully or negligently caused or permitted by the canner, shall be paid for by the canner at the full price agreed upon for tomatoes suitable for canning purposes and on the basis that such tomatoes were of the grade, quality, and condition stipulated in the contract. If no price is stipulated in the contract, payment shall be made by the canner to the grower on the basis of the then prevailing market price for tomatoes of the grade, quality and condition specified in the contract. Damage due to delay in inspection by canner

In addition to any other remedy, the grower so offering for inspection and delivery any load of tomatoes who has incurred any added handling costs as a direct result of the unwarranted delay in inspection and delivery, wilfully or negligently caused or permitted by a canner, may recover the amount of such added handling costs by an action at law against such canner. Handling costs recoverable

Delay in such inspection and acceptance for delivery for a period of six hours or more after a load of tomatoes is offered for inspection and delivery in accordance with the terms of a contract between the grower and the canner shall be prima facie evidence that such delay was unwarranted and caused by wilfulness or negligence on the part of the canner; provided, however, that during 15 24-hour peak periods in any tomato canning season, delay in such inspection and acceptance of delivery shall not be prima facie evidence that such delay was caused by wilfulness or negligence on the part of the canner unless such delay covered a period of more than 12 hours. Such peak periods shall be the periods of maximum delivery as shown by the records of the canner and shall be designated by the canners for each cannery or other specified inspection point promptly after the close of each tomato canning season by posting a notice of the peak periods for each cannery or inspection point in a conspicuous place at such cannery or inspection point. Presumption

No grower shall have any rights under this section unless he shall register each load of tomatoes with the canner at the time he offers such load for inspection and delivery. Such Registration

registration shall be made by obtaining from the canner a certificate, which such canner is hereby required to furnish, stating the time of arrival of the load at the cannery or other specified inspection point.

Stats. 1935, p. 2084

SEC. 3. Section 762 of the Agricultural Code is hereby amended to read as follows:

Standards for canning purposes

762. Tomatoes shall be suitable for canning purposes, and except in the case of the pear or plum types shall be vine-ripened. No tomatoes shall be regarded as suitable for canning purposes if the delivery contains spray residue which can not be removed by washing in plain water in order to meet the tolerances permitted by the United States Food, Drug and Insecticide Administrations. No tomato shall be regarded as suitable for canning purposes if

(a) Any worm or worm damage is present which has penetrated the flesh of the tomato.

(b) In excess of 10 per cent of the weight of the tomato can not be used for canning purposes, due to the presence of mold.

(c) In excess of 20 per cent of the weight of the tomato can not be used for canning purposes, due to presence of rot.

(d) In excess of 25 per cent of the weight of the tomato can not be used for canning purposes, due to the presence of sunburn, sunscald, growth cracks, insect bites, pest infections, hail damage, green or yellow color at the stem end, or other imperfections not specified in this section.

(e) The tomato is sufficiently overripe to make it useless for canning purposes.

(f) The tomato is shriveled, frozen or frosted.

(g) The tomato is not "well colored" or "fairly well colored" as such color is defined in U. S. Standards for Canning Tomatoes (1938) issued by the United States Department of Agriculture, Bureau of Agricultural Economics, December 15, 1938. "Well colored" as so defined means that at least 90 per cent of the flesh of the tomato has good red color; provided, that a tomato having flesh of a lighter shade of red shall be considered as "well colored" if enough additional area of the flesh has a shade of red color so that the tomato has a sufficient amount of red to be equivalent in color to that of a tomato which has 90 per cent good red color. "Fairly well colored" as so defined means that at least two-thirds of the flesh of the tomato has good red color; provided, that a tomato having flesh of a lighter shade of red shall be considered as "fairly well colored" if enough additional area of the flesh has a shade of red color so that the tomato has a sufficient amount of red to be equivalent in color to that of a tomato which has two-thirds good red color.

SEC. 4. Section 763 of the Agricultural Code is hereby amended to read as follows: Stats 1935, p. 2085

763. Any load of tomatoes offered for delivery to a canner shall be rejected and turned back to the grower if in excess of 10 per cent of the delivery by weight fails to comply with subsections (a) and (b) of Section 762. Rejection of load

Any load of tomatoes offered for delivery to a cannery shall be rejected and turned back to the grower if in excess of 15 per cent of the delivery by weight fails to comply with subsections (a) to (g), inclusive, of Section 762.

Any load of tomatoes offered for delivery to a canner shall be rejected and turned back to the grower if less than 10 per cent of the delivery by weight is "well colored" as defined in subsection (g) of Section 762.

SEC. 5. Section 766 of the Agricultural Code is hereby amended to read as follows: Stats 1935, p 2085

766. The standards established by this chapter shall be considered as a grade under the provisions of Chapter 1 of this division. In the event a marketing order is issued under the provisions of Chapter 10 of Division 6 of this code establishing uniform grading and inspection for canning tomatoes then and so long as such marketing order is effective the provisions thereof shall control and the provisions of Sections 762 and 763 of this chapter shall be ineffective as to tomatoes covered by such marketing order. Standards to be considered a grade

SEC. 6. Section 1 of an act entitled "An act to regulate the conduct of canneries, to create a Division of Cannery Inspection to carry on such regulation, to provide rules regulating the proper sanitation of canneries, under the State Board of Health," approved May 23, 1925, is hereby amended to read as follows: Stats. 1939, p 3062

Section 1. It shall be unlawful for any person, firm, company, organization, association or corporation in the State of California, to engage in the noncommercial canning of salmon or in the commercial canning of any food products, fish or fish products, meat or meat products, which meat or meat products are not under the inspection of the Division of Animal Industry of the State Department of Agriculture, or the Bureau of Animal Industry of the United States Department of Agriculture, or approved municipal inspection departments or establishments, for the use of man or animal, the sterilization of which in the opinion of the California State Board of Health requires the use of a pressure cooker, or a retort, without first obtaining a license from the said State Board of Health; provided, however, that the Division of Cannery Inspection as hereinafter created shall have supervision over the inspection and examination of raw fish and fish products Cannery licenses

preparatory to canning, the cost of said inspection and examination to be determined and paid in like manner as provided in Section 4 of this act for products otherwise falling within its provisions.

Urgency

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and as such shall take effect immediately. The following is a statement of the facts constituting the necessity:

The canning season has already begun and regulation is necessary to assure the stabilization of industry. Owing to the present National emergency, the Government has called for increased amounts of canned foods, and unless this act takes effect immediately, it will be too late to affect the regulation of the industry during the current canning season.

CHAPTER 1236

Stats 1939, p 1274, amended

An act to amend Sections 3696, 3699, 3705 and 3706 of, and to add Section 3707 to, the Revenue and Taxation Code, relating to property taxation, including sales at public auction of tax-deeded property.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1335 See also Stats 1941, p 3115

SECTION 1. Section 3696 of the Revenue and Taxation Code is hereby amended to read as follows:

Sale on application

3696. Before a sale of tax-deeded property at public auction on application of a prospective purchaser is made, a prospective purchaser, who may be the last assessee of the property, shall make a written application to the tax collector asking that the property described in the application be offered for sale. The tax collector shall demand in advance a deposit from the applicant of a sum sufficient to defray the cost of advertising. If the applicant fails to secure the property on his bid, the entire amount shall be returned, and the advertising costs shall be collected from the successful purchaser.

Deposit

Stats. 1939, p 1336

SEC. 2. Section 3699 of the Revenue and Taxation Code is hereby amended to read as follows:

Appraisal

3699. On receipt of the notice, the board of supervisors shall, if the last assessee is the applicant, direct the county assessor, or a competent appraiser designated by it, to appraise

the property and recommend to the board the minimum price at which it should be sold. On receipt of the appraisal and recommendation, or on receipt of the notice from the tax collector in those cases where the last assessee is not the applicant or where there is no applicant, the board of supervisors shall by resolution either approve or disapprove the proposed sale. If the board approves the sale it shall set forth in the resolution the minimum price at which the property may be sold, which price shall not be less than the fair market value of the property if the last assessee is the applicant, and shall transmit a certified copy of the resolution to the tax collector within five days after its action. Failure to adopt or to transmit the resolution within the prescribed time does not affect the validity of a sale approved by the board of supervisors.

Approval or disapproval of proposed sale

SEC. 3. Section 3705 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1337

3705. Any city or taxing agency may bid on property on which it has levied taxes or assessments. If the last assessee of the property is the applicant, he may bid on such property.

Bid by taxing agency

SEC. 4. Section 3706 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1337

3706. If the property is not redeemed before the sale, the tax collector shall sell the property at public auction to the highest bidder at the time and place fixed.

In the case of a sale at public auction whether on application of a prospective purchaser or without any application from a prospective purchaser, no bid shall be accepted for a sum less than the minimum price approved in the resolution of the board of supervisors.

Time, place, and amount of sale

SEC. 5. Section 3707 is hereby added to the Revenue and Taxation Code, to read as follows:

New section

3707. If not previously terminated and if the purchaser is not the last assessee of the property, on completion of any sale under this chapter the right of redemption is terminated. In the event the applicant, who is the last assessee of the property, is the successful bidder at the sale, the sale shall have the same effect as a redemption of the property.

Termination of right of redemption

CHAPTER 1237

Stats 1933, p 394, amended

An act to repeal Section 156 of the Fish and Game Code and to make unlawful the taking, until December 31, 1946, of any game bird or game mammal in former Fish and Game District 3E.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 419

SECTION 1. Section 156 of the Fish and Game Code is hereby repealed.

Unlawful to take fish and game in certain area in Santa Clara County

SEC. 2. It is unlawful, for the period ending December 31, 1946, for any person, other than an accredited employee of the Division of Fish and Game acting under specific orders of the Fish and Game Commission, to take or possess any game bird or game mammal in that area within the County of Santa Clara described as follows: All of Secs. 3, 4 and 9; the southwest quarter of the southwest quarter of Sec. 2; the southeast quarter of Sec. 5; the northeast quarter of the northeast quarter of Sec. 8; all of those portions of Secs. 16 and 17, and of the southern three-quarters of Sec. 8 lying east of the northeast boundary line of the Rancho Canada del Pala, and all those portions of Secs. 10, 15 and 16, and of the west quarter of Sec. 11, lying to the north of Sulphur Creek, all of said sections being within T. 7 S., R. 3 E.

CHAPTER 1238

Stats 1935, p 93, amended

An act to amend Section 128 of, and to add Section 124.1 to, the Vehicle Code, relating to the powers and duties of the Department of Motor Vehicles, the director thereof and the Chief of the California Highway Patrol.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 105

SECTION 1. Section 128 of the Vehicle Code is hereby amended to read as follows:

Powers of director

128. Powers and Duties of Director. (a) The director shall administer and enforce this code and shall enforce all other laws regulating the operation of vehicles or the use of the highways.

(b) The director may adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this code.

(c) The director may purchase or lease such real estate and erect such buildings as the department or any of its divisions may require, subject to the approval of the Department of Finance.

(d) Any and all leases heretofore signed by the Director of Motor Vehicles and approved by the Department of Finance for offices or other real property for the use of the Department of Motor Vehicles or any of its divisions are hereby validated, ratified, approved, and confirmed. Leases ratified

SEC. 2. A new section is hereby added to the Vehicle Code, to be numbered 124.1 and to read as follows: New section

124.1. Highway Patrol Equipment. Any highway patrol vehicle may be equipped with a stretcher and emergency first aid equipment for use in transporting injured persons. First aid equipment

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CHAPTER 1239

An act to amend Sections 2, 5, 7, 8, 11, 13 and 20 of, and to add Sections 8.5 and 10.5 to, "An act imposing a license fee or tax for the transportation of persons or property for hire or compensation upon the public streets, roads and highways in the State of California by motor vehicle and providing that this act shall take effect immediately," approved May 13, 1933, and to amend Sections 9779, 9854, 9876, 9901, 10276, 10277, 10282 and 10451 of, to repeal Sections 9706 and 9707 of, and to add Article 3.5, comprising Sections 9911 to 9913, inclusive, to Chapter 4, Part 4, Division 2 of, and to add Sections 9706, 9855, 9877.5, 9901.5 and 10050 to, the Revenue and Taxation Code, relating to the taxation of persons engaged in the transportation of persons or property upon the public highways by motor vehicle and providing that this act shall take effect immediately. Stats 1933, p 928, and Stats 1939, p 1274, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect immediately

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2655

Sec. 2. Each operator of a motor vehicle within this State who transports or desires to transport for compensation or hire persons or property upon any public highway within this State shall apply to the board, on such forms as the board may prescribe, for a license to operate motor vehicles for the transportation of persons or property for hire or compensation upon public highways in this State. Operator's license Application

Fee

Each application for a license must be accompanied by a fee of five dollars ($5) payable to the board. Upon the receipt of the application of any such operator, accompanied by such fee, the board shall issue to the applicant a license to transport for compensation or hire persons or property upon any public highway within this State; provided, however, the board may refuse to issue a license to any person to whom a license was previously issued hereunder and subsequently revoked for a violation of the provisions hereof. No license issued hereunder shall be construed to authorize the operation of any vehicle upon the public highways of this State contrary to the laws now or hereafter in effect regulating the operation of motor vehicles. No license issued hereunder shall be assignable by operation of law or otherwise.

License valid until canceled

A license issued hereunder shall be valid until canceled or revoked by the board. A fee of five dollars ($5) shall be paid to the board for the issuance of a license to any person to whom a license was previously issued hereunder and subsequently canceled.

Stats 1937, p 1922

SEC. 2. Section 5 of the act cited in the title hereof is hereby amended to read as follows:

Tax returns

Sec. 5. The tax imposed hereunder shall be due and payable monthly on or before the twentieth day of the month following each calendar month, the first of such calendar months being the month of June, 1937. Each operator shall on or before the twentieth day of July, 1937, and on or before the twentieth day of each month thereafter prepare a return for the preceding calendar month in such form as the board may prescribe, showing the gross receipts of the operator, the amount of tax due for the month covered by the return and such other information as the board may deem necessary for the proper administration of this act.

Remittance

The operator shall deliver the return together with a remittance payable to the Controller for the amount of tax due to the office of the board. Returns shall be signed by the operator or his duly authorized agent, but need not be verified by oath.

Extension of time

The board for good cause may extend for not to exceed 20 days the time for making any return or payment required hereunder. The board, if it deems it necessary in order to insure payment of the tax imposed by this act, or to facilitate the administration of this act, may require returns and payment of the tax to be made for other than monthly periods.

Stats 1937, p 1923

SEC. 3. Section 7 of the act cited in the title hereof is hereby amended to read as follows:

Additional assessment

Sec. 7. If the board is not satisfied with the return filed or amount of tax paid by any operator, it is hereby authorized to make an additional assessment of tax due from any

such operator based upon the information contained in the return or upon any information in its possession. An additional assessment may be made of the amount of tax due for one or for more than one month. All additional assessments shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the twentieth day after the close of the month or months, as the case may be, for which the additional assessment is imposed until the date of payment. In making an assessment hereunder the board may offset overpayments for a month or months against underpayments for another month or months, against penalties, and against the interest on such underpayments. If any part of the deficiency for which the additional assessment is imposed is due to negligence or intentional disregard of the act or authorized rules and regulations, a penalty of 10 per cent of the amount of the additional assessment shall be added, plus interest as above provided. If any part of the deficiency for which the additional assessment is imposed is due to fraud or an intent to evade the tax, a penalty of 25 per cent of the amount of the additional assessment shall be added, plus interest as above provided. The board shall give to the operator written notice of such additional assessment. Such notice may be served upon the operator personally or by mail; if by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure and addressed to the operator at his address as the same appears in the records of the board.

Interest

Penalties

Notice

For the purpose of the proper administration of this act and to prevent evasion of the tax hereby imposed, it shall be presumed that the gross receipts from all operations of operators are subject to the tax hereby imposed until the contrary is established.

Presumption

SEC. 4. Section 8 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1937, p 1923

Sec. 8. If any operator shall fail, neglect or refuse to file a return within the time required herein, the board shall make an estimate of the amount of the taxable gross receipts of such operator for the month or months for which such operator failed to make a return and upon the basis of such estimated amount shall compute and assess the tax payable by such operator, adding to the amount of tax so determined a penalty equal to 10 per cent thereof. An assessment may be made of the amount of tax due for one or for more than one month. All such assessments shall bear interest at the rate of one-half of 1 per cent per month, or fraction thereof, from the twentieth day after the close of the month or months, as the case may be, for which such assessments are imposed until the date of payment. In making an assessment hereunder the board may offset overpayments for a month or months against underpayments for another month or months, against penalties, and against the interest on such underpayments. If the

Failure to make return

Penalty

Interest

neglect or refusal of an operator to file a return as required by this act was due to fraud or an intent to evade the tax,

Additional penalty notice there shall be added to the tax a penalty equal to 25 per cent thereof in addition to the 10 per cent penalty as above provided. Promptly thereafter the board shall give to the delinquent written notice of such estimate, tax and penalty, the notice to be served personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 7 hereof.

New section SEC. 5. A new section is hereby added to the act cited in the title hereof, to be numbered Section 8.5 and to read as follows:

Jeopardy assessments Sec. 8.5. If the board believes that the collection of any amount of tax imposed hereunder will be jeopardized by delay, it shall thereupon make an assessment of the amount of tax due, noting that fact upon such assessment and the amount of such tax shall be immediately due and payable. If the amount of the tax, interest and penalty specified in the jeopardy assessment is not paid within 10 days after the service upon the operator of notice of the assessment, such assessment becomes final, unless a petition for reassessment is filed within such 10 days, and the delinquency penalty and interest provided in Section 6 hereof shall attach to the amount of tax specified therein. The operator against whom

Petition for reassessment a jeopardy assessment is made hereunder may petition for the reassessment thereof pursuant to Section 9 hereof; provided, however, that such petition for reassessment must be filed with the board within 10 days after the service upon the operator of notice of the assessment; and provided further, that the operator must within said 10-day period deposit with the

Security board such security as it may deem necessary to insure compliance with the provisions of this act. Such security may be sold by the board in the manner prescribed by Section 10.5 hereof.

New section SEC. 6. A new section is hereby added to the act cited in the title hereof, to be numbered Section 10 5 and to read as follows:

Deposit of security Sec. 10.5. The board, whenever it deems it necessary to insure compliance with any provision of this act or any rule or regulation prescribed and adopted under this act, may require any person subject to the tax imposed hereunder to deposit with it such security as it may determine. Such secu-

Sale rity may be sold by the board at public sale if it becomes necessary so to do in order to recover any amount due hereunder. Notice of such sale may be served upon the person who deposited such security personally or by mail in the same manner as prescribed for service of notice by the provisions of Section 7 hereof. Upon any such sale, the surplus,

if any, above the amount due hereunder shall be returned to the person who deposited the security.

SEC. 7. Section 11 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p. 2656

Sec. 11. Whenever any operator licensed hereunder fails to comply with any provision of this act or any rule or regulation of the board prescribed and adopted under this act, the board, upon hearing after giving 10 days' notice in writing of the time and place of the hearing to show cause why the license of such operator should not be revoked, may revoke such license. Revocation of license

The Department of Motor Vehicles upon receiving written notice from the board that the license of an operator has been revoked by the board or that an operator has failed, neglected or refused to obtain the license provided in Section 2 hereof shall suspend forthwith the registration of the motor vehicles specified in such notice of such operator and shall cause to be removed from such motor vehicles all number plates or emblems issued by said department for display upon such motor vehicles. Thereafter it shall be unlawful to operate such motor vehicles upon the public highways of this State until the operator has fully complied with the provisions of this act and a certificate to that effect has been issued by the board to the Department of Motor Vehicles and the registration of the motor vehicles of such operator has been restored by said department. Suspension of motor vehicle registration

The board or its duly authorized representatives may impound the vehicles of an operator whose license has been revoked and who shall continue to engage in the transportation of persons or property for hire or compensation after having been duly notified by the board of such revocation and may retain possession of such vehicles until all taxes, interest and penalties due from such operator and all costs incurred in connection with the impounding or storage of such vehicles have been paid. Impounding vehicles

The license of an operator shall be reinstated by the board following the revocation of such license when the amount of license tax assessed hereunder and interest thereon together with all penalties have been paid and the provisions of this act have been fully complied with by such operator and a fee of five dollars ($5) has been paid to the board for such reinstatement. The registration of the motor vehicles of such operator and the number plates and emblems removed therefrom shall be restored by the Department of Motor Vehicles upon the issuance by the board to said department of a certificate to the effect that the operator has fully complied with the provisions of this act and the payment to said department of a fee of five dollars ($5) for the restoration of the registration of each motor vehicle. Reinstatement of license, etc

If the registration of any motor vehicle has been suspended as provided herein, the Department of Motor Vehicles shall not thereafter re-register such motor vehicle or transfer the registration of ownership thereof upon the records of the Re-registration

department until such time as the board has issued to said department a certificate to the effect that the operator has fully complied with the provisions of this act.

Certificate of license tax clearance

Transfer by the Department of Motor Vehicles of the registered ownership of any motor vehicle licensed hereunder may be effected only after a certificate of license tax clearance has been issued therefor by the board. Such certificate of license tax clearance may be issued after the payment of all amounts due hereunder or after the payment of such amounts is secured to the satisfaction of the board and shall completely extinguish the lien herein provided in the motor vehicle described therein.

Payments by legal owner

If the operator of any motor vehicle is merely the registered owner thereof, and the legal owner of record repossesses such motor vehicle and pays the full amount of the license tax assessed hereunder, together with all interest thereon and penalties, such legal owner shall not be required to pay the fees herein required for reinstatement of license and restoration of registration, nor shall any of the other provisions of this section be applicable.

Stats 1937, p 1927

SEC. 8. Section 13 of the act cited in the title hereof is hereby amended to read as follows:

Recovery of amounts paid under protest

Sec. 13. No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin the collection under this act of any license tax or other amounts sought to be collected by the board but after payment of any such license tax under protest duly verified and setting forth the grounds of objection to the legality of such license tax, the operator paying such license tax may bring an action against the board in the Superior Court of the County of Sacramento for the recovery of license tax so paid under protest. No such action may be instituted more than 60 days after the last day prescribed for the payment of such license tax without penalty, and failure to bring suit within said 60 days shall constitute waiver of any and all demands against this State on account of alleged overpayment of license taxes hereunder. No grounds of illegality of the license tax shall be considered by the court other than those set forth in the protest filed at the time of the payment of the license tax.

Credit and refund

If in any such action judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any license taxes, interest or penalties due from the plaintiff under this act, and the balance of the judgment shall be refunded

Interest

to the plaintiff. In any such judgment, interest shall be allowed at the rate of 6 per cent per annum upon the amount of license tax found to have been illegally collected from the date of payment of such license tax to the date of allowance of credit on account of such judgment or to a date preceding

the date of the refund warrant by not more than 30 days, such date to be determined by the Controller.

In no case shall any judgment be rendered in favor of the plaintiff in any action brought against the board to recover any license tax paid hereunder, when such action is brought by or in the name of an assignee of the operator paying said license tax, or by any person, company or corporation other than the person, company or corporation that has paid such license tax.

SEC. 9. Section 20 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 2658

Sec. 20. All taxes, interest and penalties due hereunder shall be paid in the form of remittances payable to the State Controller and shall be deposited by the Controller in the State Treasury to the credit of the "Motor Vehicle Transportation Tax Fund," which fund is hereby created. All license fees paid hereunder shall be deposited by the board in the State Treasury to the credit of said Motor Vehicle Transportation Tax Fund. Disposition of money Motor Vehicle Transportation Tax Fund

All moneys in said Motor Vehicle Transportation Tax Fund, unless otherwise appropriated, shall, upon order of the State Controller, be drawn therefrom for the purpose of making refunds hereunder or be transferred to the General Fund of the State. All sums paid to the Department of Motor Vehicles hereunder shall be deposited in the State Treasury to the credit of the Motor Vehicle Fund, and are hereby appropriated out of said fund for the support of said department.

All remittances for taxes, together with interest and penalties thereon, received by the board hereunder shall be transmitted daily to the Controller with the appropriate advices as to the operators by whom such remittances have been sent. The State Controller shall keep an appropriate record of such payments.

SEC. 10. Sections 9706 and 9707 of the Revenue and Taxation Code are hereby repealed. Stats. 1941, p 593

SEC. 11. A new Section 9706 is hereby added to said code, to read as follows: New section

9706. Every license issued is valid until canceled or revoked by the board. A fee of five dollars ($5) shall be paid to the board for the issuance of a license to any person to whom a license was previously issued and subsequently canceled. License valid until canceled Fee

SEC. 12. Section 9779 of said code is hereby amended to read as follows: Stats 1941, p 594

9779. Transfer by the department of the registered ownership of any motor vehicle licensed under this part may be Certificate of license tax clearance

effected only after a certificate of license tax clearance has been issued therefor by the board. The certificate of license tax clearance may be issued after the payment of all amounts due under this part or after the payment of such amounts is secured to the satisfaction of the board. The certificate completely extinguishes the lien provided for in Article 3, Chapter 5, of this part in the motor vehicle described in the certificate.

Stats 1941, p 595

SEC. 13. Section 9854 of said code is hereby amended to read as follows:

Extension of time

9854. The board for good cause may extend for not to exceed 20 days the time for making any return or payment required under this part.

New section

SEC. 14. Section 9855 is hereby added to said code, to read as follows:

Returns and payments other than monthly

9855. The board, if it deems it necessary in order to insure payment of the tax imposed by this part, or to facilitate the administration of this part, may require returns and payment of the tax to be made for other than monthly periods.

Stats 1941, p 595

SEC. 15. Section 9876 of said code is hereby amended to read as follows:

Deficiency determinations

9876. If the board is not satisfied with the return filed or amount of tax paid by any operator, it may make a deficiency determination of the tax required to be paid by the operator based upon information contained in the return or upon any information in its possession. A deficiency determination may be made of the amount of tax due for one or for more than one month.

New section

SEC. 16. Section 9877.5 is hereby added to said code, to read as follows:

Offset

9877.5. In making a determination the board may offset overpayments for a month or months against underpayments for another month or months, against penalties, and against the interest on the underpayments.

Stats 1941, p 596

SEC. 17. Section 9901 of said code is hereby amended to read as follows:

Determination if no return made

9901. If any operator fails, neglects, or refuses to file a return within the time required, the board shall make an estimate of the amount of the taxable gross receipts of the operator for the month or months for which the operator failed to make a return. Upon the basis of this estimate the board shall compute and determine the tax payable by the operator, adding to

the amount of tax so determined a penalty equal to 10 per cent thereof. A determination may be made of the amount of tax due for one or for more than one month.

SEC. 18. Section 9901.5 is hereby added to said code, to read as follows: New section

9901.5. In making a determination the board may offset overpayments for a month or months against underpayments for another month or months, against penalties, and against the interest on the underpayments. Offset

SEC. 19. Article 3.5, comprising Sections 9911 to 9913, inclusive, is hereby added to Chapter 4, Part 4, Division 2, of said code, to read as follows: New article

Article 3.5. Jeopardy Determinations

9911. If the board believes that the collection of any amount of tax imposed under this part will be jeopardized by delay, it shall thereupon make a determination of the amount of tax due, noting that fact upon the determination. The amount determined is immediately due and payable. Jeopardy determination

9912. If the amount of the tax, interest, and penalty specified in the jeopardy determination is not paid within 10 days after service upon the operator of notice of the determination, the determination becomes final, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and interest provided in Article 6 of this chapter shall attach to the amount of tax specified. When determination final

9913. The operator against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to Article 4 of this chapter. He shall, however, file the petition for redetermination with the board within 10 days after the service upon him of notice of the determination. The operator shall also within the 10-day period deposit with the board such security as it may deem necessary to insure compliance with this part. The security may be sold by the board in the manner prescribed by Section 10050. Petition for redetermination Deposit of security

SEC. 20. Section 10050 is hereby added to Article 1 of Chapter 5, Part 4, Division 2, of said code, to read as follows: New section

10050. The board, whenever it deems it necessary to insure compliance with this part or any rule or regulation adopted under this part, may require any person subject to the tax imposed under this part to deposit with it such security as it may determine. The board may sell the security at public sale if it becomes necessary so to do in order to recover any amount due under this part. Notice of the sale may be served Deposit of security Sale

upon the person who deposited the security personally or by mail in the manner prescribed for service of notice of a deficiency determination. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

Stats 1941, p 601

SEC. 21. Section 10276 of said code is hereby amended to read as follows:

Injunction against collection

10276. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this part of any license tax or other amounts sought to be collected by the board.

Stats 1941, p. 601

SEC. 22. Section 10277 of said code is hereby amended to read as follows:

Suit to recover tax paid under protest

10277. After payment of any license tax under protest duly verified and setting forth the grounds of objection to the legality of the tax, the operator paying the tax may bring an action against the board in the Superior Court of the County of Sacramento for the recovery of the license tax so paid.

Stats 1941, p 602

SEC. 23. Section 10282 of said code is hereby amended to read as follows:

Wher action brought by assignee

10282. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any license tax paid when the action is brought by or in the name of an assignee of the operator paying the tax or by any person other than the person who paid the tax.

Stats 1941, p 603

SEC. 24. Section 10451 of said code is hereby amended to read as follows:

Disposition of money: Motor Vehicle Transportation Tax Fund

10451. All taxes, interest, and penalties due under this part shall be paid in the form of remittances payable to the State Controller. The Controller shall transmit the payments to the State Treasury to be deposited to the credit of the Motor Vehicle Transportation Tax Fund, which fund is continued in existence. All license fees paid under this part shall be deposited by the board in the State Treasury to the credit of the same fund.

Tax levy; operative date

SEC. 25. This act, inasmuch as it provides for a tax levy for the usual current expenses of the State, shall, under the provisions of Section 1 of Article IV of the Constitution, take effect immediately; provided, however, that the provisions of the act cited in the title hereof as they existed on January 1, 1941, are hereby continued in force until July 1, 1941, and

that the provisions hereof amending the act cited in the title hereof shall become operative on July 1, 1941, and that the provisions hereof amending the Revenue and Taxation Code shall become operative at the same time as Part 4 of Division 2 of the Revenue and Taxation Code passed by the Legislature at its Fifty-fourth Session, at which time the provisions of the act cited in the title hereof amended or added by this act are hereby repealed.

CHAPTER 1240

An act to amend Sections 323, 405, 459, 2510, 2605, 2606, 2607, 2621, 2626, 2803, 2805, 2808, 2905, 3354, 3355, 3656, 3695, 3696, 3700, 3701, 3720, 3721, 3724, 4109, 4151, 4154, 4155 and 4217 of, and to add Sections 3510, 3696.5 and 3701.5 to, the Revenue and Taxation Code, relating to property taxation, including assessments, the levy of taxes, the collection of taxes, computation of taxes, tax sales, tax-deeded property, and the redemption of delinquent property.

Stats 1939 p 1274, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 323 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1285

323. If held under Spanish grant, land may be described by the exterior boundaries of the grants, or by the name of the grants, and the divisions, subdivisions, and acreage claimed.

Spanish grants

SEC. 2. Section 405 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1286

405. Annually, the assessor shall assess all the taxable property in his county, except State assessed property, to the persons owning, claiming, possessing, or controlling it at 12 o'clock meridian of the first Monday in March. The assessor shall ascertain such property between the first Mondays in March and July.

Assessment period

SEC. 3. Section 459 of the Revenue and Taxation Code is hereby amended to read as follows:

Stats 1939, p 1288

459. The expense of making the survey and description by the county surveyor is a lien on the land, and, when approved by the superior court, shall be certified by it to the board of supervisors who shall, by resolution, direct the auditor to add the expense to the taxes on the land, to be collected like other taxes.

Expense of survey

Stats 1939, p 1309

SEC. 4. Section 2510 of the Revenue and Taxation Code is hereby amended to read as follows:

Record and notice of nonpayment

2510. When a cancellation is made, the officer making it shall record it on the roll. He shall immediately send a notice to the person who attempted payment by the negotiable paper of the cancellation of the payment.

The validity of any tax, assessment, license, or penalties is not affected by failure or irregularity in giving the notice.

Stats 1939, p 1310

SEC. 5. Section 2605 of the Revenue and Taxation Code is hereby amended to read as follows:

1st installment

2605. The following taxes on the secured roll are due November 1st:

(a) All taxes on personal property.

(b) Half the taxes on real property, and if the amount is not evenly divisible by two, the odd cent is also due.

Stats 1939, p 1310

SEC. 5 5. Section 2606 of the Revenue and Taxation Code is hereby amended to read as follows:

2d installment due

2606. The second half of taxes on real property on the secured roll is due January 20th.

Stats 1939, p 1310

SEC. 6. Section 2607 of the Revenue and Taxation Code is hereby amended to read as follows:

When entire tax payable

2607. The entire tax on real property may be paid when the first installment is due. The second installment may be paid separately only if the first installment has been paid.

Stats 1939, p 1312

SEC. 7. Section 2621 of the Revenue and Taxation Code is hereby amended to read as follows:

Costs

2621. After the second half of taxes on real property is delinquent, the tax collector shall collect a cost of fifty cents ($0.50) for preparing the delinquent list on each assessment on the secured roll of:

(a) Real property, except possessory interests.

(b) Possessory interests.

(c) Personal property.

The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

Stats 1939, p 1313

SEC. 8. Section 2626 of the Revenue and Taxation Code is hereby amended to read as follows:

Settlement on secured roll

2626. The auditor shall compare the delinquent list with the secured roll. If satisfied the list is correct, he shall:

(a) Foot the unpaid taxes.

(b) Credit the tax collector with the unpaid taxes on the secured roll.

(c) Make a final settlement with him of all taxes and penalties charged against him on the secured roll.

The tax collector shall deliver the treasurer's receipt to the auditor, unless the treasurer is the collector, and shall immediately account for any deficiency.

SEC. 9. Section 2803 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p. 1314

2803. Any person, other than the assessee, showing evidence by presentation of a duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court of an interest in any parcel of real property, except possessory interests, which does not have a separate valuation on the roll, and who is not the owner or contract purchaser of the entire piece separately assessed, may apply to the officer having custody of the roll to have the parcel separately valued on the roll for the purpose of paying current taxes. Separate valuation Application

SEC. 10. Section 2805 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1315

2805. The application shall be accompanied by: Fees, etc

(a) The full amount of taxes and delinquent penalties on personal property and possessory interests which are a lien on the real property in the original assessment;

(b) An affidavit of interest;

(c) A fee of one dollar ($1) for each parcel to be separately valued, except the parcel remaining.

SEC. 11. Section 2808 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1315

2808. The assessor shall transmit the valuations to the auditor, who shall enter the descriptions and the separate valuations on the roll as part of the original assessment, and shall compute the taxes and penalties due thereon. Entry on roll

SEC. 11.5. Section 2905 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 410

2905. In collecting taxes on the unsecured roll the tax rate to be used is the rate for property of the same kind on the secured roll last fixed before the lien date for the taxes to be collected. The taxes on the unsecured roll shall be computed in dollars and cents, rejecting the fractions of a cent. Unsecured tax rate

SEC. 12. Section 3354 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1320

3354. The tax collector shall publish with the published delinquent list a notice of sale at public auction of all tax-sold Publication

property which was sold to the State in the fifth preceding calendar year or any year before that.

Stats 1941, p 425

SEC. 13. Section 3355 of the Revenue and Taxation Code is hereby amended to read as follows:

Contents of notice

3355. The published notice of sale of tax-sold property shall show:

(a) A list of descriptions of the property. The assessments contained in this notice of sale shall be numbered in ascending numerical order.

(b) That five years will have elapsed on the date of sale at public auction since the property was sold to the State.

(c) The year of sale to the State and the fiscal year for which the taxes were levied.

(d) That the property will be sold at public auction to the highest bidder for cash, in lawful money of the United States, unless sooner redeemed.

(e) The time and place at which the property will be sold.

(f) That the minimum acceptable bid will be the amount of taxes, delinquent penalties, and costs for which it was sold to the State.

(g) The amount of the minimum bid, opposite the description of the property.

(h) The time within which the successful bidder must redeem the property.

(i) That, after a bid is made and accepted at the sale, the right of redemption, except by the purchaser, ceases.

(j) That if no bid is made and accepted at the sale, and the property is deeded to the State, the right of redemption ceases as provided in Sections 3511.3 and 3511.5.

(k) The date of the notice.

New section

SEC. 14. Section 3510 is hereby added to Chapter 4 of Part 6, Division 1, of the Revenue and Taxation Code, to read as follows:

"Taxes"

3510. As used in this chapter, "taxes" includes all taxes and assessments and annual installments of assessments charged on the roll.

Stats 1939, p 1333

SEC. 15. Section 3656 of the Revenue and Taxation Code is hereby amended to read as follows:

Cancellation of leases

3656. Every lease made under this chapter shall provide that the Controller may cancel the lease as of the date of redemption from tax sale, as of the date of the first payment under a plan for the payment of delinquent taxes in installments, or as of the date of a sale terminating the right of redemption, and that the lessee is not thereupon entitled to any damages or reimbursement except as provided in this

Refunds

section. On redemption, first installment payment, or sale of

the property, the Controller may refund from the Tax-deeded Land Rental Fund to the lessee the unearned portion of any rental paid in advance.

SEC. 16. Section 3695 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1334

3695. If the governing body of any taxing agency does not, before the date of sale, file with the tax collector and the board of supervisors certified copies of a resolution adopted by the governing body objecting to the sale, the taxing agency has consented to the sale. If the taxing agency consents to the sale the lien of its taxes or assessments and any rights which it may have to the property as a result of such taxes or assessments are canceled by a sale under this chapter and it is entitled to its proper share of the proceeds deposited in the delinquent tax sale trust fund. If the taxing agency does object to the sale, the lien of its taxes or assessments or any rights which the taxing agency may have to the property are not affected by a sale under this chapter. Other taxing agencies' consent

If the taxing agency objects to the sale and before the date of sale applies in writing to the board of supervisors to purchase the property under Chapter 8 of this part at a price equal to that approved by the board of supervisors, or upon a pro rata division of the proceeds of a sale as may be provided under Chapter 8, the tax collector shall not proceed with the sale. Objection

SEC. 17. Section 3696 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1941, p 3098

3696. Before a sale of tax-deeded property at public auction on application of a prospective purchaser is made, a prospective purchaser shall make a written application to the tax collector asking that the property described in the application be offered for sale. The tax collector shall demand in advance a deposit from the applicant of a sum sufficient to defray the cost of advertising. Sale on application

Deposit

SEC. 18. Section 3696.5 is hereby added to the Revenue and Taxation Code, to read as follows: New section

3696.5. If a taxing agency objects to the sale, the tax collector shall so notify the applicant, and he may withdraw his application before the sale. The entire deposit shall be returned to the applicant if: Notice to applicant of objection

(a) The property is redeemed or payments under an installment payment plan are commenced before the sale. Return of deposit

(b) The applicant fails to secure the property on his bid at the sale, in which event the advertising costs shall be collected from the successful purchaser.

(c) After the objection of a taxing agency to the sale, the applicant withdraws his application before the sale.

(d) A taxing agency objects to the sale and before the date of sale applies to purchase the property under Chapter 8 of this part.

Stats 1939, p. 1336

SEC. 18.5. Section 3700 of the Revenue and Taxation Code is hereby amended to read as follows:

Controller's authorization

3700. On receipt of the copy of the resolution approving the sale the tax collector shall forward a copy of it to:

(a) The Controller for his authorization.

(b) The clerk or secretary of the governing board of each taxing agency, other than the county, having the right to levy taxes or assessments on the property.

Stats 1939, p. 1336

SEC. 19. Section 3701 of the Revenue and Taxation Code is hereby amended to read as follows:

Notice

3701. After receiving the written authorization of the Controller and at least 21 days, but not more than 28 days, before the proposed sale, the tax collector shall send a notice of the intended sale to the last assessee of the property at his last known address or, if no address is known for him, the tax collector shall make an affidavit of this fact and file it with the Controller's authorization of the sale.

New section

SEC. 20. Section 3701.5 is hereby added to the Revenue and Taxation Code, to read as follows:

Cancellation of proceedings

3701.5. If a prospective purchaser withdraws his application due to a taxing agency objecting to the sale, or if a taxing agency objects to the sale and before the date of sale applies to purchase the property under Chapter 8 of this part, the entire proceeding is cancelled. After the cancellation, it shall be the same as if no application had been made by the applicant, and any such application to purchase by a taxing agency shall be governed by the provisions of Chapter 8 of this part.

Notice

Within five days after the cancellation, the tax collector shall give notice of the cancellation to:

(a) The board of supervisors.

(b) The Controller.

(c) The last assessee of the property at his last known address, unless no notice of intended sale has been sent to the last assessee.

(d) The clerk or secretary of the governing board of each taxing agency, other than the county, having the right to levy taxes or assessments on the property.

Stats 1939, p. 1340

SEC. 21. Section 3720 of the Revenue and Taxation Code is hereby amended to read as follows:

Report to other taxing agencies

3720. On receipt of the duplicate report of sale, the auditor shall mail a copy of it to the secretary or clerk of the governing board of each taxing agency, other than the State

and the county, entitled to levy taxes or assessments on the property sold. He shall also inclose a notice for claims, specifying: Notice for claims

(a) A description of the property;

(b) That claims on the amount received from the sale shall be made within 60 days after the mailing of the notice for claims.

SEC. 22. Section 3721 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p. 1340

3721. On receipt of the notice for claims, the governing board of each taxing agency having taxes or assessments levied on the property shall forward a share claim to the county auditor, stating, in detail, the amounts due on the property still unpaid to the taxing agency. Share claims

SEC. 23. Section 3724 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1341

3724. If the share claims are correct, or if settlement is made of all disputed claims relating to any parcel, the board of supervisors shall order the money in the delinquent tax sale trust fund received from the sale of the parcel to be distributed under this division among the taxing agencies having filed share claims. There shall also be distributed to the State of California its share of the money received from the sale of the parcel. The auditor shall draw and mail warrants on the delinquent tax sale trust fund in accordance with the order, and the State's share shall be included in the next semiannual settlement between the county and the State. Distribution

SEC. 24. Section 4109 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1347

4109. The redemption officer shall note the fact and date of redemption on the margin of each delinquent list opposite the description of the property sold. Notation on delinquent list

In the event that part of the property is redeemed, the redemption officer shall also note:

(a) A description of the parcel redeemed.

(b) The value of the parcel redeemed.

(c) The value of the remainder of the property.

SEC. 25. Section 4151 of the Revenue and Taxation Code is hereby amended to read as follows: Stats 1939, p 1348

4151. Any person, other than a person whose name appears as assessee for any year for which the property is delinquent, claiming an interest, evidenced by presentation of a duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court, in any parcel of tax-sold Separate valuation Application

or tax-deeded property which does not have a separate valuation on the roll for the year of sale to the State or any subsequent roll may apply to the redemption officer to have the parcel separately valued in order that it may be redeemed under this chapter.

Stats 1939, p 1349

SEC. 26. Section 4154 of the Revenue and Taxation Code is hereby amended to read as follows:

Valuation on delinquent rolls

4154. The assessor shall immediately place a separate valuation on the parcel for each year for which it was delinquent and not separately valued and transmit it to the redemption officer. The sum of the valuations of the parcels for each year shall equal their total valuation before separation for that year.

Stats 1939, p 1349

SEC. 27. Section 4155 of the Revenue and Taxation Code is hereby amended to read as follows:

Valuation on current roll

4155. Except between the time when the second installment becomes delinquent and the time when property is sold to the State, if the parcel is not separately valued on the current roll, the assessor shall also transmit a separate valuation of the parcel to the officer having custody of the current roll, and the auditor shall place the valuation on the current roll and compute the taxes, penalties and costs thereon.

Stats 1939, p 1349

SEC. 28 Section 4217 of the Revenue and Taxation Code is hereby amended to read as follows:

Election to pay in installments

4217. Any person entitled to redeem real estate from tax sale may elect to pay delinquent taxes in installments under this article at any time before the right of redemption is terminated, except that if payment of delinquent taxes in installments is started under this article and the amount required to be paid in any fiscal year is not paid as required by this article, payments may not again be started under this article during the fiscal year in which such default occurs.

CHAPTER 1241

An act to amend Sections 6106, 6306, 6501, 6503, 6504, 6827, 6835, 6872, 6964, 6966 and 6978 of the Public Resources Code, to add Sections 6210.2, 6210.5, 6321.2, 6501.2, 6505 and 6963 to said code, and to add Chapter 4.1, comprising Sections 6991 to 6995, inclusive, to Part 2 of Division 6 thereof, and to repeal Sections 6358, 6359, 6360, 6361, 6362, 6363, 6364, 6505, 6506, 6507, 6508, 6509, 6510, 6963, 6965, 6967, 6968 and 6969, and Chapter 2, comprising Sections 6601 to 6715, inclusive, of Part 2 of Division 6 thereof, all relating to lands owned by the State and the administration, management, leasing and disposal thereof.

Stats 1939, p 1067, amended

[Approved by Governor July 19, 1941 Filed with Secretary of State July 19, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6106 of the Public Resources Code is hereby amended to read as follows:

Stats 1941, p 1877

6106. Whenever, under this code or any other law, the commission is given jurisdiction over any subject matter and empowered to act with respect thereto, it may authorize the execution of any written instrument by any of its officers or employees in the name of the State, pursuant to resolution adopted by the commission.

Execution of written instruments

SEC. 2. Section 6210.2 is hereby added to said code, to read as follows:

New section

6210.2. The commission may withdraw from sale any of the public lands belonging to the State and may restore any or all public lands so withdrawn, or other public lands, for sale.

Withdrawal, etc., from sale

SEC. 3. Section 6210.5 is hereby added to said code, to read as follows:

New section

6210.5. The commission may amend or terminate any lease, easement, or contract under its jurisdiction, with the consent of the other party thereto.

Modification of lease

SEC. 3.1. Section 6306 of said code is hereby amended to read as follows:

Stats 1941, p 1880

6306. All money collected under this chapter shall be remitted monthly to the State Treasury, and credited by the State Controller to the current appropriation for the support of the commission.

Disposition of funds

SEC. 3.2. Section 6321.2 is hereby added to said code, to read as follows:

New section

6321.2. In addition to the fees provided in Section 6321, the commission may fix and collect reasonable charges or rentals

Charges and rentals

for the use of lands upon which any of the structures authorized under Section 6321 are situated.

Repeals SEC. 3.3. Sections 6358, 6359, 6360, 6361, 6362, 6363 and 6364 of said code are hereby repealed.

Stats 1941, p 1884 SEC. 4. Section 6501 of the Public Resources Code is hereby amended to read as follows:

"Lease" 6501. As used in this chapter, "lease" includes a permit, easement, or license.

New section SEC. 5. Section 6501.2 is hereby added to said code, to read as follows:

Forms of lease 6501.2. The commission shall prepare forms of leases for use under this chapter for such purposes as the commission deems advisable, including grazing leases, leases for commercial or industrial purposes, and leases of camp sites. Each form of lease shall contain such terms and conditions as the commission deems to be for the best interests of the State.

The commission shall also prepare forms of applications for each type of lease.

Stats 1941, p 1885 SEC. 5.1. Section 6503 of said code is hereby amended to read as follows:

Appraisal 6503. Upon receipt of an application to lease land under this chapter, the commission shall appraise the lands and fix the annual rental per acre or other consideration therefor.

Stats 1941, p 1885 SEC. 5.2. Section 6504 of said code is hereby amended to read as follows:

Execution of lease, payment of rental 6504. Whenever any lease is delivered to an applicant by the commission, the lessee shall within 15 days thereafter, execute and return the lease to the commission and pay the first annual rental or other consideration. The commission shall receive the money and give a receipt therefor. All subsequent annual payments of rental or other consideration shall be paid in like manner 15 days after they become due.

Repeals SEC. 6. Sections 6505, 6506, 6507, 6508, 6509 and 6510 of said code are hereby repealed.

New section SEC. 7. A new section, numbered 6505, is hereby added to said code, to read as follows:

Disposition of moneys 6505. All moneys received as rental for school lands under this chapter shall be paid into the State School Fund. All other money received under this chapter shall be paid into the State Lands Act Fund.

SEC. 8. Chapter 2 of Part 2 of Division 6, comprising Sections 6601 to 6715, inclusive, of said code, is hereby repealed, but the repeal thereof shall not affect the rights or interests of any lessee or of the State under any lease executed prior to the effective date of this act. Repeal

SEC. 8.1. Section 6827 of said code is hereby amended to read as follows: Stats 1941, p 1899

6827. Leases for the extraction and removal of oil and gas deposits may be made by the commission to the highest qualified bidder, as provided in this chapter. Such a lease shall be for a term of 20 years, but such term may be thereafter extended upon such terms and conditions and for such period of time as the commission deems for the best interests of the State or as the Legislature may provide. Oil and gas bids and leases

In addition to the royalty provided therein, each bid and each lease shall also provide for an annual rental payment in advance of such sum as the commission shall specify, which rental shall be credited against the royalties, if any, as they accrue for that year.

SEC. 9. Section 6835 of said code is hereby amended to read as follows: Stats 1941, p 1901

6835. Each bid (which shall be in the form of a lease prepared in accordance with this chapter) for an oil and gas lease shall be accompanied by a certified or cashier's check of a responsible bank in California payable to the State of California in an amount to be fixed by the commission, which sum shall be deposited as evidence of good faith and except in the case of the successful bidder shall be returned to the bidder. Upon the execution of the lease the amount shall be applied upon the annual rental for the first year and the balance, if any, shall be returned to the lessee. If the successful bidder fails or refuses to execute the lease within 15 days after the award thereof, the amount of the check shall be forfeited to the State. Deposit with bid

SEC. 9.1. Section 6872 of said code is hereby amended to read as follows: Stats 1941, p 1902

6872. Whenever it appears to the commission that oil or gas deposits are known or believed to be contained in any such lands and may be or are being drained by means of wells upon adjacent lands, the commission shall thereupon be authorized and empowered to lease any such lands, either as a tract or in parcels of such size and shape as the commission shall determine, for the production of oil and gas therefrom. When leasing authorized

SEC. 10. Sections 6963, 6965, 6967, 6968 and 6969 of said code are hereby repealed. Repeals

New section

SEC. 11. A new section numbered 6963 is hereby added to said code, to read as follows:

Applications for leases

6963. No applications for leases under this chapter shall be received by the commission after the effective date hereof. Leases, other than renewal leases or pursuant to pending applications, for the purposes provided by this chapter shall hereafter be issued only as provided in Chapter 4.1 of this part. The provisions of this chapter shall continue to govern all applications received and leases executed under its provisions.

Stats 1941, p 1908

SEC. 12. Section 6964 of said code is hereby amended to read as follows:

Statement of minerals taken

6964. Every person, firm or corporation taking any minerals from the waters of any such stream or lakes or from any such lands, shall file, on or before the last Monday in January of each year, with the commission a written statement, duly verified, showing in tons of 2,000 pounds, the amount of mineral so taken and sold by such person, firm or corporation during the year ending December 31st last preceding. A copy of the statement shall also be filed with the Department of Finance. Any such person, firm or corporation neglecting or refusing to furnish such statement shall forfeit all rights to take waters of any such stream or lake or minerals from such lands. Any person who, either on behalf of himself or any firm or corporation, verifies any such statement which is untrue in any material part is guilty of a misdemeanor.

Stats 1941, p 1909

SEC. 13. Section 6966 of said code is hereby amended to read as follows:

Payment of royalty

6966. Every person, firm, or corporation and every lessee under this chapter shall, at the time of filing the statement provided for in Section 6964, forward to the commission an express or postal money order payable to the State of California in a sum equal to a royalty of twenty-five cents ($0.25) for each ton of 2,000 pounds of mineral taken from such water or land by such person, firm or corporation and sold, during the preceding year; except that the royalty on sodium bicarbonate and on sodium hydrate so taken shall be fifty cents ($0.50) for each ton of 2,000 pounds.

Stats 1941, p 1912

SEC. 14. Section 6978 of said code is hereby amended to read as follows:

Surrender of lease

6978. Any lessee hereunder may abandon and surrender a lease at the expiration of any calendar year by filing with the commission a notice of abandonment or surrender. The notices shall be filed at least 60 days before the expiration of the calendar year. The abandonment and surrender shall

not absolve the lessee from the payment of any royalty which may be due at the end of the fiscal year for minerals extracted from the waters or lands.

SEC. 15. Chapter 4.1, comprising Sections 6991 to 6995, inclusive, is hereby added to Part 2 of Division 6 of said code, to read as follows: New chapter

CHAPTER 4.1. LEASES FOR TAKING MINERALS FROM WATERS AND CERTAIN LANDS

6991. Leases for taking minerals from the waters of any stream or lake or from any lands withdrawn from sale by Section 6962 shall be issued only as provided by this chapter. Lease for taking minerals from waters

6992. Leases for any such lands and for the privilege of taking minerals from the waters of streams and lakes may be issued by the commission by competitive bidding to the highest responsible bidder, under general regulations adopted by the commission. All money received by the State under this chapter shall be deposited in the State Lands Act Fund in the State Treasury. Competitive bidding

Moneys

6993. The commission may, prior to the receipt of any bid for a lease under this chapter, withdraw any offer to receive bids therefor, and it may reject all bids therefor filed pursuant to invitation of the commission. At any time before the awarding of a lease thereon, all or any portion of a tract proposed to be leased may be withdrawn by the commission and eliminated from the proposal. Withdrawal of offer to lease

6994. Leases under this article shall be for terms of 20 years with the preferential right in the lessee to renew the lease for successive periods of 10 years upon such reasonable terms and conditions as may be prescribed by the commission. Term of lease

6995. The commission shall prescribe such additional terms, covenants and conditions, consistent with the provisions of this chapter, of permits and leases issued under this article as will in its opinion effectually protect the interests of the State. Additional conditions

CHAPTER 1242

An act making an appropriation to pay the claim of the Departmental Accounting Officer of the Department of Finance against the State of California, declaring the urgency thereof and providing that this act shall take effect immediately.

In effect immediately

[Approved by Governor July 19, 1941, with the reduction hereunder noted. Filed with Secretary of State July 19, 1941.]

I object to the item of $475,423.85 in Section 1 of Assembly Bill No 1998, and reduce the amount to $426,897 14. With this reduction I approve the bill.

It is my intention to reduce and I hereby reduce the sources from which the total sum is to be paid as follows:

Out of any money in the State Treasury not otherwise appropriated, from ---------- $382,628 80 to $339,720 42

Out of any money in the Medical Examiners Contingent Fund in the State Treasury, from ---------- 95 10 to Nothing

Out of any money in the Unemployment Administration Fund in the State Treasury, from ---------- 5,523.23 to Nothing

CULBERT L OLSON
Governor of California

The people of the State of California do enact as follows:

Appropriation Claim of Departmental Accounting Officer

SECTION 1. The sum of four hundred seventy-five thousand four hundred twenty-three dollars and eighty-five cents ($475,423.85) is hereby appropriated to be paid as hereinafter described, to pay the claim of the Departmental Accounting Officer of the Department of Finance against the State of California.

Funds from which to be paid

SEC. 2. The sum of four hundred seventy-five thousand four hundred twenty-three dollars and eighty-five cents ($475,423.85) shall be paid as follows: Three hundred eighty-two thousand six hundred twenty-eight dollars and eighty cents ($382,628.80) out of any money in the State Treasury not otherwise appropriated; one thousand four hundred ninety-two dollars and sixty-five cents ($1,492.65) out of any money in the Alcohol Beverage Control Fund in the State Treasury; two hundred twenty-eight dollars ($228) out of any money in the Board of Architecture, Southern District, Fund in the State Treasury; eighty-eight dollars and thirty cents ($88.30) out of any money in the Banking Fund in the State Treasury; nine hundred fifty dollars ($950) out of any money in the Corporation Commission Fund in the State Treasury; thirty dollars and eighty-three cents ($30.83) out of any money in the Board of Cosmetology Contingent Fund in the State Treasury; eighty-five dollars and thirty cents ($85.30) out of any money in the Department of Agriculture Fund in the State Treasury; two thousand dollars ($2,000) out of any money now or hereafter in the Fair and Exposition Fund in the State Treasury which otherwise would be allocated to the Twenty-second District Agricultural Association for payment of premiums and other expenses as defined by Section 92 of the Agricultural Code; three hundred forty dollars and ninety-eight cents ($340.98) out of any

money in the Furniture and Bedding Inspection Fund in the State Treasury; nine hundred sixty-eight dollars and twenty-seven cents ($968.27) out of any money in the Fire Marshal's Fund in the State Treasury; six hundred forty-eight dollars and eighty-five cents ($648.85) out of any money in the Fish and Game Preservation Fund in the State Treasury; ninety-five dollars and ten cents ($95 10) out of any money in the Medical Examiners Contingent Fund in the State Treasury; one hundred forty-three dollars and forty cents ($143.40) out of any money in the Motor Vehicle Fund in the State Treasury; one thousand two hundred seventy-six dollars and fifty-three cents ($1,276.53) out of any money in the Motor Vehicle Fuel Fund in the State Treasury; two thousand two hundred sixty-eight dollars and thirty-four cents ($2,268.34) out of any money in the Motor Vehicle Support Fund in the State Treasury; three hundred thirty-three dollars and thirty-three cents ($333.33) out of any money in the Board of Nurse Examiners Fund in the State Treasury; one hundred fifty-four dollars and five cents ($154.05) out of any money in the Optometry Fund in the State Treasury; three thousand one hundred seventy-six dollars and twenty-nine cents ($3,176.29) out of any money in the Petroleum and Gas Fund in the State Treasury; two thousand four hundred seventy dollars and fifty-four cents ($2,470.54) out of any money in the Retail Sales Tax Fund in the State Treasury; nine dollars and fifty cents ($9.50) out of any money in the State Agricultural Society Contingent Fund in the State Treasury; twenty-five dollars ($25) out of any money in the State Athletic Commission Fund in the State Treasury; fifty thousand three hundred ten dollars and thirty-eight cents ($50,310.38) out of any money in the State Highway Fund in the State Treasury; ten dollars ($10) out of any money in the State Park Maintenance and Acquisition Fund in the State Treasury; two hundred forty-seven dollars and seventy cents ($247.70) out of any money in the Structural Pest Control Fund in the State Treasury; three hundred thirty-three dollars and twenty-three cents ($333 23) out of any money in the Compensation Insurance Fund in the State Treasury; one hundred thirty-nine dollars and thirty-two cents ($139.32) out of any money in the Napa State Farm Revolving Fund in the State Treasury; nineteen thousand two hundred ninety-three dollars and thirty-three cents ($19,293.33) out of any money in the San Francisco Harbor Improvement Fund in the State Treasury; one hundred fifty-two dollars and sixty cents ($152.60) out of any money in the Printing Fund in the State Treasury; and five thousand five hundred twenty-three dollars and twenty-three cents ($5,523.23) out of any money in the Unemployment Administration Fund in the State Treasury.

Current expenses

SEC. 3. Inasmuch as this act makes an appropriation for the usual current expenses of the State, it shall, under the provisions of Section 1 of Article IV of the Constitution take effect immediately.

CHAPTER 1243

Stats 1935, p 93, amended

An act to amend Section 130 of the Vehicle Code, relating to records of the Department of Motor Vehicles.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1935, p 105

SECTION 1. Section 130 of the Vehicle Code is hereby amended to read as follows:

Records

130. Records of Department. (a) All records of the department relating to the registration of vehicles and such information as is contained on an application for an operator's or chauffeur's license shall be open to public inspection during office hours. Other records of the department relating to the physical or mental condition of any person shall be confidential.

(b) The department may charge the sum of ten cents ($0.10) for each request for information in its records concerning any vehicle. This subdivision does not apply to statistical information of the type heretofore compiled and distributed by the department nor to information, the purpose of which relates to traffic accidents or traffic offenses or traffic enforcement.

(c) The department shall have the right to sell copies of all or any part of its records at a charge sufficient to pay the actual cost to the department of such copies, the charge for such records and the conditions under which they may be sold to be determined by the Director of Motor Vehicles, with the approval of the Department of Finance.

(d) The department shall not make any charge for any copies of records, or for information given out from its records, to any county, city, or city and county, or to any State department, or Federal Government.

CHAPTER 1244

An act to add Section 474a to the Political Code, relating to escheat actions brought by the Attorney General.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. A new section is hereby added to the Political Code, to be numbered 474a, and to read as follows:

Escheat actions

474a. The Attorney General shall, from time to time, commence and prosecute actions on behalf of the State, as provided for in Title 8, Part 3, of the Code of Civil Procedure, for the purpose of having it adjudged that title to real

or personal property, to which the State has become entitled by escheat, is vested in the State.

The Attorney General is hereby authorized to recover, by presenting a claim to the State Controller, all costs and charges of commencing and prosecuting such suits, from the funds so escheated, such costs and charges so recovered to be credited to any support appropriation of the Attorney General, in augmentation of any such appropriation; provided, however, that the costs and charges so recovered shall not, in any case, exceed 10 per cent of the sum or sums actually escheated to the State in such suits.

CHAPTER 1245

An act to amend Section 474 of the Political Code, relating to escheated property.

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 474 of the Political Code is hereby amended to read as follows: C. A. 1880, p. 18

474. It shall be the duty of the Attorney General to institute investigation for the discovery of all real and personal property which may have or should escheat to the State, and for that purpose shall have full power and authority to cite any and all persons before any of the superior courts of this State to answer investigations and render accounts concerning said property, real or personal, and to examine all books and papers of any and all corporations. When any real or personal property shall be discovered, which should escheat to the State, the Attorney General must institute suit in the superior court of the county where said property shall be situated, for the recovery, to escheat the same to the State. The proceedings in all such actions shall be those provided for in Title 8, Part 3, Code of Civil Procedure. The Attorney General may, for the purposes and objects of this section, employ counsel to act in his place and stead for the discovery and recovery of both personal and real property, and in such proceedings, both in investigation for discovery or proceedings for recovery, such counsel so employed shall have the power and authority of the Attorney General. The compensation for services of such counsel shall be determined by the board of examiners, and paid out of the sums so found to be escheated and recovered to the State, and not otherwise; provided, that the State of California shall in no case be responsible for any charges for attorney fees for suits prosecuted under this act, but the Attorney General is hereby authorized to pay to the person

Attorney General to ascertain and bring action for recovery of property that should escheat to the State

or persons discovering the same the costs and charges of prosecuting any suit or suits under this act, a sum not in any case exceeding 10 per cent of the sums actually received as provided in this act; provided further, that if such escheat proceeding is prosecuted by the regular staff of the Attorney General's office, there shall be paid out of the money so recovered, from the Estates of Deceased Persons Fund, into any support appropriation of the Attorney General's office, in augmentation of any such appropriation, the compensation costs and charges herein provided for.

CHAPTER 1246

An act to make an appropriation from the State Park Maintenance and Acquisition Fund to the State Park Commission for the extension of the State Park System, providing for the acquisition of land in Del Norte County for State park purposes.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Appropriation: State Park Commission

SECTION 1. The sum of twenty-five thousand dollars ($25,000), or so much thereof as may be necessary, is hereby appropriated to the State Park Commission out of any money in the State Treasury not otherwise appropriated to be expended for the extension of the State Park System by the acquisition of lands in Del Norte County.

Land to be acquired

SEC. 2. The money made available for expenditure by this act shall be used only for the acquisition of land for park purposes within the area described as follows:

In Secs. 6, 7, 8, 17, 18 and 19 of T. 15 N., R. 1 E., H. M.; in Secs. 1, 12 and 13 of T. 15 N., R. 1 W., H. M., all in the County of Del Norte, State of California.

CHAPTER 1247

An act to amend Section 73b of the Code of Civil Procedure, relating to sessions of the superior court held in cities other than the county seat.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1933, p 1019

SECTION 1. Section 73b of the Code of Civil Procedure is hereby amended to read as follows:

Sessions of superior court

73b. In addition to the sessions of superior courts provided for in Sections 73 and 142 of this code, or any amendment

of either of said sections, at least one session of the superior court shall be held: (1) in each city containing a population of not less than 20,000 as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall is not less than 30 miles distant from the site of the county courthouse; (2) in each city containing a population of not less than 50,000 as ascertained by the last preceding census taken under the authority of the Congress of the United States, or the Legislature of the State of California, wherein the city hall is not less than six miles distant from the site of the county courthouse.

CHAPTER 1248

An act to amend Sections 19433, 19483, 19485, 19530, 19532, 19537, 19562, 19597, 19620, 19621 and 19624 of, and to add Sections 19480.5, 19510.5, 19532.5, 19538, 19567, 19598 and 19627 to, the Business and Professions Code, relating to the regulation and licensing of horse racing, horse racing meetings, and wagering on the results thereof, and the disposition of State revenues therefrom, and providing for the transfer to the Fair and Exposition Fund of certain reverted appropriations.

Stats 1937, p 1229, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 19433 of the Business and Professions Code is hereby amended to read as follows:

Stats 1941, p 661

19433. The board shall appoint a secretary who shall receive a salary of six thousand dollars ($6,000) and who shall be placed under bond, the cost of the bond to be charged as a part of the necessary expenses of the board.

Secretary

SEC. 3. Section 19480.5 is hereby added to said code, to read as follows:

New section

19480.5. The board shall not issue a license to conduct a horse racing meeting at any place, inclosure, or track, not used for horse racing meetings prior to July 1, 1941, unless prior to the beginning of the construction or preparation of such place, inclosure, or track for horse racing meetings, the board, upon application in such form as it may require, has determined that conducting horse racing meetings at such place will be in the public interest and will subserve the purposes of this chapter.

License to conduct race at new track

Stats 1941, p 663

SEC. 4. Section 19485 of said code is hereby amended to read as follows:

License fee

19485. Every licensee under this article conducting a horse racing meeting shall pay a license fee consisting of 4 per cent of all money not in excess of ten million dollars ($10,000,000) handled in the pari-mutuel pool operated by him during the period of the license; 5 per cent of the amount by which the total amount so handled by him exceeds ten million dollars ($10,000,000) but is not more than twenty million dollars ($20,000,000); and 6 per cent of the amount by which the total amount so handled by him exceeds twenty million dollars ($20,000,000). Payment on account of the license fee shall be made by the licensee daily during each racing meeting.

Stats 1941, p 662

SEC. 5. Section 19483 of said code is hereby amended to read as follows:

Deposit with application

19483. Each application for a license to conduct a horse racing meeting shall be accompanied by a certified check payable to the Treasurer of the State of California, as ex officio treasurer of the board, in either of the following sums, dependent upon the classification of the county where the meeting is to be held:

Counties of the first class.....$10,000
Counties of the second class..... 10,000
Counties of the second and one-half class..... 5,000
Counties of the third class, at the rate of fifty dollars ($50) per day for such racing meeting.

Stats 1941, p 664

SEC. 6. Section 19530 of said code is hereby amended to read as follows:

Classes of counties

19530. For the purpose of this chapter there are four classes of counties in the State of California, as follows:

1. Counties of the first class are those having a population of 1,000,000 or over;

2. Counties of the second class are those having a population of 600,000 or over and less than a million;

2.5. Counties of the second and one-half class are those having a population of 500,000 or over and less than 600,000;

3. Counties of the third class are those counties having a population of less than 500,000.

Stats 1941, p 664

SEC. 7. Section 19532 of said code is hereby amended to read as follows:

Racing days in second class counties

19532. In the area embraced within each county of the second class and such territory as may lie within 20 miles from the exterior boundaries thereof, the board may allow not to exceed 80 racing days per year for the entire area

and no part of a county of the second and one-half class may be included in such area.

SEC. 8. Section 19532.5 is hereby added to said code, to read as follows: New section

19532.5. In each county of the second and one-half class the board may allow not to exceed 40 racing days per year. Racing days in second and one-half class counties

SEC. 9. Section 19510.5 is hereby added to said code, to read as follows: New section

19510.5. No horse owner may be licensed under this chapter unless all liability of such horse owner for compensation under Division 4 of the Labor Code is secured as provided therein. Termination of such insurance during the license period is ground for the revocation of the license. Workmen's compensation insurance of owners

SEC. 10. Section 19537 of said code is hereby amended to read as follows: Stats. 1941, p. 665

19537. The board may apportion the maximum number of racing days permitted in the respective counties and areas equally to licensed racing associations therein (other than the State Fair, county fairs and district agricultural associations) where there is more than one licensed racing association therein. Unless the consent of the licensee is obtained the racing days shall be granted in one continuous meeting, nonracing days excepted. Apportionment of racing days

SEC. 11. Section 19538 is hereby added to said code, to read as follows: New section

19538. The board may allow any licensee not to exceed five additional racing days during any one meeting which shall be known as charity days. The licensee shall deduct from the amount deducted from the total handled in the pari-mutuel pool on charity days the license fee owed to the State, and an amount equal to the purses and the cost and expense of conducting racing on those days; and the licensee shall donate the balance to nonprofit organizations and corporations engaged in charitable and benevolent and other like work selected by the licensee and approved by the board. Charity days

SEC. 12. Section 19562 of said code is hereby amended to read as follows: Stats. 1941, p. 665

19562. It is hereby declared that since the purpose of this chapter is the encouragement of agriculture and the breeding of horses in this State a sum equal to 10 per cent of the first money of every purse won by a "California bred" horse shall "California bred" horses

be paid by the licensee conducting the horse racing meeting to the breeder of such animal. A "California bred" horse, within the meaning of this section, shall, prior to January 1, 1944, be deemed to be a foal dropped by a mare in California, whether conceived in California or not, and after January 1, 1944, shall be deemed to be a foal dropped by a mare in California after being bred in California and remaining in California until the foal is weaned. The board shall by rule provide for the registration of all "California bred" horses.

Every licensee conducting a horse racing meeting shall run at least one race each racing day to be known as a "California bred race" which shall be limited to California bred horses as defined in this section.

If, however, sufficient competition can not be had among such class of horses, the race may, with the consent of the board, be eliminated for the day and a substitute race provided.

New section

SEC. 13. Section 19567 is hereby added to said code, to read as follows:

Workmen's compensation insurance of tracks

19567. No license to conduct a horse racing meeting may be granted unless all liability of the applicant for compensation under Division 4 of the Labor Code is secured as provided therein. Termination of such insurance during the license period is ground for the revocation of the license.

Stats 1941, p 667

SEC. 15. Section 19597 of said code is hereby amended to read as follows:

Commission of track

19597. The commission deducted by any licensee from pari-mutuel pools shall not exceed 9 per cent of the gross amount of money not in excess of ten million dollars ($10,000,000) handled in the pari-mutuel pool operated by him during the period of the license; 8 per cent of the amount by which the total amount so handled exceeds ten million dollars ($10,000,000) but is not more than twenty million dollars ($20,000,000); and 7 per cent of the amount by which the total amount so handled by him exceeds twenty million dollars ($20,000,000), plus the odd cents by which the amount payable on each dollar wagered exceeds a multiple of five cents ($0.05). The amount deducted by the licensee shall be in addition to the license fee required by this chapter.

New section

SEC. 16. Section 19598 is hereby added to said code, to read as follows:

Claim for part of redistribution

19598. From and after the effective date of this section, any person claiming to be entitled to any part of a redistribution from a pari-mutuel pool operated by a licensee under this chapter, who fails to claim the money due him prior to the completion of the racing meet at which such pool was formed,

may, within 60 days after the close of such meet file with the board a verified claim in such form as the board shall prescribe setting forth in detail the claim of such person and such other information as may be necessary to identify the particular pool and the amount claimed therefrom. The board shall hear such claim and proof offered in support thereof. Unless the claimant satisfactorily establishes his right to participate in such pool, such claim shall be rejected. If the claim be allowed, the licensee shall upon order of the board pay the same to the claimant. Ninety days after the close of any racing meet hereafter conducted any moneys subjected to this section not theretofore successfully claimed, shall be paid to the board and the board shall immediately pay such money into the State Treasury to the credit of the Special Deposit Fund, to be held therein and disposed of in the manner provided by law for other deposits in the fund.

SEC. 17. Section 19620 of said code is hereby amended to read as follows: Stats 1941, p 667

19620. All fees, commissions, and other moneys received by the board, except that part of the license fee required by Section 19485 in excess of 4 per cent of the gross amount of money handled in the pari-mutuel pools, shall be paid into the State Treasury immediately upon receipt and credited to a special fund hereby continued in existence, known as the "Fair and Exposition Fund." Fair and Exposition Fund

SEC. 18. Section 19621 of said code is hereby amended to read as follows: Stats 1941, p 667

19621. There is hereby appropriated annually out of the fund the following: Seventy-five thousand dollars ($75,000) to the board to defray the expenses of the officers and employees provided for herein and such cost and expense incurred by the Attorney General in the enforcement of this act as shall be authorized by the board; and thirty thousand dollars ($30,000) to the Department of Finance for supervision and auditing of all fairs, citrus fruit fairs, and agricultural associations receiving money from the fund. Appropriations

SEC. 19. Section 19624 of said code is hereby amended to read as follows: Stats 1941, p 667

19624. The first balance of the fund is hereby annually appropriated as follows: (a) Five per cent for payment to and use of those certain fruit fairs defined in Section 94 of the Agricultural Code, but not to district agricultural associations, district or county fairs, for the purpose of conducting and carrying on annually citrus fruit fairs and expositions to promote and encourage the citrus fruit industry of this State. Appropriations

Appropriations

Of said 5 per cent, one hundred thousand dollars ($100,000) thereof is appropriated and allocated annually to those certain citrus fruit fairs and expositions defined in Section 94 of the Agricultural Code held in counties having a population in excess of 160,000 as shown by the last Federal census, according to population, and if there be but one of such fairs held in counties having a population in excess of 160,000 then the whole of said one hundred thousand dollars ($100,000) is appropriated and allocated to and for the use of such citrus fruit fair. The balance of said 5 per cent is appropriated and allocated to the citrus fruit fairs defined in Section 94 of the Agricultural Code (if any there be), held in counties having a population of less than 160,000 and to those other citrus fruit fairs and expositions in such counties having a population of less than 160,000 which have been conducted and carried on annually for not less than 20 years by nonprofit associations or corporations for the purpose of promoting and encouraging the citrus fruit industry of California; each such citrus fruit fair held in counties having a population of less than 160,000 shall receive five thousand dollars ($5,000) each year. The balance of the 5 per cent remaining after the foregoing appropriations and allocations shall revert to and become a part of said first balance of the fund.

(b) Forty per cent for the encouragement of county, district, or combined county and district agricultural fairs (exclusive of the State Fair, the Los Angeles County Fair, the Sixth District Agricultural Association and citrus fruit fairs) to be apportioned by and expended under the supervision of the Department of Finance in the manner and for the purpose prescribed by Section 92 of the Agricultural Code and other applicable provisions of law but no such county, district or combined county and district agricultural fair shall receive a sum greater than sixty-five thousand dollars ($65,000) under Section 92 of the Agricultural Code in any one year.

If in any year the sum appropriated to county, district or combined county and district agricultural fairs under this section is less than two hundred twelve thousand one hundred seventy-two dollars and seventy-nine cents ($212,172.79), then during that year the apportionment to all fairs shall be made in the manner and upon the basis prescribed by Section 13 of Chapter 769 of the Statutes of 1933 and by Section 92 of the Agricultural Code.

New section

SEC. 20. Section 19627 is hereby added to said code, to read as follows:

Disposition of certain moneys

19627. All of the license fee for conducting a horse racing meeting not payable into the Fair and Exposition Fund under this article shall immediately be paid into the General Fund in the State Treasury.

SEC. 21. The amendment made by this act to Section 19597 of the Business and Professions Code shall become operative on December 26, 1941. Prior to that date the commission which may be deducted by the licensee from the parimutuel pool shall be regulated by the provisions of an act entitled "An act relating to the disposition of moneys wagered on the result of horse racing, declaring the urgency hereof, to take effect immediately," enacted at this session of the Legislature, which act is hereby repealed, effective December 26, 1941.

Operative dates

Stats 1941, p 1930

SEC. 22. The sum of one hundred thirty-three thousand one hundred twelve dollars and twenty cents ($133,112.20), representing the reverted balances of the appropriations made by Chapters 32, 341 and 515 of the Statutes of 1935, is hereby transferred to the Fair and Exposition Fund of the State of California.

Transfer of balance of appropriation

CHAPTER 1249

An act to add Section 1.92 to the School Code, relating to transportation of pupils to and from elementary and secondary schools other than public schools.

[Approved by Governor July 19, 1941 Filed with Secretary of State July 19, 1941]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1.92 is hereby added to the School Code, to read as follows:

New section

1.92. The governing board of any elementary or secondary school district may allow pupils entitled to attend the school of the district, but in attendance at a school other than a public school, under the provisions of Section 1.143 transportation upon the same terms and in the same manner and over the same routes of travel as is permitted pupils attending the district school.

Transportation of private school pupils

The allowance of this section shall be restricted to actual transportation when furnished by the district to children attending the district school and nothing herein shall be construed to authorize or permit in lieu of transportation payments of money to parents or guardians of children attending private schools.

CHAPTER 1250

Stats 1917, p 673, amended

An act to amend Section 15 of an act entitled "An act providing for the regulation and supervision of companies, brokers, agents, and sales of securities as the same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a State Corporation Department and the office of 'Commissioner of Corporations'," approved May 18, 1917, as amended, relating to the Division of Corporations, the regulation and supervision of companies, brokers, agents, investment counsel and sales of securities, and the prevention of fraud in the sale of securities.

In effect September 13, 1941

[Approved by Governor July 17, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1931, p. 949

SECTION 1. Section 15 of the act cited in the title hereof is hereby amended to read as follows:

Review of orders, etc., of commissioner

Sec. 15. Every order, decision, permit or other official act of the commissioner shall be subject to review, mandamus or prohibition in accordance with the provisions of Chapters 1, 2, 3 and 4 of Title 1 of Part 3 of the Code of Civil Procedure. Within 60 days after the issue of any order, decision, permit or evidence of other official act of the commissioner or after completion of application to the commissioner and failure or refusal of the commissioner to act upon said application, a written petition praying that the order, decision, permit or evidence of other official act be issued, modified or set aside in whole or in part, may be filed in the superior, appellate or Supreme Court of the State of California. A copy of such petition shall be forthwith served the commissioner and thereupon the commissioner shall certify and file with the court a transcript of the record upon which the order, decision, permit or evidence of other official act complained of was issued or a transcript of the record upon which the commissioner failed or refused to issue the order, decision, permit or evidence of other official act applied for. Upon the filing of such transcript such court shall have jurisdiction to affirm, modify or set aside such order, decision, permit or evidence of other official act in whole or in part. No objection to the order of the commissioner shall be considered by the court unless such objection shall have been urged before the commissioner or unless there were reasonable grounds for failure so to do. The findings of the commissioner as to the facts, if supported by substantial evidence produced at the hearing before the commissioner, shall be conclusive. If application is made to the court for leave to adduce additional evidence and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to

adduce such evidence in the proceeding before the commissioner or that the commissioner improperly refused to receive such evidence, then the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings as to the facts by reason of the additional evidence so taken and he shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive and his recommendation, if any, for the modification or setting aside of the original order, decision, permit or evidence of other official act of the commissioner. The judgment and decree of the court affirming, modifying or setting aside in whole or in part any such order, decision, permit or evidence of other official act of the commissioner shall be final, subject to review by the appellate or Supreme Courts of the State of California.

CHAPTER 1251

An act to amend Sections 1071 and 1074 of the Streets and Highways Code, relating to highway work on county roads.

Stats 1935, p 248, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1071 of the Streets and Highways Code is hereby amended to read as follows:

Stats 1935, p 313

1071. Whenever the board of supervisors finds that the estimated expense of any necessary work upon any county highway exceeds the sum of three thousand dollars ($3,000), the board shall order definite surveys of the proposed work to be made and shall direct the preparation of profiles, cross-sections, plans, and specifications.

Work exceeding $3,000

SEC. 2. Section 1074 of the Streets and Highways Code is hereby amended to read as follows:

Stats 1935, p 314

1074. Whenever the board finds that the estimated expense of any work to be done upon any county highway is three thousand dollars ($3,000) or less, the board may let a contract for such work without calling for bids, or may purchase the materials and do the work by day labor.

Work of $3,000 or less

CHAPTER 1252

Stats 1921, p 906, amended

An act to add Sections 30.5 and 38.1 to the Public Utility District Act, relating to the incurring of indebtedness by public utility districts and the manner of refinancing thereof, validating certain indebtedness heretofore incurred by public utility districts, and relating to making delinquent service charges a lien against the land for which such service was furnished, and be collectible as an assessment against such land.

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 30.5 is hereby added to the act cited in the title hereof, to read as follows:

Incurring debt to repair, etc., structures, etc.

Sec. 30.5. Notwithstanding any provision of this act limiting the amount of indebtedness which may be incurred by it, upon the unanimous vote of its board of directors any public utility district in order to repair and replace structures and equipment impaired or destroyed or both by flood, fire, earthquake, or other catastrophe may do any or all of the following:

(a) Borrow, including borrowing from the United States or any agency of it, money in a principal amount not to exceed an amount equal to 6 per cent of the assessed value of all real and personal property situated in the district at a rate of interest not exceeding 6 per cent per year.

(b) Issue evidences of indebtedness to represent the sum borrowed.

(c) Arrange terms for the repayment of the sum borrowed.

A district may refinance any indebtedness incurred pursuant to this section by borrowing from the United States or any agency thereof and issuing in connection therewith evidences of indebtedness in the form and upon the terms required by the United States or its agency. But the sum borrowed from the United States or its agency shall not exceed the amount of the obligation being refinanced, and interest on the obligation to the United States or its agency shall not exceed 6 per cent per year. The money so borrowed from the United States or its agency for refinancing shall be used, and be used only, to repay the obligation for the retirement of which the money was borrowed.

Validation of borrowings

SEC. 2. Any amount heretofore borrowed by a public utility district formed pursuant to the Public Utility District Act which borrowing would hereafter be in conformity with the terms of Section 30.5 of the Public Utility District Act as enacted hereby is a valid obligation of the borrowing district.

New section

SEC. 3. Section 38.1 is hereby added to the act cited in the title hereof, to read as follows:

Payment in advance

Sec. 38.1. Whenever any charges for commodities or service furnished pursuant to or under this act have been fixed

by the board of directors it shall be lawful to make the same payable in advance. In case any such charges remain unpaid at the time specified for the fixing of the rate of taxes, if the property is owned, controlled or in the possession of the same person who owned, controlled or was in possession of it during the time such service charges were incurred or if the only transfers made of the property since the date such charges were incurred have been transfers by gift, descent, bequest or devise, the amount due for such commodities or service furnished may be added to and become a part of the annual assessment levied upon the land upon which the commodity or service furnished was used, and such charge so added to such assessment shall constitute a lien on said land, and if such assessment is divided and made payable in two installments such unpaid charges may be added to and become a part of the first installment of said assessment.

Whenever the board of directors of the district declare any of such charges are to be added to and become a part of the annual assessment and the district is then availing itself, under Section 39 of this act, of the assessment or assessments made by the assessor or assessors of the county or counties in which the district is situated, then the board of directors shall include in the statement of the tax rate to be transmitted to the county auditor or auditors the amount of each of such charges to be levied upon the land or lands for which such charge or charges are to be made a lien thereon and the auditor or auditors shall make such charges a part of the assessment to the extent and against the lands as disclosed in such statement.

CHAPTER 1253

An act to provide for the organization and government of water storage and conservation districts; to provide for the acquisition, construction, maintenance and operation of works for the purposes of such districts, including the drainage, reclamation and irrigation of land; and to prescribe and define the powers, duties, purposes and responsibilities of such districts.

California Water Storage and Conservation District Act

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

FORMATION

SECTION 1. The holders of title or evidence of title to a majority in area of lands which form a contiguous body and which are susceptible of irrigation from a common source or sources and by the same system of works or which will be benefited by the sinking or spreading of irrigation waters into subsurface storage basins may propose the organization of a water

Proposal to organize district

storage and conservation district by signing and presenting to the board of supervisors of the county in which the lands or the greater portion thereof are situated, at any of its regular meetings, a petition setting forth the following facts: That they propose to form under the provisions of this act a water storage and conservation district to be known as the "_____ Water Storage and Conservation District"; a description of the boundaries thereof, specifying the county or counties in which the lands are located; the number of acres in the proposed district; the place where the principal business thereof is proposed to be transacted; and the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated. The word "irrigation" as used in this act shall include surface irrigation, subirrigation, percolation, underground storage and well replenishment. The words "title or evidence of title" as used in this section shall include the possessory right of purchasers and owners of record in the office of the county recorder of the county in which said lands are situated. The last equalized assessment roll of the county in which any lands included within such proposed water storage and conservation district are situated, which assessment roll has been last equalized at the time of the presentation to the board of supervisors, shall be conclusive evidence as to the holders of title or evidence of title to said lands described in said petition.

Persons who may sign petition

SEC. 2. If any parcel of land is assessed on the assessment roll to unknown or fictitiously named owners, or to unnamed owners in addition to any owner or owners named therein, said parcel of land shall be deemed, for any of the purposes of this act to have but one owner in addition to any owner or owners whose true name or names may be purported to be given on such assessment roll. The holder of title or evidence of title to an undivided interest in any land affected by any of the provisions of this act may sign any petition provided for in this act, and such undivided interest shall be counted as though it were a separate interest, and if the assessment roll shall fail to indicate the extent of any such undivided interest, the holders of title or evidence of title whose undivided interests in any lands are not specifically defined shall be deemed to have equal shares therein. Guardians, executors, administrators or other persons holding property in a trust capacity under appointment of a court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or a justice of the peace of any State, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature of any petitioner under this act.

Representation of owners

SEC. 3. The rights, privileges and immunities created by this act in favor of any holder of title or evidence of title,

including such aforesaid rights, to lands contained in the district may for his benefit and on his behalf be exercised by, and are hereby extended to, his legal representative in all cases where said legal representative is an official of said corporation owning land within the district or is a guardian, executor, or administrator of an estate who is appointed as such under the laws of this State and who as such is entitled to the possession of lands included within said water storage and conservation district belonging to the estate which he represents and who has been by the court duly authorized to exercise the particular right, privilege or immunity which he seeks to exercise; provided, however, that he must, before he casts a ballot at any election of the district, present the board of election or some clerk thereof with a certified copy of his authority, which must be kept and filed with the returns of the election.

Undertaking

SEC. 4. Said petition when filed with the board of supervisors of the county in which a majority in area of the lands of the district are situated shall be accompanied with an undertaking in a sum not less than one thousand dollars ($1,000), conditioned that the sureties will pay all the costs in connection with the proposed organization in case said district shall not be organized. Upon approval by said board of said undertaking, the board shall fix a time for the hearing of said petition, which shall not be less than 30 days nor more than 60 days thereafter, and the clerk of said board shall cause a notice of the filing of said petition and of the time and place for said hearing to be published at least once a week for three successive weeks in a newspaper of general circulation published in the county in which the lands within said proposed district are situated, or in each county in which any of the lands within said proposed district are situated if said proposed district includes land in more than one county. Said notice shall state the fact of the presentation of said petition to said board of supervisors and the time and place fixed by the board for the hearing thereof, and shall set forth the text of said petition and shall give the names attached to said petition. No mere clerical error in the published text of the petition and no error in the publication of such names and no omission of any name from the list so published shall invalidate any action on said petition or deprive the board of supervisors of jurisdiction to proceed in said matter. The first publication of said notice shall be at least 21 days before the day set for said hearing, and if at said hearing it shall appear that the notice given has been defective in any material respect, said board shall set another time for said hearing and cause notice again to be published as heretofore provided.

Notice

Hearing

SEC. 5. At the hearing the board shall hear all relevant evidence in support of said petition or in opposition thereto or in support of or in opposition to requests for inclusion of lands in or exclusion of lands from said proposed district. During or prior to said hearing any holder of title or evidence of title to lands within said proposed district may present to said

board a request for exclusion of such lands or any part thereof from said proposed district, any holder of title or evidence of title to land not within said proposed district but contiguous or adjacent to any part thereof and susceptible to irrigation from the source or any of the sources named in said petition may present to the board a request in writing for the inclusion of said land in said proposed district. If, upon hearing of said petition, it shall be shown to the board that said petition conforms to the requirements of this act and that notice of hearing has been given as hereinbefore required, the board shall proceed to fix the boundaries of said proposed district, and in so doing shall exclude therefrom any land which the board shall find is not susceptible of irrigation from any of the sources proposed or will not be benefited by such irrigation and, upon application of the owner or owners, may include in such proposed district any lands which are susceptible of irrigation from the source or sources proposed in said petition and will be benefited thereby, if and in the judgment of said board said proposed district will have or may obtain a sufficient supply of water for the irrigation of such land proposed to be included. The hearing of said petition may be continued for a period of not more than 30 days after the date originally fixed, but not thereafter except from day to day if any objection is made. When said board shall have determined upon the lands to be included within said proposed district, it shall make an order establishing and describing the exterior boundaries thereof and describing any lands within said boundaries which are to be excluded from the district, and designating a name for said district, which may be the name proposed in said petition or such other name as the board may determine. Said order shall be entered in full upon the minutes of said board.

Order describing district

Notice of election

SEC. 6. After making and entering such an order defining and establishing the boundaries of the proposed district, said board of supervisors shall forthwith call and give notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act and for the selection of a board of directors, a collector, a treasurer, and an assessor to serve in case said organization shall be effected. Said notice shall be published once a week for at least three weeks previous to such election, in a newspaper of general circulation published in the county in which the lands within said proposed district are situated or in each county in which any of the lands within said proposed district are situated, if said proposed district includes land in more than one county, shall describe the boundaries so established, shall designate the name of the proposed district, and shall state that at said election the voters possessing the qualifications prescribed by this act shall cast ballots for or against said proposed organization and shall select a board of directors, a collector, a treasurer and an assessor to serve in case said organization shall be effected.

Consolidation of officers

SEC. 7. Where a consolidation of officers as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request, in their petition for organization, such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then only one person shall be elected to fill the several offices so consolidated.

Election

SEC. 8. At such election there shall be elected a board of five directors, a collector, a treasurer, and an assessor. The board of supervisors shall designate the polling place for such election and appoint from the persons eligible to the office of district director, one inspector and two judges of election, who shall constitute a board of election for such district election. The said election shall be held and the result thereof determined and declared as nearly as may be in accordance with the provisions of Sections 143 to 152, inclusive, of this act relating to district elections; provided, that at such election the last equalized assessment roll or rolls of the county or counties within which any of the lands within said proposed district are situated shall be used in lieu of the assessment books mentioned in Section 143 of this act, and the returns of said election shall be delivered to the said board of supervisors, which board shall meet on the first Monday following the said election and canvass said returns and declare the results of said election. If by such canvass it appears that a majority of all the votes cast at such election are in favor of the organization of the district said board of supervisors shall by an order entered in its minutes declare the territory duly organized as a water storage and conservation district under the name theretofore designated, and said board shall cause certificates of election to be issued to the persons found to be chosen as directors, collector, treasurer and assessor of the district.

Order declaring district organized

Recording order

SEC. 9. Said board of supervisors shall then cause a copy of such order duly certified to be immediately filed for record in the office of the county recorder in each county in which any portion of the lands embraced in such district are situated. From and after the filing, the organization of such district shall be complete.

Preliminary expenses

SEC. 10. Immediately upon the formation of the district as herein provided, the board of directors of the district shall have power to issue warrants to pay the preliminary and organization expenses incurred in forming the district in such sum or sums as will not amount to more than one-half as many dollars as there are acres of land in the district, said warrants shall draw interest at 7 per cent per annum and shall be payable from an assessment to be levied for that purpose which assessment when levied will not equal more than fifty cents ($0.50) upon each and every acre of land within the boundaries of the district as shown by the last equalized county assessment roll of the county in which the lands are situated.

Terms of office

SEC. 11. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively for four years next succeeding their election and until their successors are elected and qualified.

Effect of finding of sufficiency

SEC. 12. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California in a quo warranto proceeding brought by the Attorney General. Any such proceeding must be commenced before the commencement of such a proceeding as is provided for in Section 13 hereof, or in any case such a proceeding must be commenced within one year after the making and entry of the said order of the board of supervisors.

Proceeding to determine legality of existence

SEC. 13. Any district formed hereunder, in order to determine the legality of its existence, may institute a proceeding therefor in the superior court of the county in which it was organized by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal water storage and conservation district formed under the provisions of this act. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. Within 30 days after the last publication thereof shall have been completed and proof thereof filed with the complaint any person interested may appear and answer said complaint in which case said answer shall set forth the facts relied upon to show the invalidity of the district. If no answer shall be filed within said time, the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California.

Change in county boundaries

SEC. 14. If at any time after the organization of any district hereunder, the boundaries of the county in which the same was organized shall be so changed or modified as to exclude therefrom all of the lands contained in said district, then and in that event the records and documents of said district in the possession and care of the board of supervisors of said county, together with a certified copy of the proceedings had by the district under jurisdiction of said board of supervisors, shall be transferred and filed with the clerk of the board of supervisors of the county in which the greater portion of the lands contained in said district are located. All proceedings, petitions, orders or other documents which have been filed with the recorder of the county in which said district was organized, and which, or a certified copy thereof, have not been recorded in the county to which said district is

transferred, shall be certified to by said county recorder and filed for record with the county recorder of the county to which said district has been transferred, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district. From and after the transfer in the manner above specified the board of supervisors of the county to which the district is transferred shall have and exercise all of the jurisdiction, power and authority over said district as was theretofore exercised by the board of supervisors of the county wherein such district was originally formed and thereafter any act or duty which is herein required to be done by the board of supervisors or any officer of the county in which said district was organized shall be performed by the corresponding board of supervisors or other official of the county to which said district has been transferred, and in general the said district shall thereafter conduct and manage its affairs through its proper officials and in conjunction with the proper officials of each county in which any of the lands contained in said district are located as though said district was originally organized in the county to which it was transferred.

OFFICERS

Officers

SEC. 15. The officers of the district shall be a board of five directors, a secretary, a collector, a treasurer, and an assessor, all of whom, shall, except as herein otherwise provided, be elected by ballot, except the secretary who shall be appointed by the board of directors. No person shall be qualified to hold any of said offices, except that of secretary, unless he is a holder of the title or evidence of title, including such aforesaid possessory rights, to lands contained in the district. Each appointee to office or officer-elect shall forfeit his office unless within 10 days after he has notice of his election or appointment or before the expiration of 10 days from the commencement of his term of office, when no such notice is given, he shall have filed for record with the county recorder of each county in which any of the lands contained in said district are located, a written acceptance of his office which shall be recorded in a book kept for the purpose of recording instruments and writings relating to the district. If any office shall become vacant by forfeiture, death, resignation, or from any other cause, the same shall be filled by appointment by the board of directors.

Election of officers

SEC. 16. In each water storage and conservation district formed under this act there shall be an election every four years held at such time and place in the district as shall be provided in the by-laws of the district, at which election an assessor, a collector, a treasurer, and five directors shall be elected to hold office for four years and until their successors are elected and qualified. The board of directors may, in its discretion, consolidate any two or more offices of assessor, collector, and treasurer. The order of consolidation must be

made at least 30 days prior to such election; provided, that the board of directors may, at least 30 days before any succeeding election of the district, where the offices have been consolidated, segregate the same.

Salaries

SEC. 17. Until such time as their salaries shall have been fixed by the adoption of by-laws, the officers of the district shall receive the following compensation for their services: The secretary, collector, treasurer and assessor such sum each as shall be fixed by the board of directors; and the directors ten dollars ($10) each for each directors' meeting attended or for each day's service rendered as a director by order of the board of directors, together with any expenses incident to such service, except expenses incurred in traveling between his place of residence and the place at which directors' meetings are held.

Organization of board of directors

SEC. 18. The board of directors shall choose from among its members a president; shall appoint the secretary of the district; shall select and maintain an office for the district in the principal place of business thereof and shall hold regular meetings therein at such time and place as may be agreed upon by resolution adopted, and shall hold therein such other meetings as, from time to time, may be deemed advisable; provided, that no meetings, except regular meetings or adjourned regular meetings, shall be valid unless prior thereto each director shall have filed with the secretary his written consent to the same, or unless the president or three members of the board of directors, shall have called the same by giving each of said directors five days' written notice thereof, or unless said directors shall have authorized the same by resolution adopted at a former meeting and shall have caused five days' written notice thereof to be given by the secretary to each director not joining therein. A majority of the board of directors shall constitute a quorum for the transaction of business. The vote of a majority of those present at any meeting where a quorum is had shall be necessary to determine any proposition or resolution presented. The secretary shall keep a record of all the proceedings had at meetings of the board of directors. The books, maps, papers, contracts, records and other documents pertaining to the affairs of the district shall be filed in the office of the district with the secretary and must be open to inspection at all times by any persons interested.

Interest in contracts

SEC. 19. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any construction or supply contract awarded or to be awarded by the board, or in the profits to be derived therefrom, but no other character of contract shall be invalid because of interest on the part of a director or officer, unless such director or officer participate in or influence the making or authorization of such contract on behalf of the district; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five

hundred dollars ($500), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

POWERS

Powers of district

SEC. 20. Any water storage and conservation district organized and established as herein provided shall have power:

1. To have perpetual succession.

2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, appropriation, purchase, gift, devise, condemnation, contract or lease, and to hold, use, enjoy, and to lease or dispose of, real and personal property of every kind, within or without the district, necessary to the full exercise of its powers.

5. To make surveys and investigations of the water supply and resources of the district; to conserve and store water by the construction of dams and reservoirs and transport such water for irrigation by means of canals, ditches, laterals, flumes, pipe lines and spread and sink the same into underground storage basins and to build, construct or acquire the necessary spreading basins, sinking wells and sinking basins therefor; to appropriate, acquire and conserve water and water rights for any useful purposes; to commence, maintain, intervene in and compromise, in the name of the district, and to assume the costs of, any action or proceeding, involving or affecting the ownership or use of water or water rights within or without the boundaries of the district, used or useful for any purpose of the district, or of common benefit to the lands situated therein; to commence, maintain, intervene in, defend and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or streams, including the natural subterranean supply of waters therefrom, which may be used or useful, for any purpose of the district, or a common benefit to the lands within the district.

6. To have and exercise the right of eminent domain, in the manner provided by law for the condemnation of private property for public use.

7. To cause assessments to be levied as herein provided for the purpose of paying any obligation of the district and to accomplish the purpose of this act in the manner herein provided.

8. To make contracts, leases, to employ labor, agents, engineers, attorneys, and other employees, and to do all acts necessary for the full exercise of the powers herein granted.

9. To enter into contracts with the United States and any agency therefor, under any law of the United States for a water supply, or the construction, operation, maintenance of irrigation works; and to provide the manner and method of

payments to the United States under such contract and for the apportionment of assessments, and the levy thereof, upon the lands in the district to secure revenue for such payments; and to provide for the construction of works by the district; to provide for the borrowing or procuring of money from the United States or any agency thereof and the entering into contracts, and/or the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof.

10. To issue and sell bonds and warrants of the district providing for interest at a rate of not more than 7 per cent per annum except as otherwise provided, such bonds and warrants to be repayable over a period of not more than 50 years.

11. To enter into contracts with any individual, public corporation or public utility company for the use, sale and/or purchase, transportation and delivery of water for the use and benefit of the lands of the district and also to provide for the purchase of flowage rights and the joint use and maintenance of irrigation canals, dams, structures, and other irrigation facilities necessary and useful for the service of water for the irrigation of lands within the district and for any other purposes of this act.

Powers of directors

SEC 21. The board of directors shall have the power and it shall be its duty to manage and conduct the business and affairs of the district; to make and execute all necessary contracts; to employ and appoint such agents, officers and employees as may be required, and prescribe their duties. The board of directors shall also have the right and power to acquire, plan, construct, maintain, improve, operate and keep in repair the necessary irrigation works, dams, reservoirs, canals, pumping plants and works for the storage, conserving, spreading and sinking through and by the use of sinking basins, sinking wells and spreading basins and to distribute water to supply the lands contained within the district with sufficient water for irrigation purposes, and any drainage or reclamation works connected therewith or incidental thereto; to acquire by purchase, condemnation subject to the limitations of Section 64 of this act or other legal means all water, water rights, lands, properties or rights in properties necessary or proper therefor, within or without the district in this State.

Same

SEC 22. Said board shall also have power for a valuable consideration to lease or sell or contract for the sale of any property of any kind or rights therein including irrigation works, easements, right of ways, water, water rights, canals, distributing systems, sinking basins, sinking wells and spreading basins, or any other property belonging to the district whenever the same may be necessary or advisable or for the best interest of the district, and to enter into any and all contracts, agreements and obligations with any individual, public or private corporation or public utility company for the purchase of irrigation water or for any other purpose as the board of directors shall deem proper or advisable in the interests of the district, or to carry out or execute any contract for the

purposes authorized or permitted by the provisions of this act and particularly to enter into any contract or agreement with the United States, or the State of California, or any department or agency of either, or with any political subdivision of said State including irrigation and reclamation districts or with any individual, private corporation or public utility company for the storage, regulation, control, development and distribution of water for the irrigation of lands within said district or for the use, control and distribution of any and all drainage waters within said district, or over which it may have control, or which may be used or useful for the irrigation or drainage of lands within the district, or for any one or more of said purposes, and to provide in any such contract or agreement that the lands included in any such water storage and conservation district shall be entitled upon the execution of said contract to become a part of any irrigation or drainage project or reclamation project operated directly or indirectly by or under the authority of the United States or the State of California, and to become entitled to receive water, drainage service or other works or property of such project, including revenues derived from any such work; the board of directors may provide in any such contract for the sale and conveyance to the United States, the State of California, or to any reclamation or irrigation project organized or operated by or under the authority of either thereof or to any irrigation or water district organized under the laws of the State of California or to any individual, public or private corporation or public utility company on the condition that such district or public utility company shall furnish water to said water storage and conservation district and upon such other terms and conditions as may be agreed upon; provided, however, that all such contracts and transfers shall be first approved by the California Districts Securities Commission.

Same

SEC. 23. Said board shall also have the power to construct or contract for the construction, reconstruction, lining of, any canal, ditch or lateral, the installation of pumping plants and wells not owned, operated or controlled by the district, for the purpose of developing or conserving water to be exchanged for other water of equal amount or volume for the irrigation of the lands of the district and may enter into any agreement and do any acts necessary and proper for the performance of such agreement for the transfer or delivery to any public district, individual or public utility company, any irrigation system, canals, irrigation waters, pumping plants, water wells, right of ways, or other property owned or acquired by said water storage and conservation district in exchange for the right to receive and use water or a water supply to be delivered or furnished to said district by the other party or parties to said agreement.

Same

SEC. 24. Said board shall have power to make conveyances, contracts, leases or other assurances for property

acquired by the district under the provisions of this act; to acquire the right to store water in any reservoir, or to carry water through any canal, ditch or conduit not owned or controlled by the district and may grant to the owner or a lessee of the right to the use of any water, permission to store such water in any reservoir of the district or to carry such water through any canal, ditch or conduit of the district; to enter into contracts with the United States Government, the State of California or any irrigation district, reclamation district, drainage district, public or private corporation, individual or public utility company, providing for the exchange and/or use of any stored or conserved water owned by said district; to contract for the joint use of any dam, canal, structure, conduit, pipe line, flume, ditch or lateral belonging to the district upon such terms and under such agreements as will best serve the interest of the district in providing an adequate water supply for the irrigation of the lands of the district; to execute by its president and secretary all contracts, leases, conveyances and other documents necessary to carry out the duties and powers specified herein; to institute, maintain and defend in person, or by attorneys, all actions, proceedings or suits at law or in equity necessary or proper to carry out the provisions of this act, or to enforce, maintain, protect or preserve the rights, privileges and immunities created by or acquired in pursuance thereof; to establish, print and distribute among the land owners of the district equitable rules and regulations for the distribution of water; to enter, for the purposes, either in person or by its agents or employees, in and upon any lands contained in the district; to employ or fix the salary of such persons as may be necessary or proper to fully carry out the uses and purposes of the district; and to do any other lawful thing necessary or proper to carry out the provisions of this act for the uses and purposes for which the district is formed; provided, however, that the board of directors shall not let or enter into a contract for the construction of irrigation works nor shall said board of directors construct the same by employees of the district, if the cost thereof is paid out of the proceeds of bonds of the district, until an election has been called and held to determine whether or not bonds of the district shall be issued as provided in Sections 104 to 120, inclusive, of this act.

Notice of construction

SEC. 25. The board of directors shall proceed to carry out the project of the district in accordance with the plans and specifications of the duly approved and adopted report of said board. When any construction work is to be done said board shall give notice by publication thereof in a newspaper of general circulation in the county in which the office of the board is located once a week for two consecutive weeks, calling for bids for the same. If less than the whole work provided for in said plans and specifications is to be done, the portion to be done must be particularly described in such notice. Said notice shall set forth that plans and specifications of the

work to be done can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract may be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as convenient thereafter the board may let said work either in portions or as a whole to the lowest responsible bidder; or it may reject any or all bids and make and enter into contracts with private persons or construction companies for amounts equal to or less than the lowest bid price rejected or enter into contracts upon a guaranteed unit price basis which unit price will not exceed the total overall lowest rejected bid or may proceed to construct the work under its own superintendency; provided, that in case of emergency or urgent necessity the board of directors, by unanimous vote of those present at any regular or special meeting, may award contracts without advertising for bids, but the amount of any contract so awarded shall not exceed ten thousand dollars ($10,000).

Contracts of purchase

SEC. 26. Contracts for the purchase of materials only shall be awarded to the lowest responsible bidder; provided, however, that the board may reject any or all bids and thereafter either readvertise for bids or solicit offers from not less than three responsible persons to furnish materials, and upon receipt of an offer or offers for a less price than that specified in the lowest rejected bid enter into a contract for the furnishing of the materials with the person who so offers to furnish the same at the lowest price.

Contractor's bonds

SEC. 27. The board shall require the successful bidder to file with the board good and sufficient bonds, to be approved by the board, conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 303 of the Statutes of 1919, as amended, and to be subject to the provisions of that chapter. The work shall be done under the direction and to the satisfaction of, and be approved by the board.

Stats. 1919, p. 487

Use of water a public use

SEC. 28. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, and for domestic and other incidental and other beneficial uses, within such district, together with the rights of way for canals and ditches, sites for reservoirs and all other property required in fully carrying out the provisions of this act, is hereby declared to be a public use, subject to the regulation and control of the State in the manner prescribed by law.

Condemnation proceedings

SEC. 29. In case of condemnation proceedings, the board of directors shall proceed in the name of the district under the provisions of Title 7, Part 3 of the Code of Civil Procedure.

Rights of way to construct works

SEC. 30. The board of directors shall have power to construct the irrigation works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch or flume

which the route of a canal or canals of said works may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, and shall comply with all lawful rules and regulations of the owner or agency in charge thereof; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings and shall grant the privileges aforesaid; and if such railroad company and said board or the owners and controllers of said property, thing or franchise so to be crossed, can not agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land.

Right of way over State land

SEC. 31. A right of way is hereby given, dedicated and set apart to locate, construct and maintain said works over and through any of the lands which are now or may be the property of this State, except that where such land is already devoted to public use, any expense necessary to permit the joint use of such land shall be borne by the district.

By-laws

SEC. 32. The district must adopt for the government and control of its affairs a code of by-laws, not inconsistent with the Constitution and laws of the State or the provisions of this act. Sixty days after they shall have qualified for office the board of directors shall prepare by-laws for the written approval of the board of supervisors of the county in which the district was organized, and, when said by-laws are approved, shall adopt the same by resolution entered in the minutes of the meeting, unless, prior thereto, by-laws shall have been adopted and filed with the secretary of the district by the written assent of the holders of title or evidence of title, including such aforesaid possessory rights, to a majority in area of the lands embraced in said district. The records in the office of the county assessor of the county in which said lands are situated shall be conclusive evidence of ownership for the purposes of this section. The by-laws shall provide for: The necessary provisions covering the operation, maintenance and management of its physical properties and the general affairs of the district; the manner of calling, and the time, place and manner of conducting all elections and the manner of giving notice thereof; the method of voting in person or by proxy; the qualifications and duties of officers, the tenure of their office, the time and manner of their appointment or election; their compensation; the place at which the office of the district shall be kept and maintained and the mode of changing the same; the mode of amending or repealing the by-laws and suitable penalties for the violation of the by-laws not to exceed in any one case two hundred dollars ($200) for any one offense. The by-laws may be repealed or amended, or new by-laws may be adopted by the assent of a majority of the total vote of the district, given

either in writing or by ballot cast at an election of the district. The by-laws in their original form, and any repeal thereof, or amendment or addition thereto, must, together with the approval of the board of supervisors and the resolution of the board of directors, or the written assent thereto or a memorandum of the returns of the election at which the assent was given, be certified by a majority of the directors and the secretary of the district and must be filed for record with the county recorder of each county in which any of the lands contained in said district are located and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district. Until so recorded, no by-law, addition thereto, amendment or repeal thereof, can be enforced against any person not having actual notice of the same.

Rules for use of water

SEC. 33. The board of directors shall have the power and it shall be its duty to establish equitable rules and regulations for the distribution and use of water among the owners of lands within the district, which rules and regulations shall recognize and shall be subject to such priorities in the right to water between the different consumers of the water as may legally exist. In the event that the volume of water under the control of any water storage and conservation district is in any season so diminished below normal, by reason of water shortage or otherwise, as to make it probable that all the lands within such district can not receive the full amount of water which they may need and to which they would otherwise be entitled, such deficiency shall be borne ratably by all the lands within such district except in so far as priorities in the right to water as between different lands may prevent, and the board of directors shall have the power to make rules and regulations to provide for so distributing the burden of such deficiency and also for the most economical and efficient use of the water which is or probably will be available.

Violation of rules

After rules and regulations as above provided have been established by the board of directors, any violation thereof shall be and is hereby declared to be a misdemeanor, and the person committing the same shall, upon conviction thereof, be subject to a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

Regulation of irrigation

SEC. 34. The board of directors, when they deem it advisable for the best interests of the district, may regulate the amount of water in use or to be used for the purpose of irrigating crops on lands within the district when the seepage from such irrigation would damage adjacent lands or it may require, as a condition precedent to the delivery of water, the construction of adequate drainage facilities to prevent damage to adjacent lands. The board shall have power to make the necessary rules and regulations to carry out the provisions of this section.

Rates for water use

SEC. 35. For any of the purposes of this act, including payment of interest and principal on bonds issued under this

act, the board of directors of any water storage and conservation district may, in lieu (either in whole or in part) of collecting assessments as herein provided, fix and collect rates of tolls or charges for the use of water which may include a stand-by or carrying charge notwithstanding the water is not actually used, or any other public use of which the district is in charge, under such reasonable rules and regulations as the board may prescribe, which may provide, in the case of water for irrigation, that tolls or charges will be payable only in case of the delivery of water in excess of a specified quantity per unit of land.

Statute of limitations

SEC. 36. Unless some other time therefor is elsewhere in this act expressly provided, no action, proceeding or contest of defense whatsoever shall be brought or maintained before any court, board or other tribunal unless such action, proceeding or contest or defense be brought or maintained within the times hereinafter specified.

1. Attacking the organization of any water storage and conservation district, within three months of the date of the organization thereof.

2. Attacking the inclusion of land within or the exclusion of land from any such district, within six months of the date of such inclusion or exclusion.

3. Attacking any assessment of any such district, within 90 days of the date upon which the assessment roll is filed with the county treasurer.

4. Attacking any toll or charge of any such district, within 90 days of the date upon which such toll or charge becomes payable.

5. Attacking the validity of any bonds issued by the district, within 90 days after the date of the execution and delivery of such bonds to the treasurer of the district as provided by Section 111 hereof.

6. Attacking any other proceeding or action taken or thing done by said district or by the board of directors thereof under the provisions of this act, within three months of the date of such proceeding, action or thing.

Procedure in actions

SEC. 37. The court, board or other tribunal before which any action, proceeding or contest whatsoever is brought in anywise involving the regularity, legality, validity or correctness of any proceeding taken or thing done pursuant to any of the provisions of this act, shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties concerned. In all actions, proceedings or contests the rules of pleading and practice provided by the Code of Civil Procedure of California, in so far as they are not inconsistent with the provisions of this act, shall apply The costs of any action, proceeding or contest may be allowed and apportioned between the parties or taxed to the defeated party, in the discretion of the court, board or other tribunal before which the same is heard. No action, proceeding or contest or defense whatsoever shall be commenced or maintained other

than within the time and manner in this act specified and in the determination thereof all findings of fact or conclusions of the State Engineer or the board of directors upon all matters shall be conclusive, unless the action, proceeding or contest or defense is instituted or maintained within three months after such findings or conclusions are made.

Fees of county officers

SEC. 38. No supervisor, recorder, auditor or clerk of any county shall receive any fee for any service required to be performed by him under the provisions of this act.

The county treasurer of any county in which any of the lands contained in the district are located during the time for the collection of assessments of the district may require the board of directors of such district to provide and pay for such additional help as may be required to care for the matters relating to the collection of the said assessments.

Freedom from taxation

SEC. 39. The rights of way, ditches, flumes, pipe lines, dams, water rights, reservoirs and other property of like character belonging to any district organized under this act shall not be taxed for State and county or municipal purposes.

TAXES

Estimate of sum required to meet obligations

SEC. 40. Between 30 and 90 days after the organization of the district, and between said dates annually thereafter, the board of directors must file with the clerk of the board of supervisors of the county in which said district was organized an estimate of the sum required by the district to discharge all the unpaid matured obligations thereof at that date and the obligations thereof that will mature or that it is probable will be incurred and mature during the year next following, excepting therefrom any sums that may be due or may become due for the payment of interest and/or principal of bonds issued by the district.

Assessment

SEC. 41. Between the date on which the district was organized and 90 days thereafter, and between said dates in each succeeding year, the assessor must view the lands of the district and assess each parcel or tract of land contained therein at its full cash value and said assessor must, within said time, file with the clerk of said board of supervisors, an assessment book with appropriate headings in which must be listed each parcel or tract of land within the district, specifying: (1) the name, if known (and if unknown, stating that fact), of holder of title or evidence of title, including such aforesaid possessory rights, thereto; (2) the description thereof by legal subdivisions, metes and bounds, or other boundaries sufficient to identify the same; and (3) the value assessed thereon. If the district is contained in more than one county, then the assessment book shall be prepared with a separate part in a separate volume for the lands situated in each county.

Equalization

SEC. 42. Within 60 days after the said estimate and the said assessment list shall have been filed as above provided, the board of supervisors shall fix a time not less than 22 days and not more than 40 days from the time of the meeting of

said board of supervisors at which said date is fixed at which said board of supervisors acting as a board of equalization shall meet and hear any objections to the assessment as made. From the time of calling said meeting and until said meeting is held, and during the office hours of said board of supervisors, the assessment list shall be open to public inspection at the office of said board of supervisors. The clerk of said board of supervisors shall give notice of the time and place of said meeting, which shall be the regular meeting place of said board of supervisors, and of the time and place where said assessment list may be inspected by the public by publication once a week for two consecutive weeks in a newspaper of general circulation published in the county in which the lands of said district are situated, or in each county in which any of the lands within said district are situated, if said district includes land in more than one county. The first publication of said notice shall be at least 15 days prior to the date fixed for said hearing.

Hearing

SEC. 43. The said board of supervisors shall meet at said time and place for said hearing and shall hear all objections which may be presented to it regarding the correctness of said assessment list, and shall hear all relevant testimony presented in support of or in opposition to said objections, and shall continue in session from day to day until all said objections and such evidence have been heard and acted upon. Upon the completion of the hearing of all such objections and all evidence as provided herein the said board of supervisors shall add to or deduct from the valuation assessed to any tract or parcel of land such per centum thereof as shall be sufficient to raise it or reduce it to its full cash value and shall fix the full cash value of any lands contained in said district that shall not have been so assessed. Thereupon, and before said hearing is closed, the assessor shall have the total valuation of all the lands assessed extended into columns, added and a statement thereof made.

Adoption of county assessment

SEC. 44. The board of directors of any district hereafter organized hereunder may at their option adopt the assessment roll of the county or counties in which the land of the district is contained in so far as said assessment roll affects the lands in the district; and file with the clerk of the board of supervisors a certified copy of such assessment roll, in lieu of the assessment book mentioned in Section 41 of this act.

Fixing tax rate

SEC. 45. When said statement is completed, the board of supervisors must fix such ad valorem rate of taxation upon each hundred dollars ($100) in value of the lands so assessed as will raise the sums specified in said estimate. Any changes in or additions to said list shall be entered in said assessment book in the proper place therefor and the order therefor shall be indorsed on the margin of the entry and signed by the chairman and attested by the clerk of said board of supervisors and thereupon said board shall adjourn as a board of equalization and said hearing shall be deemed completed.

Signature and filing of order

SEC. 46. Within 10 days after the hearing is completed, the order of the board of supervisors approving the assessment, the statement of the assessor showing the total valuation of the property assessed, the order fixing the rate of taxation thereon, and the estimate of the sum required by the board of directors of the district for the expense thereof during the year next following shall be signed by the president and attested by the secretary of the district and shall be attached to the assessment book on the last volume thereof, unless the lands of the district are contained in more than one county, in which case a copy thereof shall be signed and attached in a similar manner to each separate part of the assessment book. Thereupon the assessment shall be deemed complete.

Computing tax due

SEC. 47. Within 10 days after the assessment is completed, the assessor shall compute and charge in the assessment book in a place provided therefor in the record of each parcel or tract of land assessed the amount of the tax due thereon and shall file each said separate part of the assessment book with the collector of the district and thereafter the charges therein taxed shall be due and payable to the collector of the district.

Effect of orders

SEC. 48. The various orders of the board of supervisors made at the hearing shall be final and when indorsed on or attached to the assessment book shall be conclusive evidence that the assessment was made and the tax levied in accordance with the law; provided, however, that any person interested in lands of the district and aggrieved by the decision of the board of supervisors may, in order to have said assessment, or the tax levied thereon, corrected. modified or annulled, institute an action therefor in the superior court of the county in which said district was organized.

Actions to determine validity

SEC. 49. No action to determine the validity in any respect of any such assessment of tax levied thereon, shall be maintained unless the same shall have been commenced within 30 days after the assessment book, or each separate part thereof, is filed with said collector as above provided.

Lien of tax

SEC. 50. From and after the filing of the assessment book, or each separate part thereof, with said collector, as provided in Section 47 of this act, the charges therein taxed upon any tract or parcel of land within the district and any penalties added thereto as hereafter provided shall constitute a lien thereon and shall impart notice thereof to all persons.

Notice that taxes are due

SEC. 51. Within 10 days after each tax shall have become due and payable, the assessor shall publish in some newspaper of general circulation published in the county in which the district was organized, a notice stating that the same became due and payable on (inserting date) to the collector of the district and that unless paid within three calendar months from said date the same will become delinquent, and an additional charge of 10 per cent thereof will be added thereto and the delinquent property will be sold at public auction.

Payment of tax

SEC. 52. The tax must be paid in lawful money of the United States and the collector must mark the date of payment in the assessment book opposite the name of the person paying, and must give to such person a receipt, specifying the property taxed, the amount of the charge thereon and the amount paid, and thereafter must pay the moneys so received to the treasurer of the district.

Notice of delinquency

SEC. 53. Within 30 days after the tax shall become delinquent the board of directors of the district shall publish once a week for three weeks in some newspaper of general circulation published in the county in which said district was organized a notice containing a description of the delinquent property; the name, if known, and, if unknown, stating that fact, of the person to whom it is assessed; the amount of the taxes and penalties due thereon; and a statement that the delinquent property will be sold by the collector of the district in front of the courthouse of said county on a date therein stated, which must be not less than 21 or more than 28 days from the first publication, unless an error is made in the publication and discovered prior to the sale, in which case the notice shall be republished in the same manner, specifying the sale for a date not less than 21 or more than 28 days from the first publication.

Sale

SEC. 54. At the time and place stated in said notice or at each other time (written notice whereof has been posted at the place of sale) to which the board of directors may have postponed it, not exceeding 30 days in all from the original date of sale, the collector shall declare that the person is the purchaser who will immediately pay in lawful money of the United States the delinquent tax and the penalty thereon for the smallest portion of the delinquent property, or in case an undivided interest is taxed, then the smallest portion of the interest. In case there is no purchaser in good faith for the same the whole amount of the delinquent property shall, for the amount of the tax and penalty thereon, be struck off to the district as the purchaser.

Certificate of sale

SEC. 55. A certificate of sale shall be executed in duplicate by the collector, one of which shall be delivered to the purchaser or to the district, if the property shall have been struck off to the district, and the other of which shall be recorded in the office of the county recorder of the county in which the property sold is located. The certificate shall be dated the day of the sale and shall specify the description of the property sold; the name, if known, and if not, stating that fact, of the person to whom it was assessed; the fact that it was sold for the amount of the tax and penalty thereon, giving the amount and year of said tax; and the date on which the purchaser will be entitled to a deed.

Recording certificate of sale

SEC. 56. The recorder upon receiving certificates of sale must, when he records the same, enter, in a book provided for that purpose and kept with the book provided for the purpose of recording instruments and writings relating to the district,

a description of the land sold, corresponding with the description in the certificate, the date of sale, the name of the purchaser, and the amount paid. The entries in said book shall be numbered consecutively on the margin thereof and a corresponding number shall be indorsed on the certificate. At the time of the sale the collector shall indorse in the assessment book opposite the description of the property, the portion of the same sold for taxes and penalties, with the date of sale and name of purchaser and shall thereafter pay to the treasurer of the district the amount received on the sale thereof.

Redemption

SEC. 57. Any person interested in any property sold may redeem the same within one year from the date of sale by paying in lawful money of the United States to the collector and in trust for the purchaser or his assignees, the amount for which the same was sold, together with interest thereon at the rate of 1 per cent per month from the date of sale, and the collector must give him a receipt therefor, specifying therein a description of the property redeemed, the name of the purchaser and the date of sale, and he shall credit the amount so paid to the purchaser and shall thereafter pay the same on demand to the purchaser or his assignee. The county recorder of the county in which is located the property redeemed shall upon presentation of the collector's receipt for said amount, mark the word "redeemed," the date and by whom redeemed on both the record of the certificate of sale of said property and on the margin of the memorandum thereof made in the book kept for that purpose.

Tax deed

SEC. 58. If no redemption shall be made within said one year, the purchaser, or the district, if said property shall have been sold to the district, shall be entitled to a deed executed by the board of directors, and said deed shall contain all the recitals of the certificate, and when duly acknowledged shall be (except as against actual fraud) conclusive evidence of the regularity of all proceedings from the assessment to the execution of said deed, inclusive, and said deed will convey to the grantee the absolute title to the lands described therein, free of all encumbrances, except State, county, municipal or subsequent district taxes, and except when the land is owned by the United States or this State, in which case it is the prima facie evidence of the right of possession.

Taxation of property sold for taxes

SEC. 59. All property sold for taxes to the district shall subsequently be assessed for district taxation as though it had never been sold, but it shall not again be sold for delinquent tax, as long as it is owned by the district.

Sale of title of district

SEC. 60. The title acquired by the district, in case it becomes the purchaser at a delinquent tax sale of the district, may be sold at public auction or private sale and conveyed by deed executed and acknowledged by the president and secretary of the district; provided, that authority to so convey must be conferred by resolution of the board entered on its minutes

fixing the price, in the best interest of the district, at which such sale may be made.

When land not taxed, etc.

SEC. 61. If for any reason any tax or parcel of land contained within the district shall not have been charged with its portion of any tax levied, or if the tax levied on any tract or parcel of land shall be adjudged invalid by any court of competent jurisdiction, then such tract or parcel of land shall at the hearing in any subsequent tax levy be additionally taxed and charged by the board of supervisors of the county in which said district was organized in a sum which bears the same proportion to the total amount of said former tax as its then assessed valuation bears to the total amount of the assessed valuation placed on all lands in the district at the time said former tax was levied.

CONSTRUCTION UNDERTAKINGS

Plans and specifications

SEC. 62. The board of directors shall upon the organization of a water storage and conservation district as in this act provided, proceed to make or cause to be made, all such examinations, surveys, detailed plans and specifications, and estimates of costs for the acquisition, appropriation, diversion, storage, conservation and distribution of irrigation water including the sinking and storing of water in underground basins by the construction of sinking basins, sinking wells and spreading basins, any drainage or reclamation works connected therewith, as may be necessary or requisite to enable said board of directors to ascertain and estimate the requirements and works necessary as aforesaid, for the purpose of said water storage and conservation district, and the probable cost and expense thereof, and to make a report thereof as hereinafter provided, in which connection said board may use and adopt all previous estimates, surveys, reports and other data it may have acquired or which are available to it, adapted to that purpose, and may employ all necessary engineers, attorneys and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project, and such board may issue warrants therefor, which shall be payable out of the funds of said district.

Report of land acquisition

SEC. 63. If the board of directors proposes to acquire any property of any kind or character, or any interest or easement therein for the purposes or use of said water storage and conservation district by purchase or lease, or in any manner other than by condemnation proceedings, that fact shall be stated in their said report and a true copy or copies of any instrument or instruments evidencing such proposed acquisition of such property, interest or easement therein, or the right to acquire same shall be made a part of said report.

Order of Railroad Commission authorizing sale

SEC. 64. Except where it is proposed to be acquired by eminent domain proceedings no property of any kind or interest therein belonging to any water corporation which is a public utility, shall be acquired by a water storage and conservation

district, nor shall any such properties of such public utility be included in the report of the directors in Section 66 provided for, unless and until the Railroad Commission of California shall have made its order authorizing such sale and such abandonment or curtailment of service by such public utility as would result from the acquisition by said water storage and conservation district of said properties of such public utility.

A certified copy of any order of authority so made by the said Railroad Commission shall be made a part of and filed with said report of said board of directors and unless such order of the Railroad Commission in effect finds and declares that such sale and such abandonment or curtailment of service of such public utility through the acquisition of such properties by the water storage and conservation district will be to the interest of the consumers of such public utility and that the terms and conditions of such acquisition of such properties of such public utility by the water storage and conservation district is fair, just and equitable to the consumers of such public utility, such report shall be deemed insufficient for any of the purposes of this act.

Units of construction

SEC. 65. Said board of directors may at their option segregate and divide the plans, specifications and estimates of cost into one or more units of construction, and may in said plan provide that one or more individual units of construction shall not be entered upon immediately, but shall be authorized and undertaken in such order and at such future time as the board of directors shall thereafter determine.

Filing report with State Engineer, etc.

SEC. 66. Upon the completion of said examination and study of the proposed project by the said board of directors, the said board shall prepare and file in the office of the State Engineer, and a true copy thereof in the office of the secretary of said board, a report thereof, in which said report shall be set forth in full and in detail the character and nature of the proposed works, a description of the rights both to waters and lands it will be necessary to acquire to carry said project to completion, accompanied by detailed plans and specifications, and a detailed estimate of the cost of said project, including the acquisition of all rights, necessary to the completion and operation thereof. The board of directors shall attach to said report a recommendation that said project shall be carried out in accordance with the plans and specifications in said report contained, or that said project be abandoned. Such report when completed shall be signed by a majority of the board of directors, and entered in full upon the minutes of said board. If said board shall determine to segregate and divide the plans, specifications and estimates into more than one unit of construction, such plans, specifications, and estimates shall be complete as to each unit, and the board shall in its report specify the particular unit or units the construction of which shall be immediately entered upon and the particular unit or units reserved for future action.

Investigation by State Engineer

SEC. 67. If the board of directors recommends that said project be carried out in accordance with the plans and specifications in its said report contained, the State Engineer shall make such investigation of such project as is in his judgment desirable and shall make and file with the directors of the district an order either approving and confirming said report and recommendation or disapproving the same.

Modification of report

SEC. 68. Pending final approval or disapproval by the State Engineer, the board of directors may amend, modify, or supplement their report and the plans, specifications and estimates and other matters accompanying the same, either on their initiative or in response to suggestions by the State Engineer.

Election on adoption of report

SEC. 69. Immediately after making and filing such order of approval by the State Engineer, the directors of the district shall call an election for the purpose of determining whether such recommendation and report shall be adopted, such election to be noticed, held, and conducted and the result thereof determined and declared in all respects as nearly as possible as provided in Sections 143 to 151, inclusive, of this act, the notice of election to state whether such report and recommendation is approved or disapproved by the State Engineer.

Effect of vote

SEC. 70. If the result of such election shows that more than one-half of all votes cast are "Completion of Project—No" the project shall be deemed abandoned and proceedings shall be thereafter taken for the dissolution of the district as provided by Sections 153 to 156, inclusive, of this act. If the result of such election shows a majority of all votes cast are "Completion of Project—Yes" said report and recommendation shall be deemed to be adopted by the district.

Apportionment of cost

SEC. 71. In case of the adoption of said report and recommendation the State Engineer shall forthwith appoint three assessors whose duty it shall be to assess the cost of the project, or in the event said board shall have divided the project into units of construction, the cost of the unit or units specified for immediate construction, upon the benefited lands within the district, and the said cost shall be apportioned in accordance with the benefits that will accrue to each tract of land held in separate ownership in said district by reason of the expenditures of said sums of money, and the completion of the project, or such unit or units thereof as have been specified for immediate construction, such assessment to be in lawful money of the United States; provided, that where any such tract of land consists of more than one section such apportionment to such tract of land shall be made according to legal subdivisions thereof or to other boundaries sufficient to identify the same in subdivisions not greater than one section in area, but any failure or defect in complying with this requirement shall not invalidate said apportionment or said assessment.

Qualifications of assessors

SEC. 72. One of said assessors shall be a civil engineer and one shall have a practical knowledge of irrigation,

and none of said assessors shall have any interest in any land in the district either directly or indirectly, and each assessor before entering upon his duties shall take and subscribe an oath that he is not in any manner interested directly or indirectly in any land in the district and that he will perform the duties of assessor to the best of his ability, and said assessors shall be paid as compensation for the services rendered by them such sum, or sums, as the board of directors shall fix and determine, which shall be considered a part of the cost of the project, and the board of directors may issue warrants therefor, which shall be payable out of the funds of said district. The said assessors shall receive from the board of directors of the district a copy of the detailed plans, specifications, and estimate of the costs of the project, which have been duly filed with the State Engineer.

Certification of assessment to State Engineer

SEC. 73. The said assessors shall thereupon prepare and certify to the State Engineer in triplicate rolls which shall contain:

(1) A description of each tract held in separate ownership by legal subdivisions, governmental surveys or other boundaries sufficient to identify the same; provided, however, that if any area composed of more than one tract held in separate ownership is not assessed because the lands therein will not be benefited by the expenditure of the funds to be raised by the assessment, a description of such area as a whole without a description of each tract thereof shall be sufficient;

(2) The number of acres in each tract;

(3) The name and address of the owner of each tract, if known, and if unknown, that fact, but no mistake or error in the name of the owner or supposed owner of the property assessed, and no mistake in any other particular, shall render the assessment thereof invalid;

(4) The rate per acre of such assessment upon each tract assessed and if no assessment is made upon any tract, or area composed of more than one tract, a statement of that fact;

(5) The total amount of the assessment as computed;

(6) Any other statement which may be required by the State Engineer and as to which notice is given in writing to the assessors at the time of transmitting the plans and specifications and costs of the work for the district before mentioned.

The roll shall be separately made for lands lying within different counties contained within said district.

Filing with State Engineer, etc

SEC. 74. Said rolls when completed shall be duly certified by said assessors and forthwith by them filed in the office of the State Engineer. Said State Engineer shall forthwith transmit two copies of said rolls to the board of directors of said district, who shall file one copy in their records and thereupon transmit to the county treasurer of each county within such district that portion of the roll relating to the lands within such county.

Adjustment board

SEC. 75. Thereafter the board of directors of the water storage and conservation district in which the lands described in said rolls are situated shall become and constitute a board, in the nature of a board of equalization, which shall be known and designated as the "adjustment board" and whose functions shall be to consider and act upon objections, if any, presented as herein provided to the assessment made by said assessors. For that purpose said adjustment board shall at once organize by the election from its members of a president and a secretary and shall thereupon appoint times and places not less than 30 days after said rolls have been filed in the records of said board of directors when and where it will meet within each county wherein lands of said district are situated for the purpose of hearing objections to said assessments, and notice of such hearing shall be published at least once a week for three successive weeks in each county in which any land within said district may be situated. Said objections, if any, must be in writing verified and filed with the board of directors and a copy thereof filed with the State Engineer, and shall set forth the grounds of such objections. Such verification shall be made by the affidavit of the objector or some other person who is familiar with the facts. Said adjustment board may postpone such hearings from time to time.

Hearings

SEC. 76. At such hearings the adjustment board shall hear such evidence as may be offered touching the correctness of such assessment, and may modify, amend or approve the said assessment in any particular and may reapportion the whole or any part thereof; provided, however, that no assessment shall be increased except after personal notice or notice by registered mail given to the owner, if known, by depositing in the post office at the place in which the office of said district is located, in a sealed envelope addressed to each of such owners at his last known, if any, place of residence or business, otherwise at the county seat of the county in which any portion of his lands are situated, with full postage paid, at least 10 days before the making of the order increasing said assessment.

Approval of assessment

SEC. 77. Said adjustment board, after said hearings, must make an order approving such assessment as finally fixed or modified, which order shall be filed with and entered in the records of the district and the State Engineer, and the apportionment and determination of said adjustment board shall be final and conclusive, and no action or defense shall ever be maintained attacking the same in any respect.

Certification of approved assessment

SEC. 78. Two copies of said assessment roll as finally fixed and approved by the adjustment board shall be forthwith certified by the secretary of such adjustment board and transmitted to the secretary of the board of directors of the said district, who shall file one copy in their records and thereupon immediately transmit to the county treasurer of each county within such district that portion of the roll relating to the lands within such county together with a copy of the order of approval of

such assessment roll by said adjustment board. Thereafter said assessment roll shall be conclusive evidence before any court or tribunal that said assessment has been made and levied according to law.

Lien of charges assessed

SEC. 79. When the secretary of the board of directors shall have filed with the county treasurer of a county within such district the said assessment list or roll as finally approved as hereinbefore provided the charges assessed thereby upon the several tracts of land within the county shall constitute a lien thereon which shall be prior to all other liens except State, county and municipal taxes, and assessments or taxes levied or assessed by or under statutory authority and shall impart notice thereof to all persons. Thereafter, no act or conduct on the part of such board of directors, or any officer herein mentioned, shall invalidate any such assessment after the same shall have become a lien in the manner herein provided.

Construction of units

SEC. 80. In the event of the division of the project into units of construction, and the specifications of one or more units for future construction, the board of directors shall at such time as it shall determine upon the construction of any such unit or units, pass a resolution to that effect and cause a certified copy thereof to be transmitted to the State Engineer. At such time the board may amend the plans, specifications and estimates of costs of such unit or units by making such changes therein, modifications thereof, and additions thereto, as it shall deem desirable, and in the event of any such change, modification, or addition, the board shall cause to be filed with the State Engineer, the plans, specifications and estimates of costs of such unit or units as amended. Upon receipt by the State Engineer, of such certified copy of resolution and such amended plans, specifications and estimates of cost, if any, the same proceedings for levying, approving and collecting an assessment to meet the cost of the unit or units to be constructed shall be had as hereinbefore provided for an assessment to meet the cost of the unit or units first constructed.

Reapportionment of assessment

SEC. 81. When any tract of land upon which any assessment provided for by this act has been levied shall be subdivided into smaller parcels, the board of directors of this district shall, upon the written request of the owner of such tract or of any of such smaller parcels and after hearing, reapportion the said assessment in such manner as will in the judgment of the board charge each of said smaller parcels with a just portion of such assessment. Supplementary assessment rolls, showing such reapportionment shall be made and shall be made separately for lands lying within different counties. Said board of directors shall thereafter file copies of said supplementary assessment rolls with the State Engineer and shall also file with the county treasurer of each county in which any portion of said tract so subdivided is situated the supplementary assessment roll relating to the lands in such

county, and from and after such filing the said assessment shall be an assessment upon each of said smaller parcels in accordance with such reapportionment and not an assessment upon said tract as a whole; and such supplementary assessment rolls shall be deemed to be a part of and amendatory of the assessment roll or rolls theretofore filed for all purposes. Such reapportionment shall in no wise affect the assessment except as to the lands included in the supplementary assessment rolls.

Period of payment

SEC. 82. The assessment list of each county must remain open for payment in full in the office of the county treasurer of the respective counties within the district for a period of 60 days; and during the time they so remain any person may pay the amount of the charge assessed against any tract of land to the county treasurer in lawful money of the United States.

Return of unpaid assessments

SEC 83. At the end of 60 days and within five days thereafter, the county treasurer must make return to the board of directors of the district of all assessments paid. All unpaid assessments shall bear interest at the rate of 7 per cent per annum commencing upon the expiration of the 60 days last mentioned. Thereafter all unpaid assessments and accrued interest shall be collected when and as called by the board of directors and paid to the treasurer of the county or counties, who shall collect and hold such moneys for the credit of the district.

Time and amount of payment

SEC. 84. Unless bonds shall have been authorized as hereinafter provided, all such payments shall be made in such amounts or installments and at such times respectively as the said board, from time to time, in its discretion, by order entered in its minutes, may direct. Upon making any order fixing and calling such installment or amount, the secretary shall also enter in the minutes of the board, and certify to each county treasurer for signature and mailing or publication in the counties in which any lands within the district are situated a notice in substantially the following form:

Notice calling for payment

(Name) Water Storage and Conservation District. (Location of the principal place of business.) Notice is hereby given that at a meeting of the board of directors held on_____an installment of_____per cent of assessment number_____ was ordered paid within 60 days from the date thereof to the respective county treasurers of the counties wherein lands of such district are situate. Any installment which shall remain unpaid on the (day fixed) will be delinquent, together with the accrued interest thereon, with 10 per cent of such installment and interest added as penalty.

(Signed)_____

Treasurer of_____County

Same

SEC. 85. Such notice must be sent through the mail, addressed to each owner of land in the district at his place of residence if known, and if not known, at the place where the principal office of the district is situated, or in lieu thereof

such notice shall be published in a newspaper of general circulation once a week for two consecutive weeks in each such county.

Delinquency

SEC. 86. If any such installment shall remain unpaid at the expiration of said 60 days from the date of the order, then the said installment of said assessment shall become delinquent, together with the accrued interest thereon and a penalty of 10 per cent of the amount of said installment and interest shall be added thereto and collected for the use of the district.

Publication of delinquent list

SEC. 87. Immediately after the said installment has become delinquent the said county treasurer or county treasurers must prepare and as soon as the same is complete publish once a week for two consecutive weeks in each county wherein lands of the district are situated, in one notice a list of all delinquencies in such county, which notice shall contain a description of the property assessed, the name of the person to whom it is assessed or a statement that it is assessed to unknown owners, if such is the fact, the amount then due on said property, and a notice that the property assessed will be sold on the date therein stated in front of the courthouse of said county to pay the amount then due on said property.

Sale

SEC. 88. The date of said sale shall not be less than 10 days after the date of the last publication of said notice. At the time stated in said notice, or such other time to which said sale may have been postponed, the county treasurer must sell said property to the highest bidder for lawful money of the United States.

Proceeds of sale

SEC. 89. Out of the proceeds of said sale the county treasurer must deposit the amount due on said property as shown in said notice to the proper fund of the said district. The county treasurer must pay to the owner of said property any surplus remaining after said deposit to the credit of the district, after first deducting any expense of sale.

Postponement of sale

SEC. 90. Except where bonds have been issued upon an assessment as herein provided the board of directors may direct the county treasurer to postpone said sale from time to time, for not less than 10 nor more than 30 days at one time, by a written notice posted at the place of sale.

If no bid is made for said property equal to the amount due thereon, it must be struck off to the district for the said amount so due.

Certificate of sale

SEC. 91. A certificate of such sale shall be executed by the county treasurer to the purchaser, and this certificate of sale shall be recorded in the office of the county recorder of said county.

Redemption

Any person interested in said property may redeem the same at any time within one year after the date of said sale, even though the district may be in process of dissolution or may have already been dissolved. Such person shall pay to the county treasurer the amount for which said property was sold, and interest on the said sum at the rate of 1 per cent per month from the date of said sale, which amount shall be credited to the proper fund of said district,

or paid to the person holding the certificate of sale to the property sought to be redeemed. In any district which has no bonds outstanding such person shall be entitled to redeem said property by paying to the county treasurer the amount for which said property was sold and interest on the said sum at the rate of 7 per cent per annum from the date of said sale, which amount shall be credited to the proper fund of said district, or paid to the person holding the certificate of sale to the property sought to be redeemed.

Assessment deed

SEC. 92. If no redemption shall be made within said one year, the purchaser or the district, if the property shall have been sold to the district, or the assignees or transferees of the purchaser or the district, shall be entitled to a deed executed by the county treasurer or his successor in office, even though the district may be in the process of dissolution or may have already been dissolved. The effect of such deed shall be to convey said property free and clear of all liens and encumbrances except State, county and municipal taxes, assessments or taxes levied or assessed by or under statutory authority and any water storage and conservation district assessment or portion thereof remaining unpaid at the date of said sale, each installment whereof may be called and collected as herein provided.

Sale at private sale

SEC. 93. In any district having no outstanding bonds any parcel of land deeded to the district by the county treasurer, as herein provided, the title to which still remains in such district, said land may, without notice, be sold and conveyed by the board of directors of such district at private sale to the owner of record at the date of the treasurer's deed to the district or to said owner's successor in interest, upon his paying to such district the amount for which the same was struck off to the district with interest thereon at the rate of 7 per cent per annum from the date of said delinquent sale, together with any call that has been made upon any prior or subsequent assessment, and the deed executed by such district in pursuance of said sale shall convey said property free and clear of all liens and encumbrances, except as hereinabove provided for said deed by the county treasurer to the district. The board of directors may also dispose of said property at a public or private sale, with or without any notice, when the district is in the process of dissolution.

Supplementary assessment

SEC. 94. In the event that the original assessment for the project or any unit thereof is insufficient to provide for the completion of the project or of such unit, the board of directors shall levy and collect a supplementary assessment or assessments to cover the estimated cost of completion thereof.

Spreading supplementary assessment

SEC. 95. Each such supplementary assessment shall be spread between the different tracts of land in the proportion which the amounts assessed against such tracts by the original assessment bears to one another.

Making supplementary assessment

SEC. 96. Such supplementary assessment shall be made by order entered in the minutes of the board, which order

shall state the total amount necessary to be raised and shall fix the rate of assessment which shall be the percentage of the total amount assessed by the original assessment which is required to produce the amount necessary to be raised.

Supplementary assessment roll

SEC. 97. Upon making of such order, the board shall cause to be prepared a supplementary assessment roll showing by description each tract assessed, the amount assessed against the same by the original assessment, the rate of assessment and the amount assessed against the same by such supplementary assessment in dollars and cents computed at such rate.

Filing supplementary assessment roll

SEC. 98. Upon the completion of such supplementary assessment roll, the board shall file with the county treasurer of each county wherein are situated lands subject to such assessment a copy of so much of such assessment roll as pertains to lands within that county and thereupon such assessment shall constitute a lien upon each tract shown to be assessed by the copy of the assessment roll so filed for the amount assessed against it, such lien to be of the same character and to have the same incidents as the lien of the original assessment.

Correction of errors

SEC. 99. At any time within sixty (60) days from the filing of the copy of the assessment roll as aforesaid, the same may be amended by the board of directors to correct errors either on its own initiative or on the instance of any landowner affected, such amendment to be made by indorsement upon the assessment roll by the county treasurer upon the certification of the error to him by the board of directors.

Collection

SEC. 100. Such supplementary assessment shall be collected in the manner herein provided for the collection of original assessments, and the board of directors may call the same as a whole or in installments from time to time, as it may deem best.

Acquisition of other property

SEC. 101. The board of directors may also determine upon the acquisition of property or for the construction of works not contemplated in the report and recommendation, with accompanying plans and specifications, originally adopted in accordance with the provisions of Sections 62 to 70, inclusive.

Proceedings

SEC. 102. In such event, the same proceedings for the preparation and adoption or rejection of the report and recommendation as to the acquisition of such additional property or construction of such additional work, and in case of the adoption of such report and recommendation, the levying and collection of the assessment or assessments to meet the cost thereof, shall be taken in connection with the property and work to be acquired or constructed as hereby provided shall be taken in connection with the acquisition or construction of the property or work contemplated by the original project.

In the event the cost of any unit is less than the funds collected therefor, the excess shall be held out and used for the benefit of such unit only and shall be applied to the bond fund of such unit, if any, and if there is no bond fund then to the maintenance and operation of such unit.

BONDS

Limitation on amount of bonds

SEC. 103. No water storage and conservation district organized under the terms of this act may issue bonds in excess of such an amount as may be authorized and designated by the California Districts Securities Commission or such other State commission, department or agency that may supersede said commission or succeed to its functions.

Bond election

SEC. 104. Whenever in any water storage and conservation district any assessment has been levied and assessed upon the lands of said district and remains unpaid in whole or in part, and, in the judgment and opinion of the board of directors of said district, it shall be for the best interest of the district or the landowners therein to issue bonds for the purpose of obtaining money to pay the costs of the proposed project, the indebtedness of the district, or any other lawful charge, or when a petition signed by the owners of more than one-fourth in assessed value of the lands of the district as shown on the last preceding assessment book mentioned in Section 46 hereof, requesting it is filed with the secretary of said board, the board of directors of such district shall by order entered upon the records of said board order a special election to be held in said district, at which special election shall be submitted to the owners of assessed land in said district the question whether or not bonds of said district shall be issued in an amount equal to the amount of such assessment, or the part of such assessment remaining unpaid, which said amount shall be entered by said board of directors in its records as stated by them in the order for such special election.

Notice

SEC. 105. The notice of such special election shall be given by the board of directors by posting notices thereof in at least three public places in the district at least 21 days prior thereto, and, also, by publication for the same length of time in some newspaper of general circulation published in each county in which any portion of the district may be situate, and such notices shall be substantially in the following form:

Notice of Special Election to determine whether or not bonds shall be issued.

Notice is hereby given that at a meeting of the board of directors of _____ Water Storage and Conservation District held on the _____ day of _____, 19___, a resolution and order was duly adopted by the said board calling a special election of the landowners of this district, for _____ the _____ day of _____, 19___, at _____ in the county of _____, in said district, to determine whether or not bonds of this district shall be issued in the aggregate amount of _____ dollars for the purpose of obtaining money to pay the costs of the acquisition of property, construction of the necessary works, the indebtedness of the district, or any other lawful charges as provided by the report of the project adopted by the district at an election held on the _____ day of _____, 19___.

The polls at said election will be open from 10 o'clock a.m. of said day until 4 p.m.

Witness the name and seal of said district this _____ day of _____, 19___.

_____ Water Storage and Conservation District

By _____
President

By _____
Secretary

Affidavits of publication, etc

SEC. 106. Affidavits of publication and posting of notices of election shall be filed with the secretary of the district.

Voters

SEC. 107. Only owners of lands which have been assessed as provided herein shall be qualified to vote at such election. Such election shall be conducted, save and except as in this section otherwise specifically provided, in accordance with the provisions of this act relating to other elections in the district.

Ballots

SEC. 108. The ballots cast at such election shall contain the words "Bonds—Yes" and the words "Bonds—No". A list of the ballots cast shall be made by the board of election containing the name of each voter who has voted at such election, and if the ballot be cast by proxy also the name of the person casting it, and the number of votes cast by each voter.

Declaration of result by election board

SEC. 109. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result and shall deliver a certificate showing such result and the number of votes cast for and against the issuing of such bonds to the board of directors of the district and shall also deliver to said board of directors all ballots cast at such election and all documents and papers used at such election.

Canvass by board of directors

SEC. 110. The board of directors shall immediately upon the receipt of the ballots, papers and documents from the board of election proceed to canvass the returns and declare the result of said election by estimating the vote of the district in favor of the proposition "Bonds—Yes" and opposed "Bonds—No." The board of directors shall thereupon in a certificate in writing recorded in their minutes declare that the proposal to issue bonds has carried or has been defeated, and stating therein the vote cast throughout the entire district, and a duplicate of such certificate shall be immediately transmitted to the State Engineer and file a copy thereof with the county clerk of each county in which any part of the district is located.

Issuance of bonds

SEC. 111. If a majority of the votes cast at such election are in favor of the issuance of bonds, the board of directors of the district shall cause bonds in the amount stated in the order for the election to be executed and delivered, together with a copy of the assessment list segregated as to counties within said district, to the treasurer of said district.

Denomination and form

SEC. 112. Said bonds shall be of the denomination of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) each; they shall be signed by the president of the board of directors of the district and attested

by the treasurer of said district, and shall be numbered consecutively in order of their maturity, and shall bear interest at a rate not to exceed 6 per cent per annum payable semiannually on the first day of January and the first day of July in each year at the office of said treasurer, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the treasurer of said district. The principal of said bonds shall be made payable on the first day of July, or the first day of January, and in such years as the directors may prescribe. Said bonds shall mature annually in such amounts as may be determined by the board of directors, in not to exceed 50 years from their date; provided, that the earliest maturity of the bonds shall not be later than 15 years from date and the remaining annual maturities shall not be less than one-fiftieth of the total amount of the issue.

Form of bonds

SEC. 113. Said bonds shall be substantially in the following form:

United States of America

State of California

(Name) Water Storage and Conservation District

No. _____

(Name) Water Storage and Conservation District for value received hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the treasurer of said district, at (place) in the State of California, on the first day of _____ the sum of $_____ lawful money of the United States of America, with interest thereon in like lawful money from date hereof until paid, at the rate of _____ per cent per annum, payable at the office of said treasurer, semiannually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of _____ bonds of like tenor and effect (except as to denomination and maturity), numbered from _____ to _____, inclusive, amounting in the aggregate to _____ dollars, issued in accordance with the provisions of an act known as "California Water Storage and Conservation District Act," duly passed and adopted (stating when) and of the laws of the State of California, pursuant to an election held in said water storage and conservation district on the _____ day of _____ authorizing its issuance, and based upon and secured by an assessment levied upon the lands in said district, and filed in the office of the county treasurer of the county (or counties) _____ on the _____ day of _____, and the said water storage and conservation district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the State of California applicable thereto, and that all the

acts and conditions and things required by law to be done, precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of water storage and conservation district bonds.

In testimony whereof, the said district, by its board of directors, has caused this bond to be signed by the president of said board and attested by the treasurer of said district, with the official seal of said district affixed this _____ day of _____.

_____
President of said board

Attest: _____
Treasurer

And the interest coupons may be substantially in the following form:

No._____

The treasurer of (name) Water Storage and Conservation District, California, will pay to the holder hereof on the _____day of_____, at his office at (place in the State of California, or at designated places), the sum of $_____, in lawful money of the United States, out of the funds of (name) Water Storage and Conservation District for interest on bond of said district numbered_____.

_____
Treasurer

Dates of maturity

SEC. 114. If any district having authorized the issuance of a series of bonds shall issue an additional series of bonds based on another assessment, the dates of maturity of such additional series of bonds shall be such that the latest maturities thereof shall not exceed 50 years from the date thereof and the earliest maturity of bonds of such additional series shall be later than the latest maturity of bonds of any earlier series. All provisions of this section relative to the original issue of bonds shall apply to such additional series of bonds.

Sale

SEC. 115. The treasurer of said district shall place the bonds prepared pursuant to this act to the credit of the district. Thereafter when directed by resolution of the board of directors of the district, the treasurer shall sell the whole or any designated number of said bonds for the best price obtainable, but in no event for less than the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the said treasurer by publication in a newspaper of general circulation published in the county in which the office of said district is located, at least once a week for two successive weeks, that he will sell a specified amount of said bonds, and stating the day, hour, and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed said treasurer shall open the bids and award the bonds to the highest responsible bidder. Any sale by the treasurer and delivery of the bonds thereunder shall be conclusive evidence

in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice.

Acceptance of warrants

SEC. 116. Upon a sale of any of the bonds provided herein the treasurer of the district is hereby authorized to accept in payment for said bonds, either in whole or in part, outstanding warrants of such district at their face value, together with the accrued interest thereon.

Deposit of proceeds

SEC. 117. The proceeds of sale of said bonds shall be placed in the treasuries of the respective counties in which land included in the district is situate to the amount of the unpaid assessment in each county and credited to the general fund of the district, and a proper record of such transaction shall be made upon the books of said treasurer.

Action to determine validity of bonds

SEC. 118. At any time within 30 days after the date of the execution and delivery to the treasurer of the district as provided by Section 111 hereof of any bonds authorized as the result of such election an action may be commenced in the superior court of any of said counties by the board of directors of said water storage and conservation district in the name of the district as plaintiff, and the defendants shall be described as "all persons claiming any interest in any lands within the said (name) Water Storage and Conservation District," to have it determined that said bonds are a legal obligation of such water storage and conservation district, and in the event no such action is brought then the same may be commenced by any landowner in the district within 60 days after the expiration of the period within which said action might have been brought by the board of directors. It shall be sufficient to describe said lands as all lands in the district (naming it) without a more specific description. The summons shall be published once a week for two successive weeks in the county where the action is pending. Within 30 days after the first publication of summons any owner of land in such district or any person interested may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court, and the judgment rendered shall declare such bonds so contested, either valid or invalid. Such proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the State of California.

Deposit of moneys

SEC. 119. All moneys collected by a county treasurer upon any assessment upon which bonds shall have been issued, including all moneys derived from sale of land for delinquent installments, or from redemption thereof, or from sale of lands bought by such treasurer at any such sale as trustee of the bond fund of the district shall be by such treasurer forthwith paid into the county treasury of the county from which the same arose to the credit of the bond fund of

such water storage and conservation district, and shall be used exclusively for the payment of principal and interest of said bonds issued on said assessment.

Certification by California Districts Securities Commission and Controller

SEC. 120. Whenever the board of directors shall by resolution declare that it deems it desirable that any contemplated or outstanding bonds of a water storage and conservation district organized under this act, including any bonds of such district authorized but not sold, shall be made available for the purpose provided for by the California Districts Securities Commission Act, approved June 19, 1931, as amended, the said board of directors shall thereupon file a certified copy of such resolution with the California Districts Securities Commission, which commission, and the State Controller in connection therewith, are hereby given the same power and authority in respect of the investigation and certification of bonds issued under this act as is given to them in respect of the investigation and certification of irrigation district bonds by said act, as amended, except as the same may be limited by, or inconsistent with, any provision of this act, and bonds of water storage and conservation districts provided for in this act which have been so investigated and certified and by authority of such investigation and certification are declared to be legal investments for the purposes stated in the California Districts Securities Commission Act, as amended, may be lawfully purchased, or received in pledge for loans by savings banks, trust companies, insurance companies, guardians, executors, administrators, and special administrators or by any public officer or officers of this State or of any county, city, or city and county, or other municipal or corporate body within this State having or holding funds which they are allowed by law to invest or loan; provided, however, that where said commission has passed upon one issue of bonds of districts formed hereunder, that all subsequent issues of said districts shall be submitted to said commission as in said act provided.

Lien of assessment

SEC. 121. The lien of any assessment upon which bonds shall have been issued shall continue until all said bonds shall have been paid in full, and if for any reason any part of the principal or interest of said bonds shall remain unpaid after enforcement of said assessment as in this act provided, the board of directors shall order an additional or supplemental assessment to be made as provided in this act sufficient to pay such unpaid principal with interest from date of maturity to the date of payment and interest; which additional or supplemental assessment shall be enforced and collected in the same manner as the original assessment.

Interest on unpaid assessments

SEC. 122. Where bonds of the district have been authorized to be issued on such assessments all unpaid assessments shall continue to bear interest at the rate of 7 per cent per annum and the interest due at any time on said unpaid assessments may be called without calling any installment of the said assessment. The word installment as used in this section shall

be construed as applying to interest as well as to principal as the case may be.

Transfer of funds

SEC. 123. At least 90 days before any interest date of the bonds, the board of directors of the district shall determine what sums of money may be transferred from any funds in the treasury of the district to the bond and interest fund of the district, thereafter the treasurer of the district shall certify to the county treasurer of each county in which lands of the district are situated an estimate of the amount of money and the percentage of the assessment together with the interest thereon, or only of the interest, necessary to pay interest and principal or the interest maturing on such interest date after crediting thereon the funds in the treasury applicable to the payment thereof to be collected by such county treasurer, and shall add thereto 15 per cent of such aggregate sum to cover possible delinquencies, and each said county treasurer shall thereupon cause to be published once a week for two successive weeks in a newspaper of general circulation published in the county of which he is county treasurer, a notice substantially in the following form:

Notice

(Name of water storage and conservation district)

Notice is hereby given that an installment of assessment (describing it) or (amount or proportion thereof including interest thereon or only for interest) is payable within 30 days from date by all assessed landowners of said district in the County of (name of county) to the treasurer of said county. All or any part of said installment of interest which remains unpaid on the (day fixed) will be delinquent together with accrued interest thereon, with 10 per cent of such installment and interest added as penalty.

Dated_____

(Signed)_____

Treasurer of_____County

If no newspaper is published in said county, such publication shall be made in a newspaper published in an adjoining county.

Delinquency penalty

SEC. 124. If any part of such installment or any interest thereon shall remain unpaid at the expiration of 30 days from the date of said notice, it shall become delinquent and 10 per cent of the unpaid amount of said installment and interest shall be added thereto and collected by said county treasurer.

Publication of delinquent list

SEC. 125. When any installment shall have become delinquent, said treasurer shall, within 10 days, publish in said county once a week for two successive weeks in a newspaper of general circulation, a notice containing a description of each parcel of land assessed in the district in said county wherein such installment is delinquent, as such description appears on the assessment list, the name of the person to whom it is assessed, to unknown owners, if such is the fact; the amount of the installment delinquent on such parcel, the amount of interest thereon reckoned to the day of sale, the amount of said 10 per cent penalty thereon, and a notice that each of said parcels

will be sold at public auction by said county treasurer in front of the courthouse of said county, at a specified day and hour, which shall not be less than 30 nor more than 60 days from the date of delinquency, to pay said delinquent installment, with said accrued interest and penalty.

Sale

SEC. 126. At the time stated in said notice, the county treasurer shall sell each parcel of land described in said notice to the highest bidder, unless prior thereto he shall have received payment in full of said delinquent installment, together with interest and penalty. No bid for any parcel shall be accepted less than the aggregate sum then due on said installment thereon with interest and penalty, and such sale shall be made for cash, except the treasurer may receive from any purchaser at their face value in lieu of cash, bonds of said district or their interest coupons, issued on said assessment and then matured or to mature within 60 days after such sale. Any bond or coupon so received in payment shall be by the county treasurer forthwith canceled and filed in the office of the treasurer of the district. If the entire amount of such bond or coupon tendered in payment shall not be required to complete payment of the purchase money, the county treasurer shall indorse thereon as paid the amount of such purchase money credited thereon. If no bid is made for any parcel at such sale equal to the amount of the installment delinquent thereon, with interest and penalty, the county treasurer shall bid in and sell said parcel to himself and his successors in office, as trustee of the bond fund of said district, as purchaser, for the amount of said installment, interest and penalty. The county treasurer shall execute to each purchaser, including himself as trustee of the bond and interest fund a certificate of sale, and shall record a duplicate in the county recorder's office.

Redemption

SEC. 127. Any person interested in the said property may redeem the same at any time within one year after the date of sale by paying to the county treasurer for such purpose a sum equal to the purchase price stated in the certificate, with interest thereon at the rate of 12 per cent per annum from the date of sale to such redemption. If no redemption shall be made within one year, the said county treasurer upon demand and surrender of such certificate of purchase, shall execute to the purchaser, his heirs or assigns, a deed of conveyance of the parcel of land described in such certificate, which deed shall convey to the grantee therein named the said land free and clear of all encumbrances, except State, county and municipal taxes, assessments or taxes levied or assessed by or under statutory authority, and any water storage and conservation district assessment, or portion thereof, remaining unpaid at the date of said sale, each installment whereof may be called and collected as herein provided, except that no parcel sold and conveyed to the district shall thereafter be subject to sale by the county treasurer for delinquent installments. Lands deeded to the county treasurer as trustee of the bond and interest fund shall be deemed to be district lands.

Assessment deed

Effect of deed

SEC. 128. Every deed by a county treasurer purporting to be executed under this section shall be prima facie evidence of the truth of the matters therein recited, and of ownership by the grantee of the lands therein described.

Disposition of moneys collected upon assessments when bonds issued

SEC. 129. The county treasurer of each county shall credit to the bond fund of the district all moneys collected by him by sale or otherwise, upon assessments against which bonds shall have been issued, including interest and penalties, and he shall likewise credit to said fund the amounts of purchase money paid in bonds or coupons on sales made under said assessment. Each county treasurer shall charge to the general fund of the district, or to the bond fund if he has no money to the credit of the general fund, the expense of publication of notices and of recording certificates of sale, and shall notify the treasurer of the district thereof. The county treasurer shall transmit to the treasurer of the district all canceled bonds and coupons received in payment on any delinquent sale, and a memorandum of all sums indorsed as paid upon account of purchase money on any bonds or coupons, specifying the same. All moneys collected by any county treasurer upon account of an assessment on which bonds shall not have been issued shall be similarly accounted for to the treasurer of the district, and shall be credited to the general fund of the district.

Sales of land bid in by trustee of bond fund

SEC. 130. Any parcel of land bid in and purchased by any county treasurer as aforesaid, as trustee of the bond fund of the district, may be sold and conveyed by him or his successor in office at any time after the expiration of said redemption period of one year, at public or private sale and with or without notice, to any person paying him the amount for which said parcel was bid in by said treasurer at delinquent sale, with interest thereon at the rate of 7 per cent per annum from the date of said delinquent sale, and also the amount of all subsequent installments then delinquent, with accrued interest and penalties thereon. Such payment may be made either in cash or in matured bonds and coupons issued on said assessment, taken at their face value, and such treasurer shall execute a deed to such purchaser upon such sale, conveying said property free of encumbrances, except as hereinbefore provided for deeds where no redemption is made.

Sales by public auction

SEC. 131. If any land so held by a county treasurer as trustee of the bond fund of a district shall remain unsold after the final installment of the assessment shall have been collected by payment or sale, then each such treasurer shall sell all said land so held by him at public auction to the highest bidder for cash, notice of which sale shall be given by publication once a week for two successive weeks in some newspaper of general circulation published in the county in which said land is situated, and shall deposit the proceeds of such sale in the treasury of the county to the credit of the bond fund of the district.

Transfer of balance in bond fund

SEC. 132. Any balance remaining in such bond fund, after payment in full of the principal and interest of all outstanding bonds of the district, shall be by the treasurer transferred to the general fund of the district. The county treasurer of each of the several counties shall report all transactions of delinquencies and sales to the treasurer of the district who shall keep a record thereof in the office of the district.

Payment of assessment in full

SEC. 133. Where bonds of the district have been authorized and issued on unpaid assessments as provided by Sections 104 to 116, inclusive, thereof, any owner may pay the assessment against any assessed parcel of land in full, by paying to the county treasurer of the county in which the lands are situated the amount of said assessment plus interest at 7 per cent computed from the date when the last call for payment of interest or principal became delinquent to and including an additional 30-day period following the date of payment to said county treasurer. Said payment may be made in lawful money of the United States or in lieu of such payment bonds of said district at the face value thereof, issued on an assessment and then matured or to mature next in consecutive order of maturity as determined by the next numbered unpaid bond.

Notice that funds are available to pay unmatured bonds

SEC. 134. Upon receipt of payment as above provided by the treasurer of the county in which the lands against which the assessment has been paid are situated, and such payment equals or exceeds the principal amount of the next numbered unmatured bond or bonds, the treasurer of the district shall cause a notice to be published in a newspaper of general circulation in the county in which the office of the district is situated for a period of three weeks, stating that funds amounting to the number of (insert) dollars are available in the treasury of the district for the payment of bonds unmatured as of that date, describing the bonds by serial number and date of maturity and stating that on and after (insert date) interest on said bonds will cease and that payment of said described bonds will be made together with interest due and unpaid thereon upon presentation to the treasurer of said district. Whenever bonds are presented as payment in lieu of lawful money of the United States as above provided, the county treasurer to whom payment is made shall accept said bonds for such amount as will equal the largest amount without credit return for overpayment of the amount of said assessment, the remaining balance, if any is needed, to pay said assessment in full together with interest as provided herein, shall be paid in lawful money of the United States.

GENERAL FINANCIAL PROVISIONS

Payment of claims

SEC. 135. All claims against the district shall be paid by warrants of said district. To provide a fund for that purpose the board of directors may from time to time draw from the

general fund deposited and kept to the credit of the district in the office of the county treasurer of a county having funds belonging to the district in his possession such sums as may be necessary for said purpose, which said sums shall be deposited with the treasurer of the district and paid out by him upon warrants of the district, and he shall report to the board of directors in writing at its regular meeting in each month the amount of money in the district treasury and the amount of receipts and the amount and items of expenditures for the month preceding, which said report shall be verified and filed with the secretary of the board.

Payment of bonds and interest

SEC. 136. Where bonds have been issued by the district as provided by Sections 115 and 116 hereof, the treasurer of the district shall draw from the bond and interest funds deposited and kept to the credit of the district in the office of the county treasurer of a county having funds belonging to the district in his possession such sums as may be necessary to pay upon presentation any and all bonds and interest coupons as they mature for payment and shall upon payment of any such bonds and coupons immediately cancel the same by stamping the date of payment thereon and he shall report to the board of directors in writing at its regular meeting each month, the amount of money drawn from the county treasuries having funds of the district credited to the bond and interest fund and the amount paid out, segregated as to principal and interest on account of matured bonds and coupons together with the amounts paid out on account of unmatured bonds and coupons the payment for which is provided by Sections 133 and 134 hereof.

Record of assessments

SEC. 137. The treasurer of the district shall and it shall be his duty to keep a record book of all assessments against which bonds have been issued which record book shall show the following: The name and address of the owner of each assessed parcel of land, the amount of assessment against each assessed parcel of land, the amount and date of each call of assessment segregated as to principal and interest, the date when paid, the amount added for delinquency to each assessment call, the amount of penalties if any are added, the total amount paid by the assessed owner either in cash or bonds of the district, the balance of principal amount of assessment uncalled or unpaid and such other information as may be necessary to calculate at any time the exact amount unpaid upon any assessment levied against any owner of any parcel of land within the water storage and conservation district.

Debts in excess of those permitted void

SEC. 138. The board of directors or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such provisions shall be and remain absolutely void; provided, that nothing contained in this section shall be construed as limiting the right of the board to enter into any contract for the use of or lease for any lands, water,

water rights, or other property, as in this act provided, and by such lease or contract to bind the district for the payment of the rental or consideration specified in such lease or contract.

Treasurer

SEC. 139. The treasurer of the district shall receive to the credit of the district and in trust for the uses and benefits thereof all the funds thereof, and all such funds or moneys belonging to the district, or to which the district is entitled, shall, when received, except as herein otherwise provided, be paid by the person so receiving them to the said treasurer. The said treasurer shall establish for the district two funds, to wit, a bond and interest fund and a general fund, and shall apportion the moneys of the district to said funds, as follows: To the bond fund, all moneys collected for any purpose on an assessment on which bonds have been issued, including all interest and penalties and all proceeds from all sales of property for delinquent calls of such assessments; to the general fund, all other moneys or funds received.

Lands sold to district

SEC. 140. In case lands of the district when sold for both delinquent taxes and assessments, are struck off to the district as the purchaser, the collector of the district shall, in making his accounting with the treasurer of said district, furnish a statement of the lands so sold to the district and of the amount for which the same were sold, and said treasurer shall thereupon estimate that portion of said amount belonging to the bond fund and shall charge the general fund with said portion and shall pay the same from the general fund into the bond fund; thereafter while the district holds the title to said lands, all receipts from land rentals, crop income and money received from the sale of district lands to purchasers shall be credited to the general fund. The moneys placed in the bond fund shall be used for the payment of bonds and of the interest thereon, and, until the total bonded indebtedness of the district is discharged, shall not be used for any other purpose.

Warrants of district

SEC. 141. The funds of the district shall not, except for the payment of bonds and interest thereon, be paid out by the treasurer of the district, unless a warrant therefor shall have been drawn and executed by the board of directors. Such warrants are and shall be considered as contracts in writing for the payment of money, and the period prescribed for the commencement of an action based thereon, or connected therewith, is and shall be the term of four years from the date of their issuance. In any proceeding for a writ of mandate to compel the board of directors to issue a warrant, the court must determine the controversy in the manner provided for determining controversies in other civil actions, and shall cause a writ to issue for such sum as may be found to be due.

Use of excess funds

SEC. 142. Whenever the funds of the district are in excess of the amount necessary to complete the construction of the irrigation works or to acquire the necessary water, water rights, property and rights in property therefor and to supply

all the lands contained in the district with sufficient water for irrigation purposes and in addition thereto to pay every obligation of the district that is due and payable or that will become due and payable or that it is probable will become due and payable before the expiration of two years from the date on which the last preceding tax of the district was levied, the board of directors may direct the treasurer of the district to pay with said excess (specifying the amount thereof) such an amount of the sold bonds of the district as said excess sum of money will redeem at the lowest value at which they may be obtained for liquidation, in no case for more than the par value thereof.

ELECTIONS

Qualified voters

SEC. 143. Except as herein otherwise provided, every holder of title or evidence of title (including the aforesaid possessory rights) to land contained in said district, and no other, shall be qualified and entitled to vote either in person or by proxy at any election held by said district. Each person entitled thereto shall have one vote for each dollar's worth of land, the title to which is held by him as above provided. The next preceding assessment book of said district shall, for the purpose of this section, be conclusive evidence of ownership and of the value of the property so owned.

Elections

SEC. 144. Except as herein otherwise provided, all elections held under the provisions of this act shall be called, held and conducted at the time, place and in the manner provided by the by-laws of the district; provided, however, that no such election shall be valid unless held within the district and unless notice thereof shall first have been given in the following manner: By publication thereof once a week for at least two weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. The said notice of election shall state the time, place and purposes thereof.

Board of election

SEC. 145. At least 10 days before any election, the board of directors must appoint from among those persons qualified and entitled to vote at said election an inspector and two judges, who shall constitute a board of election, and three alternates who shall, in the order in which they are appointed, fill any vacancies on said board if any members thereof do not attend at the opening of the polls. Each member of such board of election, or his successors, must, before entering upon his duties as such, take an official oath as such member of the board of election, which may be administered by any officer authorized to administer oaths or by any landholder in the district. The inspector is chairman of the election board and shall appoint the necessary clerks, and if during the progress of the election any judge or clerk shall cease to act, he shall appoint his successor.

Polls

SEC. 146. The polls shall be kept open for the reception of votes from 10 o'clock a.m. until 5 o'clock p.m., when the same

must be closed. The election board shall, before the opening of the polls, post in a conspicuous place thereat a list of all persons entitled to vote at said election with the number of votes they are entitled to cast, which said list shall have been prepared and delivered to the election board by the assessor of the district at least five days prior to said election.

Ballots

SEC. 147. The ballots used at the election shall be provided by the board of directors and one of the clerks of the election shall deliver one of them to each person qualified to cast a vote or to his representative by proxy. The clerk of the election board at the time of delivering the ballot to the voter, or his representative by proxy, shall mark thereon in a space provided for that purpose the name of the person casting the ballot and also the name of the proxy, if any, and the number of votes which he is entitled to cast. The person casting the ballot shall stamp a cross with a rubber stamp, to be provided by the board of directors, in the square behind the name of each candidate or proposition he wishes to vote for.

Proxies

SEC. 148. The election board shall retain and file with the returns of the election all proxies presented at said election. A list of the ballots cast shall be made by the board of election, containing the name of the voter and, if the ballot be cast by proxy or by the legal representative of the voter, the name of the person casting it; the number of votes cast; and how the person voted on the different matters presented at the election.

Canvass by board of election

SEC. 149. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result, and shall, within three days after the close of the polls, forward a certificate showing the number of votes cast for or against each candidate or proposition, together with all ballots used and all documents and papers used at such election, to the clerk of the board of supervisors of the county in which the district was organized, and a duplicate copy of said certificate to the secretary of the district. A copy of said certificate, certified by said clerk of the board of supervisors, shall be by him filed for record within five days from the receipt thereof with the county recorder of each county in which any of the lands contained in said district are located, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to said district.

Contest of election

SEC. 150. Any person interested may contest such election, within 10 days after the result thereof has been declared by the board of election, by filing a complaint in the superior court of the county where such election was held, and if no contest shall be commenced within such said time, the declaration of the result by the board of election shall be final and conclusive.

Execution of proxies

SEC. 151. No proxy shall be valid and no proxy shall be accepted or vote allowed thereon at any election held under the

provisions of this act unless the same be executed in writing by the person or corporation who, according to the next preceding assessment book of the district is entitled to the votes for which the proxy is given. The said proxy shall be acknowledged before some person authorized to take certified acknowledgments of conveyances of real property and shall specify the election for which it is given and shall only be used at such election. Every proxy shall be revocable at the pleasure of the person executing it.

Nomination of candidates

SEC. 152. Not less than 10 days before the election, any 10 or more qualified voters of the district may file with the board of directors a petition, requesting that the names of certain persons, specified in such petition, be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots. But there shall be sufficient blank spaces left in which voters may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district.

DISSOLUTION

Suit for dissolution

SEC. 153. An action may be brought by the Attorney General in the name of the people of this State, upon his own information, or that of a private party, for the dissolution of any district formed hereunder for a nonuser of its corporate powers. In such action the complaint and summons shall be personally served upon said district by delivery of a copy thereof to either the president of the board of directors or the secretary of the district.

Orders for hearing and publication

SEC. 154. When service has been made upon the defendant and an appearance has been entered or a default of the defendant entered, the court, upon the application of any of the parties, shall thereupon enter an order fixing a day for hearing, which shall not be less than 25 days from the date of the order and shall, also, enter an order directing notice by publication to be given by the clerk to all persons interested in said district either as the owners of land or interests in land in said district or as creditors of said district, or otherwise, requiring them to appear on the day fixed for the hearing and show cause, if any they have, why the district named in the complaint as defendant should not be dissolved. The notice shall be published in some newspaper of general circulation published in each county in which any of the lands contained in said district are located, for a period of not less than 20 days.

Hearing

SEC. 155. On the day fixed for a hearing, or some later date to which the cause may be continued, the court may proceed with the hearing, due proof having been first made of the service of the notice by publication for the length of time required by the order. Any person interested in the district that is defendant, shall, upon showing his

interest, be allowed to file an answer or objections to the dissolution of the defendant and shall from the filing of said answer or objections become a party defendant, and be entitled to all the rights of a defendant in any civil action.

Order

SEC. 156. If upon the trial of any such action it be determined by the court: That the district is not in debt, or if in debt, that all claims are barred by the statute of limitations and that in addition thereto said district, or the board of directors thereof, are not proceeding to place the lands of the district under irrigation and are not exercising the power of the corporation and have not been doing so for a period of one year prior thereto, the court shall then enter a decree dissolving the district, or make such further order as may be deemed necessary to protect the rights of all parties interested.

EXCLUSION

Change of boundaries to exclude lands

SEC. 157. The boundaries of any water storage and conservation district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the district nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

Petition to exclude lands

SEC. 158. The owner or owners in fee of one or more tracts of land which constitute a portion of a water storage and conservation district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment books by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgement shall have the same force and effect as evidence as the acknowledgement of such a conveyance.

Notice of filing petition

SEC. 159. The secretary of the board of directors shall cause a notice of the filing of such petition to be published once a week for four consecutive weeks in some newspaper published in the county where the district was organized and

if any portion of such territory to be excluded lie within another county or counties then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they will be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

Hearing of petition

SEC. 160. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

Assent of outstanding bondholders

SEC. 161. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion hereof as may be excluded from said district by order of said board, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the holders of such bonds in

the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

Exclusion of lands

SEC. 162. Upon the hearing the board of directors shall exclude and only exclude land which in its judgment it believes should be excluded, and in the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion shall be and remain a water storage and conservation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

Signature of petition, etc., by representatives

SEC. 163. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this State, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

Lien of outstanding indebtedness, etc

SEC. 164. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion

never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said water storage and conservation district the same as though said petition for its exclusion had never been filed or said order or decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to, to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

INCLUSION

Change of boundaries to include land

SEC. 165. The boundaries of any water storage and conservation district organized or existing under the provisions of this act may be changed to include within such district additional land, whether contiguous thereto or not, as hereinafter in this act provided; but no change in the boundaries of any district shall impair or affect its organization or its right in or to property, or any of its rights or privileges of whatsoever kind or nature, nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it was or might become liable or chargeable had such change of its boundaries not been made.

Petition to include lands

SEC. 166. The holder or holders of title, or evidence of title, or a majority of holders of title, or evidence of title of any tract or tracts of land may file in the office of the board of directors of any water storage and conservation district a petition praying that said tract or tracts of land be included within said districts; provided, that if there is more than one holder of title or evidence of title of said land the petitioners must include the holders of title or evidence of title of at least one-half of the area of said land. If any petitioner is the owner of an undivided interest in said land, or any of it, he shall be deemed to be the owner of such proportion of the area of the land in which he has an interest as his interest bears to the whole of such land. Each signature to such petition shall be acknowledged or proved as provided by law for signatures to an instrument to entitle it to be recorded.

Notice of filing petition

SEC. 167. The secretary of the board of directors shall cause a notice of the filing of said petition to be given and published once a week for four consecutive weeks in some newspaper published in the county where the district was organized and if any portion of such territory to be included lie within other county or counties, then such notice shall be so published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be included. The notice shall state the purpose of the petition and describe the boundaries of the tract or tracts of land proposed to be included and give the names of the petitioners, and it shall notify all persons interested in or that may be affected by the proposed inclusion of said land within the district to appear at the office of said board at a time named in said notice for the hearing of said petition and objections thereto and show cause in writing, if any they have, why said land or any of it should not be included as proposed in said petition. The time to be specified in the notice for the hearing of said petition and any objections thereto shall be the regular meeting of the board next after the expiration of the time for the publication of said notice. The petitioners shall advance to the secretary sufficient money to pay for the publication of said notice.

Hearing of petition

SEC. 168. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition and all the objections thereto presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

Condition to grant of petition

SEC. 169. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as taxes or assessments, had such lands been included in such district at the time the same was originally formed.

Order including and

SEC. 170. If the board of directors, after the hearing herein provided for, shall determine that said petition complies with the requirements hereof and that the inclusion within the district of the tract or tracts of land described in said petition, or some portion or portions thereof, will be for the best interests of the district and if no protest against the inclusion of such land is made, or if such protest be made and enough signatures be withdrawn therefrom so that said protest is no longer sufficient, the board shall order the boundaries of the district to be changed so that said tract or tracts of land, or such portion or portions thereof as the board shall deem it for the best interests of the district to include, shall be included within the district, but no land shall be so included unless the board, after hearing aforesaid, shall determine that it can be irrigated by means of some of the works of the district or by means of practicable works connecting therewith and will be benefited by such irrigation; and if the board determines that only a portion or certain portions of the tract or tracts of land described in said petition should be included, said petition shall be dismissed unless the petitioners include a majority of the holders of title or evidence of title of said portion or of each of said portions, of said tract, representing also at least one-half of the area of said portion or of each of said portions, or unless, within 60 days from the time such determination is made, there shall be filed with the board the consent in writing of a majority of the holders of title or evidence of title of said portions, or of each of said portions of said tract or tracts of land, representing also at least one-half of the area of said portion or of each of said portions. The order shall describe the boundaries of the land so included within the district, and if said land adjoins any portion of the district the order shall also describe that portion of the boundary of the district which coincides with the boundary of the land so included, and for the purposes of said order the board may cause a survey to be made of such portions of said boundaries as may be deemed necessary. If more than one petition for the inclusion of lands has been presented, the board may in one order include within the district any number of separate tracts of land; but the owner or owners of separate tracts of land may join in a single petition the application for inclusion of separate tracts of land. Any public land of the United States of America may be included within any water storage and conservation district by such order of the board of directors without any petition therefor except as may be required by the laws of the United States, if such land can be irrigated by means of any of the works of the district or by any practicable works connecting therewith and will be benefited by such irrigation.

Conditions of inclusion

SEC. 171. When land is included within a water storage and conservation district and the board of directors finds that such inclusion without condition would work an injury to the

land already within the district either by an impairment of water rights or by requiring a greater expense for furnishing water to the lands proposed to be included, the board may prescribe conditions upon such inclusion of land, either by providing for priority of right to water for the land already in the district or for the payment of an additional annual charge upon the land included or such other conditions as may to the board seem just. If any such conditions are prescribed by the board all the owners of the land subject to such conditions must, before any order for its inclusion is made, sign an agreement with the district describing the land so to be included and specifying such conditions. The signatures to said agreement must be acknowledged or proved as provided by law for the signatures of instruments to be recorded, and said agreement must be recorded in the office of the county recorder of the county in which such lands are situated, and thereupon and upon the recording of a copy of the order including such lands as hereinafter provided, such lands shall become a part of the district subject to the conditions of said agreement.

Protest against inclusion

SEC. 172. If a protest against the inclusion of such lands, signed by not less than 3 per cent of the holders of title or evidence of title to lands within the district and holding the title or evidence of title to not less than 3 per cent in value of the lands within the district according to the last equalized assessment roll of said district, shall have been presented to the board of directors and upon the hearing of said matter said protest shall not be withdrawn, or after the withdrawal therefrom of any signatures it shall still be signed by not less than 3 per cent of the holders of title or evidence of title to lands within the district and holding the title or evidence of title to not less than 3 per cent in value of the lands within the district according to the last equalized assessment roll of said district, or if the board of directors deem it not for the best interests of the district to include therein the lands described in said petition for inclusion, or any of them, the board shall adopt a resolution stating the facts and describing the boundary of the tract of land proposed to be included in the district; but before calling the election provided for in the next section, the board may require an undertaking, with sufficient sureties, from the petitioners for the inclusion of said land conditioned that the petitioners or the sureties will pay all the cost of holding such election in case such inclusion shall be denied.

Election upon inclusion

SEC. 173. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such

election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of a water storage and conservation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," and "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

Effect of vote

SEC. 174. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

Recording order changing boundaries

SEC. 175. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain a water storage and conservation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

Minutes

SEC. 176. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

Signature of petition, etc., by representative

SEC. 177. A guardian, an executor or an administrator of an estate, who is appointed as such under the laws of this State, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

FEDERAL COOPERATION

Cooperation with United States

SEC. 178. In addition to the powers with which water storage and conservation districts are vested under this act, the districts organized hereunder shall have the following powers: To cooperate and contract with the United States under any act of Congress heretofore or hereafter enacted authorizing or permitting such cooperation, for the purposes of the construction of works for irrigation or drainage, or for the acquisition, purchase, extension, operation or maintenance of constructed works for irrigation or drainage, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands; also to borrow or procure money from the United States or any agency thereof for the purpose of financing or refinancing the obligations of the district, including any outstanding warrants or any other indebtedness, or the funding or refunding or purchase of the bonds of the district or for any of the purposes of the district authorized by law.

Same

SEC. 179. The board of directors shall generally perform all such acts as shall be necessary to carry out the powers in this act enumerated. Said board may enter into any obligation or contract with the United States for the aforesaid purposes, and may provide therein for the delivery and distribution of water for the lands of such district under the aforesaid acts of Congress and the rules and regulations established thereunder. The contract may provide for the conveyance to the United States a partial consideration for the privileges obtained by the district under said contract, of water rights or other property of the district; and in case contract may hereafter be made with the United States as herein provided, bonds of the district may be transferred to or deposited with the United States, if so provided by said contract and authorized as hereinafter set forth, at not less than 95 per cent of their par value, to the amount to be paid by the district to United States or any part thereof; the interest or principal, or both, on said bonds to be raised by assessment and levy as hereinbefore prescribed, and to be regularly paid to the United States and applied as provided in said contract. Bonds transferred to or deposited with the United States may call for the payment of such interest not exceeding 6 per cent per annum, may be of such denomination, and may call for the repayment of the principal at such times as may be agreed upon between the board and the contracting officer of the United States. The contract with the United States may likewise call for the payment of the amount or amounts to be paid by the district to the United States or any part thereof at such times and in such installments and with such interest charges not exceeding the aforesaid rate as may be agreed upon, and for assessment and levy therefor as hereinafter provided.

Elections upon cooperation proposals

SEC. 180. Any proposal to enter into a contract with the United States for the repayment of construction moneys, the cost of a water supply or the acquisition of property, and to issue bonds, if any be proposed, shall be voted upon at an election wherein proceedings shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of district bonds. Said proposal, with such plans and estimates of cost as have been made in connection therewith, shall be submitted to the State Engineer for his examination and report, and the proceedings in that regard shall be in accord with the provisions of this act, in so far as the same may be applicable. Notice of the election herein provided for shall contain in addition to the information required in the case of ordinary bond election a statement of the maximum amount of money to be payable to the United States for construction purposes, cost of water supply and acquisition of property, exclusive of penalties and interest, together with a general statement of the property, if any, to be conveyed by the district as hereinabove provided. The ballots at such election shall contain a brief statement of the general purpose of said contract and the amount of the obligation to be assumed, as aforesaid, with the words "Contract—Yes" and "Contract—No," or "Contract and Bonds—Yes" and "Contract and Bonds—No," as the case may be. The board of directors may submit any such contract or proposed contract and bond issue if any, to the superior court of the county wherein is located the office of said board to determine the validity thereof and the authority of the board to enter into such contract, and the authority for and validity of the issuance and deposit or transfer of said bonds; whereupon the same proceedings shall be had as in the ordinary case of the judicial determination of the validity of bonds and with like effect.

Distribution of water under contracts

SEC. 181. All water, the right to use of which is acquired by the district under any contract with the United States shall be distributed and apportioned by the district in accordance with the terms of such contracts, and provision may be made in the contract between the district and the United States for the refusal of water service to any or all lands which may become delinquent in the payment of any assessment, water tolls and charges, levied for the purpose of carrying out any contract between the district and the United States.

Conveyance of rights of way of district

SEC. 182. Any right of ways or other property owned or acquired by the district may be conveyed by the board to the United States in so far as the same may be needed for the construction, operation and maintenance of works by the United States for the benefit of the district under any contract that may be entered into with the United States pursuant to this act.

Assessment to meet payments to United States

SEC. 183. The assessment required in any year to meet the payment due to the United States for all purposes under the contract as in this act provided may be apportioned in accordance with the benefits, and in the ascertainment of such benefits there shall be taken into account the provisions of the contract between the United States and the district, and in case such contract is for the assumption by the district as principal or guarantor of indebtedness to the United States theretofore existing on account of district lands, there shall be further taken into account the provisions of existing contracts carrying such indebtedness and the amounts of such liens as may be released in pursuance of the contract between the United States and the district.

Dissolution after contract with United States

SEC. 184. Where a contract shall have been entered into between the United States and any water storage and conservation district, the district shall not be dissolved, nor shall the boundaries be changed, except upon written consent of the officer in control of any department or agency of the United States with which contract has been made, said consent shall be filed with the official records of the district. If such consent be given and lands be excluded, the areas excluded shall be free from all liens and charges for payments to become due to the United States.

Construction of works by district under contract with United States

SEC. 185. In addition to the other powers enumerated in this act, in any case where the United States or any department thereof under United States authority, is about to construct or is authorized to construct works for the benefit of any water storage and conservation district and such district is obligated by contract or otherwise to repay the construction cost thereof in whole or in part to the United States or such department thereof, then such district may by resolution of its board of directors enter into contract with the United States or such department therefor for the construction of such works or may submit bids for construction thereof the same as any other person or corporation could submit bids for the construction of public works, and in the event such district shall become the successful bidder for such works or any part thereof the district is authorized to cause to be executed at the cost of the district a bond or bonds for the faithful performance of the work and to do any and all things required by the United States or such department thereof as would be required of any other successful bidder on such works, and such district shall upon the execution of such construction contract proceed with the work in the same manner and under the same laws, rules and regulations as would apply to such district in the construction of any works which such district is authorized to construct and for the purpose of providing the necessary moneys to carry on such construction work the board of directors of such district is authorized to borrow money for a term not exceeding five years and at rates of interest to be fixed by the board of directors, not

exceeding 7 per centum per annum, and issue notes, warrants or other evidence of indebtedness which shall at no time exceed one-half of the total construction cost as provided by the contract therefor; and provided further, that any moneys received by such district from the United States or any department thereof under such contract shall first be applied to the retirement of such notes, warrants or other evidence of indebtedness.

Borrowing from United States

SEC. 186. In addition to other powers in this act conferred, water storage and conservation districts shall have authority to borrow or procure money from the United States or any agency thereof, for the purpose of financing any of the operations of the district or financing or refinancing any or all of the obligations of the district, including outstanding warrants or any other indebtedness, or the funding or refunding or purchase of the bonds of the district, or for any of the other purposes of the district authorized by this act. As evidence of such loan or loans and the obligations of such district to repay the same to the United States or any agency thereof, any water storage and conservation district, upon being authorized so to do as provided by Section 65 of this act as hereinafter in this section modified, may make and enter into contract or contracts with the United States or any agency thereof, as a condition or requirement to the making of such loan or loans. Such district may issue bonds of the district as may be required by the contract last above provided for or without such contract, containing such terms and conditions and payable in such manner and from such source or sources of income and/or revenue as may be agreed upon between the district and the United States or agency and may obligate and bind the district for the payment of such bonds according to the terms thereof. Such bonds may be serial or sinking fund bonds and may be made callable either by number or by lot and may be made payable to bearer or to the United States or any agency thereof and shall be in the form and authorized and issued in the manner substantially as provided for in this act.

Contract to pay part of construction cost of dams or reservoirs

When districts organized under the provisions of this act undertake the construction of dams and reservoirs for the storage of flood waters upon streams subject to devastating, and destructive floods for the purpose of storing and conserving such flood waters for irrigation, the directors of the district shall have the power in addition to other powers enumerated in this act to enter into contracts and/or agreements with the War Department or the Department of Agriculture of the United States as provided by Act of Congress of the United States. Public No. 738 Seventy-fourth Congress, approved June 22, 1936, and Act of Congress of the United States, Public No. 761 Seventy-fifth Congress, approved June 28, 1938 (which acts authorize the construction of certain public works on rivers and harbors for flood control, and for other

49 Stat at L., p 1570

52 Stat at L., p 1215

purposes) providing for the payment of a portion of the cost of construction of said dams and reservoirs or the payment in whole or in part by the United States of the cost of all lands, easements, and right of ways necessary for the dam and reservoir project for flood control. When contracts are entered into between the district and the departments or agencies of government of the United States as above mentioned, the district shall contract with such departments or agencies for the operation of the dams and reservoirs in such manner as will provide and protect the use of said dams and reservoirs and the flood waters stored and conserved therein for the maximum use and benefit of the district for irrigation purposes. Notwithstanding any provision of this act, a proposal to enter into and execute any contract with the United States or any agency thereof as provided for by this section need not be submitted to the State Engineer and a majority vote shall be sufficient to authorize the execution thereof, and the notice of election and ballot need contain only the information required in the case of ordinary bond election and that a proposal to enter into such contract and to issue bonds, if any, may be voted upon together as a single proposition.

Minimum of levy of assessment

SEC. 187. When the security underlying the indebtedness of any district has been or is hereafter appraised by the Reconstruction Finance Corporation or any agency of the United States, or said corporation or any agency of the United States, with or without such appraisal, has loaned or hereafter loans any such district money to fund or refund any of its indebtedness or to finance any of its operations, such district shall have and is hereby given power and authority in contracting for such loan to enter into an agreement that it will not thereafter during the life of such loan, levy any assessment for a less amount than required by the provisions of this act, or by the terms of such contract, and when such district shall have so contracted, the California Districts Securities Commission shall not thereafter have jurisdiction or authority to approve or give its consent to the levy of an assessment in any amount less than required to be levied by the provisions of the contract and of this act.

GENERAL PROVISIONS

Constitutionality

SEC. 188. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each of said parts thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Effect on other acts

SEC. 189. This act does not change, modify, add to or repeal any other act or law of this State.

Effect of headings

SEC. 190. Headings do not in any manner affect the scope, meaning, or intent of the provisions of this act.

Short title

SEC. 191. This act shall be known and cited as the "California Water Storage and Conservation District Act."

CHAPTER 1254

Stats 1937, p 1005, amended

An act to amend Sections 2181 and 2221 of the Welfare and Institutions Code, relating to aid to the aged.

In effect September 13, 1941

[Approved by Governor July 17, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 2241

SECTION 1. Section 2181 of the Welfare and Institutions Code is hereby amended to read as follows:

Investigation

2181. The board of supervisors, directly or through an authorized investigator, shall upon receipt of an application for aid, promptly, without any unnecessary delay, and with all diligence, make the necessary investigation. Such investigation shall be completed within 90 days after receipt of the application.

Relatives' Contribution Scale

The board shall upon receipt of the report of the investigation determine the ability of responsible relatives to contribute to the support of applicant and designate the amount of aid, if any, to be granted. The maximum degree of liability of the responsible relative shall be determined by "Relatives' Contribution Scale." In determining ability to contribute, the financial circumstances of responsible relatives shall be given due consideration and, in unusual cases, contributions at less than the amount fixed by "Relatives' Contribution Scale" may be made as the board of supervisors may deem justifiable.

RELATIVES' CONTRIBUTION SCALE

Scale

A. Net monthly income of responsible relatives in one family	B. Number of persons dependent upon income 1	2	3	4	5	6	7	8	9	10 and over
	C. Maximum required monthly contribution									
Under $75	0	0	0	0	0	0	0	0	0	0
$75- 84	0	0	0	0	0	0	0	0	0	0
85- 94	0	0	0	0	0	0	0	0	0	0
95- 104	5	0	0	0	0	0	0	0	0	0
105- 114	8	0	0	0	0	0	0	0	0	0
115- 124	12	0	0	0	0	0	0	0	0	0
125- 134	17	0	0	0	0	0	0	0	0	0
135- 144	23	0	0	0	0	0	0	0	0	0
145- 154	30	5	0	0	0	0	0	0	0	0
155- 164	35	10	0	0	0	0	0	0	0	0
165- 174	40	15	0	0	0	0	0	0	0	0
175- 184	45	20	5	0	0	0	0	0	0	0
185- 194	50	25	10	0	0	0	0	0	0	0
195- 204	55	30	15	5	0	0	0	0	0	0
205- 214	60	35	20	10	0	0	0	0	0	0
215- 224	65	40	25	15	5	0	0	0	0	0
225- 234	70	45	30	20	10	0	0	0	0	0
235- 244	75	50	35	25	15	5	0	0	0	0
245- 254	80	55	40	30	20	10	0	0	0	0
255- 264	80	60	45	35	25	15	0	0	0	0
265- 274	80	65	50	40	30	20	5	0	0	0
275- 284	80	70	55	45	35	25	10	0	0	0
285- 294	80	75	60	50	40	30	15	5	0	0
295- 304	80	80	65	55	45	35	20	10	0	0
305- 314	80	80	70	60	50	40	25	15	5	0
315- 324	80	80	75	65	55	45	30	20	10	5
325- 334	80	80	80	70	60	50	35	25	15	10
335- 344	80	80	80	75	65	55	40	30	20	15
345- 354	80	80	80	80	70	60	45	35	25	20
355- 364	80	80	80	80	75	65	50	40	30	25
365- 374	80	80	80	80	80	70	55	45	35	30
375- 384	80	80	80	80	80	75	60	50	40	35
385- 394	80	80	80	80	80	80	65	55	45	40
395- 404	80	80	80	80	80	80	70	60	50	45
405- 414	80	80	80	80	80	80	75	65	55	50
415- 424	80	80	80	80	80	80	80	70	60	55
425- 434	80	80	80	80	80	80	80	75	65	60
435- 444	80	80	80	80	80	80	80	80	70	65
445- 454	80	80	80	80	80	80	80	80	75	70
455- 464	80	80	80	80	80	80	80	80	80	75
465 or over	80	80	80	80	80	80	80	80	80	80

SEC. 2. Section 2224 of the Welfare and Institutions Code is hereby amended to read as follows:

Stats 1941, p 27

2224. The board of supervisors shall determine if the applicant or recipient of aid has within the State a spouse or adult

Aid by spouse or adult child

Aid by spouse or adult child

child pecuniarily able to contribute to the support of the applicant or recipient of aid.

If the applicant or recipient of aid has a spouse or adult child, that spouse or child shall file a sworn statement indicating whether he or she is contributing to the support of the applicant or recipient of aid, and if contributing, in what form and amount per month.

Upon the request of the board of supervisors, the spouse or adult child shall file such sworn statement within 10 days if living in the county, or within 30 days if living elsewhere in the State; provided, however, that the granting or continued receipt of aid shall not be contingent upon the filing of such sworn statement by such spouse or adult child.

If the person receiving aid has within the State, a spouse or adult child pecuniarily able to support said person, the board of supervisors shall request the district attorney or other civil legal officer of the county granting such aid to proceed against such kindred in the order of their responsibility to support. Upon such demand the district attorney or other civil legal officer of the county granting aid shall, on behalf of said county, maintain an action, in the superior court of the county granting such aid, against said relative, in the order named, to recover for said county such portion of the aid granted as said relative is able to pay, and to secure an order requiring the payment of any sums which may become due in the future for which the relative may be liable. Any sum so recovered shall be credited by the county to the county, to the State and to the Federal Government in proportion to the contributions of each respectively, or in the manner prescribed by the State Department of Social Welfare.

The granting of or continued receipt of aid shall not be contingent upon such recovery.

Existing causes of action

SEC. 3. The amendments made by this act in Section 2224 of the Welfare and Institutions Code do not apply to causes of action arising prior to the effective date of this act, and, as to such causes of action, Section 2224 of the Welfare and Institutions Code as it existed immediately prior to the effective date of this act shall apply.

CHAPTER 1255

An act to add Section 969.5 to the Streets and Highways Code, relating to improvement and repair of privately owned roads.

Stats 1935, p 248, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 969.5 is hereby added to the said code, to read as follows:

New section

969.5. Such boards may, after they have determined by a resolution adopted by a four-fifths vote of their membership that general county interest demands the improvement or repair of a privately owned road, improve or repair such road in consideration of the grant or lease of a right of way to the county for its own use or the use of the State, any political subdivision or other appropriate public agency for the public purposes specified in the resolution.

Improvement and repair of privately owned roads

Such improvements or repairs shall be made and paid for in like manner as improvements or repairs of county highways.

By the same authorization the board may rent to the owner of land over which such a road has been open to the public for more than five years the machinery and equipment necessary to repair such road and the approaches thereto and any protecting embankments there may be, charging therefor by way of rental the cost of labor and other necessary expenses in addition to a reasonable allowance for depreciation of machinery.

Rental of equipment to owner

Proceedings under this section shall not cause the road to become a county highway.

CHAPTER 1256

An act to amend Section 647 of the Code of Civil Procedure, relating to what is deemed excepted to.

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 647 of the Code of Civil Procedure is amended to read as follows:

Stats 1939, p 1674

647. The verdict of the jury, the final decision in an action or proceeding, an interlocutory order or decision, finally determining the rights of the parties, or some of them, an

What are deemed excepted to

order or decision from which an appeal may be taken, an order sustaining or overruling a demurrer, allowing or refusing to allow an amendment to a pleading, striking out or refusing to strike out a pleading or a portion thereof, refusing a continuance, an order made upon ex parte application, giving an instruction, although no objection to such instruction was made, refusing to give an instruction, modifying an instruction requested, an order or decision made in the absence of the party or an order granting or denying a nonsuit or a motion to strike out evidence or testimony, a ruling sustaining or overruling an objection to evidence, and any misstatement of the court in commenting upon or in summarizing the evidence, are deemed to have been excepted to.

CHAPTER 1257

Stats 1933, p. 60, amended

An act to amend Section 560 of, and to add Section 560.1 to, the Agricultural Code, relating to modified milk.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p. 502

SECTION 1. Section 560 of the Agricultural Code is hereby amended to read as follows:

Modified milk

560. Modified milk is milk which has been altered in composition to conform to special nutritional requirements. Modified milk may be sold only upon prescription of a regularly licensed physician.

New section

SEC. 2. Section 560.1 is hereby added to the Agricultural Code, to read as follows:

Addition of vitamins to market milk

560.1. Nothing in this division shall be deemed to prohibit the addition of vitamins to market milk and the sale of said milk when vitamins are added; provided, that such milk is labeled with such additions and the amounts thereof. A statement of the method and manner of adding vitamins shall be filed with and approved by the director, and when offered for sale such vitamin milk shall not be of a standard below the legal requirements of market milk.

CHAPTER 1258

An act to add Section 4132.5 to the Political Code, relating to the indexing of instruments or documents recorded.

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 4132.5 is hereby added to the Political Code, to read as follows: New section

4132.5. Any instrument or document presented for recordation which contains thereon an indorsement or indorsements indicating a way or ways in which such instrument or document shall be indexed, shall, when accepted for recordation, upon payment of his legal fees, be indexed by the recorder in every way indicated by such indorsements. Such document or instrument need not be indexed in any other index or in any other manner than as indicated by the indorsement appearing thereon. Indexing documents according to indorsement

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CHAPTER 1259

An act to amend Sections 154, 5355 and 5356 of, to add Section 7051.5 to, and to repeal Sections 155, 535.8 and Chapter 5, comprising Sections 7200 to 7213, inclusive, of Part 4 of Division 6 of the Welfare and Institutions Code, relating to the establishment of a State institution for defective and psychopathic delinquents in place of the State Narcotic Hospital, and to make an appropriation therefor. Stats. 1937, p. 1005, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 7051.5 is hereby added to the Welfare and Institutions Code, to read as follows: New section

7051.5. A State institution for defective and psychopathic delinquents to be known as the California Institution for Boys for the care and treatment of male defective and psychopathic delinquents, is hereby established on the grounds and in the buildings now occupied by the State Narcotic Hospital. California Institution for Boys

The institution shall be governed and administered by the same superintendent and staff as the Pacific Colony.

Stats 1937, p 1014 See also Stats 1941, p 3232

SEC. 2. Section 154 of said code is hereby amended to read as follows:

Jurisdiction over institutions

154. The department has jurisdiction over the following institutions:

Agnews State Hospital
Camarillo State Hospital
Industrial Home for the Adult Blind
Mendocino State Hospital
Napa State Hospital
Norwalk State Hospital
Pacific Colony
Patton State Hospital
Sonoma State Home
Stockton State Hospital
Preston School of Industry
Ventura School for Girls
Whittier State School
The California Institution for Boys

Stats 1937, p 1014

SEC. 3. Section 155 of said code is hereby repealed.

Stats 1937, p 1140

SEC. 4. Section 5355 of said code is hereby amended to read as follows:

Order of commitment

5355. If, after a hearing and examination, the judge believes the person charged is a drug addict, he shall make an order committing such person to the Department of Institutions for placement in a designated hospital for an indeterminate period of not less than eight months nor more than two years; but no such order shall be made in respect to any person who has theretofore been committed to and has received treatment at the hospital unless there has been first filed with the court a written report of the medical superintendent of the hospital stating that the person is a suitable case for treatment at the hospital and if such report is not filed, the drug addict shall forthwith be discharged.

Person previously committed

Stats 1939, p 3013

SEC. 5. Section 5356 of the Welfare and Institutions Code is hereby amended to read as follows:

Support

5356. At the hearing the court shall inquire into the financial condition of the person committed or, if the person is a minor, of the parent, guardian, or other person charged with his support. If the court finds such person or persons able to do so in whole or in part, a further order shall be made requiring him or them to pay, to the extent the judge considers just, the expenses of the proceedings in connection with his commitment, and to pay to the county of which he is a bona fide resident, such sums as the court deems proper, during such time as the person committed remains in the hospital. The court shall make a further order requiring such person

Transportation expenses

or persons to pay to the Department of Institutions the expense of delivery of the patient to the State hospital to which he was committed, which shall be paid to and collected by the department and credited to the appropriation for transportation of patients.

The county auditor shall keep a record of such payments ordered to be made to the county, and shall receive, receipt for, and record such payments made, pay over such payments to the county treasurer, see that the persons ordered to make such payments comply with such orders, and report to the court any failure on the part of such persons to make such payments.

SEC. 6. Section 5358 of said code is hereby repealed. Stats 1937, p 1141

SEC. 7. Chapter 5, comprising Sections 7200 to 7213, inclusive, of Part 4 of Division 6 of the Welfare and Institutions Code, is hereby repealed. Repeal

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CHAPTER 1260

An act to add Section 1011.5 to the Fish and Game Code, relating to sharks. Stats 1933, p 394, amended

[Approved by Governor July 17, 1941 Filed with Secretary of State July 19, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1011.5 is hereby added to the Fish and Game Code, to read as follows: New section

1011.5. It is unlawful to transport or carry shark livers out of this State without a permit from the Fish and Game Commission. The commission shall issue such permit when it appears that the provisions of this section have been complied with in relation to the shark livers as to which the permit is sought. Shark livers shall not be removed from sharks at sea by fishermen. Fishermen shall bring all shark carcasses ashore and possession of shark livers without the carcass, on any fishing boat, shall be prima facie evidence that the livers were removed at sea. Shark livers

The provisions of this section providing that shark livers shall not be removed at sea by fishermen and that all shark carcasses shall be brought ashore shall not apply to shark livers or other parts of sharks imported from without the State and accompanied by a bona fide bill of lading or other shipping document showing that the origin of the shipment was outside this State nor to shark livers or parts of sharks brought ashore from a vessel returning from fishing operations carried on under a customhouse clearance to a foreign port or for the high seas. Exceptions

CHAPTER 1261

Stats 1929, p 1874, amended

An act to amend Sections 1, 5a and 11 of The California Air Navigation Act, relating to air navigation.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1939, p 1494

SECTION 1. Section 1 of The California Air Navigation Act is hereby amended to read as follows:

Definitions

Section 1. (a) The term "aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

(b) The term "air navigation facility" includes any airport, emergency landing field, light, or other signal structure, radio directional finding facility, radio or other communication facility, and any other structure or facility used as an aid to air navigation.

(c) The term "airport" means any locality either of water or land which is adapted for the landing and taking off of aircraft and which provides facilities for shelter, supply, and repair of aircraft, or a place used regularly for receiving or discharging passengers or cargo by air.

(d) The term "airman" means any individual (including the person in command and any pilot, mechanic, or member of the crew) who engages in the navigation of aircraft while under way, and any individual who is in charge of the inspection, overhauling, or repairing of aircraft.

(e) The term "Federal license" shall mean, as the case may be, a valid, unrevoked and unsuspended aircraft license issued by the United States Department of Commerce and Civil Aeronautics Board to aircraft which have met the minimum air worthiness requirements of such department and board, or airman license issued under the authority of the laws of the United States and the lawful rules and regulations issued or which may be issued thereunder.

(f) The term "person" means every natural person, firm, copartnership, association or corporation.

Stats 1939, p 1495

SEC. 2. Section 5a of the act cited in the title hereof is hereby amended to read as follows:

Federal certificate of authority required

Sec. 5a. It shall be unlawful for any person after the effective date of this act to operate or cause to be operated, for the transportation of passengers for hire, any aircraft between fixed termini over a route entirely within this State unless such person holds a Federal certificate of authority.

The term "Federal certificate of authority" shall mean a valid, unrevoked and unsuspended passenger air transport certificate issued by the United States Department of Commerce and Civil Aeronautics Board, or such other Federal

officer or board as may be thereunto duly authorized, under the laws of the United States pertaining to aviation and air commerce and the rules and regulations thereunder and regulating the scheduled operation of passenger air transport services.

SEC. 3. Section 11 of the act cited in the title hereof is hereby amended to read as follows: Stats 1939, p 1495

Sec. 11. If and when it shall be finally determined by the courts that any portion of either Section 4 or Section 5 of this act is unconstitutional, then, and only in that event: Appointment of Aeronautical Commission

(a) There shall be appointed by the Governor, a commission to be known as the Aeronautical Commission of California, consisting of three members, each of whom shall be a person trained and experienced in aviation, shall hold office at the pleasure of the Governor and shall receive no salary but shall receive his actual and necessary traveling expenses incurred in the performance of his duties. This commission shall be attached to the Department of Public Works as an independent commission and for purposes of representation in the Governor's Council only. The commission may appoint, prescribe the duties, and fix the compensation of a secretary and such employees as may be necessary.

(b) Said commission is hereby authorized and empowered: Powers and duties of commission

(1) To formulate rules and regulations for the examination of aircraft as to their air worthiness, and the licensing of the same; and for the examination of airmen as to their qualifications, and the licensing of the same;

(2) To examine and license aircraft and airmen;

(3) To revoke for cause, after written notice to the holder and a hearing being had thereon, any license issued by the commission hereunder.

Such rules and regulations must be consistent with the provisions of this act and shall provide standards for determining the air worthiness of aircraft and the requisite skill, experience, and qualification of airmen, may cover such other matters as are authorized by the provisions hereof, and shall conform to, and coincide with, so far as possible the provisions of the laws of the United States and the air commerce regulations issued from time to time pursuant thereto. Rules to conform to Federal laws

(c) In accordance with the provisions of this act and the rules and regulations formulated hereunder: Issuance of licenses

(1) Airmen licenses will be issued upon application, for a period of one year from date of issue, and upon the expiration of the respective terms of such licenses the licensees will be relicensed upon application for like periods, if the applicant is eligible therefor and has the necessary skill, experience and other qualifications;

(2) Aircraft licenses will be issued upon the application of the owner for a period of one year from date of issue and upon the expiration of the respective terms of such license the aircraft will be relicensed upon like applications for like periods

if the aircraft be air worthy and conforms to the requirements of this act and said rules and regulations.

When license not required

No State license shall be necessary under this section in the case of any aircraft or airman holding a valid and existing Federal license, corresponding to the State license which would otherwise be required hereunder.

Appropriation

(d) There shall be no fees charged for licenses issued under the provisions of this section. There is hereby appropriated, out of any money in the State Treasury, the sum of ten thousand dollars ($10,000) to be expended by said commission for payment of expenses incurred by it in carrying out the provisions hereof. Disbursement of such funds shall be made from time to time by a controller's warrant upon the written orders of the chairman of said commission.

Penalties

(e) Any person who (1) navigates any aircraft within the State of California unless said aircraft is licensed under the provisions of this section or is licensed and registered under the laws of the United States and any regulations made pursuant thereto, or (2) operates or participates in the operation of any aircraft within the State of California or acts as an airman in connection therewith unless he is licensed therefor under the provisions of this section or is registered and licensed therefor under the laws of the United States and any regulations made pursuant thereto, is guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or both such fine and imprisonment.

CHAPTER 1262

An act authorizing suits against the State of California to quiet title against it to real property entitled to be purchased under the provisions of an act entitled "An act to survey and dispose of certain salt marsh and tidelands belonging to the State of California," approved March 30, 1868, or any of the acts supplementary thereto and amendatory thereof, and regulating the procedure therein.

Stats 1867-68, p 716

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Quiet title suits

SECTION 1. In all cases where the State of California has sold any salt marsh and tidelands under the provisions of the following named acts or of any of them, to wit: "An act to survey and dispose of certain salt marsh and tidelands belonging to the State of California, approved March 30, 1868, and an act entitled "An act supplementary to and amendatory of an act entitled 'An act to survey and dispose of certain salt marsh and tidelands belonging to the State of

Stats 1867-68, p 716

Stats 1869-70, p 541

California,' approved March 30, 1868," approved April 1, 1870, and an act entitled "An act supplementary to and amendatory of an act supplementary to and amendatory of an act entitled 'An act to survey and dispose of certain salt marsh and tidelands belonging to the State of California,' approved March 30, 1868; also, an act approved April 1, 1870," approved March 30, 1874, to any person or persons and the person or persons purchasing said lands has paid all of the installments required to be paid by him or them on the purchase price thereof prior to the enactment of an act entitled "An act to abolish the State Board of Tideland Commissioners, and to repeal Sections 365 and 698 of the Political Code," approved February 4, 1876, and where no deed was ever executed and delivered to such purchaser or purchasers conveying to him or them the lands so purchased, or where such deed, if delivered, has been lost by such purchaser or purchasers or has never been recorded, the person or persons so purchasing said lands, or his or their successor or successors in interest, is and are hereby authorized to bring suit against the State of California in any court of said State of competent jurisdiction to quiet title to said land, or to any portion thereof, and to prosecute the same to final judgment.

Stats 1873-74, p 858

C A 1875-76, p 15

SEC. 2. The complaint in any such action must contain a statement of the time, place and conditions of sale of the lands concerning which title is shown to be quieted, together with a statement of all moneys paid under the terms of said sale and the date of such payments. The rules of practice in civil cases relating to suits to quiet title shall apply to such suits as may be brought under this authorization, except as otherwise herein provided. No costs against the State shall be allowed in any such suit.

Complaint

Rules of practice

SEC. 3. Service of summons in such suits shall be made upon the chairman of the State Lands Commission and upon the Attorney General, and it shall be the duty of the Attorney General to represent the State in all such suits.

Service of summons

SEC. 4. Any such suits to quiet title shall be commenced within one year after this act takes effect.

Limitation

CHAPTER 1263

An act to amend School Code Sections 5.490 and 5.491, and to repeal School Code Section 5.492, relating to the employment of lecturers in public schools.

[Approved by Governor July 17, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. School Code Section 5.490 is hereby amended to read as follows:

Sch C, 1929, p 239

5.490. Except as otherwise provided in this article, the principal of any public school may employ when so directed

Special lecturers

by the governing board of the school district, special lecturers well qualified in their subjects to speak before classes and assemblies of students of such school, without any such lecturer being required to hold a teacher's credential or certificate.

No such lecturer may be employed by the principal of any school for more than four lectures in any term.

Sch C, 1929, p 240

SEC. 2. School Code Section 5.491 is hereby amended to read as follows:

Same

5.491. The principal of any day or evening secondary school in which there are special day and evening classes, at his discretion may employ when so directed by the governing board of the school district, special lecturers well qualified in their subjects to speak before such classes, without any such lecturer being required to hold a teacher's certificate.

Permission for the employment of such lecturer shall be previously obtained from the Commission of Credentials of the State Department of Education.

Such lecturer can not be employed in any school for more than four lectures each term.

Sch C 1929, p 240

SEC. 2. School Code Section 5.492 is hereby repealed.

CHAPTER 1264

Stats 1937, p 185, amended

An act to amend Section 554 of the Labor Code, relating to days of rest.

In effect September 13, 1941

[Approved by Governor July 17, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 205

SECTION 1. Section 554 of the Labor Code is hereby amended to read as follows:

When 8 hour day and day of rest provisions are inapplicable

554. This chapter shall not apply to any cases of emergency nor to work performed in the necessary care of animals, crops or agricultural lands, nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of any train. Nor shall the provisions of this chapter apply when the employer and a labor organization representing employees of such employer have entered into a valid collective bargaining agreement respecting the hours of work of such employees. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, providing that in each calendar month the employee receive days of rest equivalent to one day's rest in seven.

In addition to the exceptions herein, the Chief of the Division of Labor Statistics and Law Enforcement may, when in his judgment hardship will result, exempt any employer or employees from this chapter.

CHAPTER 1265

An act to amend Section 1 of an act entitled "An act providing for the disposition of exhibits filed with the court in criminal cases," approved May 24, 1941, providing a procedure for the disposition of exhibits filed with the court in criminal cases.

Stats 1921, p 370, amended

[Approved by Governor July 17, 1941. Filed with Secretary of State July 19, 1941.]

In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 1 of the act cited in the title hereof is hereby amended to read as follows:

Stats 1937, p. 1536

Section 1. All exhibits other than documentary which have been filed in any criminal action or proceeding may be disposed of as follows. If the action or proceeding has resulted in conviction, such disposal may be made at any time after termination of one year after said conviction has become final. If the action or proceeding has not resulted in conviction, the court may, on application of the party entitled thereto, order such exhibits as may be released from the custody of the court without prejudice to the State delivered to such party at any time after the judgment or final determination of said action or proceeding has become final. In such cases, if the party entitled thereto is unknown, and in all other cases, the procedure shall be as follows:

Disposition of exhibits in criminal cases

Procedure

1. The court in which the case was tried shall make an order specifying what exhibits may be released from the custody of the court without prejudice to the State. Upon receipt of such an order the clerk of the court shall post a notice conspicuously in three public places in the county referring the order, describing briefly the exhibits which the court has ordered disposed of and fixing the date when and the place at which said exhibits will be offered for sale at public auction. Said date must be at least 20 days after the posting of said notice.

2. At any time prior to the time fixed for the auction the owner or any person entitled to the possession of any of said exhibits may obtain from the court an order returning the same to him. Such articles as have not been returned to their owners or to persons entitled to their possession at the time set for said auction shall be sold by the clerk to the highest bidder for cash; said articles shall be sold singly or in combinations. The money received from such sales shall be placed in the

general fund of the county. All property offered for sale for which no bids have been received may be destroyed by the clerk or returned to the files. Where the exhibit consists of money or currency and the same is unclaimed at the time of the auction the clerk shall not offer said money or currency for sale but shall immediately upon the conclusion of said sale deposit the same in the general fund of the county.

Dangerous weapons, etc

3. The foregoing shall not apply to any dangerous or deadly weapons, narcotic or poison drugs, explosives, or any property of any kind or character whatsoever the possession of which is prohibited by law, used by a defendant in the commission of the crime of which he was convicted, or with which he was armed or which he had upon his person at the time of his arrest. Any such property filed as an exhibit shall be, by order of the trial court, destroyed or sold or otherwise disposed of under such conditions as provided in such order.

CHAPTER 1266

Stats 1937, p 1005, amended

An act to add Section 155.5 to the Welfare and Institutions Code, relating to the Whittier State School.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 155.5 is hereby added to the Welfare and Institutions Code, to read as follows:

Whittier State School renamed

155.5. The Whittier State School shall hereafter be known and designated as the Fred C. Nelles School for Boys. Where in this code the name "Whittier State School" appears it shall hereafter be understood to mean and shall be construed as Fred C. Nelles School for Boys.

CHAPTER 1267

Stats 1937, p 185, amended

An act to add Section 556 to the Labor Code, relating to days of rest of employees.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 556 is hereby added to the Labor Code, to read as follows:

When chapter inapplicable

556. This chapter shall not apply to any employer or employee when the total hours of employment do not exceed 30 hours in any week or six hours in any one day thereof.

CHAPTER 1268

An act making an appropriation to the Department of Finance for the purpose of reconditioning and framing the picture "Driving the Last Spike."

[Approved by Governor July 19, 1941 Filed with Secretary of State July 19, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. The sum of two thousand five hundred dollars ($2,500) is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to the Department of Finance to be expended for reconditioning and framing the picture "Driving the Last Spike." Appropriation Department of Finance

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CHAPTER 1269

An act to amend School Code Sections 3.730, 3.731, 3.732, 3.733, 3.734, 3.735, 3.736, 3.737 and 3.738, and to add Sections 3.735-1 and 3.735-2 to said code, all relating to physical education and related activities in the public schools.

[Approved by Governor July 19, 1941 Filed with Secretary of State July 19, 1941] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. School Code Section 3.730 is hereby amended to read as follows: Sch. C., 1929, p. 144

3.730. The board of education of each county, city and county, and city, whose duty it is to prescribe the course of study for the elementary schools of such county, city and county, or city, shall prescribe suitable courses of physical education in accordance with the provisions of this article for all pupils enrolled in the day elementary schools, except pupils who may be excused in accordance with the provisions of this article. Physical education Day elementary schools

SEC. 2. School Code Section 3.731 is hereby amended to read as follows: Sch. C., 1929, p. 144

3.731. The governing board of each school district maintaining a secondary school shall prescribe suitable courses of physical education in accordance with the provisions of this article for all pupils enrolled in the day secondary schools of such district, except pupils who may be excused in accordance with the provisions of this article. Same Secondary schools

Sch C, 1929, p 144

SEC. 3. School Code Section 3.732 is hereby amended to read as follows:

Purpose of courses

3.732. The aims and purposes of the courses of physical education established under the provisions of this article shall be as follows:

(1) To develop organic vigor;

(2) To provide neuro-muscular training;

(3) To promote bodily and mental poise;

(4) To correct postural defects;

(5) To secure the more advanced forms of coordination, strength, and endurance;

(6) To promote such desirable moral and social qualities as appreciation of the value of cooperation, self-subordination, and obedience to authority, and higher ideals, courage, and wholesome interest in truly recreational activities;

(7) To promote a hygienic school and home life;

(8) To secure scientific supervision of the sanitation and safety of school buildings, playgrounds, and athletic fields and the equipment thereof.

Sch C, 1929, p 145

SEC. 4. School Code Section 3.733 is hereby amended to read as follows:

Enforcement

3.733. It shall be the duty of the superintendent of schools of every county, city and county, or city, and of the governing board of every school district to enforce the courses of physical education prescribed by the proper authority, and to require that such physical education be given in the day schools under their jurisdiction or control.

Sch C, 1929, p 145

SEC. 5. School Code Section 3.734 is hereby amended to read as follows:

Attendance on courses Elementary schools

3.734. All pupils enrolled in the elementary schools, except pupils excused therefrom in accordance with the provisions of this article, shall be required to attend upon such courses of physical education for an instructional period in each school day which shall be not less than 20 minutes exclusive of recesses and the lunch period.

Sch C, 1929, p 145

SEC. 6. School Code Section 3.735 is hereby amended to read as follows:

Same. High schools

3.735. All pupils enrolled in the junior or senior high schools, except pupils excused therefrom in accordance with the provisions of this article, shall be required to attend upon such courses of physical education for an instructional period in each school day which shall be not less than the length of the regular academic periods of the school.

SEC. 7. Section 3.735-1 is hereby added to the School Code, to read as follows: New section

3.735-1. All pupils enrolled in the junior colleges, except pupils excused therefrom in accordance with the provisions of this article, shall be required to attend upon such courses of physical education for a minimum of 120 minutes per week. Where adequate facilities are available a daily program is recommended. Same Junior college

SEC. 8. Section 3.735-2 is hereby added to the School Code, to read as follows: New section

3.735-2. The governing board of each district may grant temporary exemption to pupils who are ill or injured where a modified program to meet the needs of said pupils can not be provided, and to pupils while enrolled for one-half, or less, of the work normally required of full time students. Permanent exemption may be granted a pupil who has reached, in the case of an elementary school or high school pupil, his twenty-first birthday, or in the case of a junior college pupil, his twenty-fifth birthday, or a pupil enrolled as a post-graduate student. Exemption

SEC. 9. School Code Section 3.736 is hereby amended to read as follows: Sch C., 1929, p 145

3.736. When the number of pupils in any city, or city and county, or school district is sufficient, the governing board of such city, or city and county, or school district shall employ a competent supervisor and such special teachers, trained in physical education, as may be necessary to obtain the aims and purposes set forth in this article. Supervisor and teachers

SEC. 10. School Code Section 3.737 is hereby amended to read as follows: Sch C., 1929, p 145

3.737. The governing boards of two or more contiguous school districts may, by a written agreement, join in the employment of competent supervisors and teachers trained in physical education for such districts, and the salary of such supervisors and teachers and the expenses incurred on account of such instruction shall be apportioned as the governing boards concerned may agree. Joint employment

SEC. 11. School Code Section 3.738 is hereby amended to read as follows: Sch C., 1929, p 145

3.738. The supervisor of physical education appointed under the provisions of this article shall be experienced in the supervision of physical education in public schools. He shall exercise general supervision over the courses of physical Supervisor of physical education

instruction in elementary and secondary schools of the State. He shall exercise general control over all athletic activities of the public schools; shall advise school officials, school boards, and teachers in matters of physical education; shall visit and investigate the work in physical education in the public schools and shall perform such other duties as may be assigned to him by the State Board of Education.

CHAPTER 1270

Stats 1923, p 317, repealed

An act to repeal "An act to provide for the survey and creation of camp sites on State lands," approved May 15, 1923.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Repeal

SECTION 1. The act cited in the title hereof is hereby repealed.

CHAPTER 1271

An act to amend Section 3521 of the Political Code, relating to patents for State lands.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

1872 Code

SECTION 1. Section 3521 of the Political Code is hereby amended to read as follows:

Patent not to issue until after relinquishment

3521. No patent must issue until the lands are relinquished to the State by authority of the General Land Office at Washington. Such relinquishment is not required for locations of the sixteenth and thirty-sixth sections in place, or for swamp and overflowed lands, shown to be such by the official surveys made by authority of the United States.

CHAPTER 1272

An act to repeal Section 3788 of the Political Code, to add a new Section 3788 thereto, and to repeal Sections 4108 and 4108.5 of the Revenue and Taxation Code, relating to the disposition of State lands upon which the full purchase price is not paid and which are sold to the State for taxes.

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 3788 of the Political Code is hereby repealed. Stats. 1939, p. 1380

SEC. 2. A new section, numbered 3788, is hereby added to the Political Code, to read as follows: New section

3788. When State lands, upon which the full purchase price has not been paid, have been sold to the State for delinquent taxes and the deed therefor to the State has been forwarded to and filed with the State Lands Commission, such lands shall again become subject to entry and sale in the same manner, and subject to the same conditions, as apply to State lands of like character. State lands sold to State for taxes

SEC. 3. Sections 4108 and 4108.5 of the Revenue and Taxation Code are hereby repealed. Repeals

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CHAPTER 1273

An act to amend Sections 6214 and 6816 of the Public Resources Code, and to add Sections 6217, 6218 and 6219 thereto, relating to State lands, including the powers and duties of the State Lands Commission and the collection and disposition of fees, rentals, charges and other moneys in connection therewith. Stats. 1939, p. 1067, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6214 of the Public Resources Code is hereby amended to read as follows: Stats. 1941, p. 1879

6214. The fees to be charged and collected by the commission for services performed by it shall include the following: Fees

(a) For each certificate of purchase or duplicate, three dollars ($3).

(b) For each patent or certified copy of record thereof, five dollars ($5).

(c) For certifying a contested case to superior court, ten dollars ($10).

(d) For copies of papers, twenty cents ($0.20) per folio and fifty cents ($0.50) for certifying thereto.

(e) For making copies of maps, for furnishing status of lands and for furnishing names and addresses of purchasers of State lands, per hour, one dollar ($1), and fifty cents ($0.50) for certifying thereto.

(f) Such other fees as are allowed by law.

All fees received by the commission under this section shall be paid into the State Treasury on the first Monday of each month and placed to the credit of the State Lands Act Fund.

New section

SEC. 2. Section 6217 is hereby added to said code, to read as follows:

Disposition of money

6217. Notwithstanding any other provision of law all fees, rentals, charges and other moneys, other than from the sale of school lands, collected by the commission, or by the State pursuant to any lease, permit or other agreement entered into by the commission, shall be deposited in the State Lands Act Fund unless such moneys are required by the Constitution of this State or by law to be deposited in either the School Fund or the School Land Fund.

New section

SEC. 3. Section 6218 is hereby added to said code, to read as follows:

Fees for services

6218. The commission may charge and collect reasonable fees for services performed by it, not exceeding the actual cost to the State of such services. In any case where the commission, either pursuant to law or rule of the commission, requires the publication of advertisements for bids or the publication of any notice in connection with the sale or leasing of State lands the commission may, by rule, require that the cost of such publication be advanced by any applicant or bidder and be paid by the successful applicant or bidder.

New section

SEC. 4. Section 6219 is hereby added to said code, to read as follows:

Index of deeds

6219. In addition to the maps, plats, and records maintained by the commission of public lands owned by the State, the commission shall prepare and maintain an adequate index or record of deeds or other evidence of title to all lands owned or acquired by the State, by purchase, gift, condemnation, or otherwise except (a) lands deeded to the State due to tax delinquencies, (b) lands escheated to the State, and (c) lands or interests therein acquired by the Department of Public Works for highway purposes.

SEC. 5. Section 6816 of said code is hereby amended to read as follows: Stats 1941, p 1898

6816. All moneys and remittances received by the State pursuant to this chapter, except rents, bonuses, royalties and profits accruing from the use of State school land, shall be deposited in the State Treasury to the credit of the State Lands Act Fund, which fund is continued in existence. In addition thereto, such other moneys shall be deposited in such fund as may be provided by law. The moneys in the fund are hereby appropriated as follows: Disposition of moneys; Appropriation

(a) For the payment of refunds, as authorized by the commission and approved by the State Board of Control.

(b) The remainder of the moneys shall be used by the commission, with the approval of the Director of Finance and the consent of the Governor, to carry out the provisions of this chapter, including the acquisition of real property or interests therein, the purchase of materials and supplies, and the conducting of operations by the State as provided herein, the payment by the State of such sums as may be provided pursuant to agreements or contracts authorized herein, and the payment of the necessary expenses of the commission.

(c) Seventy per cent of the remaining balance shall be transferred to the General Fund on order of the commission, and 30 per cent thereof shall be transferred to the State Park Maintenance and Acquisition Fund, which fund is continued in existence, to be expended in the manner hereafter provided by law. State Park Maintenance and Acquisition Fund

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CHAPTER 1274

An act to add Section 6216 to the Public Resources Code, relating to State lands and to the powers and duties of the State Lands Commission in connection therewith, declaring the scope, purpose and intent of the Legislature in enacting the State Lands Act of 1938 and acts amendatory thereof, and validating and confirming the acts of the State Lands Commission. Stats 1939, p 1067, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 6216 is hereby added to the Public Resources Code, to read as follows: New section

6216. This section is enacted for the purpose of declaring the scope and extent of the powers, duties, purposes, responsibilities and jurisdiction of the State Lands Commission, but nothing herein shall be construed as limiting any Scope of powers, etc., of commission

power, duty, purpose, responsibility or jurisdiction heretofore or by this code vested in or conferred upon the commission.

Stats Ex Sess 1938, p 23 Legislative intent

(a) Upon the enacting of the State Lands Act of 1938 the Legislature intended to and did vest in the commission all those powers, duties, purposes, responsibilities and jurisdiction of the Department of Finance as set forth in Section 6102 of this code, and of the Chief of the Division of State Lands, and the Division of State Lands, including the full authority, as provided by law, to administer, sell, lease or dispose of the public lands owned by this State or under its control, including not only school lands but tide lands, submerged lands, swamp and overflowed lands, and beds of navigable rivers and lakes. The commission was further authorized to provide for the extraction of minerals and oil and gas from any or all of such lands, but its authority and jurisdiction over such lands was not and is not now limited thereto.

Provisions controlling

(b) The provisions of Section 48 of the State Lands Act of 1938, added thereto by Chapter 646 of the Statutes of 1939, as codified in Section 6301 of this code, shall hereafter supersede and control over any other provisions of law, whether general or special, relating to any tidelands or submerged lands or the beds of navigable rivers, streams, lakes, bays, estuaries, inlets or straits, without regard to whether any of such lands contain or may contain oil, gas or other minerals, and any such other provisions of law in conflict therewith are repealed.

Validation

(c) Any and all acts of the State Lands Commission heretofore performed by it in pursuance of Section 48 of the State Lands Act of 1938 are hereby confirmed, ratified and validated, without regard to whether the lands affected thereby contain or might contain oil, gas or other minerals. Lands under the jurisdiction of the State Board of Harbor Commissioners at San Francisco are excluded from the jurisdiction established by this section.

CHAPTER 1275

Stats 1935, p 1090, amended

An act to amend Section 2 of The Personal Income Tax Act, relating to the definition of residents.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1941, p 3042

SECTION 1. Section 2 of the act cited in the title hereof is hereby amended to read as follows:

Definitions

Sec. 2. Definitions. For the purposes of this act and unless otherwise required by the context—

(a) The word "commissioner" as used in this act and the word "commissioner" as used in the "Revenue Act of 1936,"

when any part of that act is incorporated herein by reference, mean the Bank and Corporation Franchise Tax Commissioner. Definitions

(b) The word "taxpayer" includes any individual, fiduciary, estate, or trust subject to the tax imposed by this act.

(c) The word "individual" means a natural person.

(d) The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, estate or trust.

(e) The word "person" includes individuals, fiduciaries, partnerships and corporations.

(f) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(g) The word "corporation" includes joint-stock companies or associations, insurance companies, business trusts or so-called "Massachusetts trusts."

(h) The words "taxable year" mean the calendar year or the fiscal year, upon the basis of which the net income is computed under this act; if no fiscal year has been established they mean the calendar year.

"Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this act or under regulations prescribed by the commissioner, the period for which such return is made.

(i) The words "fiscal year" mean an accounting period of 12 months ending on the last day of any month other than December.

(j) The words "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this act.

(k) Every natural person who is in the State of California for other than a temporary or transitory purpose is a resident and every natural person domiciled within this State is a resident unless he is a resident within the meaning of that term as herein defined of some other State, Territory or country. A natural person who is domiciled outside of this State is not a resident despite the fact that he is in this State for other than a temporary or transitory purpose if he was incompetent at the time he came into this State, and this fact is evidenced by a legal adjudication of incompetency either before or after he came into this State, and has remained incompetent during his sojourn in this State. Every natural person who spends in the aggregate more than nine months of the taxable year within the State or maintains a permanent place of abode within this State shall be presumed to be a resident. The presumption may be overcome by satisfactory evidence that such person is in the State for

Definitions

a temporary or transitory purpose. Any natural person who is or shall become a resident of this State shall continue to be a resident even though temporarily absent from the State. Every natural person other than a resident is a nonresident.

(l) The words "foreign country" mean any jurisdiction other than one embraced within the United States. The words "United States," when used in a geographical sense, include the States, the Territories of Alaska and Hawaii, the District of Columbia and the possessions of the United States. The word "State" shall include the Territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States.

(m) The words "Revenue Act of 1936" mean the act of Congress of the United States, approved June 22, 1936, and known and cited as the "Revenue Act of 1936."

(n) The words "trade or business" include the performance of the functions of a public office.

(o) The words "State board" mean the State Board of Equalization.

Legislative intent

SEC. 2. Section 1 of this act in so far as it pertains to the definition of "resident" is hereby declared to be a positive expression of a continuing legislative intent with respect to the construction of the term in The Personal Income Tax Act since its first enactment.

CHAPTER 1276

An act to add Section 2.1364-1 to the School Code, relating to the Department of Education.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 2.1364-1 is hereby added to the School Code, to read as follows:

Proper purposes for which traveling expenses allowed

2.1364-1. For the purposes of Political Code Section 352, the following constitute, among other proper purposes of like or different character, State business for officers and employees of the Department of Education for which such officers and employees shall be allowed actual and necessary traveling expenses; provided, that when such traveling is outside the State, such traveling and expense have been approved by the Governor and the Director of Finance as provided in said section:

Attending meetings of any National association or organization having as its principal purpose the study of matters relating to education or to a particular field or fields of education, or any agency of such association; conferring with

officers or employees of the United States, or appearing before committees of either house of the Congress of the United States, relative to problems relating to education in California; conferring with officers or employees of other States engaged in the performance of similar duties; and obtaining information useful to the department in the conduct of its work.

The amount expended under the provisions of this section for travel outside the State shall not exceed one thousand five hundred dollars ($1,500) in any one fiscal year.

CHAPTER 1277

An act to amend Section 653.16 of the Civil Code, relating to cooperative corporations.

[Approved by Governor July 16, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 653.16 of the Civil Code is hereby amended to read as follows: Stats. 1939, p. 2363

653.16. The names of all corporations formed under this title shall include the word "cooperative." No corporation shall be formed under this title unless there be affixed or prefixed to the name thereof, some word or words or abbreviations as will indicate that it is a corporation as distinguished from a natural person, a firm, or an unincorporated association. Name

No person, firm, individual, partnership, trust, corporation, or association unless incorporated as provided in this title, or as an agricultural corporation or association under Chapter 4 of Division 6 of the Agricultural Code or otherwise as required by the corporation laws of this State entitling it thereto, shall hereafter adopt or use the word "cooperative" or any abbreviation or derivation thereof, or any word similar thereto, as part of the name or designation under which such person, firm, partnership, trust, corporation or association shall do business in this State, nor shall they or it conduct business or represent that business is conducted cooperatively; except that a corporation or association which did business in this State under a name or designation including the word "cooperative" prior to the date of original enactment of this title, and which conducts business on a cooperative basis substantially as set forth in this title, may continue to do business under such name or designation, and except that any other person, firm, individual, partnership, trust, corporation, or association which did business in this State under a name or designation including the word "cooperative" prior to the date of original enactment of this title, but which does not conduct business substantially as set forth in this title

may continue to do business under such name or designation if the words "not organized under the law relating to cooperative corporations" be always placed immediately after such name or designation wherever it is hereafter used; and except that any foreign corporation, organized under and complying with the cooperative law of the State or other jurisdiction of such corporation's creation, shall be entitled to use the term "cooperative" in this State; provided, that said corporation has complied with the laws of this State applicable to foreign corporations, in so far as those laws are applicable to said corporation; and provided further, that said corporation is doing business on a cooperative basis, as defined in this title. Any person, firm, partnership, trust, corporation or association may be enjoined from violating the provisions of this section or from issuing, selling, offering for sale, negotiating, advertising or distributing stocks, notes, bonds, certificates or evidences of indebtedness or other securities of, issued by, or concerning the business or affairs of the same in violation of this title, at the instance of any citizen or official agency of this State.

It shall be unlawful for any corporation formed under the provisions of this title to carry on business contrary to or outside of the purpose for which it is formed.

Any person, firm, partnership, trustee, association or corporation violating any of the provisions of this section, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars ($500), or by imprisonment for not more than one year, or by both such fine and imprisonment.

CHAPTER 1278

Stats 1937, p 1229, amended

An act to repeal Section 3051 of, and to add Section 3051 to, the Business and Professions Code, relating to the training of persons seeking an optometry license.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats 1937, p 1293

SECTION 1. Section 3051 of the Business and Professions Code is hereby repealed.

New section

SEC. 2. Section 3051 is hereby added to said code, to read as follows:

Proof of college work

3051. Each applicant for examination shall also furnish proof that he has completed two years of collegiate work and showing at least 60 semester units of credit of not less than C grade average.

After June, 1943, included in these semester units the following subjects are required: (i) Physics, (ii) Physiology, biology or zoology, (iii) Chemistry, (iv) Bacteriology, (v) Psychology, and (vi) Analytical geometry. Subjects

The two years of collegiate work required by this section shall be in addition to and preliminary to the two-year course of study in optometry prescribed by Section 3049 of this code.

CHAPTER 1279

An act to add Sections 11638, 11639, 11650, 11651, 11652, 11653 and 11654 to Article 5 of Chapter 2 of Division 14 of, and to amend Section 11641 of, the Elections Code, relating to abuse of the initiative, referendum, and recall. Stats 1939, p. 49, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 11638 is hereby added to Article 5 of Chapter 2 of Division 14 of the Elections Code, to read as follows: New section

11638. As used in this article, "proponent or proponents of an initiative or referendum measure" means the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure. Definition

SEC. 1.3. Section 11639 is hereby added to the Elections Code, to read as follows: New section

11639. As used in this article, "proponent or proponents of a recall petition" means the person or persons who have charge or control of the circulation of, or obtaining signatures to, such petitions. Same

SEC. 1.7. Section 11641 of the Elections Code is hereby amended to read as follows: Stats 1939, p 314

11641. Any petition, or any section of a petition, filed by any person other than the proponents of an initiative or referendum measure and with an intention of defeating an expression of the public will is null and void. Validity of petition

SEC. 1.9. Section 11650 is hereby added to the Elections Code, to read as follows: New section

11650. Every person who seeks, solicits, bargains for, or obtains any money, thing of value, or advantage of, or from Inducing proponents to abandon petitions, etc

any person, firm, or corporation for the purpose or represented purpose of fraudulently inducing, persuading, or seeking the proponent or proponents of any initiative or referendum measure or recall petition to (a) abandon such measure or petition; (b) fail, neglect, or refuse to file in the office of the clerk or other officer provided by law within the time required by law such initiative or referendum measure or recall petition after securing the number of signatures required to qualify such measure or petition; (c) stop the circulation of such initiative or referendum measure or recall petition; (d) perform any act that will prevent or aid in preventing the initiative or referendum measure or recall petition from qualifying as an initiative or referendum measure, or the recall petition from resulting in a recall election, is punishable by imprisonment in the State prison or in the county jail for not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both fine and imprisonment.

New section

SEC. 2. Section 11651 is hereby added to said code, to read as follows:

Offenses by proponents

11651. Any proponent of an initiative or referendum measure or recall petition who seeks, solicits, bargains for, or obtains any money or thing of value, of or from any person, firm, or corporation for the purpose of abandoning the same or stopping the circulation of petitions concerning the same, or failing or neglecting or refusing to file such measure or petition in the office of the clerk or other officer provided by law within the time required by law after obtaining the number of signatures required under the law to qualify such measure or petition, or performing any act that will prevent or aid in preventing the initiative, referendum or recall proposed from qualifying as an initiative or referendum measure, or resulting in a recall election, is punishable by imprisonment in the State prison or in the county jail for not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both fine and imprisonment.

New section

SEC. 3. Section 11652 is hereby added to said code, to read as follows:

Threatening circulation of petitions, etc.

11652. Any person who seeks, solicits, bargains for, or obtains any money, thing of value or advantage of or from any person, firm, or corporation on the threat or representation or claim or demand that unless such money, thing of value, or advantage is obtained, that an initiative or referendum measure will be proposed and circulated or proposed or circulated affecting either directly or indirectly, the business, property or interests of such person, firm, or corporation is punishable by imprisonment in the State prison or in the county jail for not exceeding two years, or by a fine not

exceeding five thousand dollars ($5,000), or by both fine and imprisonment.

SEC. 4. Section 11653 is hereby added to said code, to read as follows: New section

11653. Any proponent of a referendum measure shall within the time required by law for the filing of such measure file in the office of the clerk or other officer provided by law all petitions and signatures obtained in connection with such measure accompanied by an affidavit that the signatures so filed constitute and are all of the signatures secured or obtained in connection with such measure or petition. Filing referendum petition

A violation of this section is punishable by imprisonment in the State prison or in the county jail for not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both fine and imprisonment. Penalty

SEC. 5. Section 11654 is hereby added to said code, to read as follows: New section

11654. Any person working for the proponent or proponents of an initiative or referendum measure or recall petition who solicits signatures to qualify such measure or petition and accepts any payment therefor and who fails to surrender such measure or petition to the proponents thereof for filing is punishable by imprisonment in the State prison or in the county jail for not exceeding two years, or by a fine not exceeding five thousand dollars ($5,000), or by both fine and imprisonment. Failure of circulator to surrender petition

Penalty

CHAPTER 1280

An act to amend Section 5 of the State Contract Act, relating to bids. Stats 1909, p 656, amended

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.] In effect September 13, 1941

The people of the State of California do enact as follows:

SECTION 1. Section 5 of the act cited in the title hereof is amended to read as follows: Stats 1933, p 2109

Sec. 5. On the day named in said public notice the Department of Public Works shall proceed to publicly open said sealed bids, and shall award such contract or contracts to the lowest responsible bidder or bidders. All bids shall be presented under sealed cover and shall be accompanied by cash, cashier's check or a certified check made payable to the Director of Public Works, for an amount equal to at least 10 per cent of the amount of said bid and no bid shall be considered Award of contract to lowest bidder

Bidder's bond

unless such cash, cashier's check or certified check is inclosed therewith. A bidder's bond executed as surety by some corporation authorized to issue surety bonds in the State of California may be furnished in lieu of cash, cashier's check or certified check with the bids on any contract. Should the successful bidder to whom the contract is awarded fail to execute the same, such cash, cashier's check, certified check or bidder's bond shall be forfeited to the State of California and the same shall be the property of the State, and shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of cost, and publication of notice are paid. All other cash, cashier's checks and certified checks shall within 10 days after the date of the award of said contract, be returned to the unsuccessful bidders who submitted the same; provided, however, that cash, cashier's check or certified check of the second and third lowest responsible bidders may be withheld until the contract has been finally executed. If, in the opinion of the Director of Public Works, it is for the best interests of the State, on the refusal or failure of the successful bidder to execute the contract, said director may, in his discretion,

Award to other bidders

award the same to the second lowest responsible bidder. If the second lowest responsible bidder fails or refuses to execute such contract, the said director may likewise award the same to the third lowest responsible bidder. On the failure or refusal of the second or third lowest bidder, to whom any such contract is so awarded, to execute the same, such bidders' cash, certified check or cashier's check shall be likewise forfeited to the State.

CHAPTER 1281

An act to add Section 844 to the Political Code, relating to qualifications for public office and employment, declaring the urgency hereof, to take effect immediately.

In effect immediately

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 844 is hereby added to the Political Code, to read as follows:

Disqualification to hold office or employment

844. After 30 days from the effective date hereof no person shall be eligible to hold office or employment of any kind under this State, or under any county, city and county, city, district or other political or governmental unit of this State, who, while either a citizen or a resident of the United States, has by oath bound himself to support, maintain or further the military or political activities or policies of any foreign government or of any official thereof or society or association

therein or to obey the orders or directions of any foreign government or of any official thereof. Nothing in this section shall, however, disqualify any person from holding any office or employment by reason of any oath taken by him during the war between the Allied Powers and Germany-Austria, 1914-1918, inclusive, in connection with service in the military forces of any sovereignty allied with the United States in that war. Exception

Every person who exercises the duties of any office in violation of this section, and every person who knowingly appoints to office a person ineligible by reason of this section, is guilty of a felony. Penalties

Every person who exercises the duties of any employment in violation of this section, and every person who knowingly employs a person ineligible by reason of this section, is guilty of a misdemeanor.

Any person who at the effective date hereof holds any office or employment under this State, or under any county, city and county, city, district or other political or governmental unit of this State and who has taken any such oath may be relieved of any ineligibility to office or employment under this section by petitioning any superior court of the State of California within thirty (30) days after the effective date hereof, for leave to renounce all promises or obligations assumed by him under any such oath, and by the renunciation of the same before a judge of such court. Any other person who has taken or hereafter takes any such oath may at any time be relieved of such ineligibility by petitioning any superior court and renouncing all such promises or obligations in like manner. Relief from disability

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution of the State of California and therefore shall take effect immediately. The following is a statement of the facts constituting such necessity: Urgency

Many nations in recent months have lost their liberties and fallen under the political and military domination and economic servitude of aggressive dictatorial rulers. The most effective and disabling weapon of these aggressors has been so-called "fifth column activity," or the use of agents who have penetrated into the civil and military services of the nations victimized.

To prevent such intrigue and attack on our own Government, and provide immediate strength and protection for the National Defense Program, it is necessary that this act shall become effective at the earliest possible moment.

CHAPTER 1282

An act to add Section 4465.5 to the Political Code, relating to notice and publication and requiring that whenever by authority or requirement of any law of this State any official advertising, notice, resolution, order, or other matter of any nature whatsoever is required to be published in a newspaper, it must be in a newspaper of general circulation.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

New section

SECTION 1. Section 4465.5 is hereby added to the Political Code, to read as follows:

Publication

4465.5. Whenever any official advertising, notice, resolution, order, or other matter of any nature whatsoever is required by law to be published in a newspaper, such publication shall be made only in a newspaper of general circulation as defined in this title.

CHAPTER 1283

An act relating to bids for the construction of public works and improvements.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Specification of subcontractors in bids

SECTION 1. Any officer, department, board or commission taking bids for the construction of any public work or improvement shall provide in the specifications prepared for the work or improvement or in the general conditions under which bids will be received for the doing of the work incident to the public work or improvement that any person making a bid or offer to perform the work, shall, in his bid or offer, set forth the name and the location of the mill, shop or office of each subcontractor who will perform work or labor or render service to the contractor in or about the construction of the work or improvement and the portion of the work which will be done by each subcontractor.

If a contractor fails to specify a subcontractor for any portion of the work to be performed under the contract, he shall be deemed to have agreed to perform such portion himself, and he shall not be permitted to subcontract that portion of the work except under the conditions hereinafter set forth.

No contractor whose bid is accepted shall, without the consent of the awarding authority, either:

(a) substitute any person as subcontractor in place of the subcontractor designated in the original bid, or

(b) permit any subcontract to be assigned or transferred or allow it to be performed by anyone other than the original subcontractor, or

(c) sublet or subcontract any portion of the work as to which his original bid did not designate a subcontractor.

Emergency

Subletting or subcontracting of any portion of the work as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the awarding authority setting forth the facts constituting such emergency or necessity.

Violation

Should the contractor violate any of the provisions of this act, his so doing will be deemed a violation of his contract and the awarding authority shall have the right to cancel the contract. The contractor shall not, after any such violation, recover thereon for any of the work done or materials furnished on such public work or improvement.

The failure on the part of a contractor to comply with any provision of this act shall not constitute a defense to such contractor in any action brought against him by a subcontractor.

Contracts to which act inapplicable

This act shall not apply to contracts for the construction or improvement or repair of State highways, including bridges, nor to city or county projects financed in whole or in part with motor vehicle fuel funds.

Construction

Nothing in this act contained shall be deemed to limit or diminish any rights or remedies, either legal or equitable, which either an original or substituted subcontractor may have against the contractor, his successors or assigns, nor any such rights or remedies (including the right to take over and complete the contract) which the State of California, or any municipal corporation, county, body politic, or public corporation, or public agency may have against the contractor, his successors or assigns.

CHAPTER 1284

Stats 1937, p 1005, amended

An act to amend Sections 154 and 157 and to repeal Section 155 of the Welfare and Institutions Code, relating to the institutions subject to the jurisdiction of the Department of Institutions and appointment of superintendents of those institutions.

In effect September 13, 1941

[Approved by Governor July 19, 1941. Filed with Secretary of State July 19, 1941.]

The people of the State of California do enact as follows:

Stats. 1941, p 3204

SECTION 1. Section 154 of the Welfare and Institutions Code is hereby amended to read as follows:

Jurisdiction over institutions

154. The department has jurisdiction over the following institutions:

Agnews State Hospital.
Camarillo State Hospital.
California Institution for Boys.
Industrial Home for the Adult Blind.
Industrial Workshop for the Blind.
Mendocino State Hospital.
Napa State Hospital.
Norwalk State Hospital.
Pacific Colony.
Patton State Hospital.
Sonoma State Home.
State Blind Shop.
Stockton State Hospital.
The Langley Porter Clinic.
Preston School of Industry.
Ventura School for Girls.
Fred C. Nelles School for Boys.

Stats 1937, p 1014

SEC. 2. Section 155 of the Welfare and Institutions Code is hereby repealed.

Stats 1937, p 1014

SEC. 3. Section 157 of the Welfare and Institutions Code is hereby amended to read as follows:

Appointment of superintendents, etc

157. The director may appoint, define the duties of, and with approval of the Governor fix the salary of, the superintendent or executive officer of each institution mentioned in Section 154 of this code.

CONCURRENT AND JOINT RESOLUTIONS

AND

CONSTITUTIONAL AMENDMENTS

CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to the reports of the Fact-Finding Committee on Employment.

[Filed with Secretary of State January 14, 1941]

Committee on Employment continued

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Fact-Finding Committee on Employment created by Senate Concurrent Resolution No. 29 of the First Extraordinary Session of the Fifty-third Legislature of California with the powers in said resolution specified, defined, and referred to, including the power to file a report or reports at this Fifty-fourth Regular Session, is hereby recognized and declared as continuing in existence, without change in membership, for the purpose of completing and filing its report or reports at this session.

CHAPTER 2

Senate Concurrent Resolution No. 2—Approving a certain amendment to the charter of the County of Los Angeles, State of California, submitted to, voted for, and ratified by, the electors of said county at the general election held in said county on the fifth day of November, 1940.

[Filed with Secretary of State January 14, 1941]

County of Los Angeles: Charter amendments

WHEREAS, The County of Los Angeles, State of California, has been at all times herein mentioned, and now is, a body politic and corporate, and a political subdivision of the State of California, and is now, and has been, since the second day of June, 1913, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of Section 7½ of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at an election held for that purpose on the fifth day of October, 1912, and approved by the Legislature of the State of California on the twenty-ninth day of January, 1913; and

WHEREAS, The board of supervisors of said county, pursuant to the provisions of said Section 7½ of Article XI of said Constitution, did, by resolution adopted on the seventeenth

day of September, 1940, duly propose to the qualified electors of said County of Los Angeles two amendments to the charter of said county, designated as proposed county charter amendments Nos. 1 and 2, and ordered that said amendments be submitted to said qualified electors of said county at the general election to be held in said county on the fifth day of November, 1940, which date was the day fixed by law for the holding of said general election; and

WHEREAS, Said proposed charter amendments Nos. 1 and 2 were, and each of them was, published for 10 times in the Los Angeles Daily Journal, a daily newspaper of general circulation, printed, published, and circulated in said county, to wit, on September 19, 20, 21, 23, 24, 25, 26, 27, 28, and 30, 1940; and

WHEREAS, Said board of supervisors, by said resolution adopted on said seventeenth day of September, 1940, did order the placing of said proposed charter amendments on the ballot of said general election to be held in said County of Los Angeles on said fifth day of November, 1940, which date was not less than 30 days nor more than 60 days after said publication of such proposals, as aforesaid, for 10 times in a daily newspaper of general circulation printed, published, and circulated in said county; and

WHEREAS, Said general election was held in said County of Los Angeles on said fifth day of November, 1940; and

WHEREAS, Thereafter, said board of supervisors of said County of Los Angeles did, in the manner provided by law, duly and regularly cause the returns of said election to be canvassed, and on the twenty-sixth day of November, 1940, did duly declare the result of said general election as determined from the canvass of the returns thereof; and

WHEREAS, At said general election held on said fifth day of November, 1940, one of said proposed amendments was ratified by a majority of the electors of said county voting thereon, to wit, Charter Amendment No. 1, and the other of such proposed amendments received less than a majority of the votes of such qualified electors voting thereon and was not so ratified; and

WHEREAS, Said charter amendment so ratified by the electors of said County of Los Angeles is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, pursuant to the provisions of said Section 7½ of Article XI of the Constitution of the State of California, and is in words and figures as follows, to wit:

PROPOSED COUNTY CHARTER AMENDMENT NO. 1

That the Charter of said County of Los Angeles be amended by amending paragraph (10) of Section 34 of Article IX thereof to read as follows:

Transfers and reinstatements

"(10) For transfer from one position to a similar position in the same class and grade and for reinstatement within one

year of persons who without fault or delinquency on their part are separated from the service or reduced;

"Provided, however, that on and after June 1, 1940, all persons holding positions subject to the provisions of this article, including both classified and unclassified positions, who shall have entered the armed forces of the United States during war or national emergency proclaimed by the President or the Congress of the United States or Act of Congress providing for peace time induction or conscription, and who shall have been honorably discharged or placed on the inactive or reserve list or relieved from such service with a certificate of satisfactory service, shall be reinstated without loss of status, seniority or efficiency ratings to the permanent positions held by them prior to entry into such Federal service or to positions of like seniority and status, unless in the meantime such positions shall have been abolished, on condition that application for reinstatement is made within ninety (90) days after the termination of such war or national emergency or within ninety (90) days after such discharge, release or relief from service, and on the further condition that such persons are still qualified to perform the duties of the positions previously held by them or of such like positions. Employees in military service

"All persons appointed or transferred to fill such positions and all other persons appointed or transferred to other positions by reason thereof shall be deemed to be substitute employees and, notwithstanding any other provision of this charter, such substitute employees may be separated from such positions at any time unless they held positions subject to the provisions of this article immediately prior to appointment or transfer as substitute employees, in which event, and notwithstanding any other provision of this charter, they shall be reinstated without loss of status or seniority to the permanent positions which they held immediately prior to their first appointment or transfer as such substitute employees or to positions of like seniority and status, unless in the meantime such positions shall have been abolished. The Civil Service Commission shall conduct such examinations and promulgate such eligible lists of substitute employees as shall be necessary to carry this paragraph into effect. In the absence of any such list, substitute employees may be employed in the manner authorized for temporary employees as provided in paragraph (9) of Section 34 of this Article." Substitute employees

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

We, the undersigned, ROGER W. JESSUP, Chairman of the Board of Supervisors of the County of Los Angeles, State of California, and L. E. LAMPTON, County Clerk and ex-officio Clerk of the Board of Supervisors of said County of Los Angeles, do hereby certify: Certificate

That the foregoing proposed and ratified amendment to the charter of said County of Los Angeles, submitted to the

electors of said county at the general election held in said county on said fifth day of November, 1940, has been compared by us, and each of us, with the proposed amendment set forth in the resolution adopted by said Board of Supervisors as hereinbefore set forth, and that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendment to said charter are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be attested by the County Clerk and authenticated by the seal of said Board of Supervisors of the County of Los Angeles this 3rd day of January, 1941.

[SEAL] [SEAL]

ROGER JESSUP
Chairman, Board of Supervisors
of the County of Los Angeles
L. E. LAMPTON, County Clerk
and ex-officio Clerk of the
Board of Supervisors,
By ALICE BURKS
Deputy

ATTEST:
L. E. LAMPTON, County Clerk
of the County of Los Angeles,
State of California

By MILLICENT E. EDINGER
Deputy

and

WHEREAS, Said proposed amendment to the charter of said County of Los Angeles, so ratified by the electors thereof, has been submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with the provisions of Section 7½ of Article XI of the Constitution of the State of California; now, therefore, be it

Approval *Resolved by the Senate of the State of California, the Assembly concurring,* a majority of all the members elected to each house voting for adoption of this resolution, and concurring therein, that said amendment to the charter of the County of Los Angeles as proposed by the board of supervisors of said county and as ratified by the electors of said county, and as hereinbefore set forth, be, and the same is hereby approved as a whole, without amendment or alteration, as an amendment to, and as a part of, the charter of the County of Los Angeles, State of California.

CHAPTER 3

Assembly Concurrent Resolution No. 1—Relative to approving certain amendments to the charter of the City of Pasadena, a municipal corporation of the County of Los Angeles, State of California, voted for and ratified by the qualified electors of the said city at a special municipal election held therein on November 5, 1940.

[Filed with Secretary of State January 16, 1941]

City of Pasadena: Charter amendments

WHEREAS, Proceedings have been taken and had for the purpose of adoption and ratification of certain amendments hereinafter set forth, to the charter of the City of Pasadena, a municipal corporation of the County of Los Angeles, State of California, as set out in the certificate of the Chairman of the Board of Directors and the City Clerk of the City of Pasadena, as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF PASADENA OF THREE CHARTER AMENDMENTS

STATE OF CALIFORNIA }
County of Los Angeles } ss
City of Pasadena }

Certificate

We, the undersigned Edward O. Nay, Chairman of the Board of Directors of the City of Pasadena, State of California, and Bessie Chamberlain, City Clerk of said City, do hereby certify and declare as follows:

That the City of Pasadena, a municipal corporation of the County of Los Angeles, State of California, now is and at all times herein mentioned was a city containing a population of more than 3500 inhabitants, and, as ascertained by the last preceding census taken under the authority of the Congress of the United States, now has a population of over 50,000 inhabitants, and ever since the year 1901 has been and now is organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the 20th day of November, 1900, and approved by the Legislature of the State of California on the 29th day of January, 1901, (Statutes of 1901, page 884).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Board of Directors of the City of Pasadena, being the legislative body thereof, on its own motion, by Ordinance No. 3538 adopted on the 12th day of September, 1940, duly and regularly proposed and submitted to the qualified electors of

the City of Pasadena three certain proposals for the amendment of the Charter of said city, designated as Propositions Nos. 1-3 inclusive to be voted upon by said qualified electors at a special election called and held for that purpose in said city on the 5th day of November, 1940. That said election was duly and regularly called, authorized and provided for by said Board of Directors by Ordinance No. 3539 adopted on the 12th day of September, 1940, which said ordinance called said special election, for the submission of said proposed amendments, to be held in said city on the 5th day of November, 1940, and that by said ordinance the said special election by said Board of Directors was duly and regularly consolidated with the general state election to be held on said date. That said election was duly and regularly called and held on said 5th day of November, 1940, which day was not less than forty (40) nor more than sixty (60) days after the completion of the publication and advertising of the proposed amendments aforesaid in the official newspaper.

That said proposed amendments were published and advertised in accordance with Section 8 of Article XI of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of Pasadena, on the 13th day of September, 1940, in The Pasadena Star-News, a daily newspaper of general circulation, published in said City of Pasadena, and the official newspaper of said city, and in each edition thereof during the day of publication.

That copies of said proposed amendments were printed in convenient pamphlet form and in type of not less than ten point, and, until the day fixed for the said election, and as required by Section 8 of Article XI of the Constitution and by the Charter of the City of Pasadena, a notice was advertised and published in The Pasadena Star-News and the Pasadena Post, the same being newspapers of general circulation in said city, that copies of said proposed amendments might be had upon application therefor at the office of the City Clerk of the City of Pasadena.

That such copies could be had upon application therefor at the office of the City Clerk of said city until the day fixed for said election. That a copy thereof was mailed to each of the qualified electors of said city as required by law.

That in accordance with the provisions of Section 8 of Article XI of the Constitution and of the Charter of said City of Pasadena and said ordinances of the legislative body thereof, there was held in the said City of Pasadena on the 5th day of November, 1940, a special election, and that pursuant to the provisions of Section 8 of Article XI of the Constitution and of said Charter and said ordinances the said proposed charter amendments were submitted to the qualified electors of said city for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify

each said proposed amendment to the Charter of said city hereinafter set forth.

That in accordance with provisions of the Charter of the City of Pasadena and with the law in such cases made and provided, the Board of Supervisors of the County of Los Angeles met on the 11th day of November, 1940, and on various dates between the 11th day of November, 1940, and the 26th day of November, 1940, at its usual time and place of meeting, and did duly and regularly canvass the returns of said election, and on the 26th day of November, 1940, did certify the returns of said canvass to the Board of Directors of the City of Pasadena. That the Board of Directors of the City of Pasadena on the 3rd day of December, 1940, did duly find, determine and declare the result of said special election as determined from the canvass of the returns therefor aforesaid to be that a majority of the qualified electors of said city voting on each of said proposed amendments had voted for and ratified each of said proposed amendments.

That the said amendments to the Charter so ratified by the electors of the City of Pasadena are in words and figures as follows:

PROPOSITION NO. 1

That the Charter of the City of Pasadena be amended by amending the second paragraph of Section 8 of Article 6 thereof to read as follows:

"The Retirement Board shall have the sole power and authority under such general ordinances as may be adopted by the legislative body, to hear and determine all facts pertaining to applications for and awards of any benefits under the Retirement System, or any matters pertaining to the administration thereof. Said Board shall have exclusive control of the administration and investment of such fund or funds as may be established, provided that all investments shall be confined to: Retirement Board Investments

(1) Bonds or other evidences of indebtedness of the United States of America;

(2) Bonds of the states of the United States of America;

(3) Bonds of the cities of the United States of America outside the State of California, having a population of 100,000 or more as shown by the federal census made next prior to the investment;

(4) Bonds of any city and county or of any city or county in the State of California;

(5) Bonds of school districts, high school districts, and junior college districts in the State of California;

(6) Bonds of municipal utility districts, metropolitan water districts, public utility districts, bridge and highway districts in the State of California, and bonds issued by the California Toll Bridge Authority;

(7) Bonds of school districts outside the State of California which include entirely within their boundaries cities which qualify for investment hereunder.

No bond or other evidence of indebtedness shall be purchased by the Retirement Board for the investment of any such funds unless at the time of purchase:

a. It shall bear a rating found by the Retirement Board to be at least equivalent to that represented at the time of the adoption of this amendment by the rating A by a national rating system generally recognized and used by banks and investment brokers in the United States of America; and

b. Bonds or other evidences of indebtedness of the United States of America, states of the United States of America, cities, counties, cities and counties, school districts, high school districts or junior college districts shall be general obligations of and supported by the unlimited taxing power of the governmental entity issuing the same and no bonds or other evidences of indebtedness shall be purchased by the Retirement Board for the investment of any such funds until proof of these requirements has been made to said Retirement Board.

Disbursements

Disbursement of retirement funds shall be made upon demands duly audited in the manner prescribed in this Charter for disbursement of public funds. The City Treasurer shall be the custodian of any such retirement funds, subject to the control of the Retirement Board as to the administration and investment of said funds."

PROPOSITION NO. 2

As a separate proposal that the Charter of the City of Pasadena be amended by amending Section 12 of Article 6 thereof to read as follows:

Reduction of benefits

"SECTION 12. REDUCTION OF BENEFITS. That portion of any allowance or other benefit which is provided by contributions of the city, payable by the Retirement System because of the death or retirement of any member, shall be reduced, in the manner fixed by the legislative body, by the amount of any benefits payable to or on account of such member, under the Workmen's Compensation laws of the State of California, because of his death or the disability resulting in his retirement except that benefits included and payable under such Workmen's Compensation laws for medical, surgical, and hospital treatment, and expenses of burial, shall not be deemed benefits hereunder. In like manner said portion shall be reduced by the amount of any pension, except pensions paid on account of service in the military or naval forces of the United States, paid to or on account of the death of such member from funds of the United States, State of California or any political subdivision thereof."

PROPOSITION NO. 3

As a separate proposal that the Charter of the City of Pasadena be amended by amending subsection (15) of Section 2 of Article 1 thereof to read as follows:

"15. To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description both within and without the limits of said city and control and dispose of the same for the common benefit. Said power shall extend to property acquired or that may be acquired with funds from bonds authorized for the purpose of acquiring particular property when it is determined by the legislative body of the city that said property is no longer necessary for the purpose for which it was originally acquired." Power of city to hold property

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said city, and find that the foregoing is a full, true, correct and exact copy thereof.

That as to said amendments this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the said City of Pasadena to be affixed hereto this 10 day of December, 1940.

EDWARD O. NAY,
Chairman of the Board of Directors of the City of Pasadena.

[SEAL]

BESSIE CHAMBERLAIN
City Clerk

WHEREAS, Said proposed amendments so ratified as hereinabove set forth have been, and are now duly presented and submitted to the Legislature of the State of California for approval or rejection without power of alteration or amendment in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all members elected to each house voting therefor, and concurring therein, that the amendments to the charter of the City of Pasadena, as proposed to, and adopted and ratified by the qualified electors of the City of Pasadena, be, and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to and as parts of, the charter of the City of Pasadena.

CHAPTER 4

Assembly Concurrent Resolution No 5—Relative to the approval of five certain amendments to the charter of the City of Alhambra ratified by the qualified electors of said city at a special municipal election held thereon on the fourth day of June, 1940.

[Filed with Secretary of State January 16, 1941]

City of Alhambra Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of five certain amendments to the Charter of the City of Alhambra, a municipal corporation of the County of Los Angeles as hereinafter set forth in the certificate of the president of the city commission and the city clerk of the City of Alhambra, as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF ALHAMBRA OF FIVE CERTAIN CHARTER AMENDMENTS.

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } ss
CITY OF ALHAMBRA

Certificate

We, the undersigned, CLAIR V. WARD, President and presiding officer of the City Commission of the City of Alhambra, and R. B. WALLACE, City Clerk and ex-officio Clerk of the Commission of said City, do hereby certify and declare as follows:

That the City of Alhambra, a municipal corporation of the County of Los Angeles, State of California, now is and at all times herein mentioned was a city containing a population of more than 3500 inhabitants and less than 50,000 inhabitants, and ever since the year 1915 has been and now is organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City at a special election held for that purpose on the 14th day of October, 1914, and approved and ratified by the Legislature of the State of California by concurrent resolution No 14 thereof, introduced by Senator Newton W. Thompson on January 26, 1915, and approved by the Legislature of the State of California on January 28, 1915, (Statutes 1915, P. 1740).

That the City Commission of said City being its legislative body on its own motion, and pursuant to the provisions of Section 8 of Article XI of the Constitution of the State of California, by Resolution No. 6734, adopted April 2nd, 1940,

duly proposed to the qualified electors of the City of Alhambra, five certain amendments to the Charter of said City designated as Proposed Charter Amendments Numbers I, II, III, IV and V respectively, and ordered said five charter amendments to be submitted to said qualified electors at the general municipal election to be held in said City on the 4th day of June, 1940, as Propositions Numbers II, III, IV, V and VI.

That said proposed amendments were, on April 8th, 1940, published and advertised in accordance with Section 8 of Article XI of the Constitution of the State of California, in the "Alhambra Post-Advocate", and in all the editions thereof issued during such day of publication, said "Alhambra Post-Advocate" being a daily newspaper of general circulation printed, published and circulated in said City, and being the official newspaper of said City; and

That copies of all of said proposed amendments were printed in convenient pamphlet form and in type of not less than eight point, and that said proposed amendments were published in the "Alhambra Post-Advocate" the official newspaper of the City of Alhambra, on April 12th, 1940, and

That a copy of said notice containing said proposed Charter Amendments was mailed to each registered voter of the City of Alhambra at least seven days before the date of the election which was held on June 4th, 1940.

That the City Commission did, by Ordinances Numbers 1905 and 1907, order the holding of a general and special municipal election in said City of Alhambra on June 4th, 1940, for the purpose, among other things, of submitting to a vote the said five proposed charter amendments, and which date of said election was not less than forty days nor more than sixty days after the completion of the publication of said five proposed charter amendments as aforesaid; and pursuant to said charter, resolution, and ordinances, the said proposed amendments were submitted to the qualified electors of said City for their ratification on said fourth day of June, 1940, and at said election a majority of the qualified electors voting thereon voted for the ratification of and did ratify all five of the proposed amendments to the Charter of said City.

That the City Commission of the City of Alhambra, in accordance with the law in such cases, made and provided, did meet on the 10th day of June, 1940, at an adjourned regular meeting of such Commission and duly canvassed the returns of said election and duly found, determined and declared that the said proposed amendments of the Charter of the City of Alhambra, Numbers I, II, III, IV and V, same being Propositions Numbers II, III, IV, V and VI on the ballot, and each and every one of them were ratified by a majority of the electors of said City voting thereon.

That the said amendments to the Charter so ratified by the electors of the City of Alhambra are in words and figures as follows, to-wit:

PROPOSED CHARTER AMENDMENT NO. 1

ARTICLE II

Municipal districts

"Section 4: For municipal purposes the City of Alhambra is hereby divided into five districts, which shall be designated respectively, the first district, the second district, the third district, the fourth district and the fifth district, and be constituted and described as follows:

First district—All that portion of the city lying east of the center line of Atlantic Boulevard and north of the center line of Main Street.

Second district—All that portion of the city lying east of the center line of Atlantic Boulevard and south of the center line of Main Street and north of the center line of Valley Boulevard.

Third district—All that portion of the city lying west of the center line of Atlantic Boulevard and north of the center line of Main Street.

Fourth district—All that portion of the city lying south of the center line of Valley Boulevard.

Fifth district—All that portion of the city lying west of the center line of Atlantic Boulevard and south of the center line of Main Street and north of the center line of Valley Boulevard."

ARTICLE NO. III

City commissioners' Election

"Section 7: Five city commissioners, a city auditor, who shall be ex-officio city clerk and clerk of the board of equalization; a city treasurer, who shall be ex-officio city assessor and city tax and license collector; a city attorney, and five members of the board of education, shall be elective officials of the city of Alhambra and the Alhambra high school district, all of whom shall be elected at the general municipal election on a general ticket from the city at large, PROVIDED, that all qualified electors of Alhambra city school district shall also have the right to vote at such elections for members of the board of education; AND PROVIDED ALSO that of the five commissioners, one shall be nominated by the qualified electors of each district, of which the commissioner so nominated must have been a resident not less than four months preceding the date of his election. The office of commissioner of each district shall constitute a separate office."

ARTICLE III

Repeal

"Section 11: That portion of Article III, Section 11 of the Charter of the City of Alhambra that reads: "The President of the Commission * * * shall * * hold office

for a term of two years from and after the first day of July following their (his) election and until their (his) successors (successor) are (is) respectively elected and qualified," is hereby repealed.

That portion of Article III, Section 11 of the Charter of the City of Alhambra that reads: "Members of the commission, except the president thereof, shall each hold office for a term of four years from and after the first day of July following their election and until their successors are elected and qualified; PROVIDED that the commissioner first elected under this charter from the first district shall hold office for one year, the commissioner first elected under this charter from the second district shall hold office for two years, the commissioner first elected under this charter from the third district shall hold office for three years and the commissioner first elected under this charter from the fourth district shall hold office for four years respectively from the first day of July following such first election," is hereby amended to read as follows:

Term of office

Members of the commission shall hold office for a term of four years from and after the first day of July following their election and until their successors are elected and qualified; provided that the incumbent commissioners, including the president, shall hold office for the term for which they have been elected and that a commissioner shall be elected from the Fifth District at the first general municipal election held under this Amendment to hold office for a period of four years from the first day of July following such election."

ARTICLE III

Vacancies in office

"Section 12: In case any commissioner shall change his residence from the district in which he resided at the time of his election or appointment, his office shall immediately become vacant and be filled as directed in this charter; PROVIDED, HOWEVER, that in case the boundaries of any district are changed, no commissioner whose residence is hereby included within a different district from that in which he resided at the time of his election or appointment shall lose his office by reason of such change.

When occurring

An elective office becomes vacant when the incumbent thereof fails to qualify within ten days from the time he receives his certificate of election or appointment, dies, resigns, is removed from office, is adjudged incompetent, convicted of a felony, or of offense involving a violation of his official duties or forfeits his office under any provision of this charter, or ceases to be a resident of the city or district as required by the preceding paragraph of this section; or shall have been absent from the city without leave of the commission, for more than thirty consecutive days, or, if a member of the commission or a board, fails to attend the meetings of the commission or board of which he is a member for a like period, without

being excused therefrom by the commission, or, if any other officer than a member of the commission or a board, shall absent himself from his office for more than fifteen days consecutively, without such leave."

ARTICLE V

Commission Division of functions

"Section 29: The Commission at its first meeting in July of each year, or within ten days thereafter, shall designate and assign by a majority vote, one commissioner to be president of the commission and commissioner of public affairs, one to be commissioner of the department of finance; one to be commissioner of the department of public works; one to be commissioner of the department of public safety, and one to be commissioner of the department of supplies. Upon such assignment, each commissioner shall immediately assume supervision over the department to which he is assigned. The commission may change such designation and assignment by ordinance whenever it may deem such change for the benefit of the public service. Each commissioner, during any vacancy in the office of city manager, as in this charter provided, shall take the active management and control of the affairs of his respective department and be vested with all powers and perform all duties of city manager as to such respective department, but immediately upon the induction into office of such city manager, all management, control and exercise of power and duties vested in and held by such commissioner during such vacancy shall cease and the same and all thereof shall be vested in and exercised by said city manager, subject to the provisions of this charter, and such commissioner shall then act only in an advisory capacity in all matters arising in his respective department (except where such matters are herein excepted from the supervision and control of the city manager), and each commissioner shall keep himself informed of all conditions of such respective department and report the same to the commission."

PROPOSED CHARTER AMENDMENT NO. II

ARTICLE III

"Section 11: That part of Article III (Section 11 of the Charter of the City of Alhambra that reads: '* * * * auditor shall * * * * hold office for a term of two years from and after the first day of July following their (his) election and until their (his) successors (successor) are (is) respectively elected and qualified,' is hereby amended to read as follows:

City auditor Term of office

The city auditor shall hold office for a term of four years from and after the first day of July following his election and until his successor is elected and qualified."

PROPOSED CHARTER AMENDMENT NO. III

ARTICLE III

"Section 11: That part of Article III, Section 11 of the Charter of the City of Alhambra that reads: '* * * * * treasurer shall * * * * hold office for a term of two years from and after the first day of July following their (his) election and until their (his) successors (successor) are (is) respectively elected and qualified,' is hereby amended to read as follows:

The city treasurer shall hold office for a term of four years from and after the first day of July following his election and until his successor is elected and qualified." City treasurer Term of office

PROPOSED CHARTER AMENDMENT NO IV.

ARTICLE III

"Section 11: That part of Article III, Section 11 of the Charter of the City of Alhambra that reads: '* * * * attorney shall * * * * hold office for a term of two years from and after the first day of July following their (his) election and until their (his) successors (successor) are (is) respectively elected and qualified,' is hereby amended to read as follows:

The city attorney shall hold office for a term of four years from and after the first day of July following his election and until his successor is elected and qualified." City attorney Term of office

PROPOSED CHARTER AMENDMENT NO. V.

That a new section to be known as Section 129A be added to Article XVIII and to read as follows:

"Section 129A: The Commission shall have power to collect taxes in addition to the taxes herein authorized to be levied and collected, to provide a fund not less than four (4¢) cents and not to exceed eight (8¢) cents on each $100.00 of the assessed valuation for the acquisition and improvement of recreation centers and the establishment, maintenance and support of a public recreation program in parks and public playgrounds." Taxation for public recreation program

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said city and find that the foregoing are full, true, correct and exact copies thereof and each of them, we further certify that the facts set forth in the preamble preceding such amendments to such charter are and each of them is true.

That as to all of said amendments this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection herewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the corporate seal of the City of Alhambra to be affixed hereto this 2nd day of January, 1941.

CLAIR V. WARD
President of the Commission of the City of Alhambra.

[SEAL]

R. B. WALLACE
City Clerk and ex-officio clerk of the Commission of the City of Alhambra.

and

WHEREAS, The said proposed charter amendments as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, A majority of all the members elected to each house voting therefor and concurring therein, that the aforementioned five amendments to the charter of the City of Alhambra as proposed to, and adopted and ratified by the electors of said city, as hereinbefore fully set forth be and the same are hereby approved as a whole, without amendment or alteration for and as amendments to and as part of the charter of the City of Alhambra.

CHAPTER 5

Assembly Concurrent Resolution No. 6—Approving amendment to the charter of the City and County of San Francisco voted for and ratified by the electors of said City and County of San Francisco at an election held therein on the seventh day of May, 1940.

[Filed with Secretary of State January 20, 1941.]

City and County of San Francisco Charter amendment

WHEREAS, The City and County of San Francisco, State of California, contains a population of over 500,000 inhabitants, and has been ever since the eighth day of January, in the year 1932, and is now organized and acting under a freeholder's charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city and county at an election held for that purpose on the twenty-sixth day of March, 1931, and approved by the Legislature of the State of California on the thirteenth day of April, 1931, and filed in the office of the Secretary of State on the fifth day of May, 1931 (Statutes of 1931, page 2973); and

WHEREAS, The legislative authority of said city and county, namely the board of supervisors thereof, duly proposed to the qualified electors of the City and County of San Francisco an amendment to the charter of said City and County of San Francisco by the submission of the following proposal, to wit:

CHARTER AMENDMENT NO. 1

AIRPORT

Describing and setting forth a proposal to the electors of the City and County of San Francisco, to amend the Charter of said City and County by amending Section 125 thereof relating to employments under the Public Utilities Commission by providing that certain employments of said commission shall be subject to the civil service provisions of the Charter.

EMPLOYMENTS

Section 125. All employees engaged in public utility work at the time this charter shall go into effect, and who have been permanently appointed to their respective positions in conformity with the civil service provisions of this charter, shall become employees of the public utilities commission under the classification held by each such employee at such time. All persons employed in the operating service of any public utility hereafter acquired by the City and County, at the time the same is taken over by the City and County, and who shall have been so employed for at least one year prior to the date of such acquisition, shall be continued in their respective positions and shall be deemed appointed to such positions, under, and entitled to all the benefits of, the civil service provisions of this charter; provided, however, that no person who is not a citizen of the United States shall be so continued in or appointed to his position. All persons residing outside the city and county claiming the benefit of this provision and who are not engaged on such utility work outside of the limits of the city and county shall be allowed a reasonable time, not exceeding one year, to become residents of the city and county. Public utility employees

Persons employed as platform men or bus operators in the operating department of the municipal railway system shall be subject to the following conditions of employment: The basic hours of labor, shall be eight hours, to be completed within ten consecutive hours; there shall be one day of rest in each week of seven days; all labor performed in excess of eight hours in any one day, or six days in any one week, shall be paid for at the rate of time and one half. Railway men Conditions of employment

Conductors and motormen may be assigned to duty as bus operators and while assigned to such duty they shall receive the compensation fixed for such service. Such assignment

shall be governed by seniority of service, subject to a qualifying test by the railroad management as to competency and to state laws as to qualifications and licensing.

Public Utilities Commission jurisdiction over airport

THE PUBLIC UTILITIES COMMISSION SHALL HAVE JURISDICTION OVER THE AIRPORT NOW BEING CONDUCTED BY THE CITY AND COUNTY OF SAN FRANCISCO, AS WELL AS OVER ANY OTHER AIRPORT WHICH SAID CITY AND COUNTY MAY HEREAFTER ACQUIRE, MAINTAIN OR OPERATE. ALL EMPLOYEES, EXCLUSIVE OF THE MANAGER, OF THE PRESENT SAN FRANCISCO AIRPORT, WHO ARE ACTUALLY EMPLOYED AT THE PRESENT AIRPORT OPERATED AND MAINTAINED BY THE CITY AND COUNTY OF SAN FRANCISCO ON THE EFFECTIVE DATE OF THIS AMENDMENT AND WHO HAVE BEEN CONTINUOUSLY SO EMPLOYED FOR ONE YEAR IMMEDIATELY PRECEDING SAID DATE SHALL BE CONTINUED IN THEIR RESPECTIVE POSITIONS AS IF APPOINTED THERETO AFTER EXAMINATION AND CERTIFICATION FROM A LIST OF ELIGIBLES AND SHALL THEREAFTER BE GOVERNED BY AND BE SUBJECT TO THE CIVIL SERVICE PROVISIONS OF THIS CHARTER. ALL SAID EMPLOYEES SO CONTINUED IN THEIR RESPECTIVE POSITIONS SHALL BE ELIGIBLE FOR LIKE POSITIONS IN ANY OTHER AIRPORT HEREAFTER ACQUIRED, MAINTAINED OR OPERATED BY THE CITY AND COUNTY OF SAN FRANCISCO.

Certificate

NOW, THEREFORE, we the undersigned, WARREN SHANNON, the President of the Board of Supervisors of the City and County of San Francisco, and DAVID BARRY, the Clerk thereof, said Board of Supervisors being the legislative body of said City and County, do hereby certify as follows:

That the aforesaid amendment to said Charter was by said Board of Supervisors ordered submitted to the qualified electors of the City and County of San Francisco at a special election to be held in the City and County of San Francisco on the 7th day of May, 1940; that said Charter amendment was published once in the official newspaper of the City and County of San Francisco—"The San Francisco News"—a newspaper of general circulation in said City and County, not less than forty, nor more than sixty, days prior to the date of said election, said publication being made in each edition of said newspaper published on the date on which said publication was made;

That said Board of Supervisors caused a copy of said Charter amendment to be printed in convenient pamphlet form and type of not less than ten point, and caused a copy of said amendment as so printed to be mailed to each of the qualified electors of said City and County, and from the 27th day of March, 1940, until the day fixed for the election on said amendment advertised in said "The San Francisco News",

on all of the days on which said newspaper was published, a notice that a copy of said amendment could be had on application therefor at the office of said Board of Supervisors;

That said special election was consolidated with the Presidential primary election held in said City and County of San Francisco on the 7th day of May, 1940, and the aforesaid Charter amendment appeared upon the official ballot for said election;

That the Board of Supervisors of said City and County did thereafter, in regular meeting assembled, by resolution duly adopted by said Board and entered in the minutes thereof, direct that a canvass of said election held on the 7th day of May, 1940, be immediately begun and made by the Registrar of Voters of said City and County, it appearing to said Board of Supervisors that at the time of commencement of said canvass all of the returns of said election held on the 7th day of May, 1940, from each election precinct in the City and County of San Francisco in which polls were opened had theretofore been received by the said Registrar of Voters; and

That pursuant to said resolution, the said Registrar of Voters did duly canvass all of the returns from each of the election precincts in the City and County of San Francisco in which polls were opened for voting on the said 7th day of May, 1940, and did thereafter, and upon the completion of said canvass, report and make to the Board of Supervisors of said City and County of San Francisco his official statement of the votes cast at said special election held on Tuesday, May 7th, 1940, showing the vote cast for and against the aforesaid Charter amendment voted upon at such election;

That from the said canvass and official statement made by said Registrar of Voters of the vote cast at said special election so held on the 7th day of May, 1940, it appeared that the proposed amendment to the said Charter of the City and County of San Francisco was ratified by a majority of the electors of said City and County voting thereon, said amendment being Charter amendment number 1 submitted to the electors to be voted upon as hereinbefore set forth; and said Board of Supervisors did, by resolution duly adopted on the 1st day of June, 1940, so declare;

That we have compared the foregoing proposed and ratified amendment to said Charter of said City and County with the original proposal submitting the same to the electors of said City and County, and find that the foregoing Amendment, numbered 1, is a full, true and correct copy thereof;

That said Charter amendment ratified by the electors of the City and County of San Francisco is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California.

IN WITNESS WHEREOF we have hereunto set our hands and have caused this certificate to be authenticated by the seal of the City and County of San Francisco this 8th day of January, one thousand nine hundred and forty-one.

WARREN SHANNON
PRESIDENT of the Board of Supervisors of the City and County of San Francisco.
DAVID A. BARRY
CLERK of the Board of Supervisors of the City and County of San Francisco.

[SEAL]

Now, therefore, be it

Approval *Resolved by the Assembly of the State of California, the Senate thereof concurring,* A majority of all the members elected to each house voting therefor and concurring therein, that said amendment to the charter of the City and County of San Francisco, as proposed to, and adopted and ratified by the electors of said city and county, and as hereinbefore fully set forth, be and the same is hereby approved as a whole without amendment or alteration, for and as an amendment to, and as part of the charter of the City and County of San Francisco.

CHAPTER 6

Assembly Concurrent Resolution No. 10—Approving two certain amendments to the charter of the City of Redondo Beach, County of Los Angeles, State of California, voted for and ratified by the electors of the City of Redondo Beach at the general municipal election held therein on April 10, 1939.

[Filed with Secretary of State January 20, 1941.]

City of Redondo Beach. Charter amendments WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments, hereinafter set forth, to the charter of the City of Redondo Beach, a municipal corporation in the County of Los Angeles, State of California, as set out in the certificate of the mayor and of the city clerk of said city, as follows:

CERTIFICATE OF PROCEEDINGS HAD AND TAKEN BY THE CITY OF REDONDO BEACH IN ADOPTING TWO AMENDMENTS TO THE CHARTER OF SAID CITY (Statutes of 1935, p. 2454).

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES, } SS.
CITY OF REDONDO BEACH.

Certificate We, the undersigned, Colfax Bell, Mayor of the City of Redondo Beach, County of Los Angeles, State of California,

and C. C. Mangold, City Clerk of said city, and ex officio Clerk of the City Council of said city, do hereby certify and declare as follows:

That the undersigned, said C. C. Mangold, was at all the times herein mentioned the Clerk of the Legislative Body of the said city and City Clerk of said City of Redondo Beach; and that the undersigned, Colfax Bell, was at all the times herein mentioned the duly elected, qualified, and acting Mayor of said city;

That at a regular meeting of the City Council of said city, which is the Legislative Body thereof, by action duly and regularly taken said City Council submitted two amendments to the charter of said city (Statutes 1935, p. 2454); and thereafter such proposals were submitted to the electors of said city at the General Municipal Election held therein on April 10, 1939; that said General Municipal Election, at which said proposals were submitted, was regularly and duly called and held;

That immediately upon ordering the said proposals so submitted the said Legislative Body of said city, within fifteen days after such order, caused said proposed amendments to be published once in the official newspaper of said city and in each addition thereof during the day of publication, said newspaper being a newspaper of general circulation, namely, the South Bay Daily Breeze, on the 24th day of February, 1939; that the population of said City of Redondo Beach at the time of ordering the submission of said proposals and at the time of the holding of said General Municipal Election on April 10, 1939 was more than 3500 inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States, and of less than 50,000 population; to-wit, 9,347.

That at said General Municipal Election so held on the 10th day of April, 1939, at which said proposals were submitted as aforesaid, a majority of the qualified voters of said city voting at said election and voting on said proposed amendments voted in favor of the adoption of said proposed amendments and therefore ratified the same;

That the election at which said proposed amendments were submitted to the voters of said city was not less than forty and not more than sixty days after the completion of the advertisement of said amendments in the official newspaper of said city.

That the said City Council of said City of Redondo Beach, at a regular meeting thereof held in the time and form and manner required by law, and in accordance with the law in such cases made and provided, duly canvassed the returns of said election and duly found, determined and declared that a majority of said electors voting thereon had voted in favor of said proposed amendments and of each of said amendments and for the ratification and adoption thereof, and that the

same were adopted and ratified by more than a majority of the qualified voters of the City of Redondo Beach voting thereon;

That the election above mentioned, to-wit, the General Municipal Election held on the 10th day of April, 1939, was held in accordance with the election laws of the State of California relating to and governing elections in cities of the Sixth Class within said State, so far as applicable, and in other respects in strict accordance with the General Laws of the State of California and of the charter of said city; that said City of Redondo Beach was at all the times herein mentioned, acting under a charter duly approved by the Legislature of the State of California; said charter being set forth in full in the Statutes of 1935 of California at page 2454 thereof.

That said amendments so proposed, filed, adopted and ratified as herein set forth, are in the words and figures following, to-wit:

ARTICLE VII.

Elections.

General municipal election

SECTION 1: An election to be known as a General Municipal Election shall be held in said City of Redondo Beach on the second Tuesday in April of each odd numbered year for the filling of such elective offices, the terms of the incumbents of which expire in such year.

ARTICLE XXIII.

DEPARTMENT OF EDUCATION.

Board of Education

Section 1: Board of Education. The control of the Public School Department (not including High School) of the said City of Redondo Beach, including the whole of the Redondo Beach City School District, as the same now exists, or may hereafter be changed and exist, as provided by law, shall be vested in a Board of Education, which shall consist of five members elected at large. The members of said Board shall serve for three years and without compensation.

School elections

School elections shall be held in the same manner as is provided in the California School Code for elections of school trustees, except (a) that any person desiring to become a candidate for the office of member of the Board of Education shall, thirty days prior to the date of the election, file with the Clerk of the governing board of the Redondo Beach City School District the nomination paper as provided by said Board of Education (b) that the Board of Education shall furnish the ballots and supplies necessary for conducting the election, and that the returns of the election shall be filed with the Clerk of said board and (c) that the Board of Education shall canvass the election returns at a meeting held not less than three days nor more than ten days after the election

date. The Clerk of the said Board shall immediately after the result of the election is officially declared by the Board of Education issue a certificate of election for each duly elected member and serve the same personally or by mail upon each such person.

The election of members to the Board of Education shall be held in the Redondo Beach City School District on the first Friday of June of each year, the place of election to be designated by the Board of Education and members shall hold office from the first day of July next succeeding their election.

First election Terms of office

In the first election under this Charter Amendment the persons receiving the highest and the next highest number of votes cast shall hold office for a three year term; the persons receiving the third highest and the fourth highest number of votes cast shall hold office for a two year term; the person receiving the fifth highest number of votes cast shall hold office for a one year term. Thereafter their successors shall be elected in the manner as hereinabove provided. If in said first election in case of a tie vote, the Superintendent of Schools of the County of Los Angeles, State of California, shall appoint the members in question to their respective terms.

If this Charter Amendment receives the necessary approval of the electors and is ratified by the Legislature of the State of California before the regular City Election of 1941, the Board of Education as it is then constituted at such time of said ratification shall hold office until the provisions of this Charter Amendment may be fulfilled. Said Board of Education shall, on the first Friday of June, 1941, call an election in said Redondo Beach City School District in the manner, as nearly as practicable, provided by law, for the calling and holding of school elections in the State of California, at which election an entirely new board of education shall be elected as above stated. If for any reason this Charter Amendment shall not become effective at a date sufficiently in advance of said first Friday of June, 1941, to permit the calling and holding of such election on said date, then and in that event said election shall be held on the first Friday of June immediately following the ratification of this Amendment by the Legislature of the State of California.

That the said two proposed amendments to the charter of said city as advertised in said South Bay Daily Breeze, the official newspaper of said city, on February 24, 1939 are contained in a clipping from said newspaper, attached hereto, marked "Exhibit A", hereby referred to and by reference made a part of this certificate.

That the said two amendments as hereinbefore set forth are full, true and correct copies of the said amendments as prepared and proposed by the said legislative body of said city and submitted to the electors of said city and ratified by the electors of said city at said General Municipal Election held April 10, 1939.

IN WITNESS WHEREOF, we have hereunto set our hands and hereto affixed the seal of said City of Redondo Beach, California, this 10th day of January, 1941.

COLFAX BELL
Mayor of the City of Redondo Beach, California.

(SEAL OF THE CITY)

C. C. MANGOLD
City Clerk of the City of Redondo Beach, California

PROPOSED AMENDMENT OF SECTION 1 OF ARTICLE VII OF CITY CHARTER.

ARTICLE VII.

ELECTIONS.

"Exhibit A" SECTION 1: An election to be known as a General Municipal Election shall be held in said City of Redondo Beach on the second Tuesday in April of each odd numbered year for the filling of such elective offices, the terms of the incumbents of which expire in such year.

PROPOSED AMENDMENT OF SECTION 1 OF ARTICLE XXIII OF CITY CHARTER.

ARTICLE XXIII.

DEPARTMENT OF EDUCATION

SECTION 1: Board of Education. The control of the Public School Department (not including High School) of the said City of Redondo Beach, including the whole of the Redondo Beach City School District, as the same now exists, or may hereafter be changed and exist, as provided by law, shall be vested in a Board of Education, which shall consist of five members elected at large. The members of said Board shall serve for three years and without compensation.

School elections shall be held in the same manner as is provided in the California School Code for elections of school trustees, except (a) that any person desiring to become a candidate for the office of member of the Board of Education shall, thirty days prior to the date of the election, file with the Clerk of the governing board of the Redondo Beach City School District the nomination paper as provided by said Board of Education (b) that the Board of Education shall furnish the ballots and supplies necessary for conducting the election, and that the returns of the election shall be filed with the Clerk of said Board and (c) that the Board of Education

shall canvass the election returns at a meeting held not less than three days nor more than ten days after the election date. The Clerk of the said Board shall immediately after the result of the election is officially declared by the Board of Education issue a certificate of election for each duly elected member and serve the same personally or by mail upon each such person.

The election of members to the Board of Education shall be held in the Redondo Beach City School District on the first Friday of June of each year, the place of election to be designated by the Board of Education, and members shall hold office from the first day of July next succeeding their election.

In the first election under this Charter Amendment the persons receiving the highest and the next highest number of votes cast shall hold office for a three-year term; the persons receiving the third highest and the fourth highest number of votes cast shall hold office for a two-year term; the person receiving the fifth highest number of votes cast shall hold office for a one year term. Thereafter their successors shall be elected in the manner as hereinabove provided. If in said first election in case of a tie vote, the Superintendent of Schools of the County of Los Angeles, State of California, shall appoint the members in question to their respective terms.

If this Charter Amendment receives the necessary approval of the electors and is ratified by the Legislature of the State of California before the regular City Election of 1941, the Board of Education as it is then constituted at such time of said ratification shall hold office until the provisions of this Charter Amendment may be fulfilled. Said Board of Education shall, on the first Friday of June, 1941, call an election in said Redondo Beach City School District in the manner, as nearly as practicable, provided by law, for the calling and holding of school elections in the State of California, at which election an entirely new board of education shall be elected as above stated. If for any reason this Charter Amendment shall not become effective at a date sufficiently in advance of said first Friday of June, 1941, to permit the calling and holding of such election on said date, then and in that event said election shall be held on the first Friday of June immediately following the ratification of this Amendment by the Legislature of the State of California.

EXHIBIT A

WHEREAS, The said proposed amendments as ratified as hereinbefore set forth, have been and now are duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, A majority of all the members elected to

Approval

each house voting therefor and concurring therein, that said amendments to said charter of the City of Redondo Beach, as proposed and submitted to and adopted and ratified by the electors of said city, and as hereinbefore fully set forth, be and the same are hereby approved as a whole without alteration or amendment for and as amendments to and as parts of the charter of the said City of Redondo Beach.

CHAPTER 7

Senate Concurrent Resolution No. 5—Approving a certain amendment to the charter of the City of Santa Clara, a municipal corporation in the County of Santa Clara, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on the first day of April, 1940.

[Filed with Secretary of State January 20, 1941.]

City of Santa Clara Charter amendment

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of a certain amendment, hereinafter set forth, to the charter of the City of Santa Clara, a municipal corporation in the County of Santa Clara, State of California, as set out in the certificate of the mayor and of the city clerk of said city, as follows:

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } ss.
CITY OF SANTA CLARA }

We, the undersigned, CLARENCE A. CASTRO, Mayor of the City of Santa Clara, and A. J. CRONIN, City Clerk of said City, do hereby certify and declare as follows:

Certificate

That the City of Santa Clara, a municipal corporation, in the County of Santa Clara, State of California, is now, and at all times herein mentioned was, a City containing a population of more than thirty five hundred inhabitants and less than fifty thousand inhabitants, and has been ever since the year 1927 and is now, organized, existing and acting under a freeholders' charter, adopted under and by virtue of Section 8, Article XI, of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at an election duly held for that purpose on the 5th day of April, 1926, and approved by the Legislature of the State of California by a concurrent resolution approved by said Legislature on the 31st day of January, 1927, (Statutes 1927, page 2259).

That pursuant to and in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California, the Board of Trustees of the City of Santa Clara, being the legislative body thereof, on its own motion, duly

and regularly submitted a certain proposal for the amendment of the Charter of said City to be voted upon by the qualified electors of said City at a general municipal election held in said City on the 1st day of April, 1940, which said proposal was designated as Amendment No. 4.

That pursuant to resolution duly adopted by the Board of Trustees of said City of Santa Clara, the said proposed charter amendment was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on the 9th day of February, 1940, in the SANTA CLARA NEWS, a weekly newspaper of general circulation, printed, published and circulated in said City of Santa Clara, (said newspaper being the official newspaper of said City for said publication) and in all the editions of said newspaper issued during the day of publication.

That the Board of Trustees of said City of Santa Clara, being the legislative body of said City, by its Ordinance No. 508, order the submission of said proposed amendment to the Charter of said City, at the general municipal election to be held on the 1st day of April, 1940, according to the terms of the Charter of the City of Santa Clara, providing for a general municipal election to be held on the first Monday of April of each year, which Ordinance was passed pursuant to the provisions of Section 8, Article XI of the Constitution of the State of California, and the date of said election was at least forty days and not more than sixty days after the completion of the advertisement of said charter amendment, and did provide in said Ordinance for the submission of said proposed amendment to the Charter of said City to the qualified electors of said City for their ratification at such election.

That thereafter said election was duly and regularly held on Monday, the 1st day of April, 1940, and the Board of Trustees of the City of Santa Clara did, in the manner provided by law, duly and regularly canvass the returns of said election, and did, according to law, declare and certify the result of said election as determined from the canvass thereof.

That at said election a majority of the qualified electors voting on said proposal to amend the Charter of the City of Santa Clara, voted in favor thereof, and the said Board of Trustees did find, determine and declare that said proposed amendment was ratified by a majority of the qualified electors of the said City voting thereon.

That said Amendment to the Charter so ratified by the qualified electors of the City of Santa Clara, at said election, is in the words and figures as follows, to-wit:

PROPOSED AMENDMENT NO. 4.

That the Charter of the City of Santa Clara be amended as follows:

That a new subsection be added to Section 5 of Article IV of the Charter of the City of Santa Clara, reading as follows:

Chief of Police "(g) The Marshal shall also be known as the Chief of Police and as such Chief of Police he shall have all the powers and duties herein conferred upon the Marshal".

AND WE FURTHER CERTIFY that we have compared the foregoing Amendment with the original proposal filed and submitted to the qualified electors of the City of Santa Clara, as aforesaid, and find that the foregoing is a full, true and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of Santa Clara to be affixed hereto this 10th day of January, 1941.

CLARENCE A. CASTRO
Mayor of the City of Santa Clara

[SEAL]

A. J. CRONIN
City Clerk of the City of Santa Clara

WHEREAS, The said proposed amendment as ratified as hereinbefore set forth, has been and now is duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval *Resolved by the Senate of the State of California, the Assembly concurring,* a majority of all the members elected to each house voting therefor and concurring therein, That said amendment to said charter of the City of Santa Clara, as proposed and submitted to and adopted and ratified by the electors of said city, and as hereinbefore fully set forth, be and the same is hereby approved as a whole without alteration or amendment for and as an amendment to and as part of the charter of the said City of Santa Clara.

CHAPTER 8

Assembly Concurrent Resolution No. 7—Approving amendments to the charter of the City and County of San Francisco voted for and ratified by the electors of said City and County of San Francisco at an election held therein on the fifth day of November, 1940.

[Filed with Secretary of State January 21, 1941.]

City and County of San Francisco: Charter amendments WHEREAS, The City and County of San Francisco, State of California, contains a population of over 500,000 inhabitants, and has been ever since the eighth day of January, the

year 1932, and is now organized and acting under a free-holders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city and county at an election held for that purpose on the twenty-sixth day of March, 1931, and approved by the Legislature of the State of California on the thirteenth day of April, 1931, and filed in the office of the Secretary of State on the fifth day of May, 1931 (Statutes of 1931, page 2973); and

WHEREAS, The legislative authority of said city and county, namely the board of supervisors thereof, duly proposed to the qualified electors of the City and County of San Francisco eight amendments to the charter of said City and County of San Francisco by the submission of the following proposals, to wit:

CHARTER AMENDMENT NO. 1

PARK DEPARTMENT

DESCRIBING AND SETTING FORTH A PROPOSAL TO THE ELECTORS OF THE CITY AND COUNTY OF SAN FRANCISCO, TO AMEND THE CHARTER OF SAID CITY AND COUNTY BY AMENDING SECTION 40 THEREOF RELATING TO THE PARK DEPARTMENT, BY PROVIDING THAT CERTAIN EMPLOYEES OF SAID DEPARTMENT SHALL BE SUBJECT TO THE CIVIL SERVICE PROVISIONS OF THE CHARTER.

PARK DEPARTMENT

Section 40. The Park Department shall be under the management of a Park Commission consisting of five members who shall be appointed by the Mayor and serve without compensation. The term of office of each Commissioner shall be four years, provided that the Commissioners in office at the time this Charter shall go into effect shall be continued in office until twelve o'clock noon on the 15th day of January of the year of expiration of their terms, and thereafter their successors shall be appointed for four-year terms, commencing at twelve o'clock noon on the 15th day of January in such respective years. Park Commission

The Park Commission shall appoint a Secretary and a Superintendent of Parks and Director of the Zoo, who shall hold office at its pleasure. The Superintendent shall be the chief executive of the department. He shall appoint all other Employees: Civil service

employees of the said department and such appointments exclusive of those in part time service where the compensation including valuation of maintenance or other allowances is less than $80.00 per month shall, beginning September 1, 1941, be subject to the Civil Service provisions of this Charter. Occupants of positions hereby made subject to the Civil Service provisions of the Charter who occupied such positions on the 1st day of September, 1941, and who have occupied the same for one year immediately prior thereto, shall be continued in their positions as if appointed thereto, after examination and certification from a list of eligibles and shall be governed thereafter by the Civil Service provisions of the Charter. Compensation of employees of the Park Department shall be subject to standardization to the same extent as are compensations of employees in other departments which are now subject to salary standardization.

Succession, powers and duties

The Park Commission shall be successors in office of the Park Commissioners holding office in the City and County at the time this Charter became effective and shall have all the powers and duties thereof, except ordinance making powers and except as in this Charter otherwise provided.

CHARTER AMENDMENT NO. 2

LIBRARY DEPARTMENT

DESCRIBING AND SETTING FORTH A PROPOSAL TO THE ELECTORS OF THE CITY AND COUNTY OF SAN FRANCISCO TO AMEND THE CHARTER OF SAID CITY AND COUNTY BY AMENDING SECTION 43 THEREOF BY PROVIDING THAT CERTAIN EMPLOYEES OF SAID DEPARTMENT SHALL BE SUBJECT TO THE CIVIL SERVICE PROVISIONS OF THE CHARTER.

LIBRARY DEPARTMENT

Library commission

Section 43. The library department shall be under the management of a library commission consisting of eleven members who shall be appointed by the mayor and shall serve without compensation.

The eleven library trustees constituting the board of library trustees in office at the time this charter shall go into effect shall, by lot, classify their respective terms of office so that three of such terms shall begin at twelve o'clock noon on the 15th day of January, 1932, 1933, and 1934, respectively, and two such terms shall begin at twelve o'clock noon on the 15th

day of January, 1935. The term of each commissioner shall be four years, at the expiration of which the mayor shall appoint his successor.

The library commission shall appoint a librarian and a secretary who shall hold office at its pleasure. The librarian shall be the chief executive of the department and shall be the appointing officer for the department as provided in Section 20 of the Charter.

Employees Civil service

Commencing on the 1st day of January, 1942, all positions in the library department except those of librarian and secretary of the library commission and part time services carrying compensation of less than $80.00 per month including valuation of maintenance or other allowances shall be subject to the civil service provisions of this Charter, and upon said date, any incumbent of such position in the library department, hereby made subject to civil service, who shall have held such position continuously for one year prior thereto, shall be deemed appointed to such position under the civil service provisions of this Charter.

Succession, powers and duties

The library commission shall be the successors in office of the board of library trustees holding office at the time this Charter shall go into effect and shall have all of the powers and duties thereof, except as in this charter otherwise provided.

CHARTER AMENDMENT NO. 3

CONTINUOUS SERVICE

DESCRIBING AND SETTING FORTH A PROPOSAL TO THE ELECTORS OF THE CITY AND COUNTY OF SAN FRANCISCO TO AMEND THE CHARTER OF SAID CITY AND COUNTY BY AMENDING SECTION 161 THEREOF RELATING TO CONTINUOUS SERVICE FOR THE PURPOSE OF THE RETIREMENT SYSTEM AND PROVIDING THAT THE MEMBERS THEREOF WHEN INDUCTED INTO THE ARMY OR THE NAVY SHALL CONTINUE THEIR MEMBERSHIP UNDER SAID RETIREMENT BOARD, AND THAT UNDER CERTAIN CONDITIONS THE CITY SHALL PAY THEIR CONTRIBUTIONS TO SAID RETIREMENT SYSTEM.

CONTINUOUS SERVICE

Continuous service

Absence due to military service

Section 161. Continuous service shall be defined by the Board of Supervisors. The absence of any officer or employee of the City and County from service caused by reason of the

service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the Retirement System, and such officer or employee shall receive credit under the Retirement System for the period of such absence, in the same manner as if he had not been absent.

Contributions to Retirement Fund by persons in military service

Any member of the Retirement System who is absent after September 14, 1940, from the service of the City and County, by reason of service or training in the military or naval forces of the United States or other armed forces of the United States of a comparable category hereafter created, or in the National Guard of California, or by reason of any other service connected with the national defense, all in response to an order or call of the Government of the United States or of the State of California or an authorized officer thereof, may elect within four months after the effective date hereof or within four months after the beginning of such absence, to contribute to said Retirement System while serving in said forces, and at times and in a manner to be fixed by the Retirement Board, amounts equal to the contributions which he would have made from the beginning of said absence or from the date of said election, had he remained on duty in the position he occupied and at the compensation being earned by him immediately prior to the beginning of said absence. The City and County shall contribute to the Retirement System on account of any member who exercises affirmatively the election provided herein, in the same manner and amounts as if said member were not absent in said service. If the member's base pay in said service shall be less than one hundred dollars per month, the City and County, in lieu of said member, shall contribute also the amount which the member would otherwise contribute under said election, and said contributions shall be administered as if made by said member.

Purpose

It is the purpose of the paragraph next preceding, to place a member who is absent from the service of the City and County by reason of service or training as set forth in the paragraph next preceding, and who contributes or for whom contributions are made under the election herein provided, in the same status under the Retirement System, as that which he would have occupied had he remained on duty in the position he occupied immediately prior to the beginning of said absence, and Charter and Ordinance provisions governing the Retirement System, shall apply to said member with like effect as if he were not so absent. If, however, a member who exercises affiirmatively the election provided herein, shall default in any of the contributions due to the Retirement System under said election, and if said contributions are not made for him, then he shall be considered absent from service during the period covered by said defaulted contributions, the same as if he had not exercised affirmatively said election,

and he shall not receive credit as service for the City and County, for the period covered by said defaulted contributions; but the absence during said period of default, shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance, as provided under the Retirement System.

Any member of the Retirement System who is absent from the service of the City and County by reason of service or training as set forth in the second paragraph of this section, and who does not affirmatively exercise the election herein provided, shall not receive credit as service for the City and County, for the period of such absence, but the absence shall not break the continuity of service required of such member to entitle him to a pension or retirement allowance as provided under the Retirement System.

CHARTER AMENDMENT NO. 4

LEAVES OF ABSENCE

DESCRIBING AND SETTING FORTH A PROPOSAL TO THE ELECTORS OF THE CITY AND COUNTY OF SAN FRANCISCO TO AMEND THE CHARTER OF SAID CITY AND COUNTY BY AMENDING SECTION 153 THEREOF SO AS TO PROVIDE FOR LEAVES OF ABSENCE TO OFFICERS AND EMPLOYEES OF THE CITY AND COUNTY WHILE SERVING IN THE MILITARY OR NAVAL FORCES OF THE UNITED STATES OR IN THE NATIONAL GUARD OF CALIFORNIA, AND PROVIDING FOR SAID PERSONS HOLDING THEIR RANK ON CIVIL SERVICE ELIGIBLE LISTS.

LEAVES OF ABSENCE

Section 153. Leaves of absence to officers and employees of the City and County shall be governed by rules established by the Civil Service Commission, provided that leave of absence to any officer or employee for the purpose of leaving the City and County, taking a position outside of the City and County service, or accepting a position in some department or office of the City and County other than the one in which he is employed and where the duties are in no way related to the duties covered by his civil service classification, shall be limited to six months; and provided, further, that no limit shall be placed on a leave of absence granted to enable an officer or employee to accept promotion to a non-civil service position in the same department in which he holds civil service status,

Leaves of absence

or promotion to co-related work in another department or office of the City and County.

Persons in military service

Leaves of absence shall be granted to officers, employees and persons on eligible lists for terms of service in the army, the navy or the marine corps, in time of war and for such time thereafter as may be provided by rule of the commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in line of duty, when such disability shall extend beyond such period. If a person on such leave has been appointed to a permanent position, he shall be entitled to resume such position at the expiration of his leave, and if any civil service rights accrue to any appointee by reason of seniority, the term of service shall be reckoned a part of his service under the City and County, exclusive of service under the retirement provisions of this Charter. If persons on such leave have standing on an eligible list, they shall retain their places thereon, and upon presenting an honorable discharge from such wartime service shall be preferred for appointment in the order of standing upon such register at the time of enlistment and before candidates securing standing through an examination held subsequent to such enlistment.

Whenever any officer or employee of the City and County of San Francisco, or any uncertificated officer or employee of the Unified School District of said City and County, including persons under probationary appointment, or any person having rank or place on any civil service list of eligibles for appointment to any position under the government of said City and County, or to any uncertificated position under said Unified School District, shall by order of the Government of the United States or by lawful order of any of its departments or officers, or by lawful order of the State of California, or any of its departments or officers, be directed in time of peace, to report for service or training in any branch of the military or naval forces of the United States, or in the National Guard of California, and shall be inducted into said service, or into any service for national defense or preparedness, or who, in time of peace, in response to any call from the Federal or State governments to enlist for service or training in any branch of the military or naval forces of the United States, or in the National Guard of California, shall so enlist, said officer or employee shall be entitled to a leave of absence from his office or position during the time of his enlistment or service and for a period of three months after the expiration thereof.

Service orders

Employees or eligibles entering or being inducted into said service shall, prior thereto, file with the Civil Service Commission a copy of the orders requiring such service. If said person so enlisting or serving is on any civil service list of eligibles, he shall maintain his place on said list during the period of said service unless the list shall expire prior thereto, but if his name has been reached for certification to any permanent position during said period of service, and he has filed a copy

of the orders requiring such service with the Civil Service Commission as herein provided, he shall be preferred for appointment at the end of his service, a temporary appointment shall be made to said position to serve during the leave of absence of said person whose name is reached for certification, and on expiration of said leave said person shall be certified for appointment to said position. The Civil Service Commission shall have full power and authority to make all necessary rules not in conflict with this section, to carry its purposes into effect.

Sick leave

The Civil Service Commission, by rule and subject to the approval of the Board of Supervisors by ordinance, shall provide for leaves of absence due to illness or disability, which leave or leaves may be cumulative, if not used as authorized, provided that the accumulated unused period of sick leave shall not exceed six months, regardless of length of service, and provided further that violation or abuse of the provisions of said rule and ordinance by any officer or employee shall be deemed an act of insubordination and inattention to duties

CHARTER AMENDMENT NO. 5

PROMOTIONS

DESCRIBING AND SETTING FORTH A PROPOSAL TO THE QUALIFIED ELECTORS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, TO AMEND THE CHARTER OF SAID CITY AND COUNTY BY AMENDING AS HEREIN SET FORTH, SECTION 146 THEREOF, REGULATING THE HOLDING OF PROMOTIONAL EXAMINATIONS IN THE POLICE DEPARTMENT AND IN THE FIRE DEPARTMENT, AND PROVIDING FOR CERTAIN CREDITS TO BE ALLOWED TO THOSE PARTICIPATING IN SAID EXAMINATIONS.

Promotions

Section 146. Whenever it deems it to be practicable, the Civil Service Commission shall provide for promotion in the service on the basis of such examinations and tests as the Commission may deem appropriate, and shall, in addition, give consideration to ascertained merit and records of City and County service of applicants. The Commission shall announce in the examination scope circular the next lower rank or ranks from which the promotion will be made. Except as specifically provided in other sections of this Charter, all promotions in the uniform forces of the Police and Fire Departments, respectively, shall be made from the next lower

civil service rank attained by examinations, as herein set forth, giving consideration also to meritorious public service and seniority of service. All such promotive examinations in the Police and Fire Departments shall be entirely of a written character, and all questions asked or problems given in said examinations shall pertain to matters concerning the duties of members of the department for which the examination is held.

Credits for seniority of service:

Fifteen per cent of the total credits obtainable under any promotive examination for eligibles for the Police or Fire Department shall be allowed for seniority of service, which said credits shall be distributed as follows:

EXAMINATIONS FOR ELIGIBLES FOR THE POLICE DEPARTMENT.

Police department

(a) For Promotion to the Rank of Sergeant of Police: One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of 15 per cent of the credits of the entire examination is reached;

(b) For Promotion to the Rank of Lieutenant of Police: Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of 9 per cent of said total credits of the entire examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of corporal or sergeant until a total of 6 per cent of the credits of the entire examination is reached.

(c) For Promotion to the Rank of Captain of Police: Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the department until a total of 9 per cent of said total credits for said examination is reached, and in addition thereto six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the rank of lieutenant until a total of six per cent of the credits of the entire examination is reached.

(d) In addition to the foregoing credits for seniority, ten per cent of the total credits allowed for said examinations shall be allowed for ascertained merit and meritorious public service; sixty per cent of said ten per cent to be allowed to each applicant for a clean record in the department, and forty per cent of said ten per cent shall be the maximum which may be allowed for acts of meritorious public service according to the judgment of the Commission.

EXAMINATIONS FOR ELIGIBLES FOR THE FIRE DEPARTMENT.

Fifteen per cent of the total credits allowed for any promotive examination shall be allowed for seniority of service, which said credits shall be distributed as follows: Fire department

(e) For Promotion to the Rank of Lieutenant in the Fire Department:

One per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the Fire Department until a maximum of fifteen per cent is reached;

(f) For Promotion to the Rank of Captain in the Fire Department:

Six-tenths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the Fire Department until a total of nine per cent is reached; and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service in the rank of Lieutenant, until a total of six per cent of the credits of the entire examination is reached.

(g) For Promotion to all ranks above Captain in the Fire Department:

Forty-five hundredths of one per cent of the total credits allowed for the entire examination shall be allowed for each year of service in the Fire Department until a total of nine per cent of said credits is reached, and in addition thereto there shall be allowed six-tenths of one per cent of the total credits allowed for the entire examination for each year of service as an officer in the rank held by the applicant at the time of the examination, until a total of six per cent of the credits of the entire examination is reached.

(h) In addition to the foregoing credits for seniority, 10 per cent of the total credits allowed for said examinations shall be allowed for ascertained merit and meritorious public service; 60 per cent of said 10 per cent to be allowed to each applicant for a clean record in the department, and 40 per cent of said 10 per cent shall be the maximum which may be allowed for acts of meritorious public service according to the judgment of the Commission.

(i) In promotional examinations in the Fire Department, seniority of service, meritorious public service and ascertained merit shall be added to the credit obtained by the applicant in the written portion of said examination, and shall be taken into consideration by the Commission in determining his passing mark and his place upon the list of eligibles.

(j) In computing the credits for service in both the Police Department and the Fire Department, fractional parts of the year shall not be considered.

CHARTER AMENDMENT NO. 6

PACIFIC GAS & ELECTRIC COMPANY EMPLOYEES

DESCRIBING AND SETTING FORTH A PROPOSAL TO THE ELECTORS OF THE CITY AND COUNTY OF SAN FRANCISCO TO AMEND THE CHARTER OF SAID CITY AND COUNTY BY ADDING A NEW SECTION THERETO TO BE KNOWN AS SECTION 165.1, GIVING TO THE BOARD OF SUPERVISORS THE POWER TO PROVIDE, BY ORDINANCE, FOR RETIREMENT BENEFITS FOR THE EMPLOYEES OF THE PACIFIC GAS & ELECTRIC COMPANY WHEN THE ELECTRIC DISTRIBUTION SYSTEM THEREOF IS TEMPORARILY ACQUIRED BY THE CITY.

PACIFIC GAS & ELECTRIC COMPANY EMPLOYEES

Retirement benefits for P G & E employees

Section 165.1. The Board of Supervisors shall have the power to provide by ordinance retirement benefits for persons who become employees of the City and County of San Francisco under any lease, or other temporary arrangement, entered into between said City and County and the Pacific Gas & Electric Company, and because of their employment by said Company at the effective date of said lease, or other temporary arrangement. The effect of said ordinance shall be to provide essentially the same retirement benefits for said employees on account of service rendered under said lease, or other temporary arrangement, as if said persons had been employees of said Company throughout the term of said lease.

The further effect of said ordinance shall be to provide for permanent retirement rights for said persons, in the event they become employees of said City and County upon purchase or other permanent acquisition of the properties of said Company, essentially the same benefits on account of service rendered as employees of said City and County, as they would have received if they had been members throughout said service of the San Francisco City and County Employees' Retirement System on the same basis as other employees of said City and County, except members of Fire or Police Departments.

CHARTER AMENDMENT NO. 7

EMPLOYEES TEMPORARILY ACQUIRED FROM THE PACIFIC GAS & ELECTRIC COMPANY

DESCRIBING AND SETTING FORTH A PROPOSAL TO THE ELECTORS OF THE CITY AND COUNTY OF SAN FRANCISCO TO AMEND THE CHARTER OF SAID CITY AND COUNTY BY ADDING A NEW SECTION THERETO TO BE KNOWN AS SECTION 125.1 THEREOF, RELATING TO THE CIVIL SERVICE RIGHTS OF PERSONS EMPLOYED IN THE OPERATING SERVICE OF ANY PUBLIC UTILITY ACQUIRED BY THE CITY UNDER LEASE OR ANY OTHER TEMPORARY ARRANGEMENT, AND PROVIDING THAT SAID PERSONS SHALL BE CONTINUED IN THEIR RESPECTIVE POSITIONS AND SHALL BE ENTITLED TO THE BENEFITS OF THE CIVIL SERVICE PROVISIONS OF THE CHARTER AS LONG AS SAID LEASE OR TEMPORARY ARRANGEMENT IS IN FORCE.

Civil service status of employees of public utilities

Section 125.1. All persons employed in the operating service of any public utility hereafter acquired by lease or under any other temporary arrangement, under which the City acquires the right to operate said utility, shall be continued in their respective positions and shall be deemed appointed to such positions under, and entitled to all, the benefits of the civil service provisions of this Charter for the period of time during which the City shall continue to operate said utility under said lease or other temporary arrangement. Should the City permanently acquire said utility, said persons shall come into the permanent employ of the City and County in their respective positions and shall be deemed permanently appointed thereto under the civil service provisions of the Charter and shall be entitled to all the benefits thereof, all subject to the provisions contained in Section 125 of the Charter; provided, however, that said employees who are taken over into the employ of the City under said lease or other temporary arrangement shall not be subject to the residential qualifications of the Charter, during the term of said lease or other temporary arrangement. All employees of any such utility, acquired or operated by the City under any lease or other temporary arrangement, who come into the employ of said utility after the temporary acquisition of same, shall be subject to the civil service provisions of the Charter. The civil service rights of any person who comes into the service of the City under any lease or other temporary arrangement for the acquisition and operation of said utility shall cease and terminate upon the expiration of said lease or other temporary arrangement.

CHARTER AMENDMENT NO. 8

HEALTH SERVICE SYSTEM

DESCRIBING AND SETTING FORTH A PROPOSAL TO THE QUALIFIED ELECTORS OF THE CITY AND COUNTY OF SAN FRANCISCO TO AMEND THE CHARTER OF SAID CITY AND COUNTY BY AMENDING SECTION 172.1 THEREOF RELATING TO THE HEALTH SERVICE SYSTEM AUTHORIZING PETITIONS TO THE HEALTH SERVICE BOARD, PROVIDING FOR REVIEW BY THE RETIREMENT BOARD OF CERTAIN DETERMINATIONS AND FOR ANNUAL REVIEW OF ADEQUACY OF MEDICAL CARE AND OF COMPENSATION AND PROFESSIONAL FEE SCHEDULES.

HEALTH SERVICE SYSTEM

Section 172.1:

Health service system

Subdivision 1. A health service system for municipal employees is hereby established. Said system shall be administered by a board to be known as the Health Service Board. The members of the system shall consist of all employees of the City and County who are members of the retirement system and all teachers and employees of the board of education who are members of said retirement system. Any employee who adheres to the faith or teachings of any recognized religious sect, denomination or organization and, in accordance with its creed, tenets or principles, depends for healing upon prayer in the practice of religion shall be exempted from the system upon filing annually with the Health Service Board an affidavit stating such adherence and dependence and disclaiming any benefits under the system. The board shall have the power to exempt any person whose annual compensation exceeds forty-five hundred ($4,500.00) dollars and any person who has otherwise provided for adequate medical care.

Health Service Board

Subdivision 2. The Health Service Board shall consist of nine members elected by the members of the system. The first members of the board shall classify themselves by lot so that three shall serve for one year three for two years and three for three years from and after May 15, 1937. Thereafter the term of office shall be three years. Each member of the board shall give bond in the sum of ten thousand ($10,000.00) dollars, the premium on which shall be paid out of the funds of the system. Vacancies shall be filled for the unexpired term by a majority vote of the remaining

members of the Board. Members of the Board shall be nominated by a written nomination of twenty members filed with the registrar of voters not earlier than April 1st nor later than April 15th of each year. The registrar of voters shall prepare ballots and shall furnish the same to all members of the system between April 15th and April 25th and shall receive the ballots between April 25th and May 7th and canvass and certify the result on May 8th. The registrar of voters shall have power to make such regulations respecting the form, distribution and canvassing of the ballots as may be necessary to secure secrecy of the ballots and prevent fraud. The persons equal in number to the number to be elected who receive the greatest number of votes shall be declared elected. Not more than one employee of any one department or office may be a member of the Board. For the purpose of the first election, all employees eligible for membership in the system shall be deemed members.

Subdivision 3. The Board shall have power:

Powers of board: Plans for medical care

(a) By a two-thirds vote of the entire membership of the Board to adopt a plan or plans for rendering medical care to the members of the system, or for the indemnification of the cost of said care, or for obtaining and carrying insurance against such costs, provided:

1. No member of the system shall be required to accept the services or medical supplies of any physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist or hospital selected by the Board, but, subject to rules and regulations of the Board, every member shall have the right to select, of his own choice, any duly licensed physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist, hospital or other agency of medical care as herein defined, who or which will render the required services pursuant to said rules and regulations, and the Board shall make provision for the exercise of such choice; and is hereby expressly prohibited from entering into any exclusive contract for the rendering of said services;

2. Any duly licensed physician, surgeon, person licensed to treat human diseases without the use of drugs, dentist, nurse, pharmacist, hospital or other agency of medical care shall have the right to furnish such services or medical supplies at uniform rates of compensation to be fixed by the Board;

3. Such rates of compensation and any and all proposed contracts respecting the rendering of such services shall be reviewed by the retirement board of the City and County and shall not become effective unless and until approved by the retirement board. The retirement board may approve, refer to the Health Service Board for further consideration, or disapprove any matter or proposal which is within its jurisdiction under the provisions of this section, and it shall act within sixty (60) days after any matter has been submitted to

it, and failure of the retirement board to approve, refer or disapprove the same within said period shall constitute an approval.

4. In January of each year, at public hearings, the Health Service Board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable. Any such determination or revision shall be subject to review by the retirement board upon an appeal taken within thirty (30) days thereafter by a written petition filed with the retirement board and signed by not less than fifteen per cent. (15%) of the members of the system or by not less than fifteen per cent. (15%) of those of any one of the following groups who have contracted to render services to the members of the system: Physicians and surgeons; persons licensed to treat human diseases without the use of drugs; dentists; nurses; pharmacists; hospitals; other agencies of medical care. A copy of such petition shall also be filed with the health service board at the same time. The retirement board may approve or disapprove such determination or revision of the Health Service Board by a majority of its members or refer the same to the Health Service Board for further consideration. Failure of the retirement board to approve, refer or disapprove such determination or revision within sixty (60) days after filing the petition shall constitute an approval.

5. The Health Service Board shall receive, consider and, within sixty (60) days after receipt, act upon any matter pertaining to the administration, operation or conduct of the health service system submitted to it in writing by any member of the system or any person who has contracted to render medical care to the members of the system.

6. The said retirement board is hereby authorized and empowered and it is hereby made its duty to exercise the powers and to perform the duties prescribed for it by this section.

(b) To put said plans into effect and to conduct and administer the same and, for all or any of said purposes, to contract therefor and use the funds of the system.

(c) To make rules and regulations for the transactions of its business, the granting of exemptions and the admission to the system of persons who are hereby made members thereof and such other officers and employees as may voluntarily become members of the system with the approval of the Board.

(d) To appoint a secretary and other employees, who shall hold office at the pleasure of the Board, and to fix their respective compensations.

(e) To make provision for the participation in the benefits of the system by the dependents of members, retired municipal employees and temporary municipal employees, provided

that such participation shall be without cost to the City and County.

Subdivision 4. The Board shall determine and certify to the Controller the amount to be paid monthly by the members of the system to a fund for the purposes of the system hereby created. The Controller shall deduct said sums from the compensation of the members and shall deposit the same with the Treasurer of the City and County to the credit and for the use of the system. Such deductions shall not be deemed to be a reduction of compensation under any provision of this charter. The Board shall have control of the administration and investment of the funds, provided that all investments shall be of the character legal for insurance companies in California. Disbursements from the fund shall be made only upon audit by the Controller and the Controller shall have and exercise the accounting and auditing powers over the funds of the system which are vested in him by this charter with respect to all other municipal boards, officers and commissions. Contributions to fund

Subdivision 5. The term "medical care" shall include the services of physicians, surgeons, nurses, persons licensed to treat human diseases without the use of drugs, hospitalization, medicines and appliances, and dental, optical and other medical treatments and services. "Medical care" defined

All acts performed and services rendered under the provisions of this section shall be performed in accordance with the provisions as to professional conduct prescribed by the statutes of the State of California regulating such professional conduct and services.

Medical care, as defined in this section, shall not be furnished or supplied to any member of the system by or in any of the public health and hospital facilities of the City and County, except that emergency medical and hospital care may be rendered to any member of the system in the usual course of emergency health service.

Subdivision 6. Members of the system shall have and possess no claim or recourse against any of the funds of the municipality by virtue of the adoption or operation of any plan for rendering medical care, indemnifying costs of said care or carrying insurance against such costs, but the claim and recourse of any such member shall be limited solely to the funds of the system. All expenses of the system shall be borne exclusively by the funds of the system and the City and County shall not appropriate or contribute funds in any manner for the purposes of the system hereby established and provided.

NOW, THEREFORE, we the undersigned, WARREN SHANNON, the President of the Board of Supervisors of the City and County of San Francisco, and DAVID A. BARRY, the Clerk thereof, said Board of Supervisors being Certificate

the legislative body of said City and County, do hereby certify as follows:

That each of the aforesaid amendments to said Charter was by said Board of Supervisors ordered submitted to the qualified electors of the City and County of San Francisco at a general election to be held in said City and County on the 5th day of November, 1940; that each of said Charter amendments was published once in the official newspaper of the City and County of San Francisco—"The San Francisco News"—a newspaper of general circulation in said City and County, not less than forty, nor more than sixty, days prior to the date of said election, said publications being made in each edition of said newspaper published on the date on which said publications were made;

That said Board of Supervisors caused copies of said Charter amendments to be printed in convenient pamphlet form and type of not less than ten point, and caused copies of said amendments as so printed to be mailed to each of the qualified electors of said City and County, and from the 24th day of September, 1940, until the day fixed for the election on said amendments advertised in said "The San Francisco News", on all of the days on which said newspaper was published, a notice that copies of said amendments could be had on application therefor at the office of said Board of Supervisors;

That said general election was held in the City and County of San Francisco on the said 5th day of November, 1940, and each of the aforesaid Charter amendments appeared upon the official ballot for said election;

That the Board of Supervisors of said City and County did thereafter, in regular meeting assembled, by resolution duly adopted by said Board and entered in the minutes thereof, direct that a canvass of said election held on the 5th day of November, 1940, be immediately begun and made by the Registrar of Voters of said City and County, it appearing to said Board of Supervisors that at the time of commencement of said canvass all of the returns of said election held on the 5th day of November, 1940, from each election precinct in the City and County of San Francisco in which polls were opened had theretofore been received by the said Registrar of Voters; and

That pursuant to said resolution, the said Registrar of Voters did duly canvass all of the returns from each of the election precincts in the City and County of San Francisco in which polls were opened for voting on the said 5th day of November, 1940, and did thereafter, and upon the completion of said canvass, report and make to the Board of Supervisors of said City and County of San Francisco his official statement of the votes cast at said general election held on Tuesday, the 5th day of November, 1940, showing the vote cast for and against each of the aforesaid Charter Amendments voted upon at such election;

That from the said canvass and official statement made by said Registrar of Voters of the vote cast at said general election so held on the 5th day of November, 1940, it appeared that the proposed eight amendments to the said Charter of the City and County of San Francisco were ratified by a majority of the electors of said City and County voting thereon, said Amendments being Charter Amendments numbers 1 to 8 inclusive, submitted to the electors to be voted upon as hereinbefore set forth; and said Board of Supervisors did, by resolution duly adopted on the 25th day of November, 1940, so declare;

That we have compared the foregoing proposed and ratified Amendments to said Charter of said City and County with the original proposals submitting the same to the electors of said City and County, and find that the foregoing Amendments, numbered 1 to 8 inclusive, are full, true and correct copies thereof;

That said Charter Amendments ratified by the electors of the City and County of San Francisco are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California.

IN WITNESS WHEREOF we have hereunto set our hands and have caused this certificate to be authenticated by the seal of the City and County of San Francisco this 8th day of January, one thousand nine hundred and forty one.

[SEAL]

WARREN SHANNON
PRESIDENT of the Board of Supervisors of the City and County of San Francisco.

DAVID A. BARRY
CLERK of the Board of Supervisors of the City and County of San Francisco.

Now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, A majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City and County of San Francisco, as proposed to, and adopted and ratified by the electors of said city and county, and as hereinbefore fully set forth, be and the same are hereby approved as a whole without amendment or alteration, for and as amendments to, and as part of the charter of the City and County of San Francisco.

CHAPTER 9

Assembly Concurrent Resolution No. 12—Relative to the reports of the Joint Fact-Finding Committee on work relief projects at Chino, California.

[Filed with Secretary of State January 22, 1941.]

Committee on work relief projects at Chino continued

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Fact-Finding Committee created by Assembly Concurrent Resolution No. 34 of the First Extraordinary Session of the Fifty-third Legislature with the powers in said resolution specified, defined, and referred to, including the power to file a report or reports at this Fifty-fourth Regular Session, is hereby recognized and declared as continuing in existence, without change in membership, for the purpose of completing and filing its report or reports at this session.

CHAPTER 10

Senate Concurrent Resolution No. 3—Relative to Joint Rules of the Senate and Assembly.

[Filed with Secretary of State January 23, 1941.]

Joint Rules

Resolved by the Senate of the State of California, the Assembly concurring, That the following be, and the same are, hereby adopted as the Joint Rules of the Senate and Assembly of the State of California for the Fifty-fourth Session:

JOINT RULES OF THE SENATE AND ASSEMBLY

COMMITTEES AND COMMITTEE MEETINGS

Standing Committees

Standing committees

1. Each house shall appoint such standing committees as the business of the house may require, the committees, the number of members and the manner of selection to be determined by the rules of each house.

Joint Committees

Rules Committee

2. The Rules Committees of each house shall constitute the joint standing committee on joint rules of the Senate and the Assembly.

Joint Meeting of Committees

Joint meeting of committees

3. Whenever any bill has been referred by the Senate to one of its committees, and the same or a like bill has been referred by the Assembly to one of its committees, the chairmen of the

respective committees, when in their judgment the interests of legislation or the expedition of business will be better served thereby, shall arrange for a joint meeting of their committees for the consideration of such bill.

BILLS AND RESOLUTIONS

Definition of Word Bill

"Bill" 4. Whenever the word "bill" is used in these rules, it shall include constitutional amendments, concurrent and joint resolutions.

Concurrent and Joint Resolutions

Resolutions Concurrent Joint 5. Concurrent resolutions relate to matters to be treated by both houses of the Legislature.

Joint resolutions are those which relate to matters connected with the Federal Government.

Resolutions Treated as Bills

Resolutions, etc., as bills 6. Constitutional amendments, concurrent and joint resolutions shall be treated in all respects as bills; except that they shall be given only one formal reading in each house and that they shall not be deemed bills within the meaning of Section 2 of Article IV of the Constitution, and shall not be referred to the Committee on Introduction of Bills, and shall not require a vote to authorize their introduction. As in the case of bills, they shall be engrossed in the house in which they originate before being voted upon.

PREPARATION AND INTRODUCTION OF BILLS

Title of Bill

Titles 7. The title of every bill introduced shall convey an accurate idea of the contents of the bill and shall be indicative of the scope of the act and the object to be accomplished. In amending a code section, the mere reference to the section by number shall not be deemed sufficient.

Division of Bill Into Sections

Sections 8. A bill amending more than one section of an existing law shall contain a separate section for each section amended.

Bills which are not amendatory of existing laws shall be divided into short sections, where this can be done without destroying the sense of any particular section, to the end that future amendments may be made without the necessity of setting forth and repeating sections of unnecessary length.

Restrictions as to Amendments

Amendments

9. A substitute or amendment must relate to the same subject as the original bill, constitutional amendment or resolution under consideration.

Changes in Existing Law to Be Marked by Author

"Strikeout" and italic type

10. In a bill amending a code section or a general law, any new matter shall be underlined and any matter to be omitted shall be in type bearing a horizontal line through the center and commonly known as "strikeout" type. When printed the new matter shall be printed in italics, and the matter to be omitted shall be printed in "strikeout" type.

Applicable to section amended for first time

In any amendment to a bill which sets out for the first time a section being amended, any new matter to be added and any matter to be omitted shall be indicated by the author and shall be printed in the same manner as though the section as amended were a part of the original bill and was being printed for the first time.

Printing of Amendments

Printing of amendments

11. All bills amended by either house shall be immediately reprinted; in the case new matter is added by the amendment such new matter shall be printed in italics in the printed bill, and in the case of matter being omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

Printing and Distribution of Bills—Manner of Printing Bills

Printing of bills

12. The State Printer shall observe the following directions in printing all bills, constitutional amendments, concurrent and joint resolutions:

(a) The body of such bills shall be printed in solid unspaced form in 10-point roman type so that the same type shall be used both before and after enrollment. Concurrent resolutions approving city or county charters or amendments thereto may be set in smaller type.

(b) All titles of bills shall be set in italics, statute form and the length of the lines used in the titles shall not exceed that of the body of the bill.

(c) The lines of all printed bills shall be numbered by page and not by sections, and amendments shall be identified by reference to title, page and line only.

Distribution of Legislative Publications

Legislative publications

13. All requests for mailing or distribution of bills and legislative publications shall be filed with the Secretary of the Senate or the Chief Clerk of the Assembly. Each member of

the Senate and Assembly shall be permitted to submit a list of 10 libraries, chambers of commerce or individuals. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of bills and legislative publications to supply this list together with such number as may be necessary for legislative requirements.

Except as hereinabove provided, no complete list of bills shall be delivered except upon payment therefor of the sum of forty-five dollars ($45), nor shall more than five copies of bills or other legislative publications be distributed free except to members of the Legislature, the Secretary of the Senate and the Chief Clerk of the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; Attorney General's office; Secretary of State's office; Controller's office; Governor's office; the Clerk of the Supreme Court; the clerk of the district court of appeal for each district; the Library of Congress and to libraries of the University of California at Berkeley and at Los Angeles; and accredited members of the press. The State Printer shall fix the cost of such bills and publications, and such moneys as may be received by him shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing. Unless otherwise provided for, the total number of each bill to be printed shall be not more than 2,500.

OTHER LEGISLATIVE PRINTING

Printing of the Daily Journal

Journals

14. The State Printer shall print in such quantity as directed by the Secretary of the Senate and the Chief Clerk of the Assembly, copies of the Journal of each day's proceedings of each house. At the end of the session he shall also print, as directed by the Secretary of the Senate and the Chief Clerk of the Assembly a sufficient number of copies properly paged after being corrected and indexed by the Secretary of the Senate and the Chief Clerk of the Assembly, to bind in book form as the Journal of the respective houses of the Legislature.

What Shall Be Printed in the Journal

Contents

15. The following shall always be printed in the Journal of each house:

(a) Messages from the Governor and messages from the other house, and the titles of all bills, joint and concurrent resolutions and constitutional amendments when introduced in, offered to, or acted upon by the house.

(b) Every vote taken in the house, and a statement of the contents of each petition, memorial or paper presented to the house.

(c) A true and accurate account of the proceedings of the house, when not acting as a Committee of the Whole.

Printing of the Daily File

Daily files

16. A daily File of bills ready for consideration shall be printed each legislative day for each house.

The material to be printed in the File and the form and arrangement shall be determined by the respective houses.

Printing of History

Histories

17. Each house shall cause to be printed once each week, during the session, a complete History of all bills, constitutional amendments, concurrent, joint and house resolutions originating in or acted upon by the respective houses. A regular form shall be prescribed by the Secretary of the Senate and the Chief Clerk of the Assembly. Such History shall show the action taken upon each measure up to and including the legislative day preceding its issuance. For each legislative day intervening there shall be printed a Supplementary History showing the action taken upon any measure since the issuance of the complete History.

Immediately following the adjournment for the constitutional recess, the History shall be compiled and printed to date of recess by the Secretary of the Senate and the Chief Clerk of the Assembly.

Authority for Printing Orders

Printing orders

18. The Superintendent of State Printing shall not print for use of either house nor charge to legislative printing any matter other than provided by law or by the Rules, except upon a written order signed by the Secretary of the Senate or the Chief Clerk of the Assembly. The Secretary of the Senate and the Chief Clerk of the Assembly may, when necessity requires it, order certain matter printed in advance of the regular order, by the issuance of a rush order.

The Secretary of the Senate and the Chief Clerk of the Assembly are hereby authorized and directed between sessions to order and distribute for the members stationery and legislative publications for which there is a demand, and, subject to the rules of their respective houses, to approve the bills covering such orders. All bills for printing must be presented by the State Printer within 30 days after the completion of said printing.

RECORD OF BILLS

Secretary and Chief Clerk to Keep Records

Registers of bills

19. The Secretary of the Senate and the Chief Clerk of the Assembly shall keep a complete and accurate record of every action taken by the Senate and Assembly on every bill.

Secretary and Chief Clerk Shall Indorse Bills

Indorsement

20. The Secretary of the Senate and the Chief Clerk of the Assembly shall indorse on every original or engrossed bill a statement of any action taken by the Senate or Assembly concerning such bill.

ACTION IN ONE HOUSE ON BILL TRANSMITTED FROM THE OTHER

After a Bill Has Been Passed by the Senate or Assembly

Bills from other house

21. When a bill has been passed by either house it shall be transmitted promptly to the other unless a motion to reconsider or a notice of motion to reconsider has been made or it is held pursuant to some rule or order of the house.

The procedure of referring bills to committees shall be determined by the respective houses.

Messages to Be in Writing Under Proper Signatures

Messages

22. Notice of the action of either house to the other shall be in writing and under the signature of the Secretary of the Senate or the Chief Clerk of the Assembly from which such message is to be conveyed. A receipt shall be taken from the officer to whom such message is delivered.

PASSAGE AND ENROLLING OF BILLS

Passage of Bills Preceding Final Adjournment

Passage before final adjournment

23. No Senate bill shall be passed by the Senate, and no Assembly bill shall be passed by the Assembly within the time specified in the resolution prior to the adjournment sine die of the two houses of the Legislature at a regular session, unless permission to vote on such bill shall be granted by a three-fourths vote of the house of its origin after being recommended by the Committee on Rules (if it be a Senate bill) or by the Speaker of the Assembly (if it be an Assembly bill).

Enrollment of Bill After Passage

Enrollment

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the engrossing and enrolling clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the presiding officers of both houses and the Secretary of the Senate and Chief Clerk of the Assembly and presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the Journal.

AMENDMENTS AND CONFERENCES

Amendments to Amended Bills Must Be Attached

Amendments

25. Whenever a bill or resolution which shall have been passed in one house shall be amended in the other, it shall immediately be reprinted as amended by the house making such amendment or amendments. Such amendment or amendments shall be attached to the bill or resolution so amended, and indorsed "adopted" and such amendment or amendments, if concurred in by the house in which such bill or resolution originated, shall be indorsed "concurred in," and such indorsement shall be signed by the Secretary or Assistant Secretary of the Senate, or the Chief Clerk or Assistant Clerk of the Assembly as the case may be; provided, however, that an amendment to the title of a bill adopted after the passage of such bill shall not necessitate reprinting, but such amendment must be concurred in by the house in which such bill originated.

To Concur or Refuse to Concur in Amendments

Concurrence in amendments

26. In case the Senate amend and pass an Assembly bill, or the Assembly amend and pass a Senate bill, the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) must either "concur" or "refuse to concur" in the amendments. If the Senate concur (if it be a Senate bill), or the Assembly concur (if it be an Assembly bill), the Secretary or Chief Clerk shall notify the house making the amendments and the bill shall be ordered to enrollment.

Concurring in Amendments Adding Urgency Section

Same Urgency section

27. When a bill which has been passed in one house is amended in the other by the addition of a section providing that the act shall take effect immediately as an urgency measure, and is returned to the house in which it originated for concurrence in the amendment or amendments thereto, the procedure and vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative the presiding officer shall then direct that the question of whether the house shall concur in the amendment or amendments shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, concurrence in the amendments shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a refusal to concur in the amendment or amendments, and the procedure thereupon shall be as provided in Joint Rule No. 28.

When Senate or Assembly Refuse to Concur

Free conference committees

28. If the Senate or the Assembly refuse to concur in the amendments, the Committee on Rules (if it be a Senate bill) or the Speaker of the Assembly (if it be an Assembly bill) shall appoint a committee of three (3) on conference and the Secretary or the Chief Clerk shall immediately notify the other house of the action taken and request the appointment of a like committee. Two of the members comprising such committee from each house shall be selected from those voting with the majority on the point about which the difference has arisen, and the other member from each house of such committee shall be selected from the minority, in the event there is a minority vote. The first Senator named on the conference committee shall act as chairman of the committee from the Senate, and the first Assemblyman named on such committee shall act as chairman of the committee from the Assembly and the chairmen thus selected shall arrange the time and place of all meetings and prepare or direct the preparation of reports. The committee on conference shall report to both the Senate and Assembly.

Report of Committee on Conference

Same Report

29. The report of the committee on conference shall not be subject to amendment, and if either house refuse to adopt such report the conferees may be discharged and other conferees appointed; provided, however, that no more than three different conference committees shall be appointed on any one bill.

It shall require the affirmative vote of not less than four of the members constituting the committee to agree upon a report. No member who has served on a committee on conference shall be appointed a member of another committee on conference on the same bill.

When Conference Committee Report Is in Order

Same

30. The presentation of the report of a committee on conference shall always be in order, except when a question of order or a motion to adjourn is pending, or during roll call, and, when received, the question of proceeding to the consideration of the report, if raised, shall be immediately passed upon, and shall be determined without debate.

MISCELLANEOUS PROVISIONS

Authority When Rules Do Not Govern

Mason's Manual

31. All relations between the houses which are not covered by these rules shall be governed by Mason's Manual.

Press Rules

Press rules

32. (a) Desks may be assigned to the representatives of the press in the Senate and Assembly in such manner as shall be directed by the house or by the Rules thereof.

(b) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which room shall be known as the press room. The press room shall be under the control of the Superintendent of the Capitol Building and Grounds; provided, that all rules and regulations shall be approved by the Senate Committee on Rules and the Speaker of the Assembly.

Adjournment

Adjournment

33. Adjournment for the constitutional recess and adjournment sine die shall be made only by concurrent resolution.

Dispensing With Joint Rules

Dispensing with rules

34. No joint rule shall be dispensed with except by a vote of two-thirds of each house; and Joint Rule No. 23 can be dispensed with only in the manner provided for in said joint

Violation of rule

rule. If either house shall violate a joint rule a question of order may be raised in the other house and decided in the same manner as in the case of the violation of the rules of such house; and if it shall be decided that the joint rules have been violated, the bill involving such violations shall be returned to the house in which it originated, and such disputed matter be considered in like manner as in conference committee.

INVESTIGATING COMMITTEES

Investigating committees

35. In order to expedite the work of the Legislature either house, or both houses jointly may by resolution provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control.

The resolution providing for the appointment of a committee shall state the purpose of the committee, and the scope of the subject with which it is to act and may authorize it to act either during sessions of the Legislature or after final adjournment.

In the exercise of the power granted by this rule, each committee may appoint a secretary and adopt such rules as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. It may employ such clerical, legal and technical assistants as may appear necessary when money has been made available therefor.

Powers

Each such committee is authorized and empowered to summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, records and papers of every kind and description, to issue subpenas and to take all

necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

The members of such committees are, and each of them is, authorized and empowered to administer oaths, and all of the provisions of Article 8, Chapter 2, Title 1, Part 3 of the Political Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to such committees.

The Sergeant-at-Arms of the Senate or Assembly, or other person designated by such Sergeant-at-Arms or by the committee, shall serve any and all subpenas, orders and other process that may be issued by the committee, when directed to do so upon a vote of the majority of the membership of the committee.

All officers of the State, including the Legislative Counsel and the heads of each department, agency and subdivision thereof, and all employees of such departments, agencies and subdivisions, and all other persons whether connected with the State Government or not, shall give and furnish to these committees upon request such information, records and documents as the committees deem necessary or proper for the achievement of the purposes for which each such committee was created. Aid

Each such committee may either during the session or during the constitutional recess, meet at the State Capitol or at any other place in the State of California and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it and may expend such money as may be made available to it for such purpose; but no committee shall incur any indebtedness unless money shall have been first made available therefor. Members shall not be entitled to any salary because of membership on any such committee but shall be entitled to actual necessary expenses, not to exceed eight dollars ($8) per day and actual travel expenses which shall be deemed to be five and one-half cents ($0.05½) per mile. The chairman of each committee shall audit and approve the expense claims of the members of the committee and shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman. Expenses

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CHAPTER 11

Assembly Joint Resolution No. 6—Relative to memorializing Congress to increase the appropriation of funds for the Central Valley Water Project.

[Filed with Secretary of State January 24, 1941.]

WHEREAS, The Central Valley Project now in the course of construction will entail a total cost of more than two hundred twenty-five million dollars ($225,000,000); and Central Valley Project

WHEREAS, The amount appropriated for the next ensuing year is twenty-five million dollars ($25,000,000) and at this rate, the project will not be completed until after the expiration of more than five years; and

WHEREAS, The water levels in the San Joaquin Valley are continually receding, making it more difficult for farmers to operate their ranches successfully; and

WHEREAS, In the absence of the control of the Sacramento River which will be supplied by the dam, the application of the water of the Sacramento River to beneficial uses is more difficult and expensive than it would be if a continuous and stabilized flow were assured; and

WHEREAS, The completion of the dam will provide a source of electrical power which can be utilized for defense purposes; and the stabilization of the water supply will permit the production of agricultural products necessary for a proper defense program; and

WHEREAS, There is a plentiful and available supply of labor of the type needed for the construction work involved, the plan for the project is complete, and all that is necessary for more vigorous prosecution of the construction of the project is additional money; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress of the United States are hereby memorialized and urged to increase the appropriation for the Central Valley Project so that the project may be completed at the earliest possible time; and be it further

Resolved, That the Governor of the State of California is hereby requested to cause to be transmitted copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California in the Congress of the United States; and that such Senators and Representatives from California are hereby respectfully urged to support such legislation as may be necessary to accomplish the purposes herein set forth.

CHAPTER 12

Senate Joint Resolution No. 5—Relative to the baneful effect of the importation of live stock and dressed meats from countries where foot and mouth disease exists.

[Filed with Secretary of State January 27, 1941.]

Foot and mouth disease

WHEREAS, In the year 1924 there was an outbreak of foot and mouth disease in California necessitating the slaughtering of 58,303 cattle, 28,382 sheep, 21,195 swine, 22,214 deer, and 1,380 goats; and

WHEREAS, During the outbreak practically every business in this State suffered serious financial loss, and it is estimated

conservatively that the collateral damage was some two hundred million dollars ($200,000,000) and 36 States issued embargoes and restrictions against various products of this State, including fruits, vegetables, canned goods, dried fruits, and even automobile traffic; and

WHEREAS, During the year 1929 another outbreak of foot and mouth disease occurred in this State, and the United States Bureau of Animal Industry reported that this outbreak was caused by trimmings from meat which was taken on board the American Steamship, City of Los Angeles, at Buenos Aires, Argentina; and

WHEREAS, Recently foot and mouth disease was reported to be prevalent in Argentina and to be present intermittently in every area of that country where cattle are raised or fed; and

WHEREAS, An outbreak of foot and mouth disease in this country at this juncture would through its repercussions and indirect consequences gravely jeopardize the success of the National Defense Program; now therefore, be it

Resolved, by the Senate and the Assembly of the State of California, jointly, That we urge the President and the Congress of the United States of America to retain in effect the existing embargo against the importation of live stock and dressed meats from any country where foot and mouth disease exists, and be it further

Resolved, That copies of this resolution be transmitted by the Secretary of the Senate of the State of California to the President of the United States of America, to the Secretary of State and to the Secretary of Agriculture of the United States of America, and to the Senators and Representatives in Congress of the State of California and to the Governors of the States of Washington, Oregon, Idaho, Montana, Nevada, Utah, Arizona, New Mexico, Texas, Colorado and Wyoming.

CHAPTER 13

Senate Concurrent Resolution No. 7—Relative to reports of the department encampment and the annual convention of the United Spanish-American War Veterans.

[Filed with Secretary of State January 27, 1941]

Department encampment of Spanish-American War Veterans Reports

Resolved by the Senate, the Assembly concurring, That there shall be printed as a public document 500 copies of the session of the department encampment of California of the United Spanish-American War Veterans for the year 1941, and of each succeeding department encampment, together with illustrations, copies of general orders of the department and of the official roll, 250 copies for the use of the Senate and 250 copies for the use of the Assembly, cost of same to be payable from the legislative printing appropriation.

CHAPTER 14

Senate Concurrent Resolution No. 9—Relative to approving certain amendments to the charter of the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, voted for and ratified by the qualified electors of said city at the State election held therein on November 5, 1940.

[Filed with Secretary of State January 27, 1941.]

City of San Jose Charter amendments

WHEREAS, Proceedings have been had and taken for the purpose of adoption and ratification of certain amendments, hereinafter set forth, to the charter of the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, as set forth in the certificate of the president of the council and the city clerk of said City of San Jose, as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF SAN JOSE OF CERTAIN CHARTER AMENDMENTS.

State of California,
County of Santa Clara, } ss.
City of San Jose.

Certificate

We, the undersigned, HARRY A. YOUNG, President of the Council of the City of San Jose, County of Santa Clara, State of California, and JOHN J. LYNCH, City Clerk of said City, do hereby certify and declare as follows:

That the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, is now, and at all times herein mentioned was, a City containing a population of more than 3500 inhabitants, and now has a population of over 50,000 inhabitants, and ever since the year 1915 has been, and now is, organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City at a special election held for that purpose on the 19th day of April, 1915, and approved by the Legislature of the State of California on the 12th day of May, 1915 (Statutes 1915, p. 1869);

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Council of the City of San Jose, being the legislative body thereof, on its own motion, by Ordinance No. 2730, duly and regularly proposed, and submitted to the qualified electors of the City of San Jose, four certain propositions for the amendment of the Charter of said City, designated as Propositions 1 to 4, inclusive, called a special election to be held in said City on the 5th day of November, 1940, for the purpose of submitting to the qualified electors of said City for

their ratification the said four proposals for the amendment of the Charter of said City, consolidated said special election with the State general election to be held in said City on November 5, 1940, requested the Board of Supervisors of the County of Santa Clara to adopt an order for the consolidation of said elections in conformity with the provisions of law authorizing such consolidations, and authorized said Board of Supervisors to canvass the returns for said special charter election;

That the Board of Supervisors of the County of Santa Clara, on September 16, 1940, duly adopted and made its resolution and order consolidating said elections hereinabove mentioned, and ordered that the Board of Supervisors canvass the returns of said special charter election;

That said special election was duly and regularly called and held on said November 5, 1940, which day was not less than forty, nor more than sixty days after the completion of the publication and advertising of said proposed amendments in the newspaper hereinafter mentioned;

That said proposed amendments were published and advertised in accordance with Section 8 or Article XI of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of San Jose, on September 15, 1940 in The San Jose Mercury-Herald, a daily newspaper of general circulation published, printed and circulated in the City of San Jose, County of Santa Clara, State of California, and in each edition thereof during the day of said publication; that copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and that until the day fixed for said election, and as required by Section 8 of Article XI of the Constitution of the State of California, and by the Charter of the City of San Jose, a notice was advertised and published in The San Jose Mercury-Herald, a daily newspaper of general circulation published, printed and circulated in said City, that copies of said proposed charter amendments might be had upon application therefor at the office of the City Clerk of the City of San Jose;

That such copies could be had upon application therefor at the office of the City Clerk of said City until the day fixed for said election;

That copies thereof were mailed to each of the qualified electors of said City, as required by law;

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and of the Charter of said City of San Jose, and the said ordinance of the legislative body thereof, there was held in the City of San Jose on the 5th day of November, 1940, a special election, and pursuant to the provisions of Section 8 of Article XI of the Constitution of the State of California, and of said Charter, and said ordinance, the said proposed charter amendments were submitted to the qualified electors of said City for their

ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of, and did ratify two of said proposed amendments to the Charter of said City, being Proposition No. 1 and Proposition No. 2 hereinafter set forth;

That in accordance with the provisions of the Charter of the City of San Jose, and the law in such cases made and provided, the Board of Supervisors of the County of Santa Clara, State of California, met on November 11, 1940, and on various dates between said 11th day of November, 1940 and the 18th day of November, 1940, at its usual time and place of meeting, and did duly and regularly canvass the returns of said election, and on the 18th day of November, 1940, duly and regularly canvassed the returns of said special charter election, and did duly find, determine and declare the result of said special election, as determined from the canvass of the returns thereof, to be that a majority of the qualified electors of said City voting on each of said charter amendments hereinafter set forth, and designated as Proposition No. 1 and Proposition No. 2, had voted for, and ratified each said amendment;

That the amendments to the said Charter so ratified by the electors of said City of San Jose are in words and figures as follows:

Proposition No. 1

That Section 94 of the Charter of the City of San Jose be amended to read as follows:

CITY PLANNING COMMISSION

City Planning Commission

94. The City Planning Commission shall consist of five (5) persons, to be appointed by the Council for a term of four (4) years, who shall serve without compensation, and the City Engineer, who shall have a voice but no vote at Commission meetings.

When this section becomes effective, the Council shall appoint two (2) members of the Commission for terms expiring on June 30, 1942. On July 1, 1942, the Council shall appoint two (2) commissioners for four-year terms; on July 1, 1944, it shall appoint three (3) commissioners for four-year terms, and thereafter, on July 1st of each even-numbered year it shall alternately appoint two and three commissioners.

All proposals relating to the location of public buildings, the location, extension, widening, enlargement, ornamentation and parking of any street, boulevard, parkway, park, playground or other public grounds, the vacation of streets, or other alteration of the city plan of streets, and the location of any bridge, street railway or motor-coach line, shall be referred to it before adoption by the Council.

The Commission may comment upon or make recommendations with regard to the plan of the City.

All subdivision maps, and all places, plots, or replots of land laid out in building lots, and the streets, alleys or other portions of the same intended to be dedicated to public use,

or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, and located within the city limits, shall be referred to the City Planning Commission for its recommendation.

No structure, gate, statue or other work of art shall be placed upon any street, park or other public grounds, or in any public building, until the plan or design thereof has been approved by the City Planning Commission.

Proposition No. 2

That Section 121 of the Charter of the City of San Jose be amended to read as follows:

POWERS OF THE BOARD

121. The Board of Library Trustees shall choose its own officers and adopt rules for the conduct of its business. The Board of Library Trustees shall appoint a librarian, who shall be the executive officer of the Board, and other employees, fix their compensation, and prescribe their duties. All positions under the Board of Library Trustees shall be subject to the provisions of Article XVI of this Charter, governing Civil Service. Board of Library Trustees Powers

All such positions in the Classified Service, whether original or promotional appointments, shall be filled by the Board from eligible lists, in the same manner as other positions are filled by the City Manager.

All persons in full time service of the City who, on July 1, 1940, held positions in the classified service in the City Library, as established by the provisions of this section, shall, unless their positions be abolished, retain the same until discharged, reduced, promoted or transferred, in accordance with the terms of this Charter.

The Board of Library Trustees shall have power to do any and all things, not inconsistent with this Charter, which shall be done by Boards of Library Trustees under the laws of this State.

That we have compared the foregoing amendments, (Propositions Nos. 1 and 2) with the original proposals submitted to the qualified electors of said City, and find that the foregoing is a full, true, correct and exact copy thereof;

And we further certify that the facts set forth in the preamble preceding said amendments to said Charter are, and each of them is, true.

IN TESTIMONY WHEREOF, we have set our hands, and caused the same to be authenticated by the seal of said City of San Jose, this 22nd day of January, A. D. 1941.

HARRY A. YOUNG
President of the Council of the City of San Jose

[SEAL]

JOHN J. LYNCH
City Clerk of said City.

And WHEREAS, The vote upon said amendments hereinabove set forth is shown in the certificate of Frank W. Hogan, county clerk of the County of Santa Clara, and ex officio clerk of the board of supervisors of said county, which certificate certifies that a majority of the qualified electors of said city voting upon said amendments voted in favor thereof, and duly ratified the same, said certificate being in words and figures, as follows, to wit:

I, Frank W. Hogan, County Clerk of the County of Santa Clara, and ex-officio clerk of the Board of Supervisors of said County, do hereby certify: that by virtue of Ordinance No. 2730, duly adopted by the Council of the City of San Jose on September 16, 1940, the said Board of Supervisors did, by resolution duly adopted on September 16, 1940, consolidate said special charter election with the State general election to be held in the City of San Jose on November 5, 1940, ordered that the returns of said special election be canvassed by said Board of Supervisors, and directed that said charter amendments be placed upon the regular ballot for the November 5, 1940, State general election, for all precincts lying wholly within the incorporated limits of the City of San Jose, in the following form, to-wit:

PROPOSED AMENDMENTS TO SAN JOSE CITY CHARTER

CHARTER AMENDMENT PROPOSITION NO. 1 City PLANNING COMMISSION.

Amends Section 94 of the Charter by adding two appointive members to the City Planning Commission; eliminating the City Attorney from membership on said Commission; providing that the City Engineer shall have a voice but no vote at Commission meetings; and simplifying and changing Commission procedure so as to meet modern conditions, and conform to State Subdivision Act.

Yes:	
No:	

CHARTER AMENDMENT PROPOSITION NO. 2. Civil Service provisions of Charter to govern City Library Employees.

Amends Section 121 of the Charter by providing that all positions under the Board of Library Trustees shall be subject to provisions of Article XVI of the Charter governing Civil Service.

Yes:	
No:	

CHARTER AMENDMENT PROPOSITION NO. 3. Titles to City Property.

Amends Section 136 of the Charter so as to eliminate the requirement for an election to approve any sale of City property.

Yes:	
No:	

CHARTER AMENDMENT PROPOSITION NO. 4. Divorces School Department from City Government, and provides that Board of Education shall be elected pursuant to State Law.

Repeals Sections 124, 125, 126, 127 and 128 of the Charter governing the School Department, and provides that in 1941 two members of the Board of Education shall be elected (one for four years and one for three years); in 1942 one member for four years; in 1943 two members for four years; in 1944 one member for four years, and thereafter, the members of said Board to be elected in accordance with the provisions of The School Code of California; and eliminates requirement that Council levy 15-cent school tax.

Yes:	
No:	

That in accordance with the foregoing ordinance of the City of San Jose, and the foregoing Resolution of said Board of Supervisors, and the provisions of law governing elections, and the consolidation thereof, the Board of Supervisors of the County of Santa Clara, State of California, met on November 11, 1940, and on various dates between said 11th day of November, 1940 and the 18th day of November, 1940, at its usual time and place of meeting, and did duly and regularly canvass the returns of said election, and on the 18th day of November, 1940, duly and regularly canvassed the returns of said special charter election, and did duly find, determine and declare the result of said special election, as determined from the canvass of the returns thereof, to be as follows:

On Proposition No. 1:
For said proposition, YES—11,959 votes were cast.
Against said proposition, NO—11,368 votes were cast.
On Proposition No. 2:
For said proposition, YES—12,625 votes were cast.
Against said proposition, NO—10,733 votes were cast.
On Proposition No. 3:
For said proposition, YES—9,594 votes were cast.
Against said proposition, NO—13,045 votes were cast.
On Proposition No. 4:
For said proposition, YES—12,272 votes were cast.
Against said proposition, NO—12,553 votes were cast.

That thereupon said Board of Supervisors, in accordance with the result of said canvass, did duly find, determine and

declare that a majority of the qualified electors of said City voting on each of said charter amendments hereinabove set forth, and designated as Propositions Nos. 1 and 2, had voted for and ratified each said amendment, and that said amendments and each of them were duly ratified and adopted by the electors of said City; and it further determined and declared that a majority of the qualified electors voting upon Charter amendments designated as Propositions Nos. 3 and 4, voted against each said amendment, and that said Propositions Nos. 3 and 4 were defeated.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of said County of Santa Clara, this 22nd day of January, A. D. 1941.

FRANK W. HOGAN,
County Clerk of the County of Santa Clara, State of California,
[SEAL] and ex-officio Clerk of the Board of Supervisors of said County.
By EUGENE M. DON
Deputy Clerk.

WHEREAS, Said proposed amendments so ratified, as above set forth, have been, and now are duly presented and submitted to the Legislature of the State of California for approval or rejection, without the power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California, now, therefore, be it

Approval *Resolved by the Senate of the State of California, the Assembly thereof concurring,* a majority of all members elected to each House voting therefor and concurring therein, That the amendments to said charter of San Jose, as proposed to, and adopted and ratified by the qualified electors of the City of San Jose be, and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to, and as parts of, the charter of the City of San Jose.

CHAPTER 15

Senate Concurrent Resolution No. 4—Relative to a Joint Fact-Finding Committee, and defining its powers and duties.

[Filed with Secretary of State January 27, 1941.]

Joint Fact-Finding Committee on Employment and Relief WHEREAS, The Joint Fact-Finding Committee on Employment of the First Extraordinary Session of the Fifty-third Legislature, created by Senate Concurrent Resolution No. 10, supplemented by Assembly Concurrent Resolution No. 26 and again created as an Interim Committee by Senate Concurrent Resolution No. 29 has heretofore exercised the functions conferred upon it and has made several reports to the Legislature on the result of its investigations; and

WHEREAS, It appears from these investigations and reports that the best interests of the people of this State will be served by permitting such a committee to function during sessions of this Legislature and after final adjournment; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That there is hereby created a committee to be known as "The Joint Fact-Finding Committee" to consist of the President pro tempore of the Senate and seven other members of the Senate appointed by the Rules Committee thereof and the Speaker of the Assembly and eight other members of the Assembly appointed by the Speaker which committee is hereby authorized and directed to gather, assemble, study and analyze all facts relating to any and every phase of employment, relief and public assistance and the administration thereof with a view to formulating such a plan and preparing and submitting such legislative measures as will enable the State to bring about and assure the gainful employment in private enterprise of all of its able-bodied citizens and the efficient expenditure of State funds appropriated for relief and public assistance to which end the committee shall have (i) all the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3 of the Political Code; (ii) except when inconsistent with this resolution, all the powers conferred upon committees by the Rules of the Assembly, the Rules of the Senate, and the Joint Rules of the Senate and Assembly as they are enacted and amended from time to time and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full, which powers specified in such rules may be exercised by the committee after the final adjournment of this session; and (iii) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

Membership

Powers

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such legal, clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To audit all books, memorandum or documents showing the receipts and disbursements of any agency of government and to contract with private firms of auditors for that purpose;

(5) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(6) To hold public hearings at any place in California at which hearings the people are to have an opportunity to present their views to the committee;

Particular studies

(7) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in anywise bearing upon or relating to the encouragement or increase of employment in private enterprise, the finding of jobs and placement of workers therein, the furtherance of apprentice training, vocational training and education or reeducation, the relief of hardship and destitution due to and caused by unemployment or otherwise, aid to the aged and other forms of public assistance, the affording of unemployment insurance, or the discovery and the fostering of the discovery and development of new frontiers in industry, commerce or agriculture and new uses for the resources and products of the State, and the method, adequacy and efficiency of the functioning of any and all governmental agencies, State or local, in any way charged or concerned with the administration or enforcement of any such laws or any part of any thereof, and the competency and efficiency of the personnel of any such agency;

(8) To meet at any and all places in this State, in public or executive session;

(9) To act during this session of the Legislature, including any recess hereof, and to final adjournment thereof;

(10) To file a report with the Assembly or Senate or both during any session of the Fifty-fourth Legislature and with the Assembly or Senate or both during the regular session of the Fifty-fifth Legislature;

(11) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and procure testimony; and

(12) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and be it further

Resolved, That the Sergeant-at-Arms of the Assembly and the Sergeant-at-Arms of the Senate or other officers designated by either are hereby directed to serve any and all subpenas, orders and other process issued by the committee, when directed so to do by the chairman or by a majority of the membership of the committee; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Expenses

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accommodations and meals, incurred in connection with their services upon the committee, or in lieu of such expenses for accommodations and meals an allowance of eight dollars ($8) per day; and be it further

Appropriation

Resolved, That the sum of ten thousand dollars ($10,000) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 16

Senate Joint Resolution No. 6—Relative to the construction of necessary roads required by the Army and Navy.

[Filed with Secretary of State January 27, 1941.]

Construction of access roads

WHEREAS, The Federal Government is at present working on an elaborate defense program, including the construction of numerous military establishments in all branches of the service and the enlargement of establishments already built in California, for the purpose of training new Army and Navy personnel; and

WHEREAS, The construction of adequate highways leading to these camps and other military areas to provide connections with the main arteries of the State is of vital importance to the rapid handling of supplies and troops; and

WHEREAS, The construction of these access roads is primarily an obligation of the Federal Government; and

WHEREAS, California with a registration of nearly 3,000,000 motor vehicles is contributing in excess of thirty-two million dollars ($32,000,000) each biennium to the Federal Government through gasoline taxes and excise taxes on motor vehicles; and

WHEREAS, Federal aid regularly contributed to the State under the terms of the Hayden-Cartright Act is a main essential in the improvement of structures and highways on the Federal system with the State to standards required of the State by Federal engineers affecting roadways, shoulder widths and bridges as part of the new military defense road system; and

WHEREAS, The regular allocations in Federal aid received by California have been gradually getting less each biennium for a series of years, despite the enormous traffic requirements peculiar to this State with its ever increasing record of out of State cars now to be further increased through the operation of military vehicles in great number bringing about congestion in the vicinity of all plants operating under the National Defense Program; and

WHEREAS, The expense of building a system of access roads is beyond the financial ability of the State, counties and cities; and

WHEREAS, The California Highway Department is now doing all that is necessary in making surveys and estimates on proposed highway construction leading to the military units in the State; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California does hereby urge and recommend the National Government to enact legislation that will provide immediate Federal money in sufficient amount to acquire all necessary property and to construct all necessary access roads required by the Army and Navy without disturbing the present payments to California of regular Federal aid funds and the rules governing such payments; and be it further

Resolved, That the Senate and the Assembly of the State of California call upon the members of the California delegation in Congress to caucus for the express purpose of consideration of this highly important military access roads problem as affecting this State, using the full influence of the delegation in behalf of the proposal for full payment of the planning and construction of the access roads by the Federal Government; and be it further

Resolved, That copies of this resolution be respectfully submitted to the President of the United States, the President of the Senate, the Speaker of the House of Representatives and to each of the Senators and Representatives of the State of California in Congress and to the Secretary of War and of the Navy.

CHAPTER 17

Senate Joint Resolution No. 7—Relative to memorializing Congress to provide funds for greater speed in completion of the Central Valley Project in aid of the National defense.

[Filed with Secretary of State January 27, 1941]

Central Valley Project

WHEREAS, The Central Valley Project of California now under construction by the Federal Government will afford in a major degree a solution to the multiplying water problems of California by improving navigation on the Sacramento and San Joaquin rivers, by control of floods, by salinity control, and by making available for irrigation, domestic and industrial uses ample supplemental water supplies for many areas in dire need thereof; and

WHEREAS, Said project when completed and in operation will also be capable of the economic production of electric energy in large quantities; and

WHEREAS, Under the present construction program it is not contemplated that the project will be ready for operation prior to 1945; and

WHEREAS, The National Defense Program demands and requires an ample supply of electric energy largely in excess of present plant capacities in northern California; and

WHEREAS, By increasing the rate of construction of the Central Valley Project, the necessity for such additional supplies of electric energy in aid of the National emergency can be met and supplied by said project; and

WHEREAS, Unless additional appropriations for purposes of advancing the time for completion of said project are made immediately available the necessary increase of electric energy may be supplied by the construction by private enterprise of additional power plant capacity which would seriously interfere with and hamper the absorption of Central Valley Project power, and interfere with and delay the return to the United States Treasury of funds expended for construction of said project; and

WHEREAS, The availability of adequate funds to complete construction of said project earlier than now contemplated would afford widespread benefits to people of the State of California and to the Nation at large and would materially advance the National Defense Program; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the State of California, through its Legislature, recommends to the President and to the Congress of the United States that in order to afford solution to the many pressing water problems of California, and to aid the National defense, adequate and immediate provision be made by the Congress for continued and enlarged appropriations to enable greater speed in completion of the Central Valley Project; and be it further

Resolved, That the Governor is requested to transmit copies of this resolution to the President and to the Vice President of the United States, the Speaker of the House of Representatives, and to the Senators and Representatives of the State of California in the Congress.

CHAPTER 18

Assembly Concurrent Resolution No. 11—Relative to the adjournment of the Legislature for the constitutional recess, and to the reassembling of the Legislature after said recess, and fixing the date for said adjournment and said reassembling.

[Filed with Secretary of State January 27, 1941.]

Constitutional recess

WHEREAS, Section 2 of Article IV of the Constitution of this State requires that, after the Legislature has been in session for a period not exceeding 30 days, a recess must be taken by both houses for a period of not less than 30 days; therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Fifty-fourth Session of the Legislature of the State of California shall adjourn for said recess at 5 o'clock p.m. on January 25, 1941, and shall reassemble at 12 o'clock noon on March 3, 1941.

CHAPTER 19

Assembly Joint Resolution No. 2—Memorializing Congress to amend the Social Security Act with reference to the exempt income rights accorded persons receiving old age assistance.

[Filed with Secretary of State January 27, 1941.]

Change in Social Security Act

WHEREAS, It appears by Section 2(a) of the Social Security Act that this State on July 1, 1941, will be required in determining the need of applicants for old age assistance, to take into consideration any other income and resources of such applicants; and

WHEREAS, This requirement will force this State to amend Section 2020 of the Welfare and Institutions Code to remove the right to certain exempt income now accorded to persons receiving old age assistance; and

WHEREAS, This action will force a reduction in the income of those persons receiving old age assistance who are still able to supplement assistance from the State by gardening or other light labor suited to their age; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Congress of the United States be

memorialized to amend the Social Security Act to remove this requirement therefrom in order that this State may be eligible to receive further Federal funds for the financing of the Old Age Security Law of this State without the necessity of amending Section 2020 thereof; and be it further

Resolved, That a copy of this resolution be sent to the Senators and Congressmen from California in the Congress of the United States by the Secretary of State.

CHAPTER 20

Assembly Concurrent Resolution No. 15—Relative to the American Association of School Administrators.

[Filed with Secretary of State January 27, 1941.]

American Association of School Administrators

WHEREAS, The American Association of School Administrators was founded to aid in the development and maintenance of high standards of the public schools of the Nation; and

WHEREAS, The Association is composed of many thousands of persons serving in administrative positions in the public schools of the Nation; and

WHEREAS, The Association has never met on the Pacific Coast; and

WHEREAS, The State of California has a public school system not exceeded anywhere in the world; and

WHEREAS, The public schools are the foundation without which our democracy can not survive; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, That the Legislature of the State of California invites the American Association of School Administrators to hold its annual meeting in 1942 in the City and County of San Francisco; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to prepare a suitably engrossed copy of this resolution and transmit the same to Walter Swanson of the Convention and Tourist Bureau of San Francisco for transmittal to the officials of the American Association of School Administrators.

CHAPTER 21

Assembly Joint Resolution No. 8—Relative to Excess Profits Tax Legislation.

[Filed with Secretary of State January 27, 1941.]

Exemption of gold mining income from excess profits tax

WHEREAS, It has always been the policy of our Government to encourage the production of gold as a basis for our currency and as the ultimate and universal standard of value in trade among the peoples of the world, and the continued and increased production of gold is vital to the maintenance of our public credit; and

WHEREAS, Owing to the fact that the price of gold is fixed, the current increases in the cost of labor and materials are now seriously limiting the opportunity for profitable mining of gold, and any further handicaps on gold production will further discourage investment in gold mining enterprises; and

WHEREAS, The production of gold and its sale at a fixed price amounts in fact merely to the marketing and ultimate exhaustion of existing assets, and no excess profits can be earned from such production, but the rate of production only can be increased or diminished; and

WHEREAS, Many gold mining enterprises have been conducted and are being conducted by companies with limited capital, and have operated without substantial profits in past years, and the imposition of excess profits taxes on such companies would seriously cripple all such small enterprises; and

WHEREAS, All gold mining companies which have been operating at a profit expend very substantial amounts out of their earnings in prospecting and exploratory work, a large part of which would necessarily be curtailed in the event that the profits heretofore devoted to such work were taken in excess profits taxes; and

WHEREAS, For the foregoing reasons, excess profits taxes on the production of gold are economically unsound, and result in the discouragement of investment in gold mining, curtail production and increase unemployment, and strike all mining enterprises, large and small; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby memorializes the Congress and the President of the United States to exempt all income from gold mining from all excess profits taxes, as was done under the Excess Profits Tax Law of 1917; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the President of the United States, the Secretary of the Treasury, the respective Chairmen of the Senate Finance Committee and of the House Ways and Means Committee, and to each of the Senators and Representatives in Congress from the State of California.

CHAPTER 22

Assembly Joint Resolution No. 16—Relative to memorializing Congress to render continued aid to Great Britain.

[Filed with Secretary of State January 27, 1941.]

Aid to Great Britain

WHEREAS, There is being presently waged on the continents of Europe and Africa a grim and deadly struggle which will determine for generations to come the peace, happiness and welfare of the world; and

WHEREAS, This grave and bitter battle represents not so much a clash between nations as it does a struggle between two conflicting ideologies—two ways of life: The one, founded on fear, fed on the oppression of minorities, preaching class hatred, suppressing individual liberties; the other, upholding and defending those fundamental principles of life, liberty and property, inherent in and constituting the cornerstone of American democratic representative government as enunciated by the Constitution of the United States of America; and

WHEREAS, The people of Great Britain are today defending with their life blood the preservation of those democratic principles sacred to the people of America; and

WHEREAS, The people of Great Britain are dependent on the United States of America for continued aid and assistance in the prosecution of their titanic struggle against the totalitarian forces now avowedly seeking to destroy democratic representative government throughout the world; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress of the United States of America are hereby respectfully urged to continue to render all possible material aid short of war to Great Britain, in the form of equipment and supplies; and be it further

Resolved, That the Chief Clerk of the Assembly send copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and to each Member of the House of Representatives from California in the Congress of the United States.

CHAPTER 23

Assembly Joint Resolution No. 17—Relative to Sacramento River Flood Control Project.

[Filed with Secretary of State January 27, 1941.]

Sacramento River Flood Control Project

WHEREAS, The Congress of the United States passed and adopted a certain act on the fifteenth day of May, 1928, which was approved by the President on February 28, 1929 (U. S. Statutes At Large, Volume 45, Page 534), which said act adopted the Sacramento River Flood Control Project and authorized certain funds to be appropriated by Congress for the construction thereof; and

WHEREAS, The contribution of the United States for the construction of said Sacramento River Flood Control Project as authorized by said act has been exhausted except for a small amount; and

WHEREAS, Pursuant to the provisions of an act adopted by Congress on the twenty-second day of June, 1936, the Secretary of War was authorized and directed to cause a new examination and survey of the Sacramento River and its tributaries to be made and to report thereon; and

WHEREAS, This survey and report is not expected to be completed until early in the year 1942; and

WHEREAS, The partially completed project will be endangered if construction thereon is not immediately and continuously carried on; and

WHEREAS, Said project is designed to protect and does protect a large portion of the most fertile lands of the entire Sacramento valley from floods, together with many cities and towns, public works and buildings and the lives and property of all of the residents of said area; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States be and it is hereby respectfully petitioned and urgently requested to make available such funds as may be recommended in an interim report of the Secretary of War in connection with said Sacramento River Flood Control Project, with which to continue and carry on construction of said project until such time as the final survey and report of the Secretary of War will be available for consideration and appropriate action by the Congress; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives of the United States, the Secretary of War of the United States and to each Senator and Representative in Congress from the State of California.

CHAPTER 24

Assembly Joint Resolution No. 19—Relative to memorializing and petitioning Congress to enact legislation giving to draftees and others entering the military and naval service of the United States adequate insurance protection for themselves in the form of permanent total disability insurance as well as life insurance protection.

[Filed with Secretary of State January 27, 1941.]

Insurance for draftees, etc

WHEREAS, From 1919 up to and including October 8, 1940, persons entering the military and naval service of the United States were given the privilege of applying for United States Government (Converted) Life Insurance, including the permant total disability features thereof, which protected the soldier himself; and

WHEREAS, Congress in the passage of the National Service Life Insurance Act of 1940, approved October 8, 1940, provided

in Section 611 of said act that, "No United States Government Life Insurance shall be granted hereafter to any person under the provisions of Section 300 of the World War Veterans Act of 1924, as amended"; and

WHEREAS, The National Service Life Insurance Act does not provide permanent total disability benefit features or protection for the soldier himself and protects only the dependents and near relatives of the soldier; and

WHEREAS, It is estimated that 90 per cent of those hereafter entering the military and naval service will be without dependents and therefore not in need of such insurance but are in need of insurance with permanent total disability features protecting the soldier himself; and

WHEREAS, Experience during and since the World War has adequately proved and demonstrated the merits of permanent total disability features of Government insurance, particularly as relates to the so-called "misconduct" cases, which are noncompensable for both compensation and pension, thereby taking care of these unfortunates who would otherwise be thrown upon the local communities for care and sustenance; and

WHEREAS, It appears that in the passage of the National Service Life Insurance Act of 1940, including Section 611 thereof which prevented further application for United States Government Life Insurance with total permanent disability features thereof, those persons, including National Guard units entering Federal service after October 8, 1940, were discriminated against and were denied the privilege of taking out United States Government (Converted) Life Insurance with permanent total disability features thereof, whereas those persons, including National Guard units entering Federal service prior to October 8, 1940, were allowed and permitted to take out such insurance; and

WHEREAS, We believe in order to give to every commissioned officer and enlisted man and every member of the Army Nurses Corps (female) and the Navy Nurses Corps (female) when employed in active service under the War Department or Navy Department, proper protection for themselves and their dependents, the United States should again permit such persons, including draftees, the opportunity to apply for and be granted either National Service Life Insurance or United States Government (Converted) Life Insurance with permanent total disability features as now constituted; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby memorializes and petitions Congress to enact legislation which will provide that such persons so entering the military and naval service of the United States, including draftees, shall be given the opportunity of taking either National Service Life Insurance or United States Government (Converted) Life Insurance, at their option, including the permanent total disability features thereof; and be it further

Resolved, That a copy of this joint resolution be transmitted to the President of the United States, to the Vice President of the United States, and to each member of the Senate and the House of Representatives of the United States, and that the Senators and Representatives representing the State of California in Congress be urged actively to support such legislation.

CHAPTER 25

Assembly Concurrent Resolution No. 16—Relative to approving certain amendments to the charter of the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on May 6, 1940.

[Filed with Secretary of State January 27, 1941.]

City of San Jose. Charter amendments

WHEREAS, Proceedings have been had and taken for the purpose of adoption and ratification of five amendments, hereinafter set forth, to the charter of the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, as set forth in the certificate of the president of the council and the city clerk of said City of San Jose, as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF SAN JOSE OF CERTAIN CHARTER AMENDMENTS.

State of California,
County of Santa Clara, } ss.
City of San Jose.

Certificate

We, the undersigned, HARRY A. YOUNG, President of the Council of the City of San Jose, County of Santa Clara, State of California, and JOHN J. LYNCH, City Clerk of said City, do hereby certify and declare as follows:

That the City of San Jose, a municipal corporation of the County of Santa Clara, State of California, is now, and at all times herein mentioned was, a City containing a population of more than 3500 inhabitants, and now has a population of over 50,000 inhabitants, and ever since the year 1915 has been, and now is, organized, existing and acting under a freeholder's charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City at a special election held for that purpose on the 19th day of April, 1915, and approved by the Legislature of the State of California on the 12th day of May, 1915 (Statutes 1915, p. 1869);

That a petition signed by at least 15% of the total number of registered electors of the City of San Jose voting in said City at the last preceding general state election, was filed with the Legislative Body of said City on the 4th day of March, 1940, which day was not less than sixty days prior to the general election next preceding a regular session of the Legislature, which said petition proposed five amendments to the Charter of the City of San Jose;

That said petition, exclusive of petition section numbers, signatures thereon, and the certificate of verification of said signatures, read as follows: Initiative petition

"INITIATIVE PETITION

We, THE UNDERSIGNED RESIDENTS AND QUALIFIED ELECTORS OF THE CITY OF SAN JOSE, DO HEREBY JOIN IN THIS INITIATIVE PETITION AND RESPECTIVELY REQUEST THE CITY COUNCIL OF SAN JOSE TO PLACE ON THE BALLOT AT THE REGULAR MUNICIPAL ELECTION OF THE CITY OF SAN JOSE, TO BE HELD ON THE FIRST MONDAY OF MAY, 1940, THE FOLLOWING CHARTER AMENDMENTS:

(1) SECTION 4 OF ARTICLE II amended to read as follows:

The Councilmen shall hold office for a term of four (4) years. The Councilmen in office at the time of the adoption of this amendment shall hold office for the terms for which they were chosen or designated except as hereinafter set forth. On the first Monday of May, 1942, there shall be elected at large three (3) Councilmen for a term of four (4) years. On the first Monday of May, 1944, there shall be elected four (4) Councilmen for a term of four (4) years which said Councilmen shall fill the then expired offices of two members of the City Council and the unexpired term of office of those Councilmen elected to office on the first Monday of May, 1940, and thereafter three (3) Councilmen shall be elected on the first Monday of May, 1946, and four (4) Councilmen shall be elected on the first Monday of May, 1948, and thereafter three (3) and four (4) Councilmen shall be alternately elected and shall hold office for terms of four (4) years. The City Auditor and Police Judge shall each be elected for a term of four (4) years.

(2) SECTION 56 OF ARTICLE VIII amended by adding the following:

The City Council shall appoint a City Manager, who shall hold office at the pleasure of the City Council, and of the electors of the City of San Jose as hereinafter set forth. The name of the City Manager shall hereafter at the municipal

election held on the first Monday of May be placed on the ballot in substantially the following form:

"Shall_____(name)_____, the City Manager of San Jose, be retained in office for the ensuing two years?

Yes	
No	"

No other name shall appear on the ballot in opposition to the City Manager. If a majority of the electors voting at said election vote "yes," the City Manager shall retain his office for the ensuing two years. If a majority of the electors voting at said election vote "no", the City Council must within thirty-five (35) days after said election declare the office of City Manager vacant and appoint a new City Manager to fill the vacancy created. The new City Manager shall occupy said position under the same conditions set forth above. Any City Manager so rejected by a majority "no-vote" shall not be reappointed City Manager by the City Council sooner than four (4) years after vacating said office. Nothing herein contained in this amendment shall affect the right of the City Council to remove the City Manager at any time upon the affirmative vote of four (4) of its members.

All other provisions of said Section 56 of Article VIII shall remain in full force and effect.

All articles, sections, or parts thereof, insofar as they conflict herewith, are repealed.

(3) SECTION 102 OF ARTICLE XVI amended to read as follows:

The Civil Service Commission shall consist of three electors of the city appointed by the City Council, who shall hold office hereafter at the pleasure of the City Council, and of the electors of the City of San Jose as hereinafter set forth. The name of each member of said commission shall hereafter at alternative municipal elections, beginning with the election to be held on the first Monday of May, 1942, be placed on the ballot in substantially the following form:

"Shall ____(name)____, member of the Civil Service Commission of San Jose, be retained in office for the ensuing four (4) years?

Yes	
No	"

No other names shall appear on the ballot in opposition to the three members of said commission. Any member of said commission who receives a majority "yes-vote" of the electors voting at said election shall retain his office for the *ensuing four (4) years.* If any member of said commission receives a majority "no-vote" of the electors voting at said election, the City Council must within thirty-five (35) days after said election declare the office of said member of said commission vacant and appoint a new elector to fill the vacancy, created. The new member of said commission shall occupy said position under the same conditions set forth above. Any member of said commission so rejected by a majority "no-vote" shall not be reappointed by the City Council sooner than four (4) years after vacating said office. Nothing herein contained in this amendment shall affect the right of the City Council to remove any member of said commission at any time upon the affirmative vote of four members, after a public hearing. The city Clerk shall act as secretary of said Civil Service Commission.

(4) SECTION 106 OF ARTICLE XVI amended to read as follows:

The commission shall provide for promotion to all positions in the classified service, based on competitive written examinations with due consideration to records of efficiency, character and seniority.

(5) SECTION 124 OF ARTICLE XIX amended to read as follows:

The Board of Education shall consist of five persons to be elected from the school district at large. The members of said board shall hold office for a term of four (4) years, and until their successors are elected and duly qualified. They shall be elected at the municipal election held on the first Monday of May beginning with the election to be held on the first Monday of May, 1942, three members of said board being elected at this date, two members of said board on the first Monday of May, 1944, and thereafter three and two members of said board shall be alternately elected. The members of the present Board of Education shall continue to hold office until the election to be held on the first Monday of May, 1942, at which time the term of office of the three members of the present board with the shortest unexpired term of office remaining shall be succeeded by the three elected at the said municipal election. The remaining two members of the present Board of Education shall remain in office until the election of their successors at the regular municipal election to be held on the first Monday of May, 1944.

All articles, sections, or parts thereof, insofar as they conflict herewith, are repealed."

That pursuant to a resolution duly adopted by the Council of the City of San Jose, the signatures upon said petition were verified by Frank W. Hogan, County Clerk of the County of Santa Clara, being the authority having charge

of the registration records of said City, and said County Clerk found that said petition bore the signatures of 15% of the registered electors of said City, calculated upon the total vote cast in said City at the last preceding general state election, and so certified to the Council of said City;

That the legislative body of said City, being the Council of the City of San Jose, by resolution No. 6377, duly adopted on March 18, 1940, directed that said charter amendments so proposed by petition be submitted to the electors of said City at the general municipal election to be held in said City on May 6, 1940, in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and Section 47½ of the Charter of said City, and directed the City Clerk to print upon the ballot to be used at said election five proposals summarizing said proposed amendments, and to give notice of the submission of the said proposed charter amendments in accordance with the above mentioned constitutional and charter provisions, and the election laws applicable to such matters;

That said general municipal election was duly and regularly called and held on said May 6, 1940, which day was not less than forty, nor more than sixty days after the completion of the publication and advertising of said proposed amendments in the newspaper hereinafter mentioned;

That said proposed amendments were published and advertised in accordance with the requirements of Section 8 of Article XI of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of San Jose, on March 23, 1940, in The San Jose Mercury-Herald, a daily newspaper of general circulation published, printed and circulated in the City of San Jose, County of Santa Clara, State of California, and in each edition thereof during the day of said publication; that copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and that until the day fixed for said election, and as required by Section 8 of Article XI of the Constitution of the State of California, and by the Charter of the City of San Jose, a notice was advertised and published in The San Jose Mercury-Herald, a daily newspaper of general circulation published, printed and circulated in said City, that copies of said proposed charter amendments might be had upon application therefor at the office of the City Clerk of said City of San Jose;

That such copies could be had upon application therefor at the office of the City Clerk of said City until the day fixed for said election;

That copies thereof were mailed to each of the qualified electors of said City, as required by law;

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and of the Charter of said City of San Jose, and Resolution

No. 6387 of the legislative body thereof, duly adopted on April 1, 1940, there was held in the City of San Jose on the 6th day of May, 1940, a general municipal election, and pursuant to the provisions of Section 8 of Article XI of the Constitution of the State of California, and of said Charter, and said resolutions, the said proposed charter amendments were submitted to the qualified electors of said City for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of, and did ratify four of said proposed amendments to the Charter of said City;

That the Council of the City of San Jose, in accordance with the law in such cases made and provided, did meet on the 6th day of May, 1940, at its usual time and place of meeting, and duly canvassed the returns of said election, as certified by the election boards, and duly found, determined and declared that said proposed amendments to the Charter of the City of San Jose, designated Proposition No. 1, Proposition No 2, Proposition No. 4 and Proposition No. 5, and each and every of them, was ratified by the majority of the qualified electors of said City voting thereon, and that said proposed charter amendment designated Proposition No. 3 received less than a majority of the votes of the qualified electors voting thereon, and was not ratified. That the amendments to the said Charter so ratified by the electors of said City of San Jose, are in words and figures as follows:

PROPOSITION NO. 1

SECTION 4 OF ARTICLE II amended to read as follows:

Councilmen. Term of office

The Councilmen shall hold office for a term of four (4) years. The Councilmen in office at the time of the adoption of this amendment shall hold office for the terms for which they were chosen or designated except as hereinafter set forth. On the first Monday of May, 1942, there shall be elected at large three (3) Councilmen for a term of four (4) years. On the first Monday of May, 1944, there shall be elected four (4) Councilmen for a term of four (4) years which said Councilmen shall fill the then expired offices of two members of the City Council and the unexpired term of office of those Councilmen elected to office on the first Monday of May, 1940, and thereafter three (3) Councilmen shall be elected on the first Monday of May, 1946 and four (4) Councilmen shall be elected on the first Monday of May, 1948, and thereafter three (3) and four (4) Councilmen shall be alternately elected and shall hold office for terms of four (4) years. The City Auditor and Police Judge shall each be elected for a term of four (4) years.

City Auditor and Police Judge

PROPOSITION NO. 2

SECTION 56 OF ARTICLE VIII amended by adding the following:

City Manager: Election to determine continuance in office

The City Council shall appoint a City Manager, who shall hold office at the pleasure of the City Council, and of the electors of the City of San Jose as hereinafter set forth. The name of the City Manager shall hereafter at the municipal election held on the first Monday of May be placed on the ballot in substantially the following form:

"Shall (name), the City Manager of San Jose, be retained in office for the ensuing two years?

Yes	
No	"

No other name shall appear on the ballot in opposition to the City manager. If a majority of the electors voting at said election vote "yes," the City Manager shall retain his office for the ensuing two years. If a majority of the electors voting at said election vote "no," the City Council must within thirty-five (35) days after said election declare the office of City Manager vacant and appoint a new City Manager to fill the vacancy created. The new City Manager shall occupy said position under the same conditions set forth above. Any City Manager so rejected by a majority "no-vote" shall not be reappointed City Manager by the City Council sooner than four (4) years after vacating said office. Nothing herein contained in this amendment shall affect the right of the City Council to remove the City Manager at any time upon the affirmative vote of four (4) of its members.

All other provisions of said Section 56 of Article VIII shall remain in full force and effect.

All articles, sections, or parts thereof, insofar as they conflict herewith, are repealed.

PROPOSITION NO. 4.

SECTION 106 OF ARTICLE XVI amended to read as follows:

Promotions

The commission shall provide for promotion to all positions in the classified service, based on competitive written examinations with due consideration to records of efficiency, character and seniority.

PROPOSITION NO. 5.

SECTION 124 OF ARTICLE XIX amended to read as follows:

The Board of Education shall consist of five persons to be elected from the school district at large. The members of said board shall hold office for a term of four (4) years, and until their successors are elected and duly qualified. They shall be elected at the municipal election held on the first Monday of May beginning with the election to be held on the first Monday of May, 1942, three members of said board being elected at this date, two members of said board on the first Monday of May, 1944, and thereafter three and two members of said board shall be alternately elected. The members of the present Board of Education shall continue to hold office until the election to be held on the first Monday of May, 1942, at which time the term of office of the three members of the present board with the shortest unexpired term of office remaining shall be succeeded by the three elected at the said municipal election. The remaining two members of the present Board of Education shall remain in office until the election of their successors at the regular municipal election to be held on the first Monday of May, 1944. Board of Education

All articles, sections, or parts thereof, insofar as they conflict herewith, are repealed.

That we have compared the foregoing amendments, (Propositions Nos. 1, 2, 4 and 5) with the original proposals submitted to the qualified electors of said City, and find that the foregoing is a full, true, correct and exact copy thereof;

And we further certify that the facts set forth in the preamble preceding said amendments to said Charter are, and each of them is, true.

IN TESTIMONY WHEREOF, we have set our hands, and caused the same to be authenticated by the Seal of said City of San Jose, this 22nd day of January, A.D. 1941.

[SEAL]

HARRY A. YOUNG
President of the Council of the
City of San Jose
JOHN J. LYNCH
City Clerk of said City.

WHEREAS, Said proposed amendments so ratified, as above set forth, have been, and now are duly presented and submitted to the Legislature of the State of California for approval or rejection, without the power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, A majority of all members elected Approval

to each House voting therefor and concurring therein, that the amendments to said charter of San Jose, as proposed to, and adopted and ratified by the qualified electors of the City of San Jose be, and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to, and as parts of, the charter of the City of San Jose.

CHAPTER 26

Assembly Joint Resolution No. 13—Relative to memorializing the Secretary of the Navy to establish an airdrome at San Francisco Bay.

[Filed with Secretary of State January 27, 1941.]

Airport on San Francisco Bay

WHEREAS, At the present juncture of world affairs it is necessary for adequate facilities to be provided for the Naval Air Service in order adequately to protect the Pacific Coast; and

WHEREAS, That strip of territory on the east shore of San Francisco Bay running south from University Avenue in Berkeley to the eastern approaches of the San Francisco-Oakland Bay Bridge, west of the East Shore Highway and the cities of Berkeley, Emeryville and Oakland is ideally suited to serve as a flying field for large airplanes; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Secretary of the Navy of the United States be memorialized to establish such a flying field in said place in furtherance of the National defense; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit a copy of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States and to the Secretary of the Navy.

CHAPTER 27

Assembly Concurrent Resolution No. 14—Relative to approving certain charter amendments to the charter of the City of Eureka, a municipal corporation in the County of Humboldt, State of California, voted for and ratified by the qualified electors of such city at a special election held therein on the fifth day of November, 1940.

[Filed with Secretary of State January 27, 1941.]

City of Eureka Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments, hereinafter set forth, to the charter of the City of Eureka,

a municipal corporation in the County of Humboldt, State of California, as set out in the certificates of the mayor and clerk of said city as follows:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF EUREKA OF A CERTAIN CHARTER AMENDMENT.

STATE OF CALIFORNIA, }
COUNTY OF HUMBOLDT, } SS.
CITY OF EUREKA. }

Certificate

We, the undersigned H. R. SIMMONS, Mayor of the City of Eureka, State of California, and J. C. BARKDULL, City Clerk of said City, do hereby certify and declare as follows:

That the City of Eureka, a municipal corporation of the County of Humboldt, State of California, now is and at all times herein mentioned was a city containing a population of more than 3500 inhabitants and now has a population of over 17,000 inhabitants, and ever since the year 1895 has been and now is organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the 26th day of January, 1895, and approved by the Legislature of the State of California, on the 8th day of February, 1895 (Statutes of 1895, page 355).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the City Council of the City of Eureka, being the legislative body thereof, on its own motion, by Ordinance No. 2178 adopted on the 20th day of September, 1940, duly and regularly proposed and submitted to the qualified electors of the City of Eureka a certain proposal for the amendment of the Charter of said city, by adding a new section thereto, to be known and designated as Section 43¾, (relating to the granting of authority to the council of the City of Eureka to levy and collect licenses and license tax on certain businesses and professions, not prohibited by law, for revenue purposes, as well as for regulation,) to be voted upon by said qualified electors at a special election called and held for that purpose in said city on the 5th day of November, 1940. That said election was duly and regularly called, authorized and provided for by said City Council by Ordinance No. 2179 adopted on the 24th day of September, 1940, which said ordinance called said special election, for the submission of said amendment, to be held in said city on the 5th day of November, 1940, and that by said ordinance the said special election was by said City Council duly and regularly consolidated with the general election of the State of California to be held on said date, in

the City of Eureka as well as over the entire State. That said election was duly and regularly called and held on said 5th day of November, 1940, which day was not less than forty (40) nor more than sixty (60) days after the completion of the publication and advertising of the proposed amendment aforesaid in the official newspaper.

That said proposed amendment was published and advertised in accordance with Section 8 of Article XI of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of Eureka, on the 24th day of September, 1940, in The Humboldt Standard, a daily newspaper of general circulation, published in said City of Eureka, and the official newspaper of said city, and in each edition thereof during the day of publication.

That copies of said proposed amendment were printed in convenient pamphlet form and in type of not less than ten point, and until the day fixed for the said election, and as required by Section 8 of Article XI of the Constitution and by the Charter of the City of Eureka, a notice was advertised and published in the Humboldt Standard and in the Humboldt Times, the same being newspapers of general circulation in said city, that copies might be had upon application therefor at the office of the City Clerk of the City of Eureka.

That such copies could be had upon application therefor at the office of the City Clerk of said city until the day fixed for said election. That a copy thereof was mailed to each of the qualified electors of said city as required by law.

That in accordance with the provisions of Section 8 of Article XI of the Constitution and of the Charter of said City of Eureka and said ordinances of the legislative body thereof, there was held in the said City of Eureka on the 5th day of November, 1940, a special election, and that pursuant to the provisions of Section 8 of Article XI of the Constitution and of said Charter and said ordinances the said proposed charter amendment was submitted to the qualified electors of said city for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify said proposed amendment to the Charter of said city, which amendment is hereinafter set forth.

That in accordance with the provisions of the Charter of the City of Eureka and with the law in such cases made and provided, the City Council of the City of Eureka met on the 12th day of November, 1940, at its usual time and place of meeting, and did duly and regularly canvass the returns of said election, and on said 12th day of November, 1940, the said City Council did duly find, determine and declare the result of said special election as determined from the canvass of the returns therefor aforesaid to be that a majority of the qualified electors of said city voting on said

proposed amendment had voted for and ratified said amendment.

That the said amendment to the Charter so ratified by the electors of the City of Eureka is in words and figures as follows:

ARTICLE III. Section 43¾: The Council shall have power in addition to all other powers and limitations herein provided to;—

To license for the purpose of revenue or regulation, or both, any and all kinds of businesses (including the business of professions) not prohibited by law and carried on within the City of Eureka, and all shows, exhibitions and lawful gains carried on therein; to fix the rate of license tax upon the same and to provide for the collection thereof by suit or otherwise. This power and authority to license such businesses and professions and to collect such license tax for revenue or regulation, or both, purposes, shall be in addition to and not limited by any provisions or limitations as provided by Section 77 of the Charter of the City of Eureka, or any other section tending to limit the right to license such businesses and professions for revenue purposes." Licensing power

That we have compared the foregoing amendment with the original proposal submitting the same to the electors of said city, and find that the foregoing is a full, true, correct and exact copy thereof.

That as to said amendment this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the said City of Eureka to be affixed hereto this 18th day of January, 1941.

H. R. SIMMONDS
Mayor of the City of Eureka

[SEAL]

J. C. BARKDULL
City Clerk

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF EUREKA OF CERTAIN CHARTER AMENDMENTS.

STATE OF CALIFORNIA, }
COUNTY OF HUMBOLDT, } SS.
CITY OF EUREKA. }

We, the undersigned H. R. SIMMONS, Mayor of the City of Eureka, State of California, and J C. BARKDULL, City Clerk of said City, do hereby certify and declare as follows:

That the City of Eureka, a municipal corporation of the County of Humboldt, State of California, now is and at all times herein mentioned was a city containing a population of Certificate

more than 3500 inhabitants and now has a population of over 17,000 inhabitants, and ever since the year 1895 has been and now is organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the 26th day of January, 1895, and approved by the Legislature of the State of California on the 8th day of February, 1895 (Statutes of 1895, page 355).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the City Council of the City of Eureka, being the legislative body thereof, on its own motion, by Ordinance No. 2180 adopted on the 25th day of September, 1940, duly and regularly proposed and submitted to the qualified electors of the City of Eureka a certain proposal for the amendment of the Charter of said city, Article VII thereof by amending Section 87 of the Charter, relating to the election and qualifications of the School Directors of the Eureka School District, and also on its own motion by Ordinance No. 2181 adopted on the 25th day of September, 1940, duly and regularly proposed and submitted to the qualified electors of the City of Eureka a certain proposal for the amendment of the Charter of said city, Article XII thereof, Section 166, of said charter, relating to the election and qualification of the Board of Trustees of the Eureka Free Library, both proposed amendments to be voted upon by said qualified electors at a special election called and held for that purpose in said city on the 5th day of November, 1940. That said election was duly and regularly called, authorized and provided for by said City Council by Ordinance No. 2182 adopted on the 25th day of September, 1940, which said ordinance called said special election, for the submission of said amendments, to be held in said city on the 5th day of November, 1940, and that by said ordinance the said special election was by said City Council duly and regularly consolidated with the general election of the State of California to be held on said date, in the City of Eureka as well as over the entire State. That said election was duly and regularly called and held on said 5th day of November, 1940, which day was not less than forty (40) nor more than sixty (60) days after the completion of the publication and advertising of the proposed amendments aforesaid in the official newspaper.

That said proposed amendments, and each of them separately, were published and advertised in accordance with Section 8 of Article XI of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of Eureka, on the 25th day of September, 1940, in The Humboldt Standard, a daily newspaper of general circulation, published in said City of Eureka, and the

official newspaper of said city, and in each edition thereof during the day of publication.

That copies of said proposed amendment were printed in convenient pamphlet form and in type of not less than ten point, and until the day fixed for the said election, and as required by Section 8 of Article XI of the Constitution and by the Charter of the City of Eureka, a notice was advertised and published in The Humboldt Standard and in The Humboldt Times, the same being newspapers of general circulation in said city, that copies might be had upon application therefor at the office of the City Clerk of the City of Eureka.

That such copies could be had upon application therefor at the office of the City Clerk of said City until the day fixed for said election. That a copy thereof was mailed to each of the qualified electors of said city as required by law.

That in accordance with the provisions of Section 8 of Article XI of the Constitution and of the Charter of said City of Eureka and said ordinances of the legislative body thereof, there was in the said City of Eureka on the 5th day of November, 1940, a special election, and that pursuant to the provisions of Section 8 of Article XI of the Constitution and of said Charter and said ordinances the said proposed charter amendments were submitted to the qualified electors of said city for their ratification at said election, and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify said proposed amendments to the Charter of said city, which amendments are hereinafter set forth.

That in accordance with the provisions of the Charter of the City of Eureka and with the law in such cases made and provided, the City Council of the City of Eureka met on the 12th day of November, 1940, at its usual time and place of meeting, and did duly and regularly canvass the returns of said election, and on said 12th day of November, 1940, the said City Council did duly find, determine and declare the result of said special election as determined from the canvass of the returns therefor aforesaid to be that a majority of the qualified electors of said city voting on said proposed amendments had voted for and ratified each of said amendments.

That said amendment to the Charter of said City of Eureka, Article VII thereof, Section 87, of the Charter of the City of Eureka, so ratified by the electors of the City of Eureka, is in words and figures as follows:

"ARTICLE VII, Section 87: The government of the School Department of the City shall be vested in a Board of Education, to consist of five members, to be called School Directors, and who shall receive no compensation. The qualified electors of the School District shall as a whole elect one member of the School Directors for each of the five wards of the School District. That no person shall be eligible to be elected to the office of School Director who has not resided in the district for one year and in the ward for which he is elected for at

Board of Education Election

least six months next preceding his election, and if he fail to continue to be a resident of such ward, his office shall by reason thereof become vacant; provided, however, that in case a redistricting or redivision of the School District into wards be made, whereby the lines or boundaries of any ward is changed, the last provision in regard to residence shall not apply to any person whose residence has been changed thereby from the ward for which he was elected and in which he resided. That each such School Director shall hold office for a period of four years, or until his successor shall be elected or appointed. That two such school directors shall be elected at one election and three at the next election; and that the term of office of the present school directors shall not be effected."

That said amendment to the charter of said city, Article XII thereof, Section 166, of the Charter of the City of Eureka, so ratified by the electors of the City of Eureka, is in words and figures as follows:

Board of Trustees

"ARTICLE XII, Section 166: The Board of Trustees thereof shall consist of five (5) members, each to be a resident of the ward which he represents. That each member shall be elected by a vote of the entire City at a regular municipal election, and each to serve for a term of two (2) years, or until his successor shall be elected or appointed."

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said city, and find that the foregoing are full, true, correct and exact copies thereof.

That as to said amendments this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the said City of Eureka to be affixed hereto this 18th day of January, 1941.

H. R. SIMMONDS
MAYOR OF THE CITY OF EUREKA

[SEAL]

J. C. BARKDULL
CITY CLERK.

and

WHEREAS, The proposed amendments so ratified as hereinbefore set forth are now presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration, in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the aforementioned proposed amendments to the charter of the City of Eureka, in the County of Humboldt, State of California, as proposed to and ratified by the electors of said city, as hereinbefore set forth,

be and the same are hereby approved as a whole without amendment or alteration for and as amendments to and as part of the charter of the City of Eureka.

CHAPTER 28

Assembly Concurrent Resolution No. 13—Relative to the creation of a Joint Fact-Finding Committee on Un-American Activities in California to investigate the activities of persons and groups known or suspected to be foreign dominated or controlled and recommend legislation for their regulation.

[Filed with Secretary of State January 27, 1941.]

Joint Fact-Finding Committee on Un-American Activities

WHEREAS, These are times of public danger. Subversive persons and groups are endangering our domestic unity so as to leave us unprepared to resist aggression. Under color of the protection afforded by the Bill of Rights these persons and groups seek to destroy our liberties and our freedom by force, threats and sabotage and to subject us to the domination of foreign powers.

Recent announcements by responsible officials of the Federal Government indicate the seriousness of the problem. In his message to the Congress on January 3, 1941, the President said: "The first phase of the invasion of this hemisphere would not be the landing of regular troops. The necessary strategic points would be occupied by secret agents and their dupes—and great numbers of them are already here, and in Latin America." State legislation to meet the problem and to assist law enforcement officers can best be based on a thorough and impartial investigation by a competent and active legislative committee; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there is hereby created a Joint Fact-Finding Committee on Un-American Activities in California which shall investigate, ascertain, collate and appraise all facts causing or constituting interference with the National Defense Program in California or rendering the people of the State, as a part of the Nation, less fit physically, mentally, morally, economically or socially; and be it further

Particular investigations

Resolved, That in addition to other duties imposed upon the committee, the committee shall investigate the activities of groups and organizations whose membership includes persons who are members of the Communist Party, the Fascist organizations, the German Nazi Bund, or any other organization known or suspected to be dominated or controlled by a foreign power, which activities affect the preparation of this State for National defense, the functioning of any State agency, unemployment relief and other forms of public assistance, educational institutions of this State supported in whole or in part by State funds, or any political program; and be it further

Membership *Resolved,* That the committee shall consist of four members of the Assembly, appointed by the Speaker thereof; and three members of the Senate appointed by the Committee on Rules thereof; and be it further

Powers *Resolved,* That the committee hereby created in exercising the powers and performing the functions vested in it by this resolution shall have: (i) all the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3 of the Political Code; (ii) except when inconsistent with this resolution, all the powers conferred upon committees by the Rules of the Assembly, the Rules of the Senate, and the Joint Rules of the Senate and Assembly as they are enacted and amended from time to time and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full. The powers specified in such rules may be exercised by the committee after the final adjournment of this session; (iii) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in California at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in anywise bearing upon or relating to the subject of this resolution;

(7) To meet at any and all places in this State, in public or executive session;

(8) To act during this session of the Legislature, including any recess hereof, and after final adjournment hereof, until the commencement of the Fifty-fifth Legislature;

(9) To file a report with the Legislature during any session of the Fifty-fourth Legislature and with the Legislature during the regular session of the Fifty-fifth Legislature;

(10) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and procure testimony; and

(11) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and be it further

Resolved, That the Sergeant-at-Arms of the Assembly, the Sergeant-at-Arms of the Senate, or other officers designated by either of them are hereby directed to serve any and all subpenas, orders and other process issued by the committee, when directed so to do by the chairman or by a majority of the membership of the committee; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government, including the Legislative Counsel, the Attorney General and their subordinates, and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Expenses

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accomodations and meals, incurred in connection with their services upon the committee, or in lieu of such expenses for accomodations and meals an allowance of eight dollars ($8) per day; and be it further

Appropriation

Resolved, That the sum of ten thousand dollars ($10,000) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid equally from the contingent

funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 29

Assembly Concurrent Resolution No. 17—Relative to the creation of a Joint Legislative Committee on State Buildings at Sacramento, to study and report to the Legislature thereon and to recommend an orderly program of State building.

[Filed with Secretary of State January 27, 1941.]

Joint Legislative Committee on State Buildings

WHEREAS, A number of State office buildings have been constructed at Sacramento within recent years and, in addition thereto, the State finds it necessary to rent office space in order to provide adequate room for its officers and employees; and

WHEREAS, There is pending before the Legislature a bill making an appropriation for the construction of a Social Welfare Building; and

WHEREAS, The State has never undertaken a comprehensive review of governmental functions for the purpose of developing an orderly building program in Sacramento and has no official building plan properly related to the needs of the State and the trends of development of the City of Sacramento; and

WHEREAS, The existing State Capitol Building in Sacramento is not only a fitting symbol of the dignity of State Government but is a distinguishing landmark and a primary center of interest in the city; and

WHEREAS, It is desirable that consideration be given to the relationship of the various State office buildings to each other in the interests of efficiency and economy; and

WHEREAS, Proper consideration in any State building program should be given to the economic relationship of the State office buildings to the business interests of the city; and

WHEREAS, Various plans have been proposed for the development and extension of the State office buildings, among which is the plan for the beautification of Capitol Avenue and the development of a plan for the creation of a mall along Capitol Avenue from Tower Bridge to the State Capitol; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there is hereby created a Joint Legislative Committee on State Buildings at Sacramento, which committee shall study, ascertain, collate and appraise all facts and matters relating to the foregoing with particular reference to the study of a permanent plan for the development of the aforesaid mall as said plan has been developed and promoted by the city planning commission of the

City of Sacramento and various civic bodies interested in the development of State buildings and the beautification of the City of Sacramento to the end that it may prepare and recommend to the Legislature a complete and coordinated program for State office building construction at Sacramento which will be for the best interests of the State and of the City of Sacramento; and be it further

Membership

Resolved, That the committee shall consist of three members of the Assembly appointed by the Speaker and two members of the Senate appointed by the Committee on Rules; and be it further

Powers

Resolved, That the committee hereby created in exercising the powers and performing the functions vested in it by this resolution shall have: (i) all the powers conferred upon legislative committees by Article 8, Chapter 2, Title 1, Part 3, of the Political Code; (ii) except when inconsistent with this resolution, all the powers conferred upon committees by the Rules of the Assembly, the Rules of the Senate, and the Joint Rules of the Senate and Assembly as they are enacted and amended from time to time and such rules are hereby incorporated herein and made a part hereof the same as if they were set forth in this resolution in full; (iii) all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such legal, clerical, expert and technical assistants as it may deem necessary;

(2) To hold public hearings in the City of Sacramento at which hearings the people and any interested public officer and public or private agency shall have an opportunity to present their views to the committee;

(3) To meet at Sacramento in public or executive session and to act during this session of the Legislature, including any recess thereof, and until the final adjournment hereof;

(4) To file a report with the Legislature during any session of the Fifty-fourth Legislature;

(5) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Appropriation

Resolved, That the sum of two hundred fifty dollars ($250) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses of the committee and its members and for any charges, expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 30

Assembly Joint Resolution No. 4—Relative to violations of the Hatch Act.

[Filed with Secretary of State January 27, 1941.]

Investigation of violations of Hatch Act

WHEREAS, It appears that persons employed and participating in the Federally financed programs for the rehabilitation of California agriculture have been approached and requested to make contributions for political purposes during the general election of November, 1940; and

WHEREAS, It appears that the said persons who have failed to comply with the demands made upon them have been threatened with loss of employment and right to participate in such Federally financed programs; and

WHEREAS, There may be many instances of such actions, not only within the State of California, but elsewhere throughout the United States in violation of duly enacted Federal statutes; and

WHEREAS, It appears that appropriate action should be taken to determine whether or not in fact any such violations have actually occurred, and if they have occurred, to see that such steps required by law should be taken to prevent future violation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the United States Civil Service Commission is hereby respectfully requested to make a thorough investigation to determine if violations of the Federal Hatch Act have in fact occurred and of the extent to which they did occur and to take such action as to it appears meet and proper in the premises to secure observance of the law in the future and the punishment of violations of the act that have occurred in the past; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the United States Civil Service Commission.

CHAPTER 31

Senate Concurrent Resolution No. 15—Relative to reports of the department encampment, roll call and the annual convention of the Department of California and Nevada Grand Army of the Republic.

[Filed with Secretary of State March 6, 1941]

G A R proceedings Publication of reports

Resolved by the Senate, the Assembly concurring, That there shall be printed as a public document 250 copies of the session of the Department of California and Nevada Grand Army of the Republic Seventy-fourth and Seventy-fifth, 1941 and 1942 proceedings together with the Roll Call and Journal, 125 copies for the use of the Senate and 125 copies for the use of the Assembly, cost of same to be payable from the legislative printing appropriation.

CHAPTER 32

Assembly Concurrent Resolution No. 22—Relative to adjournment in respect to the memory of Henry H. Yonkin.

[Filed with Secretary of State March 6, 1941.]

Death of Henry H Yonkin

WHEREAS, The members of the Legislature have learned with regret that Henry H. Yonkin has been called to his final rest; and

WHEREAS, Henry H. Yonkin served with honor in the Assembly in 1917 and later served a full term in the Senate of the State of California, in both of which capacities he won the respect of his colleagues; and

WHEREAS, Both before and after his legislative service Mr. Yonkin served with credit in other responsible official capacities, and died at the advanced age of 90 years, "Full of years and of honor"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members of the Legislature of the State of California extend their sympathy to the surviving members of Mr. Yonkin's family; and be it further

Resolved, That when the respective houses of the Legislature adjourn this day they shall do so out of respect to the memory of the late Henry H. Yonkin; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to send suitably prepared copy of this resolution to the bereaved family.

CHAPTER 33

Assembly Concurrent Resolution No. 23—Relative to the creation of a Welfare Personnel Policies Investigating Committee.

[Filed with Secretary of State March 15, 1941.]

Welfare Personnel Policies Investigating Committee

WHEREAS, The Department of Social Welfare is at present engaged in surveying personnel procedures in the county welfare agencies and setting up required standards therefor; and

WHEREAS, These activities are permitted by expenditures from the support appropriation of the department; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there is hereby created a "Welfare Personnel Policies Investigating Committee" which consists of four members of the Assembly appointed by the Speaker of the Assembly and three members of the Senate appointed by the President pro tempore of the Senate and which is authorized and directed to gather, assemble, study and analyze all facts and acts relating to the establishment, interpretation, and enforcement of personnel policies in county welfare departments by the Department of Social Welfare, with a view toward preparing and submitting such legislative measures as will insure well considered, economic and equitable policies and requirements by the department, to which end the committee shall have and exercise the duty and power:

Membership

Powers and duties

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in California, at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in any wise bearing upon or relating to personnel policies, standards and requirements of the Department of Social Welfare for county welfare departments;

(7) To meet at any and all places within the State;

(8) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas, and to take all necessary means to compel the attendance of witnesses and procure testimony;

(9) To act during this session of the Legislature, including any recess thereof, and until final adjournment hereof;

(10) To report its findings and recommendations to the Senate and Assembly and to the people from time to time and at any time; and

(11) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, That the committee, each of its members, and any representative of the committee thereunto authorized by the committee or by its chairman, is authorized and empowered to administer oaths; and all of the provisions of Article 8, Chapter 2, Title 1, Part 3 of the Political Code, relating to the attendance and examination of witnesses before the Legislature and committees thereof, apply to the committee hereby created; and be it further

Resolved, That the Sergeant-at-arms of the Senate and of the Assembly and each of them or other officers designated by either of them, are hereby directed to serve any and all subpenas, orders and other process issued by the committee when directed so to do by the chairman or by a majority of the membership of the committee; and be it further

Resolved, That every department, commission, board, agency, officer and employee of the State Government and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created.

CHAPTER 34

Assembly Concurrent Resolution No. 18—Relative to inviting the 1943 convention of the American Legion to be held in San Francisco.

[Filed with Secretary of State March 15, 1941.]

American Legion convention

WHEREAS, The Department of California, American Legion, in convention assembled August 12 to 14, 1940, reaffirmed its support of San Francisco as the 1943 American Legion National convention city; and

WHEREAS, The said department is setting forth every effort through delegates to the National convention and its department officers to assure that the National convention meets at that city in 1943; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California and the people thereof hereby extends its heartiest invitation to the American Legion to hold its National convention at San Francisco in 1943; and be it further

Resolved, That the Chief Clerk of the Assembly be hereby instructed to forward copies of this resolution to the National Headquarters of the American Legion and to Headquarters, Department of California.

CHAPTER 35

Senate Joint Resolution No. 4—Relative to memorializing the President and the Congress to take the steps necessary to permit meat and meat products prepared under California State inspection to be sold on the same basis as meat and meat products under Federal inspection.

[Filed with Secretary of State March 19, 1941.]

Equality in sale of State inspected meat

WHEREAS, The California Meat Inspection Law was patterned after and conforms to the Federal Meat Inspection Law and it is a recognized fact that California's Meat Inspection Law and the administration thereof is equivalent in all essential respects to Federal meat inspection; and

WHEREAS, Inspection under the Federal law in California is limited to five packing plants while more than 450 packing plants are inspected under the State law; and

WHEREAS, At the present time bids on the sale of meat and meat products to the Federal Government by packing plants under State inspection are not approved and the privilege of selling meat and meat products to the United States and its agencies and institutions is granted only to the few plants operating under Federal inspection; and

WHEREAS, The prosecution of the National defense efforts is causing and will cause a great increase in the amount of meat

and meat products required to meet the needs of the Army, Navy, and other Federal institutions and agencies and it is desirable to provide an expanded source of supply which may be assured by opening a new outlet for the products of a vitally necessary industry; and

WHEREAS, The privilege of selling meat and meat products to the Federal Government in California should be extended to all State inspected packing plants and can be done without in any way diminishing the quality of the products supplied to the Government since the legend "Cal. Inspected and Passed" is equivalent to the legend "U. S. Inspected and Passed" in all material respects; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California hereby memorializes the President and the Congress of the United States to enact such legislation or to take such other steps as may be necessary to provide that meat and meat products inspected and passed under the California Meat Inspection Law may be sold to and purchased by the United States and its agencies on the same footing as meat and meat products produced under Federal inspection; and be it further

Resolved, That the Governor of the State of California is hereby requested to cause to be transmitted copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California in the Congress of the United States; and that such Senators and Representatives from California are hereby respectfully urged to support such legislation or such other proceedings as may be necessary to accomplish the purpose and intent of this resolution.

CHAPTER 36

Senate Joint Resolution No. 9—Relative to memorializing Congress to enact legislation to establish an army school comparable to West Point Military Academy and a naval school comparable to Annapolis Naval Academy, in California, one thereof to be located in northern California and one thereof to be located in southern California.

[Filed with Secretary of State March 26, 1941]

Military and naval academies in California

WHEREAS, World events today demonstrate that to survive and maintain their identity, nations must be militaristically prepared; and

WHEREAS, The United States of America has already taken many steps to place itself in a position to compete with any nation in that respect; and

WHEREAS, One of the most vital requirements for a nation in preparedness is trained military and naval officers; and

WHEREAS, The existing training schools established at West Point and Annapolis on the Atlantic Coast are not adequate to meet the needs of a nation of the size of our country; and

WHEREAS, California with its many miles of coast on the Pacific Ocean, affords the country an ideal situs for both a military and a naval school, one in the northern section and one in the southern section of the State; now, therefore, be it

Resolved by the Senate and the Assembly, jointly, That the Congress of the United States be memorialized to immediately enact legislation to establish a military school comparable to West Point Military Academy, and a naval school, comparable to Annapolis Naval Academy, in California, one to be located in northern California, and one in southern California; and be it further

Resolved, That the Secretary of the Senate is hereby requested to transmit copies of this resolution to the President and Vice President of the United States and to the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and Representatives from California in the Congress of the United States, and that the Senators and Representatives from California are hereby respectfully requested to urge such action.

CHAPTER 37

Senate Concurrent Resolution No. 17—Approving a certain amendment to the charter of the City of Bakersfield, County of Kern, State of California, relating to the granting of franchises, voted for and ratified by the electors of said City of Bakersfield at a special election held therein on the twenty-eighth day of January, 1941.

[Filed with Secretary of State March 26, 1941.]

City of Bakersfield. Charter amendments

WHEREAS, The City of Bakersfield, in the County of Kern, State of California, has at all times mentioned herein been and now is a municipal corporation of the State of California, containing a population of more than 3,500 inhabitants as ascertained by the last preceding census taken under the authority of Congress of the United States, and is now and has been ever since the twentieth day of January, 1915, organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election held for that purpose on the fifth day of May, 1914, and approved by the Legislature of the State of California, on the twentieth day of January, 1915; and

WHEREAS, On the sixteenth day of December, 1940, the legislative body of the City of Bakersfield, to wit: The city council on its own motion passed a resolution to submit to the electors of said city, at a special election to be called, a

proposed amendment to the city charter of the City of Bakersfield, relating to the granting of franchises, and immediately thereafter and on the sixteenth day of December, 1940, the city council of said City of Bakersfield duly and regularly called a special election for the purpose of voting on said proposed amendment, to be called and held on the twenty-eighth day of January, 1941, and which said date was fixed by said city council of the City of Bakersfield as the time for voting on said amendment as proposed; and

WHEREAS, Said proposed amendment was published on the eighteenth day of December, 1940, in each edition of The Kern Herald, a newspaper of general circulation printed and published in the City of Bakersfield, and having a general circulation therein, the said paper being the official newspaper of the City of Bakersfield, and said publication was made at the time and in the manner prescribed in Section 8 of Article XI of the Constitution of the State of California, and copies of said proposed amendment to said charter were printed in convenient pamphlet form, and thereafter the city council of the City of Bakersfield caused to be duly published in said The Kern Herald a notice that copies of said proposed amendment to said city charter could be had in the office of the city clerk of the City of Bakersfield upon application therefor, which said copies were duly provided, and the publication thereof was continued until the day fixed for the election upon such charter amendment; and

WHEREAS, Said election was duly called and regularly held on the twenty-eighth day of January, 1941, which said date of the election was not less than 40 nor more than 60 days after the completion of the advertising in said official newspaper of said proposed amendment, and at said election the said proposed amendment to said charter was voted upon by the qualified electors of the City of Bakersfield, and at said election a majority of the qualified electors voting thereon voted in favor of ratifying and did ratify said proposed amendment to said charter, said proposed amendment so ratified being in the words and figures as follows, to wit:

CHARTER AMENDMENTS

City of Bakersfield

ELECTION PROCLAMATION

Notice of Special Election, January 28, 1941.

TO WHOM IT MAY CONCERN:

KNOW YE that pursuant to law a special election is hereby called and will be held in the City of Bakersfield on Tuesday,

the 28th day of January, 1941, for the purpose of submitting to the qualified registered electors in said City certain proposed amendments to the Charter of the City of Bakersfield, for ratification or rejection of said proposed amendments, being the amendment of Sections 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 127, 128, 129, 130 and 131, and the repeal of Section 132 of said Charter, and the addition of two (2) new sections to said Charter, to be numbered Section 132 and Section 132½ of the Charter of the City of Bakersfield, relating to the granting of franchises under the provisions of the "Franchise Act of 1937," as the said act was in effect December 1, 1940, or as said act may hereafter be amended.

There shall be twenty-one (21) election precincts within said City for the purpose of holding said Special Municipal Election, and the election precincts heretofore last established by the Board of Supervisors of the County of Kern for the holding of general state elections are hereby consolidated into election precincts for the holding of said Special Election.

Said proposed amendments to said City Charter will be submitted to the voters as one proposition, and are in the words and figures as follows:

GRANTING FRANCHISE

Granting franchises

Section 115 No franchise shall be granted by the Council unless as otherwise specifically provided in this charter, provided that no franchise shall be granted for a longer term than fifty (50) years.

PENALTY FOR FAILURE TO SECURE FRANCHISE

Operating without franchise

Section 116. No person, firm or corporation shall ever exercise any franchise, permit or privilege mentioned in this article, except in so far as the holder thereof may be entitled to do so by direct authority of the Constitution of California, or of the Constitution or laws of the United States, in, upon, over, under or along any street, highway or other public property in the city, unless a grant therefor shall have been obtained in accordance with the provisions of this article, and every person, firm or corporation exercising a franchise, permit

Penalty for violation

or privilege in violation of this section shall pay a penalty to the City of Bakersfield in the sum of one hundred dollars ($100.00) for each and every day of such violation.

APPLICATION FOR FRANCHISE

Application

Section 117. Except as otherwise specifically provided for in this article, an applicant for a franchise shall file with the Council written application therefor, which must state the character and purpose of the franchise applied for; and if it be a street railroad or other means of transportation in, on, under, over or across any street or highway, the route to be

traversed, but no action shall be taken upon any such application or petition until thirty (30) days after the same has been filed. If within that time a petition is filed and signed by the electors of the city, equal in number to twenty-five per centum, or more, of the entire vote cast at the last municipal election at which all qualified registered electors were entitled to vote, praying that the granting of said franchise be referred to a vote of the electors of the city, said application shall be so referred.

ADVERTISEMENT

Notice of application

Section 118. Except as otherwise specifically provided for in this article, the Council, upon receipt of an application for a franchise mentioned in the foregoing section, shall publish a notice of said application at least once in the official newspaper of the city within one week from the date of filing of said application. After the expiration of thirty (30) days time from the date of filing of the application for said franchise, if no petition has been filed signed by the required number of electors, as provided for in the foregoing section, the Council shall cause to be published a notice in the official newspaper of the city stating the time prior to which, the place where, and the person to whom sealed bids for such franchise may be delivered, and the time and place the same will be publicly opened, examined and declared, and that an ordinance will be adopted by the Council awarding the franchise to the bidder offering to pay to the city, during the life of the franchise, the highest percentage of the gross annual receipts received from the use, operation or possession of the franchise, provided that such percentage be not less than three per centum of the gross annual receipts for the entire life of the franchise.

Notice of awarding bid

BIDDING FOR FRANCHISE

Bidding

Section 119. At the time of opening the sealed bids, any responsible person, firm or corporation may bid for such franchise not less than one-half of one per cent. of the gross annual receipts for the entire term of the franchise, above the highest sealed bid therefor, and such bid so made may be raised not less than one-half of one per cent. of the gross annual receipts for such entire term by any other responsible bidder, and such bidding shall continue until there are no further bids, then the Council shall adopt an ordinance granting a franchise to the highest bidder, in accordance with the application and petition.

WHEN RECEIPTS FIXED BY ORDINANCE

Street transportation franchises

Section 120. If the franchise is for a street railroad, or other means of street transportation, with fixed termini, the route of which shall extend beyond the limits of the City of

Bakersfield, then and in that case the percentage of the gross receipts above specified shall be fixed by ordinance.

DEPOSIT AS GUARANTEE OF GOOD FAITH

Bidder's deposit

Section 121. Every applicant or bidder for a franchise, except as otherwise specifically provided for in this article, shall deposit five hundred dollars ($500.00), or a certified check payable to the City of Bakersfield, certified to by some responsible bank, in Kern County, as a guarantee of the good faith of the applicant or bidder, and as a fund out of which to pay all expenses connected with such application and the granting of such franchise. All deposits made by unsuccessful bidders shall be returned. Deposit of the successful bidder shall be retained, until the approval and filing of the bond hereinafter provided for, whereupon the remainder of such deposit, after the payment therefrom of all expenses incurred by the city in connection with the advertising and awarding of such franchise, shall be returned.

FILING OF BONDS

Bond of franchise holder

Section 122. The grantee of any franchise shall file a bond running to the city, to be approved by the Council, in the penal sum prescribed by the Council, and set forth in the advertisements for bids, conditioned that such bidder shall well and truly observe and faithfully perform each and every term and condition of such franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and surety upon such bond; provided, however, that the legislative body of the city shall have power to waive action on the bond, and in lieu thereof, declare the franchise forfeited. In case such bond be not so filed within thirty (30) days after the effective date of the ordinance awarding such franchise, the award of the franchise shall be set aside and any money deposited in connection with the awarding of the franchise shall be forfeited.

BEGINNING AND COMPLETION OF WORK

Time for completing work under franchise, etc.

Section 123. Construction work under any franchise, granted in accordance with the terms of this article, shall be commenced in good faith, within not more than four months from the date of the taking effect of the ordinance, and if not so commenced within said time, said franchise shall be forfeited. Work under any franchise so granted shall be completed within the time fixed for such completion in the ordinance granting such franchise, and if not so completed within said time, such franchise shall be forfeited; provided, that if good cause be shown, the Council may, by resolution, extend the time for completion thereof; and provided, further, that

the limitations and provisions thereof, as to the time within which work shall be completed shall not apply to the extensions of service under franchises other than for railroads, street railroads or interurban railroads.

SERVICE AND ACCOMMODATION

Reserved power of city to make regulations in public interest

Section 124. The grant of every general municipal franchise shall be subject to the right of the city, whether or not reserved in such grant, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, including the right to pass and enforce ordinances for the extension of service and to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise, and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service and accommodations for the people and insure their safety, comfort and convenience. Nothing in this section shall be construed as conflicting with Section 109 of this charter.

All United States mail carriers, when in uniform, and all policemen and members of the fire department, while in actual discharge of their duties, shall be allowed to ride in all cars of street railroads within the boundaries of the city, without paying fare and with all rights of other passengers.

EXAMINATION OF COMPANY'S BOOKS

Examination of books

Section 127. All ordinances granting franchises under this article, shall provide that the city shall have the right, at all reasonable times, to examine all the books, vouchers, records and other papers, of all holders exercising or enjoying any franchise under this article. Refusal to produce the same at any reasonable time for examination, by the Clerk, accountant, or other agents, appointed by the council, shall work a forfeiture of the said franchise.

ANNUAL REPORT OF COMPANY

Annual report

Section 128. Except as otherwise specifically provided for in this article, every holder, or operator, of any business under a franchise granted under this article shall file annually with the City Clerk, on such date as shall be fixed by the Council, a report for the preceding year. Such report shall be in writing, verified by the affidavit of such person or persons, or officer of the corporation, as the Council shall direct, and shall contain a statement, in such form and details as shall from time to time be prescribed by the Council, of all the gross receipts arising from all the business under said franchise, within the city, for the year immediately preceding such report. Such report shall contain such further information as may be required by the Council concerning the character

and amount of business done under said franchise, and the amount of receipts and expenses connected therewith, and also an itemized account of the money expended under said franchise, for new construction, repairs and betterments during the year. The Council shall have power to call for a special report, at any time covering any specific period.

FRANCHISE RECORD BOOK

Franchise record book

Section 129. The Council shall provide and cause to be kept in the office of the City Clerk a franchise record, indexed, and of proper form, in which shall be transcribed accurate and correct copies of all franchises granted by the city, the names of the grantees, and thereafter the name of any assignee or lessee thereof.

PAYMENT OF GROSS RECEIPTS

Annual payments

Section 130. The stipulated percentage of gross receipts provided in this charter to be paid for the use and enjoyment of any franchise as set forth in the ordinance granting such franchise shall be paid annually by the holders thereof, at the time of filing the annual report provided for in this charter. Failure to pay such percentage shall work a forfeiture of the franchise.

FRANCHISE FOR RAILROADS OTHER THAN STREET RAILROADS

Franchises for railroads other than street railroads

Section 131. Franchises may be granted by the Council for the construction, maintenance and operation of railroads other than street railroads along, upon, over, in, under or across any street or streets, or other public places in the city, upon petition therefor stating the character and purpose of the franchise and the route to be traversed, but no action shall be taken upon any such application or petition until thirty (30) days after the same has been filed. If within that time a petition is filed and signed by the electors of the city, equal in number to ten per centum, or more, of the entire vote cast at the last municipal election at which all qualified registered electors were entitled to vote, praying that the granting of said franchise be referred to a vote of the electors of the city, said application shall be so referred. Franchises for railroad spurs or side tracks may be granted by the Council in the same manner, except that the same may be revoked when the purpose for which granted shall cease.

FRANCHISES FOR DISTRIBUTION FACILITIES FOR ELECTRICITY OR GAS

Gas and electricity distribution facilities

Section 132. The Council may grant a franchise to any person, firm or corporation to use or to construct and use poles, wires, conduits and appurtenances for transmitting and distributing electricity for all purposes, or to use, or to lay

and use, pipes and appurtenances for transmitting and distributing gas for any and all purposes, under, along, across or upon the public streets, ways, alleys and places, as the same now or may hereafter exist, within the City, upon such terms and conditions as are provided in an act of the Legislature of the State of California, designated therein and commonly known as the "Franchise Act of 1937," approved June 29, 1937, and as the said act was in effect on December 1, 1940, or as said act may thereafter be amended. Provided that no franchise granted under the provisions of this section shall be granted for a longer term than fifty years.

REFERENDUM ON FRANCHISE ORDINANCES

Referendum on franchise ordinances

Section 132½. Notwithstanding any provision in this Charter to the contrary, if before any ordinance granting a franchise under this article becomes effective, a petition signed by qualified registered electors of the city, equal in number to twenty-five per centum or more of the entire vote cast at the last municipal election at which all qualified registered electors were entitled to vote, protesting against the passage of such ordinance, be presented to the Council, said ordinance shall thereupon be suspended. The Council shall submit the ordinance to the qualified registered electors of the city either at the next municipal election at which all qualified registered electors are entitled to vote, or at a special election called for that purpose, and such ordinance shall not go into effect unless a majority of the qualified registered electors voting on the same shall vote in favor thereof. The provisions respecting the forms and conditions of the petition and the mode of verification and certification and filing, shall be the same as is provided for initiative petitions in Article III of this Charter. The ballot to be used shall be substantially as is provided in Article VII of this Charter, with such modifications as may be required, said form of ballot to be approved by the City Council.

Said election shall be held in all respects in accordance with the laws of the State of California applicable thereto. All qualified registered electors of the City of Bakersfield are and each of them is hereby invited to vote at said special election.

BY ORDER OF THE COUNCIL OF
THE CITY OF BAKERSFIELD.

GEO. E. WILSON,
Mayor of the City of Bakersfield.

ATTEST:
V. VAN RIPER,
City Clerk and Ex-Officio Clerk of the Council of the City of Bakersfield.

Dated this 16th day of December, 1940.

AND WHEREAS, the Council of the City of Bakersfield, County of Kern, State of California, in accordance with the

law in such cases made and provided, did meet at their usual place of meeting, at the time and in the manner provided by law, and duly canvassed the returns of said election as certified by the Election Board, and duly found, determined and declared that the majority of the qualified electors of said City voting thereon had voted in favor of, and ratified said amendment to the Charter of the City of Bakersfield as hereinabove last set forth, and alleged to have been so ratified; and

WHEREAS, that the foregoing is true is shown by the certificate of F. S. Boden, Mayor of the said City of Bakersfield, and Vance Van Riper, Clerk of said City, whose certificate is in words and figures as follows, to-wit:

State of California }
County of Kern } ss
City of Bakersfield }

Certificate This is to certify that we, F. S. Boden, Mayor of the City of Bakersfield, and Vance Van Riper, Clerk of the City of Bakersfield, have compared the foregoing proposed and ratified amendment to the Charter of the City of Bakersfield with the original proposed amendment submitted to the qualified electors of the said City of Bakersfield at a special election held within the City of Bakersfield on January 28, 1941, and find that the foregoing is a full, true, correct and exact copy of said amendment.

We further certify that the facts set forth in the preamble preceding said amendment to said Charter, and the matter set forth therein are and each of them is true.

IN WITNESS WHEREOF we have hereunto set our hands and caused the corporate seal of the City of Bakersfield to be attached this 3rd day of March, 1941.

F. S BODEN,
MAYOR of the City of Bakersfield.

[SEAL]

V. VAN RIPER,
CLERK of the City of Bakersfield.

and

WHEREAS, The said amendment to the charter of the City of Bakersfield so ratified as hereinbefore set forth has been duly presented and submitted to the Legislature of the State of California, for approval or rejection, without power of alteration or amendment, all in accordance with Section 8 of Article XI of the Constitution of the State of California,

Approval *Now, therefore, be it resolved by the Senate, the Assembly concurring* (a majority of all members elected to each house voting for the adoption of this resolution and concurring therein), That the said amendment to the charter of the City of Bakersfield herein set forth as presented and submitted to and ratified and adopted by the qualified electors of the City of Bakersfield, be and the same is hereby adopted as a whole for and as an amendment to the said charter of the City of Bakersfield.

CHAPTER 38

Assembly Joint Resolution No. 34—Relative to memorializing the President and the Congress in connection with legislation to provide marine hospitalization for fishermen.

[Filed with Secretary of State March 28, 1941.]

Marine hospitalization for fishermen

WHEREAS, Maritime fishermen have heretofore received the benefits of marine hospital services since 1875, but have recently been precluded therefrom by a ruling of the Comptroller of the United States; and

WHEREAS, The extension of the benefits of marine hospitalization now available to other maritime workers to include fishermen appears to be in line with the established policy of the United States; and

WHEREAS, H. R 84 is now pending in the Congress and is designed to include within the definition of seamen in the act entitled "An act to promote economy and efficiency in the marine-hospital service," (18 Stat. 485), persons operating on board, or employed on board, vessels in fishing operations; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Congress of the United States is hereby respectfully memorialized and urged to enact said H. R. 84, or such other legislation as it deems suitable to accomplish the purpose of extending the benefits of marine hospital service to maritime fishermen, and the President of the United States is respectfully petitioned to approve such legislation; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit copies of this resolution to the President and the Vice President of the United States, the Speaker of the House of Representatives, and to each Member of the Congress of the United States from California.

CHAPTER 39

Assembly Joint Resolution No. 22—Relative to construction of a dam on the Stanislaus River.

[Filed with Secretary of State April 2, 1941.]

Dam on Stanislaus River

WHEREAS, It is contemplated that the delta islands in the San Joaquin River below Stockton will be utilized as a base for large armed forces due to the defense emergency; and

WHEREAS, These islands are in constant danger of flooding during the winter months due particularly to the flood and storm waters carried into the San Joaquin River by the Stanislaus River during the winter period; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to construct a dam on the upper reaches of the Stanislaus River in order to retain the usual annual excess flow of water of the Stanislaus River; and be it further

Resolved, That the Chief Clerk of the Assembly be hereby instructed to forward copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 40

Senate Concurrent Resolution No. 19—Relative to the naming of the "Dr. Ernest M. Fine Memorial Bridge."

[Filed with Secretary of State April 2, 1941.]

"Dr. Ernest M. Fine Memorial Bridge"

WHEREAS, The citizens of California are justly proud of its great men who have unselfishly devoted their lives to the happiness, welfare and prosperity of their fellow men; and

WHEREAS, It is fitting and proper that the names of these fine men be memorialized for the future generations of citizens of California; and

WHEREAS, Dr. Ernest M. Fine, pioneer of Del Norte County, willingly and unselfishly devoted his life to the welfare and happiness of the citizens of that county and was loved and cherished by all; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California hereby names that bridge located on State Highway Route Number 1 between Crescent City and the Oregon State Line, now known as Smith River Bridge, No. 1-20, the "Dr. Ernest M. Fine Memorial Bridge" in memory of Dr. Ernest M. Fine, pioneer, country doctor, humanitarian, "who knew no river so high that he hesitated to brave its flood in answering the call of the sick or injured"; and be it further

Resolved, That the State Department of Public Works and the California Highway Commission are hereby directed to place or to cause to be placed on or alongside such bridge a suitable sign or plaque designating it as the "Dr. Ernest M. Fine Memorial Bridge"; and be it further

Resolved, That the Secretary of the Senate is hereby requested to transmit copies of this resolution to the Director of the Department of Public Works and to each member of the State Highway Commission.

CHAPTER 41

Senate Joint Resolution No. 13—Memorializing the President and Congress to enact legislation proposed by U. S. Senate Bill 710, providing a basis of recovery for claims of California Indians based on early treaty arrangement.

[Filed with Secretary of State April 3, 1941]

Compensation to California Indians for lands.

WHEREAS, The Indian occupants of California by various treaties ceded their tribal lands to the Federal Government in return for treaty agreements that were never fulfilled; and

WHEREAS, There has been introduced in the Senate of the United States by Honorable Sheridan Downey, a bill known as S. 710 which provides an equitable basis for compensation to the California Indians for the lands that were taken from them without compensation; and

WHEREAS, All the prospective Indian recipients of such consideration have expressed their approval of the basis of recovery provided in said bill S. 710; and

WHEREAS, Said bill leaves the handling of the claims of said Indians in the United States Court of Claims, in the hands of the Attorney General of California in accordance with enactments of our State Legislature to that effect; and

WHEREAS, Attorney General Warren accepted said authorization as a part of his official duties and now has deputies of his office working earnestly in behalf of securing recovery for said Indians as speedily as possible to the best interests of said Indians of California and to the best interests of the State of California; and

WHEREAS, The enactment of said bill will be a forward step towards the economic rehabilitation of Indian citizens of California who have not had quite an equal chance with other citizens of California; and

WHEREAS, Such legislation would redound to the honor of our State and our Nation and to the benefit of society in general; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California does hereby respectfully urge the President and the Congress of the United States to enact the legislation proposed by S. 710 as speedily as possible; and be it further

Resolved, That the conduct of such litigation as shall be authorized by said bill, S. 710, be left in charge of the Attorney General of California in justice to said Indians of California who in justice to them should not be charged with the usual heavy expense of such litigation; and be it further

Resolved, That a copy of this resolution be sent by the Secretary of the Senate to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, the Chairmen of the Committees on Indian Affairs in the Senate and in the House of Representatives and to

each Senator and each Member of the House of Representatives from California in the Congress of the United States and that such Senators and Representatives from California be and are respectfully urged to support such legislation.

CHAPTER 42

Senate Joint Resolution No. 14—Relative to memorializing Congress to allocate funds in surplus marketing budget for 1942 to California fruit growers because of loss of normal export markets due to the war.

[Filed with Secretary of State April 3, 1941.]

Surplus marketing funds
Allocation to fruit growers

WHEREAS, The fruit industry of the United States including growing, processing and canning has become concentrated in the State of California which produces 40 per cent of the fruit crop of the Nation although only 5 per cent of the country's people live here; and

WHEREAS, California fruit growers are dependent on National and foreign markets to gain a living from these crops; and

WHEREAS, Eighteen per cent of California fruit production normally goes into export with certain specialty crops showing an extremely high percentage; hardy pears, 90 per cent; prunes and apricots, 40 per cent; raisins and canned pears, 30 per cent; and

WHEREAS, This foreign market has been almost completely cut off by the European war and home markets are unable to absorb the huge surpluses of these special crops which growers produce each year; and

WHEREAS, This situation constitutes a grave danger to owners of the 235,000 acres of orchards which have been developed over long years to provide the 1,000,000 tons of fresh, canned and dried fruit normally going into export; and

WHEREAS, The families of these thousands of growers, their employees, workers engaged in canning, processing, transporting and warehousing these crops are also adversely affected and with them the merchants and professional groups in their respective communities; and

WHEREAS, The House of Representatives, over the protests of members of the California delegation, saw fit to reduce the Budget for the year 1942 for disposal of surplus commodities by thirty-five million dollars ($35,000,000) providing a total of only two hundred million dollars ($200,000,000) compared with over two hundred thirty-five million dollars ($235,000,000) for this department in 1941; and

WHEREAS, The Agricultural Appropriation Bill is now before the Senate of the United States for consideration; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Congress of the United States be memorialized to replace the thirty-five million dollar ($35,000,000) reduction in appropriations for the Surplus Marketing Administration with provision that this fund be allocated to fruit crops adversely affected by loss of foreign markets; and be it further

Resolved, That the above appropriation be increased by another one hundred million dollars ($100,000,000) for the specific expansion of the Stamp Plan, so that the underprivileged two-thirds of the Nation unable to afford adequate diets can be assisted by the Federal Government to the point of absorbing otherwise unabsorbable surpluses of fresh, canned and dried fruits; and be it further

Resolved, That the Secretary of the Senate is hereby directed to send copies of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives and each of the Senators and Congressmen from California in the Congress of the United States, and that the Senators and Congressmen from California in the Congress of the United States are respectfully urged to support the legislation herein outlined.

CHAPTER 43

Senate Concurrent Resolution No. 23—Mourning the death of Chris Merchant, member of the State Board of Prison Directors.

[Filed with Secretary of State April 3, 1941]

Death of Chris Merchant

WHEREAS, Chris Merchant, member of the State Board of Prison Directors, was injured in an automobile accident while traveling after attending a meeting of the board, resulting in his death; and

WHEREAS, Chris Merchant well and truly served the State of California as a member of the State Board of Prison Directors since June 26, 1940; now, therefore, be it

Resolved, by the Senate of the State of California, the Assembly thereof concurring, That the State of California has suffered irreparable loss by the tragic accident which resulted in the death of Chris Merchant and deeply mourns his untimely passing; and be it further

Resolved, That the Secretary of the Senate send copies of this resolution to the bereaved family of Chris Merchant, and that when the Senate and Assembly adjourn this day they do so in memory of Chris Merchant.

CHAPTER 44

Assembly Concurrent Resolution No. 25—Mourning the death of Hugh Lovett Spears, member of the State Board of Prison Directors.

[Filed with Secretary of State April 4, 1941.]

Death of Hugh Lovett Spears

WHEREAS, Hugh Lovett Spears, member of the State Board of Prison Directors, was injured in an automobile accident while traveling after attending a meeting of the board, resulting in his death Saturday, March 29, 1941; and

WHEREAS, Hugh Lovett Spears well and truly served the State of California as a member of the State Board of Prison Directors since June 26, 1940, giving to the board the benefit of his knowledge on the subject of penology and rehabilitation of convicts acquired from contact with prison systems in the South of the United States; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the State of California has suffered irreparable loss by the tragic accident which resulted in the death of Hugh Lovett Spears and deeply mourns his untimely passing; and be it further

Resolved, That the Chief Clerk of the Assembly send copies of this resolution to the bereaved family of Hugh Lovett Spears, and that when the Assembly and Senate adjourn this day they do so in memory of Hugh Lovett Spears.

CHAPTER 45

Assembly Concurrent Resolution No. 26—Expressing wishes for the speedy recovery of Christopher Thomas Merchant, member of the State Board of Prison Directors.

[Filed with Secretary of State April 4, 1941.]

Hope for recovery of Chris Merchant

WHEREAS, Christopher Thomas Merchant, member of the State Board of Prison Directors, recently was seriously injured in an automobile accident while traveling after attending a meeting of the board; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California expresses every hope that Christopher Thomas Merchant may enjoy a speedy recovery and be able soon to resume his official duties; and be it further

Resolved, That the Chief Clerk of the Assembly send a copy of this resolution to Christopher Thomas Merchant.

CHAPTER 46

Senate Joint Resolution No. 16—Relative to memorializing Congress to appropriate thirty-eight million seven hundred fifty thousand dollars ($38,750,000), for the Central Valley Project as recommended by President Roosevelt.

[Filed with Secretary of State April 9, 1941]

Central Valley Project Appropriation

WHEREAS, It is reported that President Roosevelt has recommended an appropriation of thirty-eight million seven hundred fifty thousand dollars ($38,750,000) for work on the Central Valley Project, which recommendation is thirteen million seven hundred fifty thousand dollars ($13,750,000) greater than the original amount asked; and

WHEREAS, If an appropriation in the sum of thirty-eight million seven hundred fifty thousand dollars ($38,750,000) is made by Congress, the completion of the Central Valley Project will be advanced one full year to some time in 1943; and

WHEREAS, It is highly desirable that this project be completed at the earliest possible date; now, therefore, be it

Resolved, by the Senate and the Assembly of the State of California, jointly, That Congress be, and it hereby is memorialized to appropriate the sum of thirty-eight million seven hundred fifty thousand dollars ($38,750,000) to the Central Valley Project in accordance with the recommendation of President Roosevelt; and be it further

Resolved, That the Senators and Congressmen from California in the Congress of the United States be and they are hereby urged to support action by Congress to accomplish the intent of this resolution; and be it further

Resolved, That the Secretary of the Senate be, and he is hereby instructed to send copies of this resolution to the President of the United States, the Speaker of the House of Representatives, and to the Senators and Congressmen from California in the Congress of the United States.

CHAPTER 47

Assembly Concurrent Resolution No. 27—Approving a certain amendment to the charter of the City of Long Beach, State of California, ratified by the qualified electors of said city at a special municipal election held therein on the eighteenth day of March, 1941.

[Filed with Secretary of State April 9, 1941]

City of Long Beach· Charter amendment

WHEREAS, The City of Long Beach, in the County of Los Angeles, State of California, contains a population of over 50,000 inhabitants, and has been, ever since the year 1921, and

now is, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of Section 8, Article XI, of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the fourteenth day of April, 1921, and approved by the Legislature of the State of California, on the twenty-sixth day of April, 1921 (Statutes of 1921, page 2054), and amendments thereto duly ratified by the qualified voters of said city and by resolutions of said Legislature as set out in the certificate of the Mayor and City Clerk of said City of Long Beach, hereinafter set forth; and

WHEREAS, Proceedings have been had for the proposal, adoption and ratification of certain amendments to the charter of said City of Long Beach, as set out in the certificate of the Mayor and City Clerk of said City of Long Beach, as follows, to wit:

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF LONG BEACH AT A SPECIAL MUNICIPAL ELECTION HELD THEREIN ON THE EIGHTEENTH DAY OF MARCH, ONE THOUSAND NINE HUNDRED FORTY-ONE, OF A CERTAIN AMENDMENT TO THE CHARTER OF THE CITY OF LONG BEACH, STATE OF CALIFORNIA.

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES, } ss.
CITY OF LONG BEACH.

Certificate

We, FRANCIS H. GENTRY, Mayor of the City of Long Beach, and FRANK J. BEGGS, City Clerk of the City of Long Beach, do hereby certify as follows:

That said City of Long Beach, in the County of Los Angeles, State of California, is now, and was at all of the times herein mentioned, a city containing a population of more than fifty thousand inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; and,

That said City of Long Beach is now, and was at all of the times herein mentioned, organized and existing under a freeholders' charter adopted under the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said city at a special election held therein on the fourteenth day of April, 1921, and approved by the legislature of the State of California, on the twenty-sixth day of April, 1921, and amendments thereto duly ratified by the qualified voters of said city, and approved by resolution of said legislature and filed with the Secretary of State of the State of California the 27th day of April, 1923, (Statutes 1923, page 1624), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and

filed with said Secretary of State the eighteenth day of April, 1925, (Statutes 1925, page 1330), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the fifteenth day of January, 1929, (Statutes 1929, Page 1977), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the twenty-ninth day of March, 1929, (Statutes 1929, page 2062), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the second day of March, 1931, (Statutes 1931, page 2780), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the nineteenth day of April, 1933, (Statutes 1933, page 3006), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the twenty-ninth day of April, 1935, (Statutes 1935, page 2565), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the tenth day of June, 1935, (Statutes 1935, page 2677), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the twentieth day of June, 1935, (Statutes 1935, page 2698), and amendments thereto duly ratified by the qualified voters of said city and approved by resolution of said legislature and filed with said Secretary of State the fourteenth day of May, 1937, (Statutes 1937, page 2921); and

That the legislative body of said city, namely, the City Council of said City, did, by motion duly adopted on the twenty-fifth day of January, 1941, on its own motion, and pursuant to the provisions of Section Eight, of Article Eleven, of the Constitution of the State of California, duly propose to the qualified electors of said City of Long Beach four (4) amendments to the charter of said city, numbered Propositions One to Four, and ordered that said proposed amendments be submitted to said qualified electors of said city at a special municipal election to be held in said city on the eighteenth day of March, 1941; and

That the legislative body of said city, namely, the City Council of said city, did, by motion duly adopted on the fourth day of February, 1941, on its own motion, and pursuant to the provisions of Section Eight, of Article Eleven, of the Constitution of the State of California, duly propose to the qualified electors of said City of Long Beach an amendment to the charter of said city numbered Proposition Five, and ordered that said proposed amendment be submitted to said qualified electors of said City at a special municipal election to be held in said city on the eighteenth day of March, 1941; and

That said amendments numbered One to Four, inclusive, were, on January twenty-seventh, 1941, duly published in the Long Beach Sun and in each edition thereof during said day of publication; and

That said amendment number Five was, on February fifth, 1941, duly published in the Long Beach Sun and in each edition thereof during said day of publication; and

That said Long Beach Sun was, upon the dates of said publications, and at all times since has been, and now is, a daily newspaper of general circulation within said City of Long Beach, and was upon the dates of the publication of said proposed amendments and at all times since has been, and now is, published in said city and said newspaper was, upon the dates of the publication of said proposed amendments, and at all times since has been and now is, the official newspaper of said city, and was the newspaper designated by said City Council for the publication of said proposed amendments; and

That said proposed amendments were duly and regularly printed in convenient pamphlet form and, at and during the time and in the manner provided by law, a notice was published in said Long Beach Sun that such copies of said proposed amendments could be had upon application therefor in the office of the City Clerk of said city, and said proposed amendments so printed in convenient pamphlet form were duly and regularly distributed in the manner provided by law; and

That said City Council did, by ordinances respectively designated as Ordinance No. C-1876 and Ordinance No. C-1884, order the holding and consolidation of special municipal elections in said City of Long Beach on the eighteenth day of March, 1941, which date was not less than forty nor more than sixty days after the completion of the publication of said proposed amendments, as aforesaid, and which ordinances were published at least three times in the Long Beach Sun, the official newspaper of the City of Long Beach, ten days prior to the date of said election, to wit: Said Ordinance No. C-1876, on the fifth, sixth and seventh days of March, 1941, and said Ordinance No. C-1884, on the fifth, sixth, seventh and eighth days of March, 1941, in the Long Beach Sun, the official newspaper of the City of Long Beach and a newspaper of general circulation and published in said city, and said ordinances were posted in three conspicuous places in the City of Long Beach; and

That said special municipal election was held in said City of Long Beach on the eighteenth day of March, 1941, which day was not less than forty days nor more than sixty days after the completion of the publication of said proposed amendments once in the Long Beach Sun as aforesaid; that said election was held during a regular session of the legislature and before the final adjournment thereof; and

That at said special municipal election held as aforesaid, a majority of the qualified voters of said City of Long Beach voting thereon, voted in favor of one (1) of said proposed

amendments to the charter of the City of Long Beach, and duly ratified the same; and

That the City Council of said City of Long Beach did, at the time and in the manner and form provided by law, to wit, on the twenty-fifth day of March, 1941, regularly canvass the returns of said special municipal election, and did then and there duly find, determine and declare that a majority of the qualified voters of said City of Long Beach voting thereon had voted in favor of and ratified one (1) of said proposed amendments to the charter of the City of Long Beach, to wit, amendment numbered Proposition No. 5; and

That said proposed amendment to the charter of the City of Long Beach ratified by the electors of said City as aforesaid, is in words and figures as follows, to wit:

PROPOSITION NO. 5

That Article XI of the Charter of the City of Long Beach be amended by adding thereto one new section to be designated Section 101.5, which shall read as follows:

Reinstatement of employees in military service

Sec. 101.5. All persons in the classified service who on or after June 1, 1940, shall have entered, or who hereafter shall enter, the armed forces of the United States during war or national emergency proclaimed by the President or the Congress of the United States or Act of Congress providing for peace time induction or conscription, and who shall have been honorably discharged or placed on the inactive or reserve list or relieved from such service with a certificate of satisfactory service, shall be reinstated without loss of status or seniority to the positions held by them prior to entry into such Federal service or to positions of like seniority and status, unless in the meantime such positions shall have been abolished; subject, however, to the following conditions, to wit:

1. That all such persons hereafter entering such armed forces shall have filed documentary proof of such entry at or about the time of their departure from the service of the City;

2. That application for reinstatement is made within ninety days after discharge, release or relief from service; and

3. That such persons are still physically qualified to perform the duties of the position previously held by them or of such like positions.

Substitute employees

All persons appointed or transferred to fill such positions and all other persons appointed or transferred to other positions by reason thereof shall be deemed to be substitute employees and, notwithstanding any other provision of this charter, such substitute employees may be separated from such positions at any time unless they held positions subject to the provisions of this article immediately prior to appointment or transfer as substitute employees, in which event, and notwithstanding any other provision of this charter, they

shall be reinstated without loss of status or seniority to the permanent positions which they held immediately prior to their first appointment or transfer as such substitute employees or to positions of like seniority and status, unless in the meantime such positions shall have been abolished. Substitute employees shall be appointed in the same manner as other employees from the applicable reinstatement, promotional or general eligible list then in effect.

Except as otherwise expressly provided herein, substitute employees, upon the completion of the probationary period, shall acquire the same rights as other permanent employees and upon the return of an employee from service in the armed forces, any lay-off made necessary thereby, shall be in accordance with the rules governing lay-offs of other employees.

That the foregoing is a full, true and correct copy of said proposed amendment to the charter of the City of Long Beach, ratified by the electors of said city as aforesaid, on file in the office of the City Clerk of said City of Long Beach.

IN WITNESS WHEREOF, FRANCIS H. GENTRY, Mayor, as aforesaid, and FRANK J. BEGGS, City Clerk, as aforesaid, have hereunto set their hands and caused the corporate seal of the City of Long Beach to be thereunto duly affixed, on this 27th day of March, 1941.

FRANCIS H. GENTRY,
Mayor of the City of Long Beach

[SEAL]

FRANK J. BEGGS,
City Clerk of the City of Long Beach;

and

WHEREAS, Said proposed amendment to the charter of the City of Long Beach ratified by the electors of said city, as aforesaid, has been, and is now, submitted to the Legislature of the State of California, for approval or rejection without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, That said amendment to the charter of the City of Long Beach, as proposed to, adopted and ratified by the qualified electors of said City of Long Beach, as hereinabove fully set forth, be and the same is, hereby approved as a whole without amendment or alteration, for and as an amendment to and as a part of the charter of the City of Long Beach.

CHAPTER 48

Senate Concurrent Resolution No. 14—Amending Joint Rule No. 13, relative to distribution of legislative publications.

[Filed with Secretary of State April 11, 1941.]

Amendment of Legislative Joint Rule No 13

Resolved by the Senate of the State of California, the Assembly concurring, That Joint Rule No. 13 be and the same is hereby amended to read as follows:

Legislative publications

13. All requests for mailing or distribution of bills and legislative publications shall be filed with the Secretary of the Senate or the Chief Clerk of the Assembly. Each member of the Senate and Assembly shall be permitted to submit a list of 10 libraries, chambers of commerce or individuals. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of bills and legislative publications to supply this list together with such number as may be necessary for legislative requirements.

Except as hereinabove provided, no complete list of bills shall be delivered except upon payment therefor of the sum of forty-five dollars ($45), nor shall more than two copies of bills or other legislative publications be distributed free to any person, office or organization except to members of the Legislature, the Secretary of the Senate and the Chief Clerk of the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; Attorney General's office; Secretary of State's office; Controller's office; Governor's office; the Clerk of the Supreme Court; the clerk of the district court of appeal for each district; the Library of Congress and to libraries of the University of California at Berkeley and at Los Angeles; and accredited members of the press. The State Printer shall fix the cost of such bills and publications, including postage, and such moneys as may be received by him shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing. Unless otherwise provided for, the total number of each bill to be printed shall be not more than 2,500.

CHAPTER 49

Senate Concurrent Resolution No. 20—Relative to leaves of absence of the Governor, Lieutenant Governor, Secretary of State, Attorney General, Controller, Treasurer, Superintendent of Public Instruction, members of the Board of Equalization, and the members of the Senate and Assembly.

[Filed with Secretary of State April 11, 1941.]

Leaves of absence

State officers and legislators

Resolved by the Senate of the State of California, the Assembly thereof concurring, That leave of absence from the

State for a longer period than 60 days during their term of office is hereby granted to His Excellency Culbert L. Olson, Governor of the State of California; to the Honorable Ellis E. Patterson, Lieutenant Governor of the State of California; to Paul Peek, Secretary of State; to Earl Warren, Attorney General; to Harry B. Riley, Controller; to Charles G. Johnson, Treasurer; to Walter F. Dexter, Superintendent of Public Instruction; to Richard E. Collins, George R. Reilly, Fred E. Stewart, William G. Bonelli, members of the Board of Equalization; and to the following members of the Senate and the Assembly of the Fifty-fourth Session of the Legislature of the State of California:

Senators George M. Biggar, Arthur H. Breed, Jr., Charles Brown, Oliver J. Carter, Randolph Collier, Bradford S. Crittenden, R. R. Cunningham, T. H. DeLap, Charles H. Deuel, H. E. Dillinger, Ed. Fletcher, John D. Foley, J. C. Garrison, Frank L. Gordon, Ray W. Hays, Chris N. Jespersen, H. R. Judah, Thomas F. Keating, Robert W. Kenny, Thomas H. Kuchel, E. George Luckey, Jesse M. Mayo, James J. McBride, Thomas McCormack, D. Jack Metzger, Frank W. Mixter, Peter P. Myhand, Harry L. Parkman, John Phillips, Harold J. Powers, Irwin T. Quinn, W. P. Rich, Jerrold L. Seawell, John F. Shelley, Herbert W. Slater, John Harold Swan, Ralph E. Swing, Edward H. Tickle, J. I. Wagy, Clarence C. Ward;

Assemblymen Don A. Allen, Godfrey A. Andreas, Lee T. Bashore, F. Ray Bennett, Everett G. Burkhalter, Hugh M. Burns, Michael J. Burns, John Edward Cain, Harrison W. Call, Arthur W. Carlson, James M. Cassidy, George A. Clarke, George D. Collins, Jr., Sam L. Collins, John B. Cooke, Melvyn I. Cronin, Ernest C. Crowley, Jeanette E. Daley, M. G. Del Mutolo, Earl D. Desmond, Randal F. Dickey, Ralph C. Dills, Nelson S. Dilworth, Hugh P. Donnelly, Thomas J. Doyle, John W. Evans, C. Don Field, Edward M. Gaffney, Dan Gallagher, Gordon H. Garland, Robert Miller Green, William I. Gunlock, Harvey E. Hastain, Augustus F. Hawkins, S. L. Heisinger, Frederick F. Houser, Fred N. Howser, Gardiner Johnson, Jesse R. Kellems, Gerald C. Kepple, Vernon Kilpatrick, Cecil R. King, John B. Knight, T. Fenton Knight, Jacob M. Leonard, Lloyd W. Lowrey, Charles W. Lyon, Thomas A. Maloney, Jack Massion, Richard H. McCollister, Henry P. Meehan, Lorne D. Middough, Eleanor Miller, Seth Millington, Edward F. O'Day, John B. Pelletier, Roger Alton Pfaff, James H. Phillips, William H. Poole, Franklin J. Potter, Norris Poulson, Paul A. Richie, Alfred W. Robertson, Frank C. Russell, Byrl R. Salsman, Harold F. Sawallisch, Bernard A. Sheridan, Charles W. Stream, Jack B. Tenney, Vincent Thomas, James E. Thorp, Allen G. Thurman, Rodney L. Turner, Ernest O. Voigt, Frank J. Waters, Clyde A. Watson, Charles M. Weber, John D. Welch, Fred Weybret, Albert C. Wollenberg.

CHAPTER 50

Senate Concurrent Resolution No. 21—Relative to reports of the Department Encampment of the Grand Army of the Republic.

[Filed with Secretary of State April 11, 1941.]

G A R Department Encampment: Publication of report

Resolved by the Senate of the State of California, the Assembly thereof concurring, That there shall be printed as a public document 250 copies each of the Seventy-third and Seventy-fourth Sessions of the California and Nevada Department Encampment of the Grand Army of the Republic, 1940 and 1941, together with illustrations, copies of general orders of the department and of the official rolls and proceedings, 125 copies for the use of the Senate and 125 copies for the use of the Assembly, the cost of the same to be payable from the legislative printing appropriation.

CHAPTER 51

Senate Concurrent Resolution No. 25—Relative to a site for statue of Andrew Furuseth.

[Filed with Secretary of State April 11, 1941.]

Site for statue of Andrew Furuseth

WHEREAS, The late Andrew Furuseth won in his lifetime the devotion and respect of all who knew him personally, or who became acquainted with his many long years of work for the seafarers manning our merchant marine; and

WHEREAS, It is highly appropriate that this work of a lifetime be memorialized on the site most fitting for such a memorial, on the San Francisco waterfront; and

WHEREAS, A memorial statue has already been made available by the seamen of the Pacific Coast to whose welfare the late Andrew Furuseth devoted himself; and

WHEREAS, Nothing now remains undone but to make provision for a suitable site for the erection of this statue; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature requests the Board of State Harbor Commissioners to provide a site for the Andrew Furuseth Memorial in the area in front of the Ferry Building in San Francisco, facing up Market Street; and be it further

Resolved, That a copy of this resolution be sent by the Secretary of the Senate to His Excellency, Culbert L. Olson, Governor of California, and to Mr. J. F. Marias, President of the Board of State Harbor Commissioners.

CHAPTER 52

Assembly Joint Resolution No. 23—Relative to memorializing the President and Congress to increase the import excise on foreign eggs and egg products.

[Filed with Secretary of State April 15, 1941.]

Import excise on foreign eggs and egg products

WHEREAS, Present international conditions make it more imperative than ever for the United States to remain the principal source of supply of its basic food products, including eggs; and

WHEREAS, Imported eggs and egg products have sold at a price in the United States making the production of domestic eggs but slightly profitable; and

WHEREAS, It is most necessary at the present time to insure a continued domestic source of supply of eggs; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to increase the import excise on foreign eggs and egg products to a point that will encourage the domestic production of eggs; and be it further

Resolved, That the Chief Clerk of the Assembly is instructed to transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California in the Congress of the United States, which Senators and Members from California are respectfully urged to support the program set forth herein.

CHAPTER 53

Assembly Joint Resolution No. 32—Relative to Kings River flood control.

[Filed with Secretary of State April 15, 1941.]

Kings River flood control

WHEREAS, The floods of the Kings River from time to time constitute a serious menace in that they cause soil erosion, obstruction of the river by debris, destruction of live stock and poultry, damage to homes and farms, and destruction of millions of dollars of farm crops along the river course and on its deltas; and

WHEREAS, The control of the waters of the river by the construction of dams would within a few years save sufficient property to pay the cost of such dams; and

WHEREAS, There are 1,000,000 acres of land which are irrigated from the waters of Kings River directly by gravity flow or from thousands of electric pumping plants; and

WHEREAS, Flood conditions are generally caused by excessive run-off due to the melting of the snows in the high mountains and not only menace the irrigated lands within the lower areas, but in many seasons, cause a lack of gravity water for irrigation in the higher areas, thereby forcing the farmers to operate their pumping plants, which greatly diminishes the stored water under the surface; and

WHEREAS, The construction of such dams would assist in the prevention of soil erosion, result in a more equitable and beneficial distribution of the water for irrigation purposes, aid in controlling subsurface waters, and help to reclaim water-logged land; and

WHEREAS, The construction of such dams, together with hydroelectric power houses, would result in the generation of electric power which is much needed in the adjacent territory, and the sale of which would go far toward liquidating the cost of the project; and

WHEREAS, The need for such dams is forcibly brought to the fore by the present threatening flood conditions; and

WHEREAS, The people along the river and on the delta land are financially unable of constructing such projects; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the President and the Congress of the United States be memorialized to include the construction of dams on the Kings River as one of the Federal construction projects and that Federal moneys be appropriated in sums sufficient to complete the construction of the dams and other works at the earliest possible moment; and be it further

Resolved, That a copy of this resolution be sent to the President and Vice President of the United States and to the Speaker of the House of Representatives of the Congress of the United States, and to each Senator and Member of the House of Representatives in California in the Congress of the United States, and that the Senators and Representatives of California are hereby respectfully requested to urge such action.

CHAPTER 54

Assembly Joint Resolution No. 39—Relative to memorializing the President and the Secretary of State of the United States in regard to reciprocal border rights of American citizens and Mexican citizens.

[Filed with Secretary of State April 15, 1941.]

Reciprocal border rights of American and Mexican citizens

WHEREAS, Certain citizens of the United States, involving approximately 50 families, residing in Calexico, California, have maintained business establishments or have been employed

in Mexicali, Mexico, and certain Mexican citizens, residing in Mexicali, Mexico, have maintained business establishments or have been employed in Calexico or vicinity, all under an existing reciprocal arrangement between the Governments of the United States and Mexico; and

WHEREAS, Such reciprocal arrangement is also in existence at other points along the International Line between the United States and Mexico; and

WHEREAS, Under date of January 6, 1941, a Circular No. 5 was issued by Fernando Casas Aleman, notifying the American citizens affected that by April 24, 1941, or within 60 days of the date of notification, they would be required to move their respected residences to Mexicali, Mexico, if they desire to continue employment or maintain business establishments there; and

WHEREAS, A number of the American citizens who have business establishments in Mexicali, Mexico, also have them in Calexico, California, and it will be as impractical for them to reside in Mexicali and operate two establishments from Mexicali, as it may be held to be to reside in Calexico and operate the two establishments from Calexico; and

WHEREAS, If the order contained in Circular No. 5 is put into effect it will seriously affect Calexico commercial interests, and will result in many American homes being divided because of the fact that some members thereof will be unable to attain residential status in Mexico; and

WHEREAS, The reciprocal arrangement in existence until the issuance of Circular No. 5 should be continued due to the fact that the Mexican Government invited investments by Americans and offered protection; and

WHEREAS, Such arrangement should be permitted to exist so that the good will policy between the United States and Mexico may continue; and

WHEREAS, It is vitally necessary that action in this matter be taken immediately; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Secretary of State of the United States be memorialized to immediately enter into negotiations with the Government of Mexico to have the order contained in Circular No. 5 by Fernando Casas Aleman, dated January 6, 1941, rescinded, and to reestablish the reciprocal border arrangement between the United States and Mexico whereby American citizens with business establishments or employment in Mexicali, Mexico, may reside in Calexico, California, and Mexican citizens with business establishments or employment in Calexico, California, or vicinity, may reside in Mexicali, Mexico; and be it further

Resolved, That the Chief Clerk of the Assembly be and he is hereby directed to forthwith send a copy of this resolution to Honorable Franklin D. Roosevelt, President of the United States, and to Honorable Cordell Hull, Secretary of State of the United States.

CHAPTER 55

Assembly Joint Resolution No. 28—Relative to encouragement of sugar beet production in the United States.

[Filed with Secretary of State April 17, 1941.]

WHEREAS, There is imported into the United States more than two-thirds of the sugar which is consumed therein; and Production of sugar in U S

WHEREAS, California is one of the large beet sugar producing sections of the country with many sugar refineries employing many people at good wages thereby assuring prosperity in sugar beet growing sections of the State, not only to the refineries and their employees but also to the farmers growing the beets for the refineries; and

WHEREAS, Movements are on foot to bring about a curtailment of sugar production in the United States which if accomplished would have a tendency to disturb the balance of trade to the disadvantage of this country, would bring unemployment to thousands of working people and would tend to cause over-production in other lines of agriculture; and

WHEREAS, It appears reasonable that the Government should encourage the production of such commodities as sugar when there exists such an unlimited market therefor; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States of America be memorialized to take such steps as may seem best to encourage a greater production of sugar and sugar products in the United States; and be it further

Resolved, That the Governor be requested to forward copies of this resolution to the President and to the Vice President of the United States, to the Speaker of the House of Representatives, and to each of the Senators and Congressmen from California in the Congress of the United States.

CHAPTER 56

Senate Concurrent Resolution No. 24—Expressing appreciation to members of Committee on State Organization, also known as the Interim Committee of Twenty-Five of the California Conference on Government and Taxation.

[Filed with Secretary of State April 17, 1941.]

WHEREAS, The Committee on State Organization, also known as the Interim Committee of Twenty-Five of the California Conference on Government and Taxation has just submitted its final report to the Governor and the Legislature of the State of California; and Report of Committee on State Organization

WHEREAS, This report is the voluntary contribution of a committee of citizens animated wholly by a desire to improve the efficiency of operation of the Government of this State; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of this State hereby expresses to the committee and the members thereof its deep appreciation of the action of the members of the committee in sacrificing their time and energy in order to make a distinct and useful contribution to the cause of better government and the efficient operation of the institutions of democracy; and be it further

Resolved, That the Secretary of the Senate be hereby instructed to transmit a copy of this resolution to Francis V. Keesling, the chairman of the said committee.

CHAPTER 57

Senate Joint Resolution No. 15—Relative to the improvement of the harbor at Crescent City, California.

[Filed with Secretary of State April 18, 1941.]

Development of Crescent City harbor

WHEREAS, Crescent City is a natural outlet for the products, especially lumber, of northern California, and southern Oregon and the States adjacent thereto; and

WHEREAS, The present harbor at Crescent City is fully capable of being improved so that it may be used not only as a harbor of refuge in case of emergency, but also regularly by large ocean-going vessels; and

WHEREAS, The full development of this port is vital to the interests of the State of California in that economical transportation is a necessity for the northern portion of the State; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California indorses the fullest development of the harbor at Crescent City by the Federal Government and respectfully memorializes the President and Congress of the United States of America that among the allotments of Federal moneys appropriated for improvement to rivers and harbors, provision be made for the harbor at Crescent City; and be it further

Resolved, That the Secretary of the Senate is hereby directed to transmit copies of this resolution to the President and Vice President of the United States and to each Senator and Representative from California in the Congress of the United States, and to the Secretary of War of the United States.

CHAPTER 58

Assembly Concurrent Resolution No. 30—Relative to the approval of amendments to the charter of the City of Glendale, State of California, voted for and ratified by the electors of such city at a special municipal election held therein on April 8, 1941.

[Filed with Secretary of State April 19, 1941.]

City of Glendale. Charter amendments

WHEREAS, The City of Glendale, in the County of Los Angeles, State of California, contains a population of over 50,000 inhabitants and has been, ever since the year 1921, and is now, organized and acting under a freeholders' charter, adopted under and by virtue of Section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at a special election held for that purpose on the twenty-ninth day of March, 1921, and approved by the Legislature of the State of California on the eleventh day of May, 1921; and

WHEREAS, The legislative body of said city, namely, the council of said city, did, pursuant to Section 8, Article XI of the Constitution of the State of California, by resolution adopted February 24, 1941, duly propose to the qualified electors of said City of Glendale three amendments to the charter of said city, designated as charter amendments Nos. 1, 2 and 3, and ordered that said amendments be submitted to said qualified electors of said city at a special municipal election to be held in said city on the eighth day of April, 1941, which date was fixed in said resolution as the date for holding said special municipal election; and

WHEREAS, Each of said proposed amendments was, on February 26, 1941, published in the Glendale News-Press, the official newspaper of said city and a newspaper of general circulation therein, and in each edition thereof during said day of publication, and each of said proposed amendments was printed in convenient pamphlet form and in type of not less than 10-point, and copies thereof were mailed to each of the qualified electors of said city, and until the day fixed for the election upon said amendments it was advertised in said newspaper that copies thereof could be had upon application therefor at the office of the city clerk of said city; and

WHEREAS, The said council of said city did by ordinance designated as Ordinance No. 1841, which was duly adopted on March 6, 1941, order the holding of a general and a special municipal election in the City of Glendale on the eighth day of April, 1941, which said date was not less than 40 days and not more than 60 days after the completion of the publication of said amendments as aforesaid, which said ordinance was approved by the mayor of said city on March 6, 1941, and was published once a week for two weeks prior to the time for the holding of said election, to wit: On March 24 and March 31, 1941, pursuant to the provisions of the charter of the

City of Glendale, in said newspaper; and said council of said city did by said ordinance order said special municipal election consolidated with the general municipal election to be held in said city on the eighth day of April, 1941; and

WHEREAS, Said special municipal election was held in said City of Glendale on the eighth day of April, 1941, which day was not less than 40 days and not more than 60 days after said amendments to said charter had been published once in said Glendale News-Press; and

WHEREAS, Thereafter, the council of said City of Glendale did, in the manner provided by law, duly and regularly canvass the returns of said election, and did, by resolution adopted on April 15, 1941, duly declare the result of said special municipal election as determined from the canvass of the returns thereof; and

WHEREAS, At said special municipal election, each of said amendments was ratified by a majority of the electors of said city voting thereon, to wit: Said charter amendments Nos. 1, 2 and 3; and

WHEREAS, The said three charter amendments so ratified by the electors of the City of Glendale are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California, and are in words and figures as follows, to wit:

CHARTER AMENDMENT NO. 1.

That Section 9 of Article VI of said charter be amended to read as follows:

Public works contracts

SECTION 9. CONTRACTS: Every contract, involving an expenditure of more than One Thousand Dollars ($1,000.00), for the erection, improvement and repair of public buildings and works, for street and sewer work, for the installation of pipes, fire hydrants, wells, pumping plants, conduits, electric transmission lines, substations, power plants, gas mains and generators, improvement and development of parks and playgrounds, and works for protection against overflow, and each separate purchase of materials or supplies for the same where the expenditure required for such purchase shall exceed the sum of One Thousand Dollars ($1,000.00), shall be let to the

Bids

lowest responsible bidder, after notice by publication in the official newspaper by two insertions, the first of which shall be at least ten (10) days before the time for opening bids; provided, that the Council may reject any and all bids presented and may re-advertise in its discretion. After rejecting bids or if no bids are received, the Council may declare and determine that in its opinion the work in question may be performed better or more economically by the City with its own employees, or that such materials or supplies may be purchased at a lower price in the open market, and after the adoption of

a resolution to this effect by a four-fifths vote, it may proceed to have said work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this section; and, provided further, that such contracts may be let and such purchases made without advertising for bids if such work or the purchase of such materials or supplies shall be deemed by the Council to be of urgent necessity, and shall be authorized by a four-fifths vote.

Work by City

Nothing in this section shall prohibit the doing of such work or any portion thereof, by the City, with its own employees without first advertising for bids; provided, however, that where the estimated cost of doing such work, except repair or maintenance work, shall exceed the sum of One Thousand Dollars ($1,000 00), it shall be authorized by the Council by resolution. Nothing in this section shall apply to or prohibit the purchase of materials or supplies for the care, repair or maintenance of streets or public utilities without first advertising for bids.

CHARTER AMENDMENT NO. 2.

That Section 22 of Article XI of said charter be amended to read as follows:

Public Service Surplus Fund

SECTION 22. PUBLIC SERVICE SURPLUS FUND: A fund to be known as the Public Service Surplus Fund is hereby created, to which fund shall be credited from the receipts of the Public Service Department any amounts in excess of the requirements of the several funds as hereinbefore set forth. Except as otherwise provided in this section, disbursements from said Public Service Surplus Fund may be made by the Council by special appropriation for public service purposes only, which shall include payment of all or any portion of the tax of The Metropolitan Water District of Southern California, or its successors in interest, which the Council may elect to pay out of the funds of the City of Glendale.

Transfers to General Reserve Fund

At the end of each fiscal year, an amount equal to twelve per centum (12%) of the operating revenues of the Public Service Department for such year shall be transferred from said Public Service Surplus Fund to the General Reserve Fund; provided, that the Council may annually, at or before the time of adopting the general budget for the ensuing fiscal year, reduce said amount or wholly waive such transfer if, in its opinion, such reduction or waiver is necessary to insure the sound financial position of said Public Service Department and it shall so declare by resolution.

CHARTER AMENDMENT NO. 3.

That Section 17 of Article XI of said charter be amended to read as follows:

Depreciation fund

SECTION 17. DEPRECIATION FUND: The Council shall annually set aside from the income of the Public Service

Department a fund which, according to the estimates of the City Manager, shall be sufficient to meet the normal depreciation of all public utilities owned by the City Such fund shall be used only for the repair, replacement, betterment and extensions of the plants and equipment of said public utilities. All such replacements and repairs shall be made from said fund or other funds of the Public Service Department; provided, that nothing herein contained shall limit the right to vote and issue bonds of the City for said purposes.

STATE OF CALIFORNIA, }
COUNTY OF LOS ANGELES. } ss:

Certificate We, the undersigned, Wm. J. Goss, Mayor of the City of Glendale, State of California, and G. E. Chapman, City Clerk of said City, and ex-officio Clerk of the Council of said City, do hereby certify:

That the foregoing proposed and ratified amendments to the Charter of said City of Glendale, submitted to the electors of said City at a special municipal election held in said City on the 8th day of April, 1941, have been compared by us and each of us, with the proposed amendments set forth in the resolution adopted by the Council, as hereinbefore stated, and that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendments to said charter are, and each of them is, true.

In witness whereof, we have hereunto set our hands and caused the same to be authenticated by the seal of said City of Glendale this 15th day of April, 1941.

WM. J. GOSS
Mayor of the City of Glendale
G. E. CHAPMAN
[SEAL] City Clerk of the City of Glendale

WHEREAS, The said proposed charter amendments as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of amendment or alteration, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval *Resolved by the Assembly of the State of California, the Senate thereof concurring,* A majority of all the members elected to each house voting therefor and concurring therein, that the aforementioned amendments to the charter of the City of Glendale, as proposed to and adopted and ratified by the electors of said city, as hereinbefore fully set forth, be and the same are hereby approved as a whole without amendment or alteration, for and as amendments to and as part of the charter of the City of Glendale.

CHAPTER 59

Assembly Joint Resolution No. 21—Relating to conversion of fruit surpluses into alcohol.

[Filed with Secretary of State April 22, 1941.]

Plants for converting fruit and vegetable surpluses into alcohol

WHEREAS, It is expected that at the termination of the coming fruit and vegetable season even greater surpluses of fruits and vegetables will exist than at present due to the loss of the overseas market; and

WHEREAS, In the San Joaquin Valley and throughout California there are thousands of tons of dried fruit and vegetables for which no use appears to be immediately or at all available; and

WHEREAS, A use has been discovered for surplus fruit and vegetables in more than 25 foreign countries, where it is a regular practice to augment their fuel supplies from agricultural surpluses; now, therefore, be it

Resolved, That the Assembly and Senate of the State of California, jointly, Memorialize the President and the Congress of the United States to provide for the establishment of plants near the places where such surpluses of fruit and vegetables exist to provide a practical form of farm relief by the conversion of all such surpluses into alcohol for use in the National defense as an auxiliary fuel; and be it further

Resolved, That the Speaker of the Assembly be hereby directed to forward copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and to each Member of the House of Representatives from California in the Congress of the United States.

CHAPTER 60

Senate Joint Resolution No. 19—Relative to memorializing the President and Congress to provide for the dredging of Bodega Bay and to reestablish harbor facilities thereat.

[Filed with Secretary of State April 23, 1941.]

Bodega Bay· Dredging and harbor

WHEREAS, In this period of uncertainty in international affairs, intensive rearmament and preparation for National defense it is of the utmost moment that suitable harbors and facilities be available on the Pacific coast; and

WHEREAS, Bodega Bay in Sonoma County, California, is exceptionally well suited for harbor development; and

WHEREAS, Plans for the dredging of Bodega Bay and for the reestablishment thereat of harbor facilities have been approved by the War Department who has also recommended that appropriations be made by Congress for this project; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California

hereby respectfully memorializes the President and Congress of the United States to enact such legislation and to make such appropriations as may be necessary to provide for such dredging and harbor reestablishment; and be it further

Resolved, That the Secretary of the Senate of the State of California is hereby instructed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Senators and Representatives from California in the Congress of the United States and to the Secretary of War and Secretary of Navy.

CHAPTER 61

Senate Concurrent Resolution No. 26—Relative to opinions of the Legislative Counsel Bureau concerning legislation.

[Filed with Secretary of State April 23, 1941.]

Joint Rules

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a new rule, to be numbered 37, is hereby added to the Joint Rules of the Senate and Assembly, to read as follows:

Opinions of Legislative Counsel on measures

37. Whenever the Legislative Counsel issues, to a person other than the author, an opinion as to the constitutionality, operation or effect of a pending bill, constitutional amendment, resolution or other legislative measure, he is hereby authorized and instructed to deliver a copy of the opinion to the author of such measure.

CHAPTER 62

Senate Concurrent Resolution No. 27—Approving a certain amendment to the charter of the City of Vallejo, a municipal corporation in the County of Solano, State of California, voted for and ratified by the qualified electors of said city at the general municipal election held therein on the first day of April, 1941.

[Filed with Secretary of State April 23, 1941.]

City of Vallejo: Charter amendment

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of a certain amendment, hereinafter set forth, to the charter of the City of Vallejo, a municipal corporation in the County of Solano, State of California, as set out in the certificate of the city clerk of said city, as follows, to wit:

April 9, 1941

CERTIFICATE OF H. W. MITCHELL, CITY CLERK OF THE CITY OF VALLEJO, SOLANO COUNTY, CALIFORNIA, AND AMENDMENT TO CHARTER

OF THE SAID CITY OF VALLEJO RELATING TO A CIVIL SERVICE COMMISSION AND PROVIDING CIVIL SERVICE FOR CERTAIN EMPLOYEES OF SAID CITY.

State of California
County of Solano } ss.
City of Vallejo

I, H. W. MITCHELL, the undersigned, do hereby certify Certificate and declare as follows:

That I am the City Clerk and Clerk of the City Council of the City of Vallejo, a municipal corporation of the County of Solano, State of California.

That proceedings have been had and taken for adoption and ratification of the amendment to the Charter of the City of Vallejo, a municipal Corporation, in the County of Solano, State of California, relating to a Civil Service Commission and providing Civil Service for certain employees of said City which said charter amendment is hereinafter set forth verbatim and will hereinafter be designated and referred to as CHARTER AMENDMENT NO. 1.

That the City of Vallejo in the County of Solano, State of California, contains a population of more than 3,500 inhabitants and less than 50,000 inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of the State of California and has been ever since the year 1911 and is now organized and acting under a freeholders' charter adopted under and by virtue of Section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City at a special election held for that purpose on the 21st day of February, 1911 and approved and ratified by the legislature of the State of California on the 11th day of March, 1911.

That the legislative body of the said City, namely the "City Council" did pursuant to Section 8, Article XI of the Constitution of the State of California, by Resolution No. 26304 N. S., adopted February 19, 1941 duly and on its own motion propose to the qualified electors of said City of Vallejo an amendment to the Charter of said City which said amendment thereafter appeared on the ballot as Charter Amendment No. 1, and ordered that said amendment be submitted to the qualified electors of the City of Vallejo at the General Municipal Election to be held in said City, as in said Charter provided for, on the first Tuesday in April, to-wit: the 1st day of April, 1941.

That the said proposed Charter Amendment No. 1 was thereafter on the 19th day of February, 1941, duly published in the Vallejo Evening News, a daily newspaper of general circulation, printed and published in said City of Vallejo

and in each and all editions thereof issued and/or printed and/or published during the said day of such publication, which said newspaper was the newspaper designated by the said Council for that purpose; and the said proposed Charter Amendment No. 1 was printed in convenient pamphlet form and from February 19, 1941 to April 1, 1941, both days inclusive, a notice was published in said Vallejo Evening News that said proposed Charter Amendment No. 1 in said convenient pamphlet form could be had on application therefor at the office of the City Clerk of said City.

That the said City Council did by Resolution No. 26352 N. S., dated March 11, 1941 order the holding of the general municipal election in said City of Vallejo on the 1st day of April, 1941 for the purpose among other things of causing a vote upon the ratification of the said proposed Charter Amendment No. 1, which said date was not less than forty (40) days and not more than sixty (60) days after the completion of the publication of the said proposed Charter Amendment No. 1; and that in accordance with the instructions of the said City Council the said City Clerk of the City of Vallejo did cause to be published in the Vallejo Morning Times Herald, a daily newspaper of general circulation, printed and published in said City of Vallejo, an election proclamation and notice of general municipal election which was published two (2) times prior to the time for holding said election, to-wit: on March 25, 1941 and March 26, 1941, pursuant to the provisions of the Charter of said City of Vallejo; and which proclamation and notice provided, among other things, for the voting upon said proposition designated as Charter Amendment No. 1.

That said general municipal election was held in the said City of Vallejo on the 1st day of April, 1941 which said day was not less than forty (40) and not more than sixty (60) days after the said proposed Charter Amendment No. 1 had been published once in the said Vallejo Evening News as aforesaid.

That the said City Council of said City of Vallejo did in the manner provided by law duly and regularly canvass the returns of said election and did duly declare the result of said election insofar as it concerned said proposed Charter Amendment No. 1 as determined from the canvass of the returns thereof, which said result was as follows:

Total number of votes cast upon ratification of said proposed Charter Amendment No. 1	5415
In favor of the ratification of said proposed Charter Amendment No. 1	3749
Against the ratification of said proposed Charter Amendment No. 1	1666

That at said general municipal election held on the 1st day of April, 1941 the said proposed Charter Amendment No. 1, was ratified by a majority of the electors of said City voting thereon.

That the said Charter Amendment No. 1 so ratified by the Electors of the City of Vallejo is now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment in accordance with Section 8, Article XI of the Constitution of the State of California and is in words and figures as follows:

A PROPOSAL TO AMEND THE CHARTER OF THE CITY OF VALLEJO BY REPEALING CERTAIN SECTIONS THEREOF AND BY ADDING NEW SECTIONS AND A NEW ARTICLE THERETO.

1. That the following sections and provisions as set forth herewith be and the same are hereby repealed. Repeals

(a) SECTION 31, ARTICLE VII, SUBORDINATE OFFICERS AND EMPLOYEES.

(b) SECTION 61, ARTICLE IX, CIVIL SERVICE COMMISSION.

2. There are hereby added to the Charter of the City of Vallejo a new Section and a new Article designated as set forth herewith to be and read as follows:

(a). SECTION 31 OF ARTICLE VII, SUBORDINATE OFFICERS AND EMPLOYEES.

The Council shall have the power by Ordinance to create and discontinue offices, deputyships, assistantships and employment other than those prescribed in the Charter to prescribe the duties pertaining there-to, according to its judgment of the needs of the City. Offices and positions not prescribed in charter

ARTICLE XX—CIVIL SERVICE

There is hereby established a Civil Service Commission for the employees of the City of Vallejo, pursuant to the following provisions: Civil Service Commission

SECTION 1. CIVIL SERVICE COMMISSION

The Civil Service Commission shall consist of five members, who must be qualified voters of the City of Vallejo, and shall be appointed by the City Council. The term of office shall be six years. No officer or employee of the City shall be eligible for appointment or to serve as a member of said Civil Service Commission. Membership

SECTION 2. ORGANIZATION

Within Thirty days after the effective date of this Article, the City Council shall appoint a Civil Service Commission. The members so appointed shall qualify by taking the customary oath of office and shall organize by drawing lots for terms of office; two to serve for two years, two to serve for four years and one to serve for six years. The members of the Civil Service Commission shall select one of their members to serve as chairman until the first meeting of the Civil Service Commission in January. At the first meeting in January Appointment and organization

of each year, the members of the Civil Service Commission shall elect a chairman for that year.

SECTION 3. MEETINGS OF BOARD

Meetings

The Civil Service Commission shall hold at least one regular meeting every two months, and such other meetings as may be deemed necessary upon call of the chairman or upon a written request to chairman, of any two members of the Civil Service Commission. Three members of the Civil Service Commission shall constitute a quorum, but no action shall be taken without the concurring vote of at least three members.

SECTION 4. REMOVAL FROM BOARD

Removal

Any member of the Civil Service Commission who shall be guilty of misconduct in office, or who shall fail to perform his duties, may be removed from said Civil Service Commission by the City Council.

SECTION 5. VACANCY ON BOARD.

Vacancies

Any vacancy occuring in the membership of the Civil Service Commission shall be filled within thirty days by appointment of the City Council for the unexpired term.

SECTION 6. CIVIL SERVICE STAFF. Duties

Executive secretary

The Civil Service Commission shall appoint an Executive Secretary who shall act in the capacity of a secretary and clerk for the Civil Service Commission. Such Executive Secretary shall be the custodian of all records.

Technical staff

The technical work of the Civil Service Commission may be delegated by the Civil Service Commission upon approval of the City Council to a Technical Staff appointed by the Civil Service Commission. Said Civil Service Commission shall retain all of its powers and jurisdictions in connection with the adoption of rules and regulations, the creation of classifications, the proceedings relating to reduction in personnel, dismissal, demotion, suspension and other punitive action.

With the approval of the City Council, the Civil Service Commission may vest the powers and duties of the Technical Staff, referred to in the foregoing paragraph, in a Technical Director of a personnel agency of the State, County or other Municipality.

SECTION 7. CIVIL SERVICE COMMISSION.

Powers and Duties.

Powers and duties

The Civil Service Commission shall:

1. Administer and enforce the provisions of this Article and all ordinances pertaining to the Civil Service System.

2. Establish and maintain classification for employees of the City in the Classified Service. Said classified service to include all employees of the City of Vallejo, except:

(a). Elective Officers.

(b). Chief Officials.

(c). Positions on appointed boards, commissions and committees.

(d). Judge of the Police Court.

(e). Unclassified Laborers.

Unclassified laborers

Within the meaning of this amendment, an unclassified laborer is hereby declared to be an unskilled worker, who does not proceed independently to lay out and perform work and who prosecutes his duties under the immediate direction of a more highly qualified worker or foreman. Those persons employed on a daily basis or as a seasonal worker are hereby designated as unclassified laborers.

3. Establish eligible lists;

4. Appoint an Executive Secretary;

5. Establish rules and regulations for;

(a). Recruitment of employees;

(b). Conduct of examinations;

(c). General procedure for carrying out any and all of the provisions of this Article, City Ordinances enacted pursuant hereto or applicable hereunder, and Rules and Regulations adopted by the Civil Service Commission, as approved by the City Council.

6. Keep complete records of all proceedings of the Commission.

SECTION 8. RECRUITMENT.

Merit system

1. All employees in the Classified Service shall be appointed and promoted upon no other grounds and for no other reason than their fitness for the position to be filled.

Examinations

2. Examinations of applications for positions in the Classified Service shall be practical in their character and shall relate to those matters which fairly test the relative capacity of the persons examined to discharge the duties of the position to which they seek to be appointed. All examination papers shall remain on file in the office of the Civil Service Commission

Same: Advertising

3 The Civil Service Commission shall advertise all examinations in such manner as the Civil Service Commission shall determine. No applicant shall be examined who is not a citizen of the United States or who has not resided in the City of Vallejo for at least one year next preceding the date of such examination, provided that in filling certain technical positions, or in case there is not a sufficient number of applicants having resided in Vallejo said references requirement must be waived.

Fraud

4 Any person who has been appointed to a position under the provisions of this Article and who secured his place on the eligible list through fraud shall be removed by the Civil Service Commission from said position. Such person shall not thereafter be eligible for examination for any position in the Classified Service.

Employees blanketed in

5. Any person holding a position of employment which is to be classified under this Article and who shall have served as an employee of the City for a continuous period of at least twelve months immediately prior to the effective date of this Article shall be deemed to be a Classified Service Employee with permanent status, subject to the provisions of this Article. Any other persons at said time holding a position of employment which is to be classified under this Article shall be regarded as an employee on probation, subject to the provisions of this Article. The Civil Service Commission may require such person to take a non-competitive examination.

6. No employee of the City in the Classified Service shall be deemed to be a permanent employee until so certified by the Civil Service Commission, except as hereinabove provided in Paragraph "5" of this Section.

SECTION 9. APPOINTMENTS.

Certifications from eligible lists

All officers or employees shall be chosen or promoted, from a list of eligibles furnished by the Civil Service Board, from the three candidates standing highest on the list.

Upon receipt of notice of a vacancy in a position in the Classified Service, the Civil Service Commission shall certify to the appointing power the name and address of the three highest candidates on the eligible list, from which said list the vacancy must be filled. No candidate can be certified more than three times for any one classified position.

SECTION 10. ABOLITION AND RE-INSTATEMENT OF POSITIONS, REDUCTION IN PERSONNEL AND LAY-OFFS.

Abolition of positions, lay offs, etc.

Whenever it becomes necessary in the interest of economy, or whenever the necessity for a position ceases to exist, the City Council may abolish a position of employment in the Classified Service and discharge the employee holding such position. Should any such position of employment be reinstated or any position involving the same duties be created within four years, the employee who has been discharged shall be appointed thereto. Whenever it becomes necessary to reduce the number of employees in a given class, the City Council shall so notify the Civil Service Commission and shall state the name or names of the employees to be laid off. Said City Council shall also notify the employee or employees stating the reasons for the lay-off and whether it is temporary

or permanent. All reductions in personnel, whether temporary or permanent, shall be governed by seniority in service. The lay-off shall be in the reverse order of employment, i. e., the last one employed shall be the first one laid off. The name of each employee so laid off shall be entered on the Re-employment list. Re-employment shall be governed by seniority in service in the reverse order of the layoff.

SECTION 11. SUSPENSION, DEMOTION AND DISMISSAL.

Punitive actions

The City Council is hereby vested with the right to exercise the disciplinary and removal powers hereinafter provided.

An employee holding a position in the Classified Service shall be subject to demotion or removal from office or employment or to suspension without pay for a period of not exceeding thirty (30) consecutive days, for misconduct, incompetency, inefficiency, failure to perform the duties, or to observe the rules and regulations of the department, office or board, or for failure to co-operate reasonably with the Department Head or with his fellow employees, but subject to the right of the employee to appeal to the Civil Service Commission in the manner set forth in its rules and regulations.

Charges

An employee shall be entitled to receive a written statement of the reasons for removal from office, or employment or to suspension at the time of removal from office, or employment or to suspension, and a copy of such statement shall be filed immediately with the Civil Service Commission. Such statement shall include in item form the specific instances in support of the cause of dismissal. An employee who has been dismissed shall have ten days after the receipt of such statement within which to file an answer to the same. Such answer shall be filed during office hours at the office of the City Clerk, and a copy thereof shall be filed immediately by said employee in the office of the Civil Service Commission. In the case of suspension or demotion, the same proceedings shall be taken, except that a written statement of the reasons for such action need not be given at once upon suspension or demotion, but must be available to the employee so suspended or demoted at the office of the suspending or demoting officer on the second business day following such suspension, or demotion. The employee's answer to such charges must be filed within the same time and in the same manner as an answer in the case of dismissal. Should the last day on which an answer may be filed fall upon a Sunday or holiday, the time for filing such answer shall be extended to include the next following business day. Within ten days after the filing of his answer, or in the event that a written statement of the reason for suspension, demotion or removal has not been made available to him within the time hereinabove prescribed, then within ten days after the expiration of the time within which said statement should have been made available, an

Answer

employee who has been suspended, demoted, or removed from office may file a written demand with the Executive Secretary
Review requesting the Civil Service Commission to review such suspension, demotion or removal. In which event the Executive Secretary without delay shall file with the Civil Service Commission any copy of statement of reasons and answer of the employee together with such other information as may be provided for in the rules and regulations of the Civil Service Commission. Said Civil Service Commission may make, or cause to be made, such investigation as it shall deem necessary
Hearing and thereafter shall hold a hearing; at which time it shall hear evidence for and against such employee. Hearings may be conducted informally and the rules of evidence need not apply. Written findings and conclusions shall be made by the Civil Service Commission within ten days after the matter has been submitted and thereupon the same shall be certified to the City Council and to the official from whose order the appeal had been taken. The findings and conclusions of the Civil Service Commission also may contain such recommendations as said Civil Service Commission shall deem proper, and shall include the amount of compensation such employee is entitled to receive, if any. Said findings of Civil Service Commission shall be final.

During the period of suspension of any employee, or pending final action or proceedings thereon by the Civil Service Commission of any employee, a vacancy created by such suspension, demotion or dismissal may be filled by the City Council by temporary appointment.

A reduction in pay shall be deemed a demotion within the meaning of this Section unless such reduction is a part of a plan to reduce salaries and wages in connection with a general economy or curtailment program.

SECTION 12. PROBATIONARY PERIOD.

Probationary period All original and promotional appointments shall be for a probationary period of six months during which the employee may be rejected at any time without right of appeal or hearing in any manner.

An employee rejected during the probationary period from a position to which he has been promoted shall be re-instated to the position from which he was promoted, unless charges are filed and he is discharged as provided herein.

SECTION 13 APPROPRIATIONS.

Appropriations The City Council shall include in its annual budget sufficient appropriation of funds for the efficient and proper functioning of the Civil Service System.

SECTION 14. INTERPRETATION OF ACT.

Construction The provisions of this Act shall be liberally construed to the end that the intent and purposes thereof may be given effect.

SECTION 15. CONSTITUTIONALITY OF ACT.

Separability

If any section, sub-section, sub-division, sentence, clause or phrase of this Act shall be for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the provisions of this Act.

In the event that any other Charter Provision Amendment shall include and define any other employees of the City of Vallejo in or as members of the Classified Service, and subject to the provisions of Civil Service, said Charter Amendment shall not be deemed to be in conflict with this Amendment, and such other employees shall be deemed to be in the Classified Service of the City of Vallejo as defined herein.

That the foregoing contains a full, true and correct statement of all proceedings affecting, relating to or in anywise appertaining to the ratification of the proposed Charter Amendment No. 1 of the Charter of the said City of Vallejo by the qualified electors of said City of Vallejo.

That the City Council of said City of Vallejo did heretofore, by Resolution No. 26443 N. S., duly and regularly authorize and direct me as such City Clerk to certify hereto and for and on behalf of said City Council and said City of Vallejo, to cause to be submitted to the Legislature of the State of California the said proposed Charter Amendment No. 1 as ratified by the qualified electors of said City of Vallejo at the general municipal election held therein for that purpose, among other things, on the 1st day of April, 1941.

[SEAL]

H. W. MITCHELL,
City Clerk and Clerk of the City Council of said City of Vallejo.

State of California }
} ss.
County of Solano }

H. W. MITCHELL being first duly sworn, deposes and says: That the City of Vallejo is a municipal corporation and affiant is the City Clerk thereof and makes this affidavit on behalf of said corporation and as an officer thereof.

That affiant has read the foregoing and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters stated therein on his information and belief, and as to those matters he believes it to be true.

[SEAL]

H. W. MITCHELL.

Subscribed and sworn to before me this 12th day of April, 1941.

[SEAL]

ROLLIN Q. POPE,
Notary Public in and for the County of Solano, State of California.

WHEREAS, The proposed charter amendment has been and now is submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, A majority of all members elected to each house voting therefor and concurring therein, that the amendment to the charter herein set forth be and the same is hereby approved as a whole, without alteration or amendment, for and as an amendment to and as part of the charter of the City of Vallejo, in the County of Solano, State of California.

CHAPTER 63

Senate Concurrent Resolution No. 28—Approving certain amendments to the charter of the City of Bakersfield, County of Kern, State of California, voted for and ratified by the electors of said City of Bakersfield at a special election held therein on the eighth day of April, 1941.

[Filed with Secretary of State April 24, 1941]

City of Bakersfield Charter amendments

WHEREAS, The City of Bakersfield, in the County of Kern, State of California, has at all times mentioned herein been and now is a municipal corporation of the State of California, containing a population of more than 3,500 inhabitants as ascertained by the last preceding census taken under the authority of Congress of the United States, and is now and has been ever since the twentieth day of January, 1915, organized, existing and acting under a freeholders' charter adopted under and by virtue of Section 8, Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election held for that purpose on the fifth day of May, 1914, and approved by the Legislature of the State of California, on the twentieth day of January, 1915; and

WHEREAS, On the twentieth day of January, 1941, the legislative body of the City of Bakersfield, to wit: The city council on its own motion passed a resolution to submit to the electors of said city, at a special election to be held April 8, 1941, proposed amendments to the city charter of the City of Bakersfield, and immediately thereafter and on the twentieth day of January, 1941, the city council of said City of Bakersfield duly and regularly called a special election for the purpose of voting on said proposed amendments, to be called and held on the eighth day of April, 1941, and which said date was fixed by said city council of the City of Bakersfield as the time for voting on said amendments as proposed; and

WHEREAS, Said proposed amendments were published on the eighth day of February, 1941, in each edition of The Kern Herald, a newspaper of general circulation printed and published in the City of Bakersfield, and having a general circulation therein, the said paper being the official newspaper of the City of Bakersfield, and said publication was made at the time and in the manner prescribed in Section 8 of Article XI of the Constitution of the State of California, and copies of said proposed amendments to said charter were printed in convenient pamphlet form, and thereafter the city council of the City of Bakersfield caused to be duly published in said The Kern Herald a notice that copies of said proposed amendments to said city charter could be had in the office of the city clerk of the City of Bakersfield upon application therefor, which said copies were duly provided, and the publication thereof was continued until the day fixed for the election upon such charter amendments; and

WHEREAS, Said election was duly called and regularly held on the eighth day of April, 1941, which said date of the election was not less than 40 nor more than 60 days after the completion of the advertising in said official newspaper of said proposed amendments, and at said election the said proposed amendments to said charter was voted upon by the qualified electors of the City of Bakersfield, and at said election a majority of the qualified electors voting thereon voted in favor of ratifying and did ratify said proposed amendments to said charter, said proposed amendments so ratified being in the words and figures as follows, to wit:

Emergency Ordinances.

Emergency ordinances

Section 23. All ordinances shall be in effect from and after thirty days from the date of their passage except as otherwise provided in this charter. The Council may, by a two-thirds vote of the members present, pass emergency ordinances to take effect at the time indicated therein.

Definition of Emergency Ordinance.

Same: Definition

Section 24. An emergency ordinance is an ordinance for the immediate preservation of the public health, peace, property or safety, or providing for the daily operation of a municipal department, in which the emergency is set forth in the preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no ordinance making a grant of a franchise or other special privilege, or regulating the rate to be charged for its services by any public utility shall ever be so passed.

Initiative Petition.

Initiative petition

Section 25. Any proposed ordinance may be submitted to the Council by a petition signed by qualified registered electors

of the city equal to twenty-five per centum of the total vote cast at the last municipal election at which all qualified registered electors were entitled to vote. All petitioners signing such a petition must be qualified registered electors of the city at the time of signing the petition. The form and contents of the petition and the mode of verification and certification and filing shall be substantially as hereinafter provided.

Procedure on Initiative Petitions.

Procedure

Section 26. When such petition and ordinance is presented, the Clerk must endorse it, with date of filing, and within ten days thereafter, he must verify the signatures thereto, and submit it to the Council at the first regular meeting thereafter. The Council shall pass the ordinance within ten days after its submission or call a special election to be held not less than forty days nor more than ninety days after the Clerk shall have submitted said petition, at which election said ordinance shall be submitted to a vote of the qualified registered electors of the city.

Form of Ballot.

Form of ballot

Section 28. The ballots used when voting upon such ordinances shall given the title in full and state the general nature of the proposed ordinance and contain the words "For the Ordinance" and the words "Against the Ordinance", and otherwise conform to the provisions of this charter. If a majority of the votes cast thereon at such election be for the ordinance, it shall become a valid and binding ordinance of the city, effective as of the date of the canvass of the votes.

Repeal or Amendment.

Repeal or amendment of initiative ordinances

Section 30. The Council may submit an ordinance to repeal or amend any such ordinance to the qualified registered electors at any succeeding municipal election at which all qualified registered electors are entitled to vote; and should such proposed ordinance so submitted receive a majority of the votes cast thereon at such election, the original ordinance shall be repealed or amended accordingly, effective as of the date of the canvass of the votes. An ordinance proposed by petition, or adopted by a vote of the qualified registered electors can not be repealed or amended except by a vote of the qualified registered electors of the city.

Affidavits of Signatures on Petitions.

Signatures, affidavit thereof, etc.

Section 31. The petition hereinbefore referred to must be signed by qualified registered electors of the city and attached to an affidavit of one or more of the signers thereof, that the names thereto are names of qualified registered electors as

thereinbefore set forth and were subscribed to the said petition in the presence of the affiant. In addition to the names on the petition, the petition shall also show opposite each respective name the residence address, giving street and number, the official precinct number, and the date of signing. The petition may consist of one or more instruments of identical form. The instruments constituting such petition, before being presented to the Clerk, shall be fastened together and filed as one instrument. The Clerk shall endorse thereon the date when the petition was presented to him.

The Referendum.

Effective date of ordinances

Section 32. No ordinance shall be in effect until the expiration of thirty days from the time of its passage, except when otherwise provided by provisions of this charter, and except the ordinance making the annual tax levy, and except an ordinance for the immediate preservation of the public health, peace, property or safety, or providing for the daily operation of a municipal department, in which the emergency is set forth in the preamble thereto, and except ordinances appropriating money; said ordinances to contain a statement of their urgency; provided, that no grant of any franchise shall be construed to be an urgency measure, but all franchises shall be subject to the referendum vote herein provided. If before any ordinance is in force a petition signed by qualified registered electors of the city, equal in number to twenty-five per centum or more, of the entire vote cast at the last municipal election at which all qualified registered electors were entitled to vote, protesting against the passage of such ordinance, be presented to the Council, said ordinance shall thereupon be suspended. The Council shall submit the ordinance to the qualified registered electors of the city either at the next municipal election at which all qualified registered electors are entitled to vote, or at a special election called for that purpose, and such ordinance shall not go into effect unless a majority of the qualified registered electors voting on the same shall vote in favor thereof. The provisions respecting the forms and conditions of the petition and the mode of verification and certification and filing, shall be the same as is provided for initiative petitions in Article III. of this charter. The ballot to be used shall be substantially as is provided in Article VII of this charter, with such modifications as may be required, said form of ballot to be approved by the City Council.

Referendum

Conflicting Ordinances.

Conflicting ordinances

Section 33. At any municipal election at which all qualified registered electors are entitled to vote, one or more other questions or ordinances may be submitted to the qualified

registered electors of the city, either by the same or by different ordinances, if said other questions and ordinances are such as may legally be submitted at such election, and the requirements of the charter have been complied with. If two or more measures approved or adopted at the same election conflict, the measure receiving the highest affirmative vote shall control in such conflicting portions.

Auditor.

Duties of auditor

Section 40. The duties of the Auditor shall be: To certify to the Treasurer the amount due to the city, from any source, and the Treasurer shall not receive such money unless such certificate shall have been presented and filed, showing the amount, from what source the indebtedness has arisen, and to what fund it should be apportioned; to keep a complete set of books, showing the balance of money in the treasury, and the amount charged against each officer or employee; to prepare, countersign and deliver, from time to time, as may be required, to the proper officer, agents or employees, all licenses and receipts, charging such officer, agent or employee therewith, and taking his receipt therefor; to draw and sign all warrants upon the Treasurer for the payment of any demand against the city, when allowed by the Council, or proper board or officer. No warrant shall be drawn, except upon a written demand, as aforesaid, which shall be filed and kept in the office of the Auditor, with the date of filing, when allowed, and the name of the person holding the original demand against the city. He shall, upon the death or removal or expiration of the term of any officer handling any funds of the city, or being charged with any such funds, examine the accounts of such officer or employee, and report the result of his examination to the Manager.

Authority and Power of City Clerk and Deputy City Clerks.

Powers of city clerks

Section 40½. The City Clerk and Deputy City Clerks are authorized and empowered to administer official oaths to the various city officers, and to administer oaths to witnesses in hearings before the Council or any municipal Trial Board or Commission, and they are further authorized and empowered to issue subpœnas for witnesses to be used at any of said hearings.

Qualifications of Officers and Employees.

Qualifications

Section 43. Except as otherwise specified in this charter, the qualifications of officers and employees of the city shall be as follows: Each elective officer must be a citizen of the United States, of the State of California, and of the City of Bakersfield, for three years next preceding the date of his election. Residence within the limits of any territory which

has been or may hereafter become annexed to the City of Bakersfield, shall after any such annexation has been accomplished, be deemed and construed to have been within the city. Appointive officers, subordinate officers, all municipal employees and all members of any board or commission authorized by this charter must be citizens of the United States, and shall have been residents of the City of Bakersfield for one year next preceding appointment, and must remain residents of the City of Bakersfield during such appointment or service.

Limit of Tax Levy.

Limitation on tax rate

Section 56. The tax levy authorized by the Council, to meet the municipal expenses for each fiscal year, shall not exceed (except as herein provided) the rate of one dollar on each hundred dollars of the assessed value of all real and personal property within the city.

Tax Liens.

Tax liens

Section 59. All taxes assessed, together with any percentage and penalties imposed for delinquency and the cost of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens, provided for in this article, shall attach as of the first Monday in March of each year, and may be enforced by action in any court of competent jurisdiction to foreclose such liens, or by a sale of the property affected and the execution and delivery of all necessary certifications and deeds therefor, under such regulations as may be prescribed by ordinance.

Dates of Nominating and General Elections.

General and nominating elections

Section 67. A general election shall be held on the second Tuesday of April of each odd-numbered year for the election of members of the Council. A nominating election shall be held on the third Tuesday prior to the date fixed for the general election in each odd-numbered year. The members of the Council elected shall hold office until their successors are elected and qualified.

Recall Elections.

Recall

Section 87. Any officer elected or appointed for a definite term may be recalled, after the expiration of three months from the commencement of his term, by the electors entitled to vote for his successor. When a petition for the recall of a councilman is presented, signed by qualified registered electors of the ward which he represents, equal in number to twenty-five per centum or more, of the total vote cast for

councilman in such ward, at the last general election, and certified by the Clerk, and his resignation shall not have been received, as herein provided, the recall of such councilman shall be submitted to a vote of the qualified registered electors of said ward. When the officer sought to be recalled is not a councilman, the recall of such officer shall be signed by qualified registered electors of the city equal in number to twenty-five per centum or more, of the number of votes cast at the last municipal election at which all qualified registered electors were entitled to vote. The signatures to such petition need not be all appended to one paper.

Plan Submitted to Electors.

Acquisition of public utilities

Section 110. The Council shall, upon petition of qualified registered electors equal in number to not less than thirty-five per centum of the votes cast at the last municipal election at which all qualified registered electors were entitled to vote, submit as separate questions, by ordinance, to the qualified registered electors of the city, at any special election at which all qualified registered electors are entitled to vote, a plan for the acquisition of one or more public utilities and its adoption and the issuance of bonds of the city for the payment therefor.

Membership.

Board of Education

Section 145. The Board of Education shall consist of five (5) members, three (3) of whom shall be elected at the nominating election to be held March 23, 1943, and two (2) of whom shall be elected at the nominating election to be held March 20, 1945. Thereafter members of the Board of Education shall be elected at the nominating election to be held in each odd-numbered year, as hereinafter provided. Members of the Board of Education shall be elected by all qualified registered electors of the City of Bakersfield and that portion of the Bakersfield School District outside of said city, on a general ballot. Arrangements shall be made so that registered qualified electors residing within the limits of the Bakersfield School District and without the limits of the City of Bakersfield may vote for such members of the Board of Education at such election.

The members of the Board of Education to be elected in each odd-numbered year receiving the highest number of votes cast at such election shall be declared elected.

Eligibility.

Qualifications

Section 146. Members of the Board of Education must be qualified registered electors of the City of Bakersfield for three (3) years next preceding their election.

Meetings.

Section 150. The Board of Education shall meet at such times as may be designated by resolution of said board. The board shall provide the manner in which special meetings shall be called. Meetings

Section 154 of the Charter of the City of Bakersfield, entitled "Annual Estimate of Expenses", is hereby expressly repealed. Repeals

Section 157 of the Charter of the City of Bakersfield, entitled "Ex-officio Library Board", is hereby expressly repealed.

Creation and Establishment of Civil Service.

Section 1. There is hereby created and established Civil Service for all officers and employees of the City of Bakersfield, excepting elective officers, the City Manager, the Police Judge, members of the Police and Fire Departments, and members of all boards and commissions, which shall be known and designated as "Civil Service for Officers and Employees in the Miscellaneous Departments." Civil service

Appointment of a Secretary of the Civil Service Board.

Section 3. The City Manager shall appoint one of the subordinate officers or employees in the several offices of the City Hall to be Secretary of the Civil Service Board. The Secretary shall perform such duties as may be assigned by said Board. Secretary of Civil Service Board

Duties of Civil Service Board.

Section 4. The Civil Service Board shall, subject to the approval of the City Council, formulate rules and regulations governing procedure for the conduct of examinations of candidates for positions as officers and employees of the City of Bakersfield, excepting elective officers, the City Manager, the Police Judge, members of the Police and Fire Departments, and members of all boards and commissions. The Civil Service Board shall, subject to the approval of the City Council, also formulate rules and regulations governing the procedure and conduct of trials of officers and employees affected by Civil Service for officers and employees in the Miscellaneous Departments. Duties of Civil Service Board

It shall be the duty of the Civil Service Board to hold examinations and to administer other suitable tests to applicants for positions in the several departments affected by this amendment for the purpose of determining their fitness for such positions.

All officers and employees in the several departments affected by this amendment, having gained valuable experience in the course of their service for the City, shall receive a certain added grade over applicants not in the employ of Added grades

the City at the time of the examination, such added grades to be fixed by the Civil Service Board before each examination, for each year or portion thereof such employee has had experience in a similar or comparable position with the City of Bakersfield. Such added grade shall not be allowed to applicants not attaining a passing grade in the examination.

Promotions

Any head of a department may recommend a subordinate for promotion, whereupon the Civil Service Board shall give said person a suitable test to determine his fitness for such promotion. If said person passes said test and is certified by the Civil Service Board, the appointive power may appoint said person to said position.

Examinations

Examinations of all candidates shall be practical in their character and shall relate to those matters only which will fairly test the relative capacity and ability of the persons examined to discharge the duties of the positions to which they seek to be appointed or promoted. No questions in any examination shall relate to political or religious opinions or affiliations.

All officers affected by this amendment shall be appointed by the authority having the appointive power, as provided by the City Charter. All subordinate officers and employees in the several departments affected by this amendment shall be appointed by the head of the department in which the vacancy occurs, with the approval of the City Manager.

Eligible list

All officers, subordinate officers and employees in the several departments affected by this amendment shall be chosen from a list of eligibles furnished by the Civil Service Board to the appointive power, and shall contain the names of all candidates who attained a passing grade in the examination, in the order of their relative standing. If, in the opinion of the Civil Service Board, any of said candidates becomes ineligible, the Civil Service Board shall strike his name from the list and advise the appointive power of such action. The appointment must be made from the three highest standing candidates on the eligible list at the time of appointment. Any person carried on the eligible list for a period of two (2) years without being appointed or promoted shall be dropped from said eligible list and shall not be eligible for appointment or promotion without re-examination.

Medical examinations

When, in the opinion of the appointive power, a medical examination is desirable as a pre-requisite for employment, he may require such examination by a physician, from a list of not less than five (5), designated by the appointive power, and the doctor's fee shall be paid by the applicant for the position.

Probation Period.

Probation period

Section 7. Appointment or promotion to employment or rank shall not be deemed complete until a period of probation not to exceed six (6) months has elapsed, said six (6) months

period to consist of one hundred fifty (150) working days, not necessarily continuous. In the event of promotion to higher grade, the appointee may be reduced by the head of the department, during the probation period, with the approval of the City Manager, and in event that such appointee is in the lowest grade, such appointee may be discharged by the head of the department affected, with the approval of the City Manager.

Temporary Employment.

Temporary employees

Section 8. Nothing contained in this amendment is intended to prevent the employment of persons for temporary services in the several departments affected by this amendment; provided, however, that such persons shall not be continued in service for a period of time exceeding one hundred twenty (120) working days of seven (7) hours each, in any one department in any one calendar year.

Suspensions and Removals.

Suspensions

Section 9. The authority having the appointive power, as provided for by the City Charter, may suspend from duty for cause for a period not to exceed thirty (30) days in any one instance, any officer or employee affected by this amendment. Any officer or employee suspended shall receive no salary or wages for such suspension period.

Discharges

When, in the opinion of the authority having the appointive power, any officer or employee affected by this amendment conducts himself in such a way as to justify his removal or discharge on any of the grounds mentioned in this article, the appointive power shall suspend such officer or employee and declare his intention in writing to file charges against such officer or employee seeking his discharge or dismissal, such declaration to be filed at once with the Civil Service Board. Such charges must be in writing and shall be prepared or caused to be prepared by the authority having the appointive power, and shall be filed with the Civil Service Board and the City Manager. A copy of such charges shall be served on the accused, who shall within ten (10) days after such service file his answer to said charges in writing with the Civil Service Board, the City Manager and the authority having the appointive power. Failure to answer said charges within ten (10) days time shall be held to be an admission of the charges by the accused and a waiving of hearing; whereupon the Civil Service Board shall find the accused guilty as charged and he shall be removed and discharged from the City of Bakersfield as of the date of his suspension by the appointive power.

No officer or employee shall be removed or discharged from the service of the City of Bakersfield except for cause, upon

written charges, and after an opportunity to be heard in his own defense.

Grounds

Demotion, removal or discharge may be upon any of the following grounds: incompetency, habitual intemperance, immoral conduct, dishonesty, inattention to duties, drunkenness on duty, insubordination, or anything sufficiently irregular to justify removal, demotion or discharge in the opinion of the appointive power.

Creation and Establishment of Trial Board.

Trial Board

Section 10. There is hereby created for the purpose of hearing and determining charges made against any officer or employee of the several departments affected by this amendment, a Board to be known as the Trial Board, which shall be composed of the members of the Civil Service Board, the Mayor, and one Councilman to be appointed by the Council. The verdict and judgment of a majority of the Trial Board shall be final and conclusive.

Notice and hearing

If the accused shall answer said charges within the allotted time, he shall be given five (5) days notice of the time and place of hearing of said charges. The accused may, at the hearing of such charges, be represented by Counsel and shall have the right to compel the attendance of such witnesses as he may desire to testify in his behalf. If the accused be found guilty by the Trial Board, and in its opinion the charges are of such a character as to warrant dismissal, it shall so advise the appointive power and said appointive power shall then dismiss or discharge the officer or employee whose guilt has been so established and determined. If the Trial Board shall find that the accused be guilty as charged but that the charges do not warrant dismissal, it shall have the power to inflict such other punishment upon the accused as in its judgment shall be adequate; provided, however, that should an officer or employee affected by this amendment be convicted of a felony, or malfeasance in office, or be adjudged insane, the position shall be declared vacant by the authority having the appointive power and the vacancy shall be filled as herein provided.

Classification of Employees in Subordinate Positions.

Classification of subordinate positions

Section 10a. It shall be the duty of the Civil Service Board when requested to do so by the City Council or City Manager, to classify, and when necessary re-classify, in accordance with the duties of the department, all subordinate positions in all departments affected by this amendment consisting of ten (10) or more employees in subordinate positions. Such classification or re-classification must be prepared in writing and a copy thereof submitted to the City Council for approval or rejection. The City Council shall fix the date that such classification or reclassification shall take effect. A copy of such

recommended classification or re-classification shall also be furnished by the Civil Service Board to the City Manager and the head of the department affected.

Lay Off or Demotion and Temporary Promotion of Employees in Subordinate Positions.

Section 10b. In any department affected by this amendment having ten (10) or more employees in subordinate positions, the authority having the appointive power, with the approval of the City Manager, may reduce by lay off or demotion the personnel of a department or of a classification because of lack of work or shortage of funds. Lay offs and demotions shall be made according to seniority of service with the City of Bakersfield in the department or classification affected. The youngest man in point of seniority in each department or classification affected shall be the first man to be demoted or laid off. When two or more employees have the same seniority rating, the employee who attained the highest grade in the examination for the position held at the time of lay off or demotion shall be deemed to have greater seniority. Lay off or demotion referred to in this section shall not deprive the employee so laid off or demoted of the Civil Service rating attained prior to said lay off or demotion and such employee shall be returned to service in order of seniority. This section is intended to make possible the displacement of a subordinate officer or employee in any classification by an officer or employee in a higher classification with greater seniority in the department. The subordinate officer or employee so displaced may in turn displace a man in a lower classification holding less seniority. A displaced or demoted subordinate officer or employee while working in a lower classification shall receive the rate of pay established for the lower classification, it being the intention that all subordinate officers or employees be paid the rate of pay established for the work or position assigned to them. The authority having the appointive power in departments affected by this Amendment, where the volume of work makes it necessary, may temporarily promote any subordinate officer or employee to the next highest classification. The subordinate officer or employee to be so promoted shall be the person in the classification having the greatest amount of seniority. Such temporary promotions shall in any case not exceed one hundred twenty (120) working days.

Lay offs, etc., of subordinate positions

Temporary promotions

and

WHEREAS, The Council of the City of Bakersfield, County of Kern, State of California, in accordance with the law in such cases made and provided, did meet at their usual place of meeting, at the time and in the manner provided by law, and duly canvassed the returns of said election as certified by the election board, and duly found, determined and declared that the majority of the qualified electors of said

city voting thereon had voted in favor of, and ratified said amendments to the charter of the City of Bakersfield as hereinabove last set forth, and alleged to have been so ratified; and

WHEREAS, That the foregoing is true is shown by the certificate of F. S. Boden, Mayor of the said City of Bakersfield, and Vance Van Riper, clerk of said city, whose certificate is in words and figures as follows, to wit:

State of California }
County of Kern } ss
City of Bakersfield }

Certificate This is to certify that we, F. S. Boden, Mayor of the City of Bakersfield, and Vance Van Riper, Clerk of the City of Bakersfield, have compared the foregoing proposed and ratified amendments to the Charter of the City of Bakersfield with the original proposed amendments submitted to the qualified electors of the said City of Bakersfield at a special election held within the City of Bakersfield on April 8, 1941, and find that the foregoing is a full, true, correct and exact copy of said amendments.

We further certify that the facts set forth in the preamble preceding said amendments to said Charter, and the matter set forth therein are and each of them is true.

IN WITNESS WHEREOF we have hereunto set our hands and caused the corporate seal of the City of Bakersfield to be attached this 14th day of April, 1941.

F. S. BODEN,
MAYOR of the City of Bakersfield.

[SEAL]

VANCE VAN RIPER,
CLERK of the City of Bakersfield;

and

WHEREAS, The said amendments to the charter of the City of Bakersfield so ratified as hereinbefore set forth have been duly presented and submitted to the Legislature of the State of California, for approval or rejection, without power of alteration or amendment, all in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval *Resolved by the Senate, the Assembly concurring* (a majority of all members elected to each house voting for the adoption of this resolution and concurring therein), That the said amendments to the charter of the City of Bakersfield herein set forth as presented and submitted to and ratified and adopted by the qualified electors of the City of Bakersfield, be and the same are hereby adopted as a whole for and as amendments to the said charter of the City of Bakersfield.

CHAPTER 64

Senate Concurrent Resolution No. 29—Approving certain amendments to the Charter of the City of Oakland, a municipal corporation in the County of Alameda, State of California, voted for and ratified by the qualified electors of said city at a special municipal election held therein on the fifteenth day of April, 1941.

[Filed with Secretary of State April 25, 1941.]

City of Oakland. Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments hereinafter set forth, to the charter of the City of Oakland, a municipal corporation in the County of Alameda, State of California, as set out in the certificate of the mayor and city clerk of said city, as follows, to wit:

STATE OF CALIFORNIA,
COUNTY OF ALAMEDA, } ss.
CITY OF OAKLAND.

Certificate

We, the undersigned, Wm. J. McCracken, Mayor of the City of Oakland, State of California, and Frank Colbourn, City Clerk of said City, do hereby certify and declare as follows:

That the City of Oakland, a municipal corporation in the County of Alameda, State of California, now is and at all times herein mentioned was a city containing a population of more than three thousand five hundred inhabitants, and has been ever since the first day of July, 1911, and is now, organized, existing and acting under a Freeholders' Charter, adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said city at an election held for that purpose on the eighth day of December, 1910, and approved by the Legislature of the State of California, by Senate Concurrent Resolution filed with the Secretary of State on the fifteenth day of February, 1911 (Statutes of 1911, p. 1551).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Council of the City of Oakland, being the legislative body of said City, on its own motion by its Resolution No. 9828 C.M.S. passed February 13, 1941, and as amended by its Resolution No. 9844 C.M.S. passed February 18, 1941, and its Resolution No. 9880 C.M.S. passed February 27, 1941, duly and regularly proposed and submitted to the qualified electors of said City, eleven certain proposals designated as Propositions 1 to 11, inclusive, for amending the Charter of said City, to be voted upon by said qualified electors at a special municipal election called and held for that purpose

in said City on the 15th day of April, 1941. That said special election was duly and regularly called, authorized and provided for by said Council of said City of Oakland by said aforementioned resolutions, and that by said resolutions said special election was duly and regularly consolidated with the Nominating Municipal Election to be held in said City on said date. That said consolidated Special Municipal Election was duly and regularly held in said City in accordance with the provisions of the Charter of the City of Oakland and in manner provided by law, after due notice given and published, with the said Nominating Municipal Election, on the 15th day of April 1941, which said day was not less than forty nor more than sixty days after the completion of the publication and advertisement of the aforementioned proposed amendments in the "Oakland Tribune," the official newspaper of said City.

That such proposed amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of Oakland, on the sixth day of March, 1941, in the "Oakland Tribune," a daily newspaper of general circulation published in said City of Oakland and the official newspaper of said City, and in each edition thereof, during the day of publication.

That copies of said proposed amendments were printed in convenient pamphlet form, and in type of not less than ten point, and copies thereof were mailed to each of the qualified electors in said City, in accordance with the Constitution of the State of California and the Charter of the City of Oakland; and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of the City of Oakland was published in said "Oakland Tribune," a newspaper of general circulation published in said City, on the fifth day of March, 1941, and on each day thereafter to and including the fifteenth day of April, 1941, the date of said election, all as required by Section 8 of Article XI of the Constitution of the State of California.

That in accordance with the provisions of the Charter of the City of Oakland, the Council of said City provided for the formulation and printing of a statement not exceeding five hundred words in length, descriptive of and explaining the nature or purpose of said proposals to amend the Charter of said City; that a copy of said printed statement was mailed and distributed by the City Clerk of said City to each voter of the City of Oakland, in connection with the sample ballots and the aforementioned printed copies of said proposed amendments.

That as to each of the amendments to the Charter of the City of Oakland hereinafter set forth, this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith, and

that all provisions of law, and of the Charter of the City of Oakland, applicable thereto have been fully conformed to and complied with.

That in accordance with the provisions of the Charter of the City of Oakland, and with the law in such cases made and provided, the Council of the City of Oakland did on the twenty-second day of April, 1941 at a meeting duly and regularly called and held at its usual place of meeting, duly convassed the returns of said consolidated elections, as certified by the election boards, and duly found, determined and declared that the said proposed amendments to the Charter of the City of Oakland, designated as Propositions 1 to 9, inclusive, and each and every one of them, was ratified by a majority of the qualified electors of said City voting thereon, and that said proposed amendments to said Charter designated as Propositions 10 and 11 received less than a majority of the votes of the qualified electors voting thereon, and were not ratified; that the proposed amendments to the Charter of the City of Oakland which were so ratified by a majority of the electors of said City, are in words and figures as follows:

Add Section 72a to the Charter to read as follows:

Classified Civil Service—Office of the City Attorney.

Civil service
Positions under City Attorney

Sec. 72a The Civil Service Board shall classify all places of employment now existing or hereafter created under the jurisdiction of the City Attorney. The places so classified by the Board shall become a part of the Classified Civil Service of the City, and no appointment to any such place shall be made, except according to the rules provided in this Article. Every person employed in the office of the City Attorney shall be subject to suspension, fine and also to removal by the City Attorney, and such person may appeal therefrom, in the manner and subject to the provisions of this Article.

The provisions of this Article shall not apply to the City Attorney, or to the Public Utility Engineer or Statistician, as provided in Section 80.

Amend Section 80 of the Charter to read as follows:

To Whom Apply.

Application

Sec. 80. The provisions of this Article shall apply to all appointed officers and employees of the City in or under any of the Departments enumerated in Section seventy-two (72) of this Charter, except the following:

Exceptions

The Chief Officials of the City enumerated in Section thirty (30) of this Charter; the Building Inspector; the City Wharfinger; the License Inspector; the Bacteriologist; the City Chemist; the Sanitary Inspector; the Market and Food Inspector; the Plumbing Inspector; the Mayor's Secretary; Public Utility Engineer or Statistician; the members of the Board of Library Directors; Board of Playground Directors and Board of Park Directors, and such other officers and employees of the City not included either in the Police Department or in the Fire Department, or in the office of the City

Attorney, as may be excepted from the operation of the Civil Service rules, upon the recommendation of the Council, approved by the unanimous vote of the Civil Service Board. Provided, that persons employed by the City and persons employed in the City Engineer's office on September 1, 1910, may retain their employment under the City, subject to classification and reclassification by the Civil Service Board without further examination, unless removed for cause or unless it shall be determined by the Civil Service Board that their employment by the City is unnecessary.

The provisions of this Article shall not restrict the authority of the City Attorney to retain technical, expert, scientific or other services necessary in the disposition of matters within the jurisdiction of the City Attorney, and for which no Civil Service classification exists.

Add Section 80a to the Charter to read as follows:

Present employees retained

Sec. 80a. Persons employed in the office of the City Attorney (except the City Attorney and Public Utility Engineer or Statistician) on February 1, 1941, may retain their employment under the City, subject to classification and reclassification by the Civil Service Board without further examination unless removed for cause as provided in this Article. The powers conferred upon the City Attorney by subdivision (2) of Section 30 to appoint, discipline and remove any officer or employee of his office shall be subject to the provisions of this Article.

Add Section 72b to the Charter to read as follows:

Classified Civil Service—Civil Service Board.

Civil service Positions under Civil Service Board

Sec. 72b. The Civil Service Board shall classify all places of employment now existing, or hereafter created under the jurisdiction of the Civil Service Board. The places so classified by the Board shall become a part of the Classified Civil Service of the City, and no appointment to any such place shall be made, except according to the rules provided in this Article. Every person employed by the Civil Service Board shall be subject to suspension, fine, and also to removal by the Board, and such person may appeal therefrom, in the manner and subject to the provisions of this Article. The Civil Service Board shall have authority to obtain by contract, for limited periods of time, when necessary, expert, scientific and technical services in preparing, giving and ascertaining the results of a Civil Service examination, and for which no Civil Service classification exists therefor.

The provisions of this Article shall not apply to the members of the Civil Service Board.

Add Section 80b to the Charter to read as follows:

Present employees retained

Sec. 80b. Persons employed in or under the Civil Service Board (except the members of the Civil Service Board) on February 1, 1941, may retain their employment under the City subject to classification and reclassification by the Civil Service Board without further examination unless removed for cause as provided in this Article.

Add Section 95a to the Charter to read as follows: Retirement by Action of Board of Trustees after Disability in Performance of Duty.

Police Retirement of physically disabled

Sec. 95a. Notwithstanding any provision set forth in Section 95, the Board of Trustees may on its own motion retire any member, and any matron and substitute matron, under the provisions of Section 95, who is physically disabled by reason of any bodily injury received in the performance of his or her duty, who upon examination by two regularly licensed and practicing physicians appointed by the trustees for that purpose may be ascertained to be by reason of such disability unfit for the performance of duty, provided, further that such disability shall have continued for one year.

Add Section 95b to the Charter to read as follows: Benefit to Dependents of Deceased Member Retired for Disability Incurred in Performance of Duty.

Same Death benefits to dependents

Sec. 95b. Notwithstanding any provision set forth in Section 95, if a retired member, or retired matron or substitute matron, of the Department shall die at any time by reason of the bodily injury for which he or she was pensioned, such pension shall not cease but shall continue and shall be paid to his widow or widower to whom he or she was married at the time of such injury, or to his or her orphan child or children, or to his or her parent or parents, in the manner and subject to the provisions of Section 96 (1) (a), (b) and (c), provided, however, a surviving husband shall be entitled to the rights of a widow only if in the opinion of the Board of Trustees he is unable to support himself by reason of physical or mental infirmity and has no other means of support.

Amend Section 103 of the Charter to read as follows: Pension for Member Disabled in Performance of Duty.

Firemen Disability pension

Sec. 103. Any member of the Department who shall become physically disabled by reason of any bodily injury received in the performance of his duty upon his filing with the Board of Trustees a verified petition, setting forth the facts constituting such disability, and the cause thereof, accompanied by a certificate signed by the Chief of the Fire Department, the Chief of the Battalion to which he belongs, and by two regularly licensed physicians of the City, recommending his retirement upon a pension, on account of such disability, may be retired from the Department upon an annual pension, equal to one-half the amount of salary attached to the rank which he held one year prior to the date of such retirement, to be paid to him in equal monthly installments during the balance of his lifetime and to cease at his death. In case his disability shall cease, his pension shall cease, and he shall be restored to the service in rank he occupied at the time of his retirement; provided that the said Board of Trustees may of its own motion retire any member who shall become physically disabled by reason of any bodily injury received in the performance of his duty, who upon examination by two regularly licensed and practicing physicians appointed by the Trustees

Cessation of disability

for that purpose, may be ascertained to be by reason of such disability unfit for the performance of his duty, provided further that such disability shall have continued for one year.

Add Section 103a to the Charter to read as follows: Benefit to Dependents of Deceased Member Retired for Disability Incurred in Performance of Duty.

Firemen: Death benefits to dependents

Sec. 103a. Notwithstanding any other provision set forth in Section 103, if a retired member of the Department shall die at any time by reason of the bodily injury for which he was pensioned, his pension shall not cease but shall continue and shall be paid to his widow to whom he was married at the time of such injury, or to his orphan child or children, or to his parent or parents, in the manner and subject to the provisions of Section 104 (1) (a), (b) and (c).

Amend Subdivision (1) of Section 96 of the Charter to read as follows:

Pension to Dependents when Member Dies of Injury or Disability Incurred in Performance of Duty.

Pension to family of member of police

Sec. 96. (1) The Board of Trustees shall, out of the Police Relief and Pension Fund, provide for the family of a member of the Department who may die as a result of an injury or disability incurred while in the performance of his duty as follows:

(a) Should the decedent be married, his widow shall, as long as she shall remain unmarried, be paid a pension equal to one-half of the salary attached to the rank held by the decedent at the time of his death.

(b) Should the decedent leave no widow, but leave an orphan child or children, under the age of eighteen years, or should the decedent leave a widow and child or children under the age of eighteen years, and the widow die without remarrying while such child or children are yet under the age of eighteen years, such child, or children collectively, shall receive a pension equal to one-half of the salary attached to the rank held by the decedent at the time of his death until the youngest child attains the age of eighteen years, provided that no child shall receive any such pension after attaining the age of eighteen years, nor shall any child receive any such pension should he or she marry before reaching the age of eighteen years.

(c) Should the decedent leave no widow, or no orphan child or children but leave a parent or parents, dependent solely upon him for support, such parent or parents so depending shall collectively receive a pension equal to one-half the salary attached to the rank held by the decedent at the time of his death during such time as the Board of Trustees may determine its necessity.

Add Subdivision (9) to Section 96 of the Charter to read as follows:

Pension to surviving husband of police matron

(9) In case of death of a matron or substitute matron the pension herein provided for shall be paid to her surviving husband only if in the opinion of the Board of Trustees he

is unable to support himself by reason of physical or mental infirmity and has no other means of support.

Amend Subdivision (1) of Section 104 of the Charter to read as follows:

Pension to Dependents when Member Dies of Injury or Disability Incurred in Performance of Duty.

Sec. 104. (1) The Board of Trustees shall, out of the Firemen's Relief and Pension Fund, provide for the family of a member of the Department who may die as a result of an injury or disability incurred while in the performance of his duty as follows: Pension to family of deceased fireman

(a) Should the decedent be married, his widow, as long as she shall remain unmarried, shall be paid a pension equal to one-half of the salary attached to the rank held by the decedent at the time of his death.

(b) Should the decedent leave no widow, but leave an orphan child or children, under the age of eighteen years, or should the decedent leave a widow and child or children under the age of eighteen years, and the widow die without remarrying, while such child or children are yet under the age of eighteen years, such child, or children collectively, shall receive a pension equal to one-half of the salary attached to the rank held by the decedent at the time of his death until the youngest child attains the age of eighteen years, provided that no child shall receive any such pension after attaining the age of eighteen years, nor shall any child receive any such pension should he or she marry before reaching the age of eighteen years.

(c) Should the decedent leave no widow, or no orphan child or children but leave a parent or parents, dependent solely upon him for support, such parent or parents so depending shall collectively receive a pension equal to one-half the salary attached to the rank held by the decedent at the time of his death during such time as the Board of Trustees may determine its necessity.

Amend Subdivision (3) of Section 96 of the Charter to read as follows:

(3) Any person receiving a pension from the Police Relief and Pension Fund, who shall become convicted of a felony, or after notice and an opportunity to be heard shall be found by the Board of Trustees to have become dissipated or an habitual drunkard, or shall become a non-resident of this State except on leave by the Board of Trustees, shall forfeit all right to said pension. Forfeiture of pension. Police

Amend Subdivision (3) of Section 104 of the Charter to read as follows:

(3) Any person receiving a pension from the Firemen's Relief and Pension Fund, who shall become convicted of a felony, or after notice and an opportunity to be heard shall be found by the Board of Trustees to have become dissipated or an habitual drunkard, or shall become a non-resident of this Same Firemen

State except on leave by the Board of Trustees, shall forfeit all right to said pension.

Add Section 94a to the Charter to read as follows: Compulsory Retirement at Age Seventy.

Compulsory retirement Police

Sec. 94a. Notwithstanding any provision contained in this Article, retirement under Section 94 shall be compulsory upon such member reaching the age of seventy years.

Add Section 102a to the Charter to read as follows: Compulsory Retirement at Age Seventy.

Same Firemen

Sec. 102a. Notwithstanding any provision contained in this Article, retirement under Section 102 shall be compulsory upon such member reaching the age of seventy years.

Add Section 96b to the Charter to read as follows: Payment of Pension etc. as Credit on Compensation etc. Award.

Credit and set-off against pension Police

Sec. 96b. If any member of the Department, or the widow, child or children, parent or parents, of a deceased member of the Department, or if any matron or substitute matron, or the husband, or child or children, or parent or parents, of a deceased matron or substitute matron, shall receive any payment under the provisions of Division IV of the Labor Code, or any other act or acts of the Legislature, or Constitution, of the State of California, providing for an award, compensation, death or disability payment, because of the disability, sickness, injury or death arising out of the performance of duty of such member, matron or substitute matron, any payment on account thereof shall be applied as a credit and set-off against any payment on account of salary, pension or other benefit payable under this Article.

Add Section 104b to the Charter to read as follows: Payment of Pension etc. as Credit on Compensation etc. Award.

Same Firemen

Sec. 104b. If any member of the Department, or the widow, child or children, parent or parents, of a deceased member of the Department, shall receive any payment under the provisions of Division IV of the Labor Code, or any other act or acts of the Legislature, or Constitution, of the State of California, providing for an award, compensation, death or disability payment, because of the disability, sickness, injury, or death arising out of the performance of duty of such member, any payment on account thereof shall be applied as a credit and set-off against any payment on account of salary, pension or other benefit payable under this Article.

Add Section 49a to the Charter to read as follows: General Powers of the City—Municipal Affairs.

Municipal affairs

Sec. 49a. The City of Oakland shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter; provided that nothing herein shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized to, exercise any and all rights, powers and privileges heretofore or hereafter granted or prescribed by the general laws of the

State; provided also, that where the general laws of the State provide a procedure for the carrying out and enforcement of any rights or powers belonging to the City, said procedure shall control and be followed unless a different procedure shall have been provided in the Charter or by ordinance.

It is the intention of the prople of the City of Oakland in adopting this Section to take advantage of the provisions of the 1914 amendment to Section 6 of Article XI of the Constitution of the State of California, giving cities Home Rule as to municipal affairs.

Amend Section 38 of the Charter to read as follows:

City Officers and Employees not to Hold Other Public Office of Profit.

Sec. 38. No person holding any office or position under the City Government shall be eligible to or hold any other elective or appointive office or position under the government of the City of Oakland. Dual office holding

No person holding any office or position under the City Government carrying with it a salary or emoluments of more than Fifty Dollars ($50.00) per month, paid out of any money of the City shall, except as may be authorized by the Council, hold any such office or position under the City government while holding any office, or position of profit, under the government of this State, of any other State, of the United States, or of any other nation, government or country.

The provisions of this section shall not prohibit any such person from being a notary public, or a member of the National Guard, Naval Reserve or military or naval forces of the United States or of this State. Exceptions

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And we further certify that we have compared the foregoing proposed and ratified amendments to the Charter of the City of Oakland with the original proposals submitting the same to the electors of said City, and find that the foregoing is a full, true and correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the said City of Oakland to be affixed hereto this 22nd day of April, 1941.

W. J. McCRACKEN
Mayor of the City of Oakland

Seal of City of Oakland.

FRANK COLBOURN
City Clerk of the City of Oakland

WHEREAS, The said proposed amendments as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, A majority of all the members elected to each Approval

house voting therefor and concurring therein, that said amendments to the charter of the City of Oakland as proposed to, and adopted and ratified by the electors of the said city, and as hereinbefore fully set forth, be and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of the said City of Oakland.

CHAPTER 65

Senate Joint Resolution No. 17—Relative to memorializing Congress to enact legislation requiring Federal Governmental agencies to comply with California minimum price laws for milk.

[Filed with Secretary of State April 28, 1941.]

Federal milk purchases below minimum State prices

WHEREAS, Prior to 1935 unfair, unjust, destructive, and demoralizing trade practices had been carried on in the production and distribution of fluid milk and fluid cream, which practices constituted a constant menace to the health and welfare of the inhabitants of the State of California, and tended to undermine sanitary regulations and standards of content and purity of fluid milk and fluid cream; and

WHEREAS, In the opinion of the Legislature of the State of California, health regulations were insufficient to prevent disturbances in the milk industry, which disturbances threatened to destroy and seriously to impair the future supply of fluid milk; and

WHEREAS, To safeguard the consuming public from future inadequacy of supply of this necessary commodity, the Legislature of the State of California in 1935 declared that it was the policy of the State of California to promote, foster, and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including milk, and to eliminate speculation, waste, improper marketing, unfair and destructive trade practices, and improper accounting for milk purchased from producers of such milk; and

WHEREAS, As a result of such declaration of policy, the Legislature of the State of California declared that the production, transportation, processing, storage, distribution, and sale of fluid milk and fluid cream in the State of California is an industry affecting the public health and welfare, and thereupon enacted a law providing for the stabilization of marketing of fluid milk and fluid cream, which law is Chapter 10 of Division 4 of the Agricultural Code of the State of California, and bestowed upon the Director of Agriculture of the State of California the administrative authority, after investigation and public hearing, to prescribe marketing areas wherein different prices and regulations should be defined; and

WHEREAS, Under said law the Director of Agriculture of the State of California has established stabilization and marketing plans in 16 marketing areas within said State of California, providing minimum prices to be paid to producers of fluid milk, and in connection with said plans has established in 13 marketing areas within said State of California schedules of minimum wholesale and minimum retail prices for fluid milk; and

WHEREAS, Approximately 85 per cent of the fluid milk produced and distributed in the State of California is marketed under said market controls, said 85 per cent being approximately equivalent to 73,000,000 pounds of milk fat yearly, to an approximate value of forty-two million dollars ($42,000,000) to California producers of fluid milk; and

WHEREAS, Since the adoption of the California State Milk Control Law, the dairy industry, with the aid of the State, has corrected certain evils and has developed and maintained satisfactory marketing conditions and has brought about a reasonable amount of stability and prosperity in the production and marketing of fluid milk and fluid cream; and

WHEREAS, The expansion and extension of the National Defense Program has resulted in the great and continuing increase in the number and personnel of defense units quartered in the State of California and in milk marketing areas thereof, and a great and continuing increase, in said areas, of the consumption of fluid milk, whereby a large and increasing percentage of the fluid milk marketed in California is sold to and consumed by said defense units; and

WHEREAS, Quartermasters, Purchasing Officers and other Supply Officers of the Army, Navy, Marine Corps, CCC, Air Corps, Flying Schools, and of other military and naval units of the United States are directed or required by Federal law, rule, order or regulation to make purchases of food supplies, including fluid milk, at competitive bid prices, regardless of minimum price regulations and schedules established by the Director of Agriculture of the State of California; and

WHEREAS, The Attorney General of the State of California has advised the Director of Agriculture of the State of California that said director is without power or jurisdiction to apply or enforce minimum producer price schedules or minimum resale price schedules as to fluid milk sold or delivered to agencies or units of the United States Government quartered on property or premises ceded to or owned by the United States Government; and

WHEREAS, Distributors of fluid milk in competing for the fluid milk business of said defense units so situated make bids and offers of sales and actual sales of fluid milk for delivery to said units at prices below the minimum prices established by the Director of Agriculture, and in turn pay and return to the producers supplying such fluid milk prices below the minimum prices established and ordered by said director to be paid

to said producers, resulting in severe operating losses which can not at this time be approximated, but which may be estimated at many thousands of dollars per day to aggregate California producers supplying such milk for such purposes; and

WHEREAS, From the foregoing there have resulted enormous and continuing losses to California producers of fluid milk, unutterable confusion and chaotic marketing conditions, and breakdown of the law and of minimum producer price and minimum resale schedules established thereunder; and

WHEREAS, If said situation is permitted to continue, California producers of fluid milk face loss of income, possible bankruptcy, and financial disaster; and

WHEREAS, California producers of fluid milk are in the premises forced to shoulder an unfair and disproportionate part of the cost, duty and burden imposed by the National Defense Program on all citizens, thus resulting in disorganization and unstabilization of the fluid milk business of the State of California, resulting in turn in great and inestimable losses to producers and distributors of fluid milk; and

WHEREAS, It is vital to the dairy industry of the State of California, which, as aforesaid, is an industry affecting the public health and welfare of the people of the State of California, that not less than the minimum prices fixed by the Director of Agriculture of the State of California be charged in such areas; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of this State hereby memorializes and recommends to the Congress of the United States that it pass and enact, forthwith and as an emergency measure, such laws, statutes, rules or regulations, as will direct and require purchasing officers of the Army, Navy, Marine Corps, Air Corps, or such others as may be in authority over the purchasing of food supplies for the above and other defense units or other agencies of the United States quartered in the State of California, and in milk marketing areas in said State, to regard as unlawful and to refuse to entertain or consider or accept bids or offers from any distributor or producer of fluid milk, which bids or offers are below the minimum prices established by the Director of Agriculture pursuant to the provisions of California's Milk Stabilization Law or amendments thereof, and that said Congress declare, by joint congressional statute, or otherwise, that where the minimum price of fluid milk and fluid cream is fixed by competent State legal authority, said purchases by the Federal Government within the geographical areas of the State of California, and upon territory ceded by such State to the Federal Government, shall be at prices not less than the minimum prices declared by such competent State legal authority.

CHAPTER 66

Assembly Constitutional Amendment No. 19—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 31c of Article IV thereof, relating to ownership of stock by school districts.

[Filed with Secretary of State April 28, 1941.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by amending Section 31c of Article IV thereof to read as follows: Constitution, Art IV, Sec 31c

Sec. 31c. Nothing contained in this Constitution shall preclude any school district or city of the fifth or sixth class from acquiring or holding shares of the capital stock of any mutual water company or corporation when said stock is so acquired or held for the purpose of furnishing a supply of water for public municipal or school purposes, or for the use of the inhabitants of the city, and the school district or city, as the case may be, is hereby authorized to acquire and hold such stock, and said holding of such stock shall entitle such holder thereof to all the rights, powers and privileges and subjects such holder to the obligations and liabilities, as are given or are imposed by law to or upon other holders of stock in the mutual water corporation in which such stock is so held. Holding of mutual water stock by school districts and municipalities

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CHAPTER 67

Assembly Concurrent Resolution No. 31—Relative to approving three certain amendments to the charter of the City of Los Angeles, a municipal corporation, in the County of Los Angeles, State of California, voted for and ratified by the electors of said city at a special municipal election held therein on the first day of April, 1941.

[Filed with Secretary of State April 28, 1941.]

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of three amendments, hereinafter set forth, to the charter of the City of Los Angeles, a municipal corporation, in the County of Los Angeles, State of City of Los Angeles: Charter amendments

California, as set out in the certificate of the city clerk of the said city, as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF LOS ANGELES OF THREE CERTAIN CHARTER AMENDMENTS.

State of California }
County of Los Angeles } ss.
City of Los Angeles }

Certificate

We, the undersigned, Robert L. Burns, President of the Council of the City of Los Angeles, State of California, and Walter C. Peterson, City Clerk of said city, do hereby certify as follows:

That the City of Los Angeles, a municipal corporation of the County of Los Angeles, State of California, now is and at all times herein mentioned was a city containing a population of more than three thousand five hundred inhabitants, and has ever since the first day of July, 1925, and is now, organized and acting under a freeholders charter adopted under and by virtue of section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of such city at a special election held for that purpose on the 6th day of May, 1924, and approved by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on the 26th day of January, 1925 (Stats. 1925, p. 1024).

That in accordance with the provisions of section 8 of Article XI of the Constitution of the State of California, on its own motion, the Council of the City of Los Angeles, being the legislative body thereof, duly and regularly submitted to the qualified electors of said City of Los Angeles certain proposals for amendment of the Charter of said city to be voted upon by said qualified electors at certain special elections called and held for that purpose in said city on the 1st day of April, 1941, which said proposals were designated as proposed charter amendments numbers 1, 2, 3, 4, 7, 8, 9, 11, and 12, respectively.

That said proposed amendments were published and advertised in accordance with section 8 of Article XI of the Constitution of the State of California, in the Los Angeles Daily Journal, a daily newspaper of general circulation, published in said city, and the official paper of said city. That copies of said proposed amendments were printed in convenient pamphlet form and in type of ten-point and until the date fixed for the elections hereinafter described, and as required by law, a notice was advertised and published in said Los Angeles Daily Journal that such copies could be had upon application therefor at the office of the City Clerk of the City of Los Angeles.

That such copies could be had upon application therefor at the office of the City Clerk of said city until the date fixed for the elections hereinafter described. That copies thereof were

mailed to each of the qualified electors of said city as required by law.

That in accordance with the provisions of the Charter of the City of Los Angeles and Ordinances numbers 84303, 84304, 84305, 84306, 84307, 84308, and 84309, adopted by the Council of said city, approved by the Mayor, and Ordinances numbers 84310 and 84311, adopted by said Council over the veto of the Mayor, and published in said Los Angeles Daily Journal for five days prior to the holding of said elections, special municipal elections were held in said city on the 1st day of April, 1941, which day was not less than forty nor more than sixty days after the completion of the publication and advertising of the proposed amendments aforesaid in the Los Angeles Daily Journal; and said Council of said city did by said Ordinances numbers 84303, 84304, 84305, 84306, 84307, 84308, 84309, 84310, and 84311 order said special municipal elections consolidated with the Primary Nominating Election to be held in said city on the 1st day of April, 1941.

That pursuant to the law in such cases made and provided the said proposed amendments were submitted to the qualified electors of said city for their ratification at said elections and that at said elections a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify three of the proposed amendments to the Charter of said city.

That the City Council of the said City of Los Angeles, in accordance with the law in such cases made and provided, did meet on the 8th day of April, 1941, at its usual time and place of meeting and duly canvassed the returns of said elections as certified by the election boards and duly found, determined and declared that said proposed amendments to the Charter of the City of Los Angeles numbers 8, 9 and 12, and each and every one of them were ratified by a majority of the electors of said city voting thereon and that said proposed amendments numbers 1, 2, 3, 4, 7 and 11 received less than a majority of the votes of the qualified electors voting thereon and were not ratified.

The said amendments to the Charter so ratified by the electors of the City of Los Angeles are in words and figures as follows, to wit:

CHARTER AMENDMENT NO. 8

That a new section to be numbered 17 is hereby added to the Charter of the City of Los Angeles, said section to read as follows:

Sec. 17. Notwithstanding any other provision of this charter, every officer or employee called into active service in the armed forces of this state or of the United States, during time of war or for ordinary periods of training or for extended periods of training during the time of any limited or other

Persons in military service

Leave of absence

national emergency as declared by the President or the Congress of the United States or the Governor of the State of California, shall, during the period of such service, but not exceeding five years of such service, and for a period of ninety (90) days from and after his discharge or release from such service, be considered as being on leave of absence from the service of the City of Los Angeles, provided that no such leave of absence shall be allowed in the case of any person who is dishonorably discharged from the service to which he was called. Such leave shall be designated as "military leave" and shall be so noted on all records of the employment of said officer or employee. Every such officer or employee returning to the service of the city from military leave within the time hereinabove designated shall be restored to the same rank and position held by him at the time of the commencement of his military leave, or to such other rank and position to which he would be or would have been entitled under the provisions of Section 125 of this charter in the event any change in personnel within the contemplation of said charter section has occurred during the period of his military leave, it being the intent of this provision to provide for the reemployment of persons absent on account of military leave, without prejudice on account of their absence from the city service during the period of such leave; provided, nevertheless, that any such person is not, upon such return, either physically or mentally incapacitated from performing the duties of the office or position to which he is entitled to be restored. All military leave herein provided for shall be without pay or compensation except to the extent that such pay or compensation is now or may hereafter be authorized and provided for by state law, this charter, or by ordinance.

Reinstatement

In addition to credit for time served in the United States, Army, Navy, Marine Corps, and any division thereof, in time of war as allowed under the existing provisions of Sec. 189 and subdivision (d) of Sec. 513, credit shall be given for periods of military leave as provided in this section to the same extent and with like force and effect as now allowed for war service under the charter sections hereinabove mentioned.

CHARTER AMENDMENT NO. 9

Section 318.1, a new section, is hereby added to the Charter, to read as follows:

Nominating petitions

Sec. 318.1. The City Clerk shall prepare or cause to be prepared nominating petitions for each office, in accordance with the provisions of this charter, and shall furnish such petitions to any person proposing to be a candidate for an elective office of the city, or his representative, and no nominating petition shall be furnished, circulated, received for filing, checked or considered except it has been so prepared by the City Clerk, and, at the time of taking out of such petition a fee in the sum of ten dollars ($10.00) shall have been

paid to said City Clerk, to partially reimburse the City Treasury for the cost of handling such petition. Upon the presentation of such petition under the provisions of Section 320 hereof the amount of the fee so collected shall be credited as partial payment of the filing fee prescribed in said Section 320.

CHARTER AMENDMENT NO. 12

That the Charter be amended by adding to Article XXXI thereof a new section, to be numbered section 432, to read as follows:

Sec. 432. Notwithstanding any other provision of this Charter, no person shall hold or retain or be eligible for any public office or employment in the service of the City of Los Angeles, in any office or department thereof, either elective or appointive, who has within five (5) years prior to the effective date of this section advised, advocated or taught, or who may, after this section becomes effective, advise, advocate or teach, or who is now or has been within five (5) years prior to the effective date of this section, or who may, after this section becomes effective, become a member of or affiliated with any group, society, association, organization or party which advises, advocates or teaches, or has, within said period of five (5) years, advised, advocated or taught the overthrow by force or violence of the government of the United States of America or of the State of California. Disqualifications for holding office

In so far as this section may be held by any court of competent jurisdiction not to be self-executing, the City Council is hereby given power and authority to adopt appropriate legislation for the purpose of effectuating the objects hereof.

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said city and find that the foregoing are full, true, correct and exact copies thereof and of each of them; we further certify that the facts set forth in the preamble preceding such amendments to said Charter are and each of them is true.

That as to all of said amendments this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the corporate seal of the said City of Los Angeles to be affixed hereto this 10th day of April, 1941.

ROBERT L. BURNS,
President of the Council of the City of Los Angeles

(SEAL)

WALTER C. PETERSON,
City Clerk of the City of Los Angeles;

and

WHEREAS, The said proposed amendments as ratified as hereinbefore set forth have been and are now duly presented

and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate concurring (A majority of all the members elected to each house voting therefor and concurring therein), That said amendments to the charter of the City of Los Angeles as proposed to, and adopted and ratified by the electors of said city, and as hereinbefore fully set forth, be and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of the said City of Los Angeles.

CHAPTER 68

Assembly Joint Resolution No. 44—Relative to Sacramento River north from Chico Landing.

[Filed with Secretary of State April 28, 1941]

Sacramento River control north of Chico Landing

WHEREAS, During the past 30 years the Sacramento River from the Chico Landing north has received no attention or care whatever from Federal or State agencies, although it is navigable to Red Bluff; and

WHEREAS, Gold mining operations and bank and soil erosion have resulted in the creation of snags, sand bars and banks in the Sacramento River; and

WHEREAS, These snags, sand bars and banks have deflected the river's current and caused new channels to form with accompanying erosion to valuable farm lands adjacent to the river; and

WHEREAS, Thousands of acres of valuable farm land, assessed as high as one hundred dollars ($100) per acre, have been swept away by the Sacramento River and destroyed, and additional thousands of acres of valuable farm land are threatened with destruction; and

WHEREAS, County and State roads, bridges and other properties have been damaged and destroyed by channel changes, thereby becoming useless for State and county purposes and for purposes of National defense; and

WHEREAS, Dirt swept down the Sacramento River has been deposited in the lower Sacramento River channel, with consequent creation of deltas raising the bed of the channel and causing great and devastating floods in the flat valley lands south of the Chico Landing and all along the Sacramento River as far south as the City of Sacramento; and

WHEREAS, Unless immediate steps are taken to relieve the situation herein described, untold loss of life and property will inevitably occur; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully urges the President and the Congress of the United States to render such immediate aid as may be necessary to correct the conditions and avoid the calamity herein described; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, to each Senator and Representative from California in the Congress of the United States, to the chairmen of the flood control committees of the Senate and of the House of Representatives of the Congress of the United States, to the Chief of the United States Army Engineers, Department of War, United States Army, Washington, D. C., to the United States Bureau of Reclamation, Washington, D. C., to the Reclamation Board of the State of California, and to the United States Army Engineers, Department of War, District of California.

CHAPTER 69

Assembly Joint Resolution No. 45—Relative to flood and seepage conditions along the Sacramento River and its tributaries in northern California.

[Filed with Secretary of State April 28, 1941.]

Sacramento River seepage damage

WHEREAS, Land adjoining the Sacramento River, approximately 70 miles in length and four miles in width, representing some 280 square miles, has been seriously affected by seepage as a consequence of a rise in the flood plane since the inception of the present flood control plan; and

WHEREAS, Orchards consisting of large acreages of prune, walnut and other trees having tap roots, have been and will continue to be destroyed by such seepage; and

WHEREAS, Hundreds of acres of alfalfa and other perennial crops have been drowned and totally destroyed; and

WHEREAS, Thousands of acres of early-sown grain land have been drowned and many acres of seeded grain can not be planted until so late in the season that satisfactory crops can not be obtained; and

WHEREAS, In seasons of normal and above normal rainfall, seepage water has remained on land until so late in the year that even Summer-planted crops such as grain sorghums, beans and peas can not be grown; and

WHEREAS, Many acres of late Spring-planted crops such as rice and sugar beets can not be planted; and

WHEREAS, Acre upon acre of formerly rich river land is becoming impregnated with alkali, thus destroying its productivity and value; and

WHEREAS, The Winter season of 1940-41 wrought untold damage to orchards, lands and crops from Stony Creek in Glenn County to Knights Landing, in Yolo County; and

WHEREAS, This damage has affected lands on both the east and west banks of the Sacramento River in the counties of Glenn, Colusa, Sutter and Yolo; and

WHEREAS, The invasion of seepage waters has greatly impaired sanitary sewer systems and rendered useless septic tanks within the rural areas; and

WHEREAS, In seven out of eight cemeteries in the affected localities interments have been impossible for the past several months; and

WHEREAS, The lands affected by the present deplorable seepage conditions are in the main the most productive and highly assessed farming lands in their respective counties; and

WHEREAS, The cost of attempted farming operations on these lands has greatly increased because of seepage; and

WHEREAS, The county tax rolls will of necessity be greatly reduced within the affected seepage areas, thereby placing an increased tax burden upon lands not so affected; and

WHEREAS, Federal Land Bank loans and liens on affected lands are seriously jeopardized and impaired; and

WHEREAS, Unless immediate and prompt assistance towards relieving the situation is granted, crops will be lost, lands will become worthless, and bankruptcy will follow; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully urges the President and the Congress of the United States to render such immediate aid as may be necessary to correct the conditions and avoid the calamity herein described; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, to each Senator and Representative from California in the Congress of the United States, to the chairmen of the flood control committees of the Senate and of the House of Representatives of the Congress of the United States, to the Chief of the United States Army Engineers, Department of War, United States Army, Washington, D. C., to the United States Bureau of Reclamation, Washington, D. C., to the Reclamation Board of the State of California, and to the United States Army Engineers, Department of War, District of California.

CHAPTER 70

Assembly Joint Resolution No. 42—Relative to memorializing the United States Department of Interior, Fish and Wild Life Service, to permit controlled feeding of migratory wild fowl on hunting clubs in the State of California, and to provide for the feeding of grain on migratory wild fowl refuges in this State, in order to relieve farmers from severe losses to grain crops caused annually by such wild fowl.

[Filed with Secretary of State May 1, 1941.]

Feeding of migratory wild fowl on hunting clubs

WHEREAS, The rice-growing area of California is concentrated in the counties of Butte, Sutter, Glenn, Colusa, and other counties in the general area wherein is situate, the Sacramento Valley Migratory Wild Fowl Refuge and the Gridley Migratory Wild Fowl Refuge, and in this area many thousands of acres of land are producing rice, wheat and other grains in great quantities; and

WHEREAS, The annual migrations of wild fowl from Alaska and Canada down the Pacific Coast and into California are on the increase; and

WHEREAS, By regulation of the United States Department of Interior, Fish and Wild Life Service, no feeding of grain is permitted on hunting clubs and insufficient feed for migratory wild fowl is found in this State, with the exception of the said Sacramento Valley area; and

WHEREAS, The millions of wild fowl in their annual flights to this State congregate in said Sacramento Valley area and are thereby causing vast and increasing damage to grain crops grown therein, due to the fact that such wild fowl can not find feed elsewhere; and

WHEREAS, No provision is made by the United States Department of Interior, Fish and Wild Life Service, for the raising of grain on wild fowl refuges by such service or for the purchase of grain in lieu thereof so that migratory wild fowl will not leave such refuges to feed on grain crops of adjoining landowners; and

WHEREAS, The great flight of wild fowl now concentrated in said Sacramento Valley area could be scattered and spread out over a large portion of the State, particularly around the San Francisco Bay area and in the San Joaquin Valley, if feeding of grain were permitted on flooded areas in hunting clubs under a permit system or under such regulations as the Fish and Wild Life Service might adopt; and

WHEREAS, Such diffusion of the flight of wild fowl brought about by said regulated feeding and land flooding would be of inestimable value to the farmers; and

WHEREAS, Such feeding of wild fowl on hunting clubs and such diffusion of flight would not result in an increased killing of such fowl by sportsmen under proper regulations as

to feeding and the enforcement of reasonable shooting restrictions; and

WHEREAS, The California Farm Bureau Federation and other farm groups, together with Associated Sportsmen of California, have gone on record as favoring the adoption of a program by the United States Fish and Wild Life Service as herein set forth; and

WHEREAS, The migratory wild fowl situation in California differs from the problem existing in other parts of the country and warrants regulations suitable to the peculiar situation existing in this State; now, therefore, be it

Resolved by the Assembly and Senate, jointly, That the United States Department of the Interior, Fish and Wild Life Service, be memorialized to immediately adopt regulations permitting the feeding of migratory wild fowl on hunting clubs in the State of California for such period of time each year and under such regulations as may be advisable, and that provision be made by such Fish and Wild Life Service for the raising by it of adequate quantities of grain or for the purchase of grain, if necessary, for the feeding of migratory wild fowl on wild fowl refuges in this State, and be it further

Resolved, That the Chief Clerk of the Assembly is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, the Secretary of the United States Department of Interior, and to the Chief of the Fish and Wild Life Service, and to the Senators and Representatives from California in the Congress of the United States.

CHAPTER 71

Senate Concurrent Resolution No. 30—Relative to closing to trout fishing of streams flowing into the Pacific Ocean.

[Filed with Secretary of State May 1, 1941.]

Closing of trout fishing in streams in Humboldt County

WHEREAS, Pursuant to the provisions of Section 629 of the Fish and Game Code, the Director of Natural Resources with the consent of the Governor, and upon recommendation of the Fish and Game Commission, has ordered closed to trout fishing until May 31, 1941, all streams tributary to the Pacific Ocean on the coast of Humboldt County and all portions of such streams from the mouth to the headwaters, including tributary streams, lagoons, lakes and reservoirs; and

WHEREAS, The trout fishing season under the provisions of the Fish and Game Code would otherwise open on May 1, 1941; and

WHEREAS, It has been represented that such wholesale postponement of the opening of the trout season in the areas affected is not necessary as a conservation measure or for any other purpose; and

WHEREAS, Time does not permit the enactment of new legislation to overcome the effect of the closing order above referred to; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Fish and Game Commission is hereby requested to reconsider its recommendation that the trout season in the waters referred to in this resolution be closed until May 31, 1941, and to request the Director of Natural Resources to rescind said order; and be it further

Resolved, That the Director of Natural Resources is hereby requested to rescind said order, and the Governor is hereby requested to approve such rescission; and be it further

Resolved, That copies of the order of rescission be posted and published as provided for by law for the posting and publishing of orders closing streams to trout fishing under Sections 629 and 631, inclusive, of the Fish and Game Code; and be it further

Resolved, That from and after the completion of publication and the posting of the notice of such rescission, the order so rescinded shall be considered as of no further force or effect.

CHAPTER 72

Assembly Concurrent Resolution No 35—Relative to the passing of former Senator Thomas P. Scollan, and to adjournment in respect to his memory.

[Filed with Secretary of State May 1, 1941]

Death of Thomas P. Scollan

WHEREAS, The members of the Legislature have learned that former Senator Thomas P. Scollan has this day been called to his eternal rest; and

WHEREAS, Senator Scollan not only served the people as Senator from the Nineteenth District for the Legislative Session of 1935, but he also was very active in the civic life of Sacramento, where he was born, attended school and lived all his life, serving as its mayor and as executive secretary of the City Housing Commission; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members of the Legislature of the State of California extend their deep sympathy to the family of Senator Scollan; and be it further

Resolved, That when the respective houses of the Legislature adjourn this day they shall do so in respect to the memory of the late Senator Thomas P. Scollan; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to send an engrossed copy of this resolution to the bereaved family.

CHAPTER 73

Assembly Concurrent Resolution No. 34—Relative to approving a certain amendment to the charter of the City of Fresno, in the County of Fresno, State of California, voted for and ratified by the electors of the city at a special election held therein on the fourteenth day of April, 1941.

[Filed with Secretary of State May 6, 1941.]

City of Fresno Charter amendment

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of a certain amendment hereinafter set forth to the charter of the City of Fresno, a municipal corporation in the County of Fresno, State of California, as set out in the certificate of the commissioner of public safety and welfare, the ex officio mayor of the City of Fresno, and the city clerk of the City of Fresno as follows, to wit:

STATE OF CALIFORNIA }
COUNTY OF FRESNO } ss.
CITY OF FRESNO }

Certificate

WE, the undersigned, F. A. HOMAN, Commissioner of Public Safety and Welfare and ex-officio Mayor of the City of Fresno, County of Fresno, State of California, and H. S. FOSTER, City Clerk of said City, do hereby certify and declare as follows:

That the City of Fresno, a municipal corporation in the County of Fresno, State of California, now is and at all times herein mentioned was, a city containing a population of more than three thousand five hundred inhabitants, and has been ever since January 21, 1921, and is now, organized and acting under a freeholders charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which Charter was duly ratified by a majority of the qualified electors of such city at a municipal election held for that purpose on the 2d day of November, 1920, and approved by the Legislature of the State of California by Senate concurrent resolution No. 2, filed with the Secretary of State on the 21st day of January, 1921 (Stats. 1921, page 1821).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on its own motion, the Commission of the City of Fresno, being the legislative body thereof, duly and regularly submitted to the qualified electors of said City of Fresno, a certain proposal for amendment of the Charter of said City of Fresno at a certain Special Election called and held for that purpose in said city on the 14th day of April, 1941.

That such proposed amendment was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, and the

Charter of the City of Fresno, on the 2d day of March, 1941, in the Fresno Bee-The Republican, a daily newspaper of general circulation published in said City of Fresno, and the official newspaper of said city. That copies of said proposed amendment were printed in convenient pamphlet form, and in type of not less than ten point, as required by law, and a notice that copies thereof could be had upon application therefor at the office of the City Clerk of the City of Fresno was published continuously in said Fresno Bee-The Republican on each day thereafter to and including the 14th day of April, 1941, the date of said election, all as required by Section 8 of Article XI of the Constitution of the State of California. That copies thereof were mailed to each of the qualified electors of said city as required by law.

That copies of said pamphlet containing said proposed amendment could be had upon application therefor at the office of the City Clerk of said city at all times, to and including the 14th day of April, 1941, the date fixed for said election, all as required by said Section 8 of Article XI of the Constitution of the State of California.

That under and pursuant to proceedings duly and regularly taken in the manner provided by law, the Commission of the City of Fresno consolidated said Special Election with the General Municipal Election held in said City of Fresno on the 14th day of April, 1941; that in accordance with the provisions of the Charter of the City of Fresno and in the manner provided by law, the said consolidated elections were duly and regularly held in said city after due notice given and published, on the 14th day of April, 1941, which day was not less than forty (40) nor more than sixty (60) days after the completion of the publication and advertisement of the aforementioned proposed amendment in the Fresno-Bee The Republican, the official newspaper of said city.

That thereafter the Commission of the City of Fresno did, in the manner provided by law, duly and regularly canvass the returns of said consolidated elections, and did on the 21st day of April, 1941, adopt its Resolution No. 1565 declaring the results of the canvass of the returns of said elections and the results of said election as determined from the canvass of the returns thereof, that the said Commission of said city did, by said Resolution, find, determine and declare that said proposed amendment to the Charter of the City of Fresno was ratified by a majority of the electors of said city voting thereon.

That as to said amendment this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

That said amendment to the Charter of the City of Fresno so ratified by the electors of said city is in words and figures as follows, to wit:

Streets and public utilities, municipal affairs

SEC. 112. STATE LAWS. Plenary control over all primary and secondary uses of its streets and other public places

is vested in the city. All provisions in this charter relative to public utilities or franchises are hereby declared to be municipal affairs, and all such provisions shall be controlling over state laws.

And we further certify that we have compared the foregoing proposed and ratified amendment to the Charter of the City of Fresno with the original proposal submitting the same to the electors of said city, and find that the foregoing is a full, true and correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the Seal of the said City of Fresno to be affixed hereto, this 24th day of April, 1941.

F. A. HOMAN
Commissioner of Public Safety and Welfare and ex-officio Mayor of the City of Fresno

[SEAL]

H. S. FOSTER
City Clerk of the City of Fresno.

and

WHEREAS, The proposed amendment as ratified as hereinbefore set forth has been and is now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Assembly of the State of California, the Senate concurring, A majority of all members elected to each house voting therefor and concurring therein, That said amendment to the charter of the City of Fresno as proposed to and adopted and ratified by the electors of said city, as hereinbefore fully set forth, be and the same is hereby approved as a whole, without amendment or alteration for and as an amendment to and as a part of, the charter of the City of Fresno, a municipal corporation in the County of Fresno, State of California.

CHAPTER 74

Senate Concurrent Resolution No. 31—Approving five certain amendments to the charter of the City of San Luis Obispo, in the County of San Luis Obispo, State of California, voted for and ratified by the electors of said city at an election held therein on the seventh day of April, 1941.

[Filed with Secretary of State May 6, 1941.]

City of San Luis Obispo Charter amendments

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of five amendments, hereinafter set forth, to the charter of the City of San Luis Obispo, a municipal corporation in the County of San Luis

Obispo, State of California, as set out in the certificate of the mayor and the city clerk of said city, as follows, to wit:

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF SAN LUIS OBISPO OF CERTAIN AMENDMENTS TO THE CHARTER OF THE CITY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

STATE OF CALIFORNIA }
COUNTY OF SAN LUIS OBISPO } SS
CITY OF SAN LUIS OBISPO }

Certificate

We, F. C. Kimball, Mayor of the City of San Luis Obispo and J. E. Brown, City Clerk of the City of San Luis Obispo, do hereby certify as follows:

That said City of San Luis Obispo, in the County of San Luis Obispo, State of California, is now, and was at all times herein mentioned a city containing a population of more than three thousand five hundred inhabitants, but less than fifty thousand inhabitants as ascertained by the last preceding census taken under authority of the Congress of the United States; and,

That said City of San Luis Obispo is now, and was at all of the times herein mentioned, organized and existing under a freeholder's charter adopted under the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said city at a special election held therein on the 12th day of September, 1910, and approved by the Legislature of the State of California, by Concurrent Resolution, filed with the Secretary of State, February 23, 1911 (Statutes of 1911, Page 1698); and,

That, pursuant to the provisions of Section Eight of Article Eleven of the Constitution of the State of California, the Legislative body of said city, namely: the City Council of said city did, on its own motion and pursuant to the provisions of Section Eight of Article Eleven of the Constitution of the State of California, duly proposed to the electors of said City of San Luis Obispo Six amendments to the charter of said city and ordered that said amendments be submitted to said electors at the general municipal election to be held in said city on the 7th day of April, 1941; and,

That said proposed amendments were, and each of them was, on the 25th day of February, 1941, duly published in the Telegram-Tribune, a daily newspaper of general circulation published in said City of San Luis Obispo, and the newspaper designated by said City Council for that purpose, and in each and every edition thereof published on said day, as appears from the affidavit of publication now on file; and,

That said proposed amendments were printed in convenient pamphlet form in type of not less than ten-point, and from

the 25th day of February, 1941, to the 7th day of April, 1941, both inclusive, a notice was published in said Telegram-Tribune that such copies could be had upon application therefor at the office of the City Clerk of said city, as appears from the affidavit of publication now on file; and,

That said City Council did, by an election proclamation and resolution which was duly adopted on the 17th day of March, 1941, ordering the holding of the general municipal election and consolidated charter amendment election in said City of San Luis Obispo, on the 7th day of April, 1941, which date was not less than forty days and not more than sixty days after the completion of the publication of said proposals of amendments to the charter of the City of San Luis Obispo, as aforesaid, and which election proclamation and resolution was published at least ten successive days prior to said election, in the Telegram-Tribune, a newspaper of general circulation printed and published in said city; and,

That said general municipal election and consolidated charter amendment election was held in said City of San Luis Obispo on the 7th day of April, 1941, and that at such election, held as aforesaid, a majority of the qualified voters of said City of San Luis Obispo voting thereon voted in favor of five of said proposals of amendment to the charter of the City of San Luis Obispo, and duly ratified the same; and,

That said proposals of amendment to the charter of the City of San Luis Obispo so ratified as aforesaid, were and are amendments known as and numbered, Proposed Charter Amendment No. 1, Proposed Charter Amendment No. 3, Proposed Charter Amendment No. 4, Proposed Charter Amendment No. 5, and Proposed Charter Amendment No. 6; and,

That the City Council of said City of San Luis Obispo, after duly and regularly canvassing the return of said election, at the time and in the manner and form prescribed by law, duly found, determined and declared that a majority of the qualified voters voting thereon voted in favor of and ratified said proposals of amendment to the charter of the City of San Luis Obispo known as proposed charter amendments No. 1, No. 3, No. 4, No. 5, and No. 6; and that a majority of the qualified voters voting thereon voted against and failed to ratify the proposal of amendment known as Proposed Charter Amendment No. 2; and,

That said proposals of amendment to the Charter of the City of San Luis Obispo ratified by the electors of said city, as aforesaid, are in words and figures as follows, to-wit:

PROPOSED CHARTER AMENDMENT NO. 1

That a new article be added to the Charter of the City of San Luis Obispo, to be known as Article XVIX, containing

Sections 120 to 122 inclusive, which said new article shall read as follows:

ARTICLE XVIX

Park, Playground and Recreation Department

Park, Playground and Recreation Commission

Sec. 120. There is hereby created in the City of San Luis Obispo a commission, to be known as the Park, Playground and Recreation Commission. Such commission shall consist of five members, to be known as commissioners. The commissioners shall be appointed by the Mayor, subject to the confirmation of the City Council, and may be removed by a majority of the City Council. The members of said commission shall serve without compensation.

Powers and duties

Sec. 121. The Park, Playground and Recreation Commission shall have such powers and shall perform such duties as may be fixed by ordinance or resolution of the City Council.

Recreation tax

Sec. 122. Notwithstanding anything to the contrary contained in Section 54 of this Charter, and in addition to the tax levies therein provided, the Council may in any year levy a tax in the same manner as other taxes are levied, of not to exceed five cents on each one hundred dollars worth of taxable property in said city which shall be collected at the same time and in the same manner as other taxes levied by said city, the proceeds of which tax shall belong to and be paid to the Park, Playground and Recreation fund, which fund is hereby created, and shall be expended only for park, playground and recreation purposes.

PROPOSED CHARTER AMENDMENT NO. 3

That Section 45 (38) of Article VII of the charter of the City of San Luis Obispo be amended so that the same shall be and read as follows:

Auction of personal property

Sec. 45 (38). To provide for the sale at public auction, after advertising for one day, of personal property unfit or unnecessary for the use of the city; provided that no such sale shall be held less than five (5) days after such advertising.

PROPOSED CHARTER AMENDMENT NO. 4

That Section 61 of Article X of the Charter of the City of San Luis Obispo be amended so that the same shall be and read as follows:

Public works to be done by contract

Sec. 61. PUBLIC WORK TO BE DONE BY CONTRACT. In the erection, improvement and repair of all public buildings and public works, in all street and sewer work, and in furnishing any supplies and materials for the same, or for any other use by the city, when the expenditure required for the same exceeds the sum of three hundred dollars, the same shall be done by contract, and shall be let

to the lowest responsible bidder, after advertising for sealed proposals for the work contemplated for one day in the official newspaper. Such notice shall distinctly and specifically state the work contemplated to be done. Provided, however, the council may reject any and all bids, if deemed excessive, and re-advertise for bids, or may require the commissioner of public works to submit a detailed estimate of what the work may be done for by the department of public works, and if such estimate is lower than the lowest bid, the council may order the work to be done by the department of public works, but the department of public works must not be allowed a larger sum to complete such work than called for by the aforesaid estimate. In case no bid is received, the council may provide for the work to be done by the department of public works.

PROPOSED CHARTER AMENDMENT NO. 5.

That Section 62 of Article X of the charter of the City of San Luis Obispo be amended so that the same shall be and read as follows:

Contracts for official advertising

Sec. 62. CONTRACTS FOR ADVERTISING. The Council shall let annually contracts for the official advertising for the ensuing fiscal year. For this purpose the council shall advertise for one day, setting forth distinctly and specifically the work contemplated to be done, and asking for sealed proposals therefor. The proposals shall specify the type and spacing to be used at the rate or rates named in the bids. The council shall let the contract for such official advertising to the lowest responsible bidder publishing a newspaper of general circulation printed and published in the city and which has been in existence at the time of the awarding of the contract for at least one year; provided, that the council may reject any or all bids if found excessive, and advertise for new bids.

The newspaper to which the award of such advertising is made shall be known and designated as the "official newspaper".

PROPOSED CHARTER AMENDMENT NO. 6

That Section 68 (13) of Article XI of the charter of the City of San Luis Obispo be amended so that the same shall be and read as follows:

List of nominated candidates

Sec. 68 (13). Immediately after such petitions are filed, the clerk shall enter the names of the candidates in a list, with the offices to be filled, and shall not later than twenty (20) days before the election certify such list as being the list of candidates nominated as required by the charter of the City of San Luis Obispo, and the council shall cause said certified list of names and the offices to be filled, designating whether for a full term or unexpired term to be published in the proclamation calling the election at least once a week for

two successive weeks before the election in not more than two newspapers of general circulation printed and published in the City of San Luis Obispo. Said proclamation shall conform in all respects to the general state law governing the conduct of municipal elections, now or hereafter in force, except as above required.

That the foregoing is a full, true and correct copy of said proposals of amendment to the charter of the City of San Luis Obispo, ratified by the electors of said city, as aforesaid, on file in the office of the City Clerk of said City of San Luis Obispo.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of San Luis Obispo to be hereunto affixed, on this 14 day of April, 1941.

D. C. KIMBALL,
Mayor of the City of San Luis Obispo

[SEAL]

J. E. BROWN,
City Clerk of the City of San Luis Obispo

and

WHEREAS, The said proposed amendments as ratified as hereinbefore set forth have been, and are now, duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly concurring, A majority of all the members elected to each house voting therefor and concurring therein, That said amendments to the charter of the City of San Luis Obispo, as proposed to and ratified by the electors of said city as hereinbefore fully set forth, be, and the same are hereby, approved as a whole without amendment or alteration for and as amendments to and as part of the charter of the City of San Luis Obispo.

CHAPTER 75

Senate Concurrent Resolution No. 32—Approving certain amendments to the charter of the City of Modesto, County of Stanislaus, State of California, voted for and ratified by the electors of said City of Modesto, at a general municipal election held therein on the eighth day of April, 1941.

[Filed with Secretary of State May 6, 1941]

City of Modesto Charter amendments

WHEREAS, Proceedings have been had and taken for the proposal, adoption, and ratification of certain amendments, hereinafter set forth, to the charter of the City of Modesto, a municipal corporation in the County of Stanislaus, State of

California, as set out in the certificate of the mayor and city clerk of the said City of Modesto, as follows, to wit:

CERTIFICATE.

STATE OF CALIFORNIA }
COUNTY OF STANISLAUS } ss.
CITY OF MODESTO }

Certificate We, the undersigned, Carl W. Shannon, Mayor of the City of Modesto, and Elmer J. Blum, City Clerk of said City, do hereby certify and declare as follows:

That the City of Modesto is a municipal corporation in the County of Stanislaus, State of California; that it now is and at all times herein mentioned was, a city containing a population of more than thirty-five hundred (3500) inhabitants as ascertained by the last preceding census taken under the authority of the congress of the United States; that it is now organized, existing and acting under a freeholder's charter adopted under and by virtue of section eight of article eleven of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at an election held for that purpose on April 11th, 1910, and approved by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on February 3, 1911;

That in pursuance of section eight of article eleven of the Constitution of the State of California, on its own motion, the Council of the City of Modesto, being the legislative body of said city, by and in pursuance of a certain resolution passed and adopted by said City Council on the 3rd day of February 1941, duly submitted to the qualified electors of the said City of Modesto, a certain proposal for the amendments of the charter of said City, to be voted on by said qualified electors at a general municipal election held in said City on the 8th day of April, 1941, which said proposals are hereinafter set forth at length;

That said such proposed amendments were published and advertised in accordance with the provisions of section eight, article eleven of the Constitution of the State of California, and in accordance with the provisions of the Charter of the City of Modesto, in the "Modesto News-Herald" now known and named "The Modesto Bee", which was then and there the official newspaper of the said City of Modesto, and copies of the same were printed in convenient pamphlet form and kept in the office of the City Clerk of said City until the date fixed for the election, the said City Clerk having also advertised, until the date set for the election upon such amendments in said newspaper a notice that such copies might be had upon application therefor; that said proposed amendments were so published and advertised within fifteen days after they were filed with the City Clerk, and that the election at which

they were voted on was, by a resolution of the said City Council adopted on Feb. 3, 1941, fixed and set for the 8th day of April, 1941, which was not less than forty and not more than sixty days after the completion of the advertising in the official paper as aforesaid;

That said election was, as aforesaid, duly called and held on the 8th day of April, 1941, and at said election a majority of the qualified electors, voting thereon, voted in favor of and the ratification of, and did ratify, the proposed amendments to the Charter of the City of Modesto hereinafter set forth;

That said election was, as aforesaid, duly called and held on the 8th day of April, 1941, in accordance with the law in such cases made and provided, duly and regularly canvassed and certified to, and it was duly found, determined and declared by the proper officers thereunto duly and properly authorized, that a majority of the qualified electors voting thereon had voted for and in favor of and ratified said proposed amendments to said charter as hereinafter set forth;

That the said proposed amendments were and are in the words and figures following:

CHARTER AMENDMENTS

Amend Subdivision 52 of Section 4, Article III of the Charter of the City of Modesto to read as follows:

Subdivision 52. To provide for the sale at public auction after advertising for two days of personal property unfit or unnecessary for the use of the City.

Amend Section 103 of Article XV of the Charter of the City of Modesto to read as follows:

Powers and duties of Chief of Police

Section 103. The Chief of Police of the City of Modesto shall execute and return all processes issuing from the Police Court and all orders of the Police Judge. The Chief of Police shall enforce the execution of all the laws and ordinances within the jurisdiction of the City, and for the suppression of any riots, public tumults, disturbances of the peace or resistance against the law or public authorities in the lawful exercise of their functions. He shall have the powers that are now or may be hereafter conferred upon sheriffs by the laws of this State and shall in all respects be entitled to the same protection and his lawful orders shall be executed by the deputies, police officers and watchmen in the City of Modesto and every citizen shall also lend aid when required for the arrest of offenders in the maintenance of public order. It shall be the duty of the Chief of Police to prosecute before the Police Judge all breaches or violations of or non-compliance with any City ordinance or law within the jurisdiction of the Police Judge which has come to his knowledge. The Chief of Police shall have charge of the City prison and prisoners and of any chain gang which may be established by the Council. He shall devote his entire time to the discharge

of the duties of his office and subject to such rules and regulations as the Council may prescribe shall have control of the Police force. He shall have power to suspend or remove any member of the Police force for disobedience of any lawful order, for violation of rules and regulations of the Police Department, for neglect of duty, for conduct unbecoming a member of the Police force, or for the general benefit of the Police Department of the City of Modesto. Any such suspension or removal of a member of the Police Department of the City of Modesto by the said Chief of Police must be in compliance with and under the rules and regulations of any civil service ordinance now or hereafter in effect. In addition to the duties in this Charter specified, the Chief of Police shall discharge all the duties required of him by ordinance of the City, by resolution of the Council or by law or by the provisions of the Charter.

Amend Subdivision 26 of Section 6, Article IV of the Charter of the City of Modesto to read as follows:

Qualifications of voters

Subdivision 26. No person shall be entitled to vote at any election held under the provisions of this Charter, unless he shall be a qualified elector of the County, enrolled upon the great register thereof and in the precinct in which he votes for such a time as may now or hereafter be provided for registration and residence of voters by the laws of the State of California governing County elections.

STATE OF CALIFORNIA }
COUNTY OF STANISLAUS } ss
CITY OF MODESTO }

That we, Carl W. Shannon, Mayor of the City of Modesto, and Elmer J. Blum, Clerk of the City of Modesto, have compared the foregoing proposed and ratified amendments to the Charter of the City of Modesto with the original proposal submitting the same to the electors of said city at a general municipal election held on the 8th day of April, 1941, and that the foregoing is a full and true, correct and exact copy of said amendments.

We further certify that the facts set forth in the preamble preceding said amendments to said charter and the matters set forth herein are, and each of them is, true.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the same to be authenticated by the seal of said City of Modesto this 22nd day of April, 1941.

CARL W. SHANNON, MAYOR
CARL J. STANLEY
By Acting Mayor of the City of Modesto.

[SEAL]

ELMER J. BLUM
City Clerk of the City of Modesto

WHEREAS, Said proposed amendments so ratified as hereinbefore set forth have been and now are duly passed and submitted to the Legislature of the State of California for

approval or rejection without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, A majority of all the members elected to each house voting therefor and concurring therein, that said amendments to the charter of the City of Modesto, as proposed to and adopted and ratified by the electors of said city, and as hereinbefore fully set forth, be, and the same are, hereby approved as a whole without amendment or alteration for and as amendments to and as parts of the charter of said City of Modesto.

CHAPTER 76

Assembly Joint Resolution No. 50—Relative to memorializing the President, Congress and various officers of the United States to make funds available for the Corcoran Airport.

[Filed with Secretary of State May 7, 1941.]

Development of Corcoran Airport

WHEREAS, During the present period of intensive rearmament and preparation for National defense it is of the highest moment to provide adequate facilities for the training of aviators; and

WHEREAS, The Corcoran Airport is directly on the beam of flight of main line air travel between Los Angeles, San Francisco and Sacramento and points north and is in an advantageous geographical position with relation to the present Army airplane bases; and

WHEREAS, That airport has facilities for the taking off and landing of five airplanes at the present time, is situated in a level valley area without nearby obstacles such as buildings, power lines or mountains and flying conditions in the vicinity are ideal; and

WHEREAS, That airport has been developed to its present state solely through private capital and the present owner has shown a fine spirit of patriotism in his willingness to offer the facilities thereof for the use of the Government of the United States at the present time of crisis; and

WHEREAS, Funds have been made available by the President and Congress of the United States to the Commissioner of Work Projects to be expended in the development and completion of airports certified by the Secretary of War as being important for military purposes; and

WHEREAS, An appropriation measure, H. R. 4276, is now pending in the Congress of the United States which proposes to make available to the Administrator of Civil Aeronautics funds for expenditure in the establishment of air navigation facilities and in the construction, improvement and repair of airports approved as necessary for the National defense by a board composed of the Secretaries of War, the Navy, and Commerce; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully urges the President and the Congress of the United States to enact that pending measure into law; and be it further

Resolved, That the Administrator of Civil Aeronautics, and the said board be hereby respectfully urged to make funds available to complete the Corcoran Airport upon the enactment of that measure; and be it further

Resolved, That the Commissioner of Work Projects and the Secretary of War be hereby respectfully urged to make funds available for the development and completion of the Corcoran Airport out of the funds now appropriated; and be it further

Resolved, That the Speaker of the Assembly be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of Civil Aeronautics, the Commissioner of Work Projects, to the Secretaries of War, the Navy, and Commerce and to the Senators and Representatives from California in the Congress of the United States.

CHAPTER 77

Senate Joint Resolution No. 23—Relative to memorializing the President and the Congress of the United States and the United States officials having jurisdiction of the matter in connection with the removal of brush and debris in the area to be flooded by Shasta Dam.

[Filed with Secretary of State May 8, 1941.]

Removal of debris, etc., in Shasta Dam basin

WHEREAS, There now exists in the area which will be flooded by the water impounded by Shasta Dam a great quantity of brush, debris and other loose material; and

WHEREAS, The water to be impounded by Shasta Dam is to be used as a water supply for urban and other areas in the portion of the State in which the dam is situated and the presence of the brush, debris and other material in said waters would impair the water distribution systems involved and menace the potability of the water for drinking purposes; and

WHEREAS, The clarity of the water impounded by the dam will enhance the scenic value of the lake thereby created and add to the recreational value of the project; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the President and the Congress of the United States, the Secretary of the Interior of the United States and the Chief of the Bureau of Reclamation in the Department of the Interior are hereby respectively urged to take such steps as are necessary to provide that the brush, debris, and other materials in the area to be covered by the

water impounded by Shasta Dam be removed prior to the time the area is flooded; and, be it further

Resolved, That the Secretary of the Senate is hereby instructed to transmit copies of this resolution to the President and the Vice President of the United States, the Speaker of the House of Representatives, the Secretary of the Interior, the Chief of the Bureau of Reclamation in the Department of the Interior, and to each member from California in the Congress of the United States.

CHAPTER 78

Senate Concurrent Resolution No. 33—Approving certain amendments to the charter of the City of San Diego, a municipal corporation in the County of San Diego, State of California, voted for and ratified by the qualified electors of said city at the regular municipal election held therein on the twenty-second day of April, 1941.

[Filed with Secretary of State May 8, 1941.]

City of San Diego' Charter amendments.

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments, hereinafter set forth, to the charter of the City of San Diego, a municipal corporation in the County of San Diego, State of California, as set out in the certificate of the mayor and city clerk of said the City of San Diego, as follows, to wit:

STATE OF CALIFORNIA,
County of San Diego,
City of San Diego. } ss.

Certificate

We, the undersigned, Percy J. Benbough, Mayor of The City of San Diego, and Fred W. Sick, City Clerk of said City, do hereby certify and declare as follows:

The City of San Diego, a municipal corporation of the County of San Diego, State of California, now, and at all times herein mentioned, was a City containing a population of more than one hundred thousand inhabitants, and has been ever since the year 1931, and is now, organized and existing under and pursuant to the provisions of a freeholders' charter adopted in accordance with and by virtue of the provisions of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at the general municipal election held in said city on the 7th day of April, in the year 1931, in manner, form and substance as required by law, and was thereafter duly approved by joint resolution of the Legislature of the State of California, adopted on the 15th day of April, 1931.

That pursuant to and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of

California, the Council of The City of San Diego, being the legislative body thereof, on its own motion, by resolution No. 73569, passed and adopted by said Council on the 4th day of March, 1941, duly proposed to the qualified electors of The City of San Diego, twenty-one certain amendments to the charter of said City, designated as Propositions I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX and XXI, respectively, and ordered said twenty-one proposed charter amendments to be submitted to said qualified electors at the regular municipal election to be held in said City on the 22nd day of April, 1941.

That petitions signed by more than fifteen per cent of the registered electors of The City of San Diego were filed with the legislative body of The City of San Diego on the 8th day of February, 1941, requesting the submission to the qualified voters of said City of certain proposed amendments to the Charter of The City of San Diego.

That the signatures on said petitions were verified by the County Clerk and Registrar of Voters of the County of San Diego, State of California, and found by him to be the signatures of the qualified electors whose names appeared on the registration records at the time of the signing of the said petitions.

That pursuant to and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the Council of The City of San Diego, being the legislative body thereof, by resolution No. 73570, passed and adopted by said Council on the 4th day of March, 1941, ordered said proposed charter amendments, designated as Proposition XXII, to be submitted to said qualified electors at the regular municipal election to be held in said City on the 22nd day of April, 1941.

That all of said proposed charter amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, on the 11th day of March, 1941, in The San Diego Union, a daily newspaper of general circulation published in said The City of San Diego, and the official newspaper of said City, and in each edition thereof during the day of said publication.

That copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of The City of San Diego was published in The San Diego Union, a daily newspaper of general circulation published in said City, and the official newspaper of said City, on the 17th day of March, 1941, and on each day thereafter until the day fixed for said election, all as required by Section 8 of Article XI of the Constitution of the State of California.

That copies of said proposed charter amendments could be had upon application therefor at the office of the City Clerk

of said City until the day fixed for said election. That copies thereof were mailed to each of the qualified electors, as required by law.

That said proposed amendments were submitted, pursuant to the provisions of said resolutions numbered 73569 and 73570, to the qualified electors of said City at the regular municipal election held in said City on the 22nd day of April, 1941, being not less than forty nor more than sixty days after the completion of the advertisement of said amendments in The San Diego Union, a daily newspaper of general circulation published in said City, and the official newspaper of said City.

The said Council did on the second day next succeeding the date of said election then and there proceed to canvass the returns of said election, and said canvass was continued from day to day until all absent voter ballots were received and canvassed, and did, by resolution No. 73995, passed and adopted April 29, 1941, duly declare the result of said election from the canvass of the returns thereof.

The said Council did by said resolution No. 73995 declare that the proposed amendments to the Charter of The City of San Diego, being Propositions I, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XX, and XXI, were, and each of them was, ratified by a majority of the qualified electors of said City voting thereon, and that three proposed amendments, being Propositions II, XIX and XXII, received less than a majority of the votes of the qualified voters voting thereon, and were not ratified.

The said amendments to the Charter, so ratified by the qualified electors of The City of San Diego, at said regular municipal election, are in the words and figures as follows, to-wit:

PROPOSITION I.

Amend Sections 8, 9 and 10, Article II, of the Charter of The City of San Diego, so as to read as follows:

"Section 8. ELECTION CODE. Within ninety (90) days after this amendment has been ratified by the State Legislature the Council shall adopt an election code ordinance, providing an adequate and complete procedure to govern municipal elections, including the nomination of candidates for all elective offices. All elections provided for by this charter, whether for choice of officers or submission of questions to the voters, shall be conducted in the manner prescribed by said election code ordinance." Election Code ordinance

"Section 9. NOMINATIONS. Nominations of candidates for all elective offices shall be made in the manner prescribed by the election code ordinance provided for in Section 8 of this article." Nominations

"Section 10. ELECTIONS. The regular municipal primary election shall be held on the second Tuesday in March Municipal elections

in each odd-numbered year, and the general municipal election shall be held on the third Tuesday in April of the same year, or, if either of these days fall on a legal holiday, then the election shall be held on the next succeeding day which is not a legal holiday. All other municipal elections which may be held under this charter shall be known as special municipal elections.

Primary election

At the municipal primary election there shall be chosen by the electors of each Council District two candidates for the office of any councilman from a district whose term expires the succeeding May.

There shall be chosen by all of the electors of the City not more than twice the number of candidates necessary to fill any office of any other officer whose term expires the succeeding May.

In the event that any candidate, other than council candidates, for nomination to any office for which only one person is to be elected, shall receive a majority of the votes cast for all the candidates for nomination to such office at such primary election, the candidate so receiving such majority of votes shall be deemed to be, and declared by the Council to be, elected to such office; provided, that in the case of candidates for the office of Member of the Board of Education elected at large, the candidates therefor equal to or less than the number of such offices, for which nominations are made, who receive the votes of more than one-half of the qualified electors voting at such election, shall be deemed to be, and declared by the Council to be, elected to such office.

General election

At the general municipal election the electors of the whole City shall select from among the candidates chosen at the primary election in each district one candidate for the office of the Councilman whose term expires the succeeding May, and there shall be chosen by all of the electors of the whole City from among the candidates chosen at the primary one candidate to succeed any other elective officer whose term expires in May succeeding the election.

Canvass

The Council shall meet at its usual place of meeting at an hour previously determined, upon the second day next succeeding the date of each and every municipal election. The Council shall then and there by resolution duly adopted and entered on its minutes order the canvass made immediately by the City Clerk. The Council need not be in session during the time the canvass is being made by the City Clerk. The Council may appoint several sets of clerks to perform the clerical work of the canvass and to assist the City Clerk in canvassing the returns. The several sets of clerks so appointed may, under the order and direction of the City Clerk, perform their duties in the canvassing of the returns simultaneously. The canvass shall be made in public, and by opening the returns and determining the vote of the City for each person voted for and for and against each measure voted upon at the election, and declaring the result thereof. The canvass shall

be continued daily, Sundays and holidays excepted, for not less than six hours each and every day until completed.

The City Clerk shall certify the results of the canvass to the Council, and the Council shall cause to be entered on its record a statement showing:

(a) The whole number of votes cast in the City;

(b) The names of the persons voted for;

(c) The measures voted upon;

(d) What office each person was voted for;

(e) The number of votes given in the City to each person and for and against each measure;

(f) A statement that the number of votes given in each precinct to each person, and for and against each measure, are recorded in the election returns book, which book is hereby authorized and shall be considered as a part of the record of the Council.

Certificate of election

The results of the canvass shall be immediately made public.

After the result of an election for any office is declared, or when an appointment is made, the City Clerk, under his hand and official seal, shall issue a certificate therefor, and shall deliver the same immediately to the person elected or appointed, and such person must within ten days after receiving such certificate file his official bond, if one be required for his office, and take and subscribe to the oath of office required of him by this Charter, which oath must be filed with the City Clerk."

PROPOSITION III.

Amend Section 17, Article III, of the Charter of The City of San Diego, so as to read as follows:

Time ordinances take effect

"Section 17 WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT.—EMERGENCY MEASURES. Ordinances making the annual tax levy, the annual appropriation ordinances, ordinances calling or relating to elections, and emergency measures, shall take effect at the time indicated therein. All other ordinances passed by the Council shall take effect at the time indicated therein, but not less than thirty days from the date of their passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein, or, if no time be specified, then thirty days after their adoption.

Emergency ordinances

An emergency measure is an ordinance to provide for the immediate preservation of the public peace, property, health, or safety, in which the emergency claimed is set forth and defined in the preamble thereto. The affirmative vote of at least five members of the Council shall be required to pass any ordinance as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the Council except as defined in this section, and it is the intention of this Charter that compliance with such definition shall be strictly construed by the courts.

Resolutions Resolutions shall become effective immediately upon their passage, unless otherwise stated therein.

PROPOSITION IV.

Initiative, referendum and recall Amend Section 23, Article III of the Charter of The City of San Diego, so as to read as follows:

"Section 23. INITIATIVE, REFERENDUM AND RECALL. The right to recall municipal officers and the powers of the initiative and referendum are hereby reserved to the people of the City. Ordinances may be initiated; and referendum may be exercised on any ordinance passed by the Council, except an ordinance which by the provisions of this charter takes effect immediately upon its passage; and any elective officer may be recalled from office. The Council shall include in the election code ordinance required to be adopted by Section 8, Article II, of this charter, an expeditious and complete procedure for the exercise by the people of the initiative, referendum and recall, including forms of petitions; provided that the number of signatures necessary on petitions for the initiation of an ordinance for the consideration of the Council shall be three per cent of the registered voters of the City at the last general City election; that for the direct submission of a measure to the people it shall require a petition signed by ten per cent of the registered voters of the City at the last general City election; that for a referendum upon an ordinance passed by the Council it shall require a petition signed by five per cent of the registered voters of the City at the last general City election; and that for the recall of an elected officer it shall require a petition signed by fifteen per cent of the registered voters of the City at the last general City election."

PROPOSITION V.

Amend Section 53, Article V, of the Charter of The City of San Diego, so as to read as follows:

Water Department "Section 53. WATER DEPARTMENT. There shall be included in the administrative organization of the City a separate department to be known as the Water Department. The Department shall consist of three divisions or bureaus, viz., the Division of Development and Conservation, the Division of Distribution, and the Division of Accounts.

Division of Development and Conservation (a) The Manager shall appoint a competent hydraulic engineer, who shall have charge of the Division of Development and Conservation and of such subordinate officers and employees in said Division as shall be authorized by ordinance. This Division shall have charge of all matters and things connected with, incidental or necessary to the development and conservation of water, and also of the conveyance and delivery of water to the distributing system of the City and to such consumers as are authorized to receive water from the City along the line of its supply.

(b) The Manager shall appoint a Superintendent of Distribution in the Water Department and such subordinate officers and employees as may be authorized by ordinance. This Division shall have charge of the distributing system of the City both within and without the territorial boundaries of the City, and of the actual distribution of water to the consumer, including the construction and maintenance of water mains, services and meters used in the distribution of water to the consumer. The Council shall from time to time establish a schedule of charges for water delivered by the City to the consumer, classified according to the purpose for which and the quantity of water used. Each such schedule shall be general in its application, and shall apply to all consumers. All Departments of the City using water from the distributing system shall pay for the same at the same rates as other consumers. Division of Distribution

(c) The City Manager shall appoint a qualified accountant who shall have charge of the Division of Accounts and of such subordinate officers and employees in said Division as shall be authorized by ordinance This Division shall have charge of all accounts and records required to be kept and maintained by Section 109 of this Charter with respect to said Water Department. Division of Accounts

(d) The Council must provide an adequate sum in the annual appropriation ordinance for the proper maintenance of the Department. In addition thereto, the Council shall levy annually a tax sufficient to provide for the redemption of municipal bonds heretofore or hereafter issued for water purposes, together with a sum sufficient to pay the interest thereon. The amount of money necessary to be raised each year for the redemption of water bonds and the payment of interest thereon and for the retirement of any other funded or contractural indebtedness incurred by purchase or otherwise for the development, conservation or distribution of water shall be charged annually against the Water Department on the accounts of the City. All revenues, except such as have been heretofore appropriated by contract to some specific purpose, in excess of the amount necessary for the maintenance and operation of such Water Department shall be transferred monthly to the General Fund of the City and shall be available thereafter for use for any legal City purposes, and all such surplus funds so transferred shall be credited on the accounts of the City as a reimbursement credit for the monies paid by the City each year for the redemption of water bonds and the payment of interest thereon. Such accounts shall be kept by the City Auditor and Comptroller until such water bonds have been actually redeemed. Appropriation. Tax for water bond redemption. Revenues

(e) The Manager shall appoint an Advisory Commission of three citizens who have knowledge of water development problems, to advise with the City Manager and the Council on plans for future water development. Advisory Commission

(f) The Council shall have power to employ special counsel for the purpose of advising and representing the City in all Special counsel

matters, proceedings and things relating to or concerning the development, impounding and distribution of water."

PROPOSITION VI.

Amend Section 54, Article V, of the Charter of The City of San Diego, so as to read as follows:

"Section 54. HARBOR DEPARTMENT.

Harbor Commission

(a) The Mayor, with the approval of the Council, shall appoint three electors of the City as members of the Harbor Commission, one to serve for two years, one for three years, and one for four years. Thereafter, members of the Harbor Commission shall be appointed to serve for four years and until their successors have been appointed and qualified. The members of the Harbor Commission in office at the time this Charter becomes effective shall remain in office until their successors are appointed and qualified. The Council may at any time by a vote of at least five (5) of their members remove from office any or all of said Harbor Commissioners. The members of the Harbor Commission shall serve without pay.

Powers, duties and jurisdiction

(b) The Harbor Commission is vested with jurisdiction and authority to exercise in the name of The City of San Diego such powers as are prescribed by general laws now in force and hereafter enacted. together with such additional powers and duties as may be prescribed by ordinance, this Charter, or the laws of the United States. The Commission shall have jurisdiction, supervision, management and control of the Bay of San Diego fronting upon The City of San Diego and within the jurisdiction of said City, including all tide and submerged lands, whether filled or unfilled, situated below the line of mean high tide within the limits of said City, except, however, such tide and submerged lands which have heretofore or which hereafter may be transferred to the exclusive control of the United States and excepting further such other land as may by vote of the people or act of the State Legislature be transferred to a purpose and use inconsistent with commerce, navigation and fisheries.

Rules and regulations

(c) The Harbor Commission shall have power to adopt, with the approval of the Council by ordinance, such rules and regulations as may be necessary to exercise and carry out the powers and duties prescribed by this Charter for said Harbor Commission.

Port Director

(d) The Harbor Commission, subject to the Civil Service provisions of this Charter, shall appoint a Port Director, together with such other officers, employees and subordinates as may be necessary in the judgment of said Harbor Commission to carry out the duties prescribed by this Charter for said Harbor Commission and for the promotion of commerce, navigation and fisheries. All such offices and employments shall be created by ordinance upon the direct recommendation of the Harbor Commission. The Harbor Commission shall also have

authority and power to employ legal counsel whenever in the judgment of said Commission such employment is necessary.

(e) The Port Director shall be the chief administrative officer of the Harbor Commission, and he shall exercise such powers and perform such duties as may be prescribed by the Harbor Commission. In addition to any duties imposed by the Harbor Commission and this Charter the Port Director shall also perform such duties as may be imposed upon harbor masters, port directors and administrative heads of harbors and ports by State or Federal law.

Annual appropriation

(f) The Council shall appropriate each fiscal year until the fiscal year 1948-1949, the sum of $150,000.00 in the Annual Appropriation Ordinance for the use of the Harbor Commission on harbor improvements. This sum so appropriated annually, together with such portions of the revenues and receipts of the department as may not be needed for operating expenses, shall be placed in a trust fund in the City Treasury, and expended by the Harbor Commission for capital purposes only in the development of the harbor of San Diego and of tidelands heretofore or hereafter granted to The City of San Diego by the State of California. When the harbor has been fully developed all such funds which are not necessary for the maintenance and operation of said department shall be placed in the general fund of the City and thereafter used for any lawful purpose.

Tideland leases

(g) The Harbor Commission shall have authority to lease tidelands for such terms and upon such conditions as may be authorized by law; provided, however, that no lease of any tidelands within the jurisdiction of the City for a term longer than one year shall be valid unless said lease shall have been confirmed by the Council.

Municipal airports on tidelands

(h) Any municipal air ports now established or which may hereafter be established on the tidelands shall be under the control and supervision of the Harbor Commission until such time as the Council by ordinance shall create a Department of Aviation under the Manager, at which time the Council may provide in such ordinance for the control, regulation and supervision of municipal air ports by the Department of Aviation.

Consultation with Planning Commission

(i) And all matters concerning the development of the Harbor of San Diego in which the Planning Commission of The City of San Diego shall have an interest, and which relate to the planning and zoning of The City of San Diego, shall be referred by the Harbor Commission to the Planning Commission for recommendation before final action is taken thereon. In the event of a disagreement between the Harbor Commission and the Planning Commission concerning such proposed development, the matter shall be referred to the Council, whose decision on such development shall be final."

PROPOSITION VII.

Amend Section 55, Article V, of the Charter of The City of San Diego, so as to read as follows:

Park department

"Section 55. PARK DEPARTMENT. The Park Department shall consist of the Park Division, the Cemetery Division and the Street Trees Division.

The Manager shall appoint a Park Commission of three members whose powers shall be as prescribed in Section 43.

The Manager shall appoint a Park Director, who, in turn, shall appoint a Superintendent of Cemeteries, and a Superintendent of Street Trees.

The Park Director shall, subject to the advice of the Manager, supervise the administration of the affairs of the Cemetery and Street Trees Divisions and shall, in addition, be the executive officer and director of activities of the Park Division.

(a) The Park Department shall have the control and management of the parks, parkways, plazas, cemeteries and street trees of the City. The Council shall by ordinance adopt regulations for the proper use and protection of park property, and provide penalties for violations thereof.

The Manager is charged with the enforcement of such regulations.

Change in park, etc., use

All real property heretofore or hereafter designated or set aside for park, recreation or cemetery purposes shall not be used for any but park, recreation or cemetery purposes without such changed use or purpose having been first authorized or permitted in such manner as is prescribed by the laws of the State of California in such cases and until such changed use or purpose is first authorized or ratified by a vote of two-thirds of the qualified electors of the City voting at an election for that purpose. Provided, however, that whenever the Council deems it to be for the best interests of the City, the Council may authorize the City Manager to enter into leases or contracts or let concessions, upon such terms and conditions as the Council shall prescribe, for the use and operation of the City Stadium in Balboa Park and for the use and operation of City-owned equipment and facilities of an amusement character located in the parks of the City, together with buildings and space therein necessary and convenient for the operation of the same.

The Park Director shall have the power, with the approval or on the recommendation of the Manager, and when not inconsistent with the proper park development or use, to permit the use by the Playgrounds and Recreation Department of suitable and convenient areas in any of the parks in the City for playgrounds, recreation centers or recreation camps.

The Park Director shall have all other powers conferred upon Boards of Park Commissioners by general laws, but the people may by a two-thirds vote modify such laws so as to

designate boulevards, streets and highways in the parks and parkways as part of the public street and road system of the City and give to the Manager supervision over the construction, repair and maintenance thereof.

(b) THE CEMETERY DIVISION shall, subject to the advice of the Park Director, be charged with the management, control, preservation, regulation, improvement and embellishment of all public burial grounds and cemeteries belonging to the City, and the sale of lots therein. Cemetery division

The net proceeds from the sale of such lots shall be deposited with the City Treasurer to be placed in the Cemetery Perpetuity Fund.

The Cemetery Perpetuity Fund shall be administered by the Funds Commission and shall be vested in such income producing securities as the Funds Commission may decide; the principal of the Perpetuity Fund (subject to such accretion or diminution as may result from investing the same), shall not be available for meeting expenses of maintenance or upkeep of any nature whatsoever, but the income derived from such investment shall be transferred to the control of the Cemetery Division to be expended in the maintenance and upkeep of the Cemeteries. Cemetery Perpetuity Fund

The Cemetery Division shall have the power to construct, maintain and operate crematories, chapels and such other adjuncts as properly pertain to cemeteries, in so far as available funds will permit.

(c) THE STREET TREES DIVISION shall, subject to the advice of the Park Director, have charge of the planting, maintaining, and removal of trees along the streets and boulevards of the City." Street Trees division

PROPOSITION VIII.

Amend Section 77, Article VII, of the Charter of The City of San Diego, so as to read as follows:

"Section 77. SPECIAL TAX LEVY. In addition to the taxes herein or by general law authorized to be levied and collected in an amount sufficient to pay the bonded indebtedness of the City, and subject to the limitation of Section 76 of this Article, the Council shall have the power to levy and collect a tax at the rate of not more than five cents on each one hundred dollars of the assessed valuation during any one fiscal year, for the acquisition and construction of permanent improvements, real property, public buildings and structures and public offices, including equipping and furnishing of the same. Provided, however, that said amount of five cents may be increased by a vote of two-thirds of the electors voting on the proposition, but not to exceed the amount limited by said Section 76." Tax levy for public improvements, etc

PROPOSITION IX.

Amend Section 77a, Article VII, of the Charter of The City of San Diego, so as to read as follows:

Zoo tax "Section 77a. The Council shall levy annually, in addition to all other taxes provided for in this Charter, not less than two cents ($0.02) on each one hundred dollars ($100.00) of the assessed valuation of the real and personal property within the City, to be used exclusively for the maintenance in Balboa Park of zoological exhibits.

Whenever the Council deems it to be for the best interests of the City, the Council may enter into a contract, upon such terms and conditions as the Council may prescribe, for the maintenance in Balboa Park of zoological exhibits, with any organization formed primarily for the purposes of maintaining zoological gardens and zoological exhibits and conducting general zoological work; and may make available to such organization the proceeds of the special tax levy provided for in this section."

PROPOSITION X.

Amend Section 86, Article VII, of the Charter of The City of San Diego, so as to read as follows:

Disposition of public moneys "Section 86. DISPOSITION OF PUBLIC MONEYS. All City officials and employees empowered to collect money for fees, permits, licenses, inspections, services, taxes or other municipal charges, shall collect the same promptly at the time they become due, turn them into the City Treasury daily, obtain a receipt therefor, and report the same to the City Auditor and Comptroller weekly; provided, however, that in the case of employees located in distant parts of the city or county who in the course of their duties collect money belonging to the City, which collections can be deposited in the City Treasury daily only with difficulty and undue cost to the City, such collections may be deposited in the City Treasury within one week after their receipt by the employee collecting the same. All such moneys and all fines or pecuniary penalties or forfeitures which may accrue to the City, and all funds which may remain in the possession of the City unclaimed after a period of one year from the date when due and payable, shall be credited to the general fund of the City, and shall be applicable to any purpose to which the Council may appropriate them and the Council shall appropriate from this fund whatever sum may be necessary to pay valid claims of more than one year's standing."

PROPOSITION XI.

Amend Section 95, Article VII, of the Charter of The City of San Diego, so as to read as follows:

Preference to local products in awarding contracts "Section 95. PREFERENCE IN ACCEPTING BIDS. Any board, officer, commission or department empowered by

this Charter to award contracts for goods, wares, merchandise, stores, supplies, drugs, subsistence, materials, equipment, tools, or other products of industry or manufacture, the cost or expense of which is to be paid by the City or any board, office, commission or department thereof, may award a contract for the purchase, sale and furnishing thereof to a regular bidder other than the lowest responsible bidder therefor, when, in the judgment of such awarding board, officer, commission or department, the best interests of the City and the public policy relating to the general welfare will be subserved thereby, and when the bidder specifies in his bid the following terms and conditions to be observed in the execution of the contract and he furnishes additional security for the fulfillment thereof, to-wit:

That the articles, products or materials are to be in whole or in part manufactured, made or produced in industries established in The City of San Diego or in the County of San Diego, specifying the name and location thereof; or that the articles, products or materials are regularly stocked, handled and sold by business establishments located in The City of San Diego or in the County of San Diego, specifying the name and location of such establishments.

Provided, however, that the bid of such higher bidder does not in amount or price exceed by five per cent that of the lowest responsible bidder for such contract."

PROPOSITION XII.

Amend Section 99, Article VII, of the Charter of The City of San Diego, so as to read as follows:

"Section 99. CONTINUING CONTRACTS. No contract or obligation involving the payment of money out of the appropriations of more than one year, except bonded indebtedness provided for in Section 90 of this Article, shall be entered into unless there shall first have been notice published in the official newspaper of the City at least two weeks before final action of the Council thereon. Such a contract shall require the approval of not less than five members of the Council. If the contract is to be for a period of more than five years it must also first be submitted to the electors of the City at a regular or special election and be approved by a two-thirds majority of those voting thereon. Any contract entered into in violation of the requirements of this section shall be invalid, and no rights, indebtedness, liabilities or obligations shall arise thereunder or be created thereby."

Contracts for paying money out of appropriations of more than one year

PROPOSITION XIII.

Amend Sections 103, 104 and 105, Article VII, of the Charter of The City of San Diego, so as to read as follows:

"Section 103. FRANCHISES. The Council shall have power to grant to any person, firm or corporation, franchises, and all renewals, extensions and amendments thereof, for the

Franchises

use of any public property under the jurisdiction of the City. Such grants shall be made by ordinance adopted by vote of five of the members of the Council and only after recommendations thereon have been made by the Manager and an opportunity for free and open competition and for public hearings have been given. No ordinance granting a franchise or a renewal, extension or amendment of an existing franchise shall be effective until thirty days after its passage, during which time it shall be subject to the referendum provisions of this Charter. No franchises shall be transferable except with the approval of the Council expressed by ordinance."

Term

"Section 104. TERM AND PLAN OF PURCHASE. Within six months after this Charter takes effect, copies of all franchises existing at the time shall be deposited with the Manager. The Council shall certify to the existence of such franchises and shall recognize them for periods not longer than the date of expiration on each. The Manager shall keep a public record of all franchises, leases or permits granted for the use of the public property of the City. The terms of all new franchises shall not extend beyond a period of fifty years, provided that any franchise may be terminated by ordinance whenever the City shall determine to acquire by condemnation or otherwise the property of any utility necessary for the welfare of the City, such termination to be effective upon and not before payment of the purchase price for the property to be acquired. The method of determining the price to be paid for the property so acquired shall be that provided by law affecting the purchase of public utility properties in effect at the time of the purchase or condemnation of such public utility property."

Acquisition of public utility property

Reserved powers of city

"Section 105. RIGHT OF REGULATION. All grants, renewals, extensions or amendments of franchise, whether it be so provided in the ordinance or not shall be subject to the right of the City to repeal the same by ordinance at any time for misuse or non-use or for failure to begin construction within the time prescribed, or otherwise to comply with the terms prescribed; also to initiate proceedings before the proper tribunal to require proper and adequate extensions of plant and service, the maintenance of the plant and fixtures at the highest practicable standard of efficiency, the establishing of reasonable standards of service and quality of products, and the preventing of unjust discrimination in service or rates; and also at any time to examine and audit the accounts and other records of any franchise holder, and to require annual and other reports from each franchise holder; provided that the Council may prescribe more detailed forms for the franchise holders within its jurisdiction in addition to the forms and reports required by the General Laws of the State of California and the regulations of the State Railroad Commission; and to impose such other regulations as may be necessary for the health, safety and welfare of the public.

The City may provide that the percentage of gross annual receipts derived from the franchise privilege shall be paid to the Treasurer in such amounts and at such times as shall be determined in the ordinance granting the franchise.

Duty of railway companies to keep streets in repair

The owner of a street or interurban railway franchise or privilege shall at all times keep that portion of the street occupied by his or its tracks in good condition, constantly in repair, flush with the street and with good crossings, and in the event that the street on which said franchise or privilege is granted shall be paved either by the City or under proceedings authorized by the General Laws of the State, the said owner of said franchise or privilege shall be required to pay for only that portion of any construction in excess of that covered by the specifications for the improvement of the rest of the street and which shall be necessary to provide a safe and suitable foundation for the operation of car lines over a paved street. It is the intent and purpose of this section to relieve the owner of a franchise or privilege to operate street cars on the streets of The City of San Diego of the cost of new surface pavement between the tracks of said owner and for two feet on either side thereof on streets to be hereafter paved, and to require the owner of said franchise or privilege to lay a suitable foundation for the operation of car lines over a paved street.

Nothing herein contained, however, shall relieve the said owner of said franchise or privilege of his or its obligation to keep those portions of the streets occupied by the said owner constantly in repair flush with the street, and with good crossings, and to keep that portion of the pavement now existing or which may hereafter be placed between the rails, and for two feet on each side thereof, and between the tracks if there be more than one, in good condition.

In the event that a street on which a franchise under this section shall have been granted shall be paved or improved under any of the General Laws in force at the time said improvement is started, the property owners shall be required to bear the entire cost of the improvement of the street including the cost of improving that portion of the street occupied by the owner of said franchise, save and except that portion required to be borne by the owner of the franchise, as hereinbefore provided."

PROPOSITION XIV.

Amend Section 109, Article VII, of the Charter of The City of San Diego, so as to read as follows:

Accounts of municipal utilities

"Section 109. ACCOUNTS OF MUNICIPALLY OWNED UTILITIES. Accounts shall be kept for each public utility owned or operated by the City distinct from other City accounts and in accordance with the uniform classification of accounts, prescribed by the Railroad Commission of the State of California for such class of public utility, in so far as the same may be applicable to the accounts of municipally owned

utilities. They shall show as nearly as possible the cost of any service furnished to or rendered by any such public utility by or to any other department of the City. They shall also show an estimate of the amount of ad valorem taxes, whether paid or not, that would be chargeable against the property if privately owned. There shall also be shown in such accounts the sinking fund or redemption requirements for all bonds hitherto or hereafter issued to obtain funds for the construction of the property of such public utility. The accounts shall show a proper allowance for depreciation on all property used in rendering utility service, and such depreciation shall be taken account of in fixing the charges made for service rendered by such utility. The purpose of such accounts shall be to show as nearly as may be the cost of rendering the service provided by such municipally owned utility. The Council may cause to be made and reproduced for public distribution reports showing the financial results of such City ownership and operation, or such other information as the Council shall deem expedient."

PROPOSITION XV.

Amend Section 112, Article VII, of the charter of The City of San Diego, so as to read as follows:

Appraisal of city assets

"Section 112. APPRAISAL OF CITY ASSETS. The Auditor and Comptroller shall show in his records the cost or value of all real estate, buildings, structures, furniture and fixtures, supplies, materials, equipment and property of any kind owned by the City, and may require every officer or Commission to assist him in procuring the data required therefor. Proper depreciation shall be made of all property of any kind which is used by the City for utility purposes. A proper balance sheet under classified heads shall be presented to the Manager for inclusion in the annual budget and shall be published in the annual report of the Auditor and Comptroller. This balance sheet shall show all convertible and other assets and all liabilities of the City."

PROPOSITION XVI.

Amend Section 118, Article VIII, of the Charter of The City of San Diego, so as to read as follows:

Civil service rules and regulations

"Section 118. RULES. The Civil Service Commission shall adopt and may amend rules for the government, supervision and control of the classified service. Such rules after adoption shall have the force and effect of law. No rule or amendment thereto, however, shall become effective unless it shall have been adopted after a public hearing thereon, with reasonable notice of such hearing first given, and only after such proposed rule or amendment thereto has been published once in the official newspaper of the City and

posted in three public places, and has also been approved by the Council. The rules among other things shall provide:

(a) For the standardization and classification of all positions and employments in the classified service of the City. Such classification into groups and subdivisions shall be based upon and graded according to duties and responsibilities and so arranged as to promote the filling of the higher grades, so far as practicable, through promotions.

Preferences

(b) For the rejection of any and all applicants who are not citizens of the United States. In making its selection, the Commission shall show preference (1) to citizens of the City of San Diego; (2) to citizens of the County of San Diego; (3) to citizens of California; (4) to other citizens of the United States.

(c) For competitive tests to ascertain the relative fitness of all applicants for appointment in the competitive class.

(d) For public notice of the time and place of all competitive tests, at least twenty days in advance thereof, by publication in the official paper of the City and by posting a notice in a conspicuous place in the City Hall.

Eligible lists

(e) For the creation of eligible lists upon which shall be entered the names of the successful applicants in the order of their standing in the competitive tests and without reference to the time of the test.

(f) For the rejection of applicants or eligibles who do not satisfy reasonable requirements as to age, sex, physical condition and moral character or who have attempted deception or fraud in connection with any test or their application therefor.

(g) For the certification to the appointing authority, from the appropriate eligible list, for filling a vacancy in the competitive class, of the three names standing highest on such list.

(h) For temporary employment without test, in the absence of an eligible list; but no such temporary employment shall continue after the establishment of a suitable eligible list, nor for more than sixty days.

(i) For temporary employment for transitory work without test, but such employment shall require the consent of the Personnel Director in each case, and shall not continue for more than sixty days. No successive temporary appointment shall be allowed. Nor shall the acceptance or refusal to accept such temporary appointment on the part of a person on the eligible list be a bar to appointment to a permanent position from said eligible list.

(j) For transfer from one position to a similar position in the same class and grade, and for immediate reinstatement within one year of persons who, without fault or delinquency on their part, are separated from the service or reduced in rank.

Non-competitive tests

(k) For non-competitive tests for appointments to positions designated by the City Manager or other City Officers in charge of a Department and approved by the Civil Service

Commission and requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character.

(*l*) For promotion based on competitive tests and upon records of efficiency, character, conduct and seniority. Lists shall be created and promotions made therefrom in the same manner as prescribed for original appointments except as otherwise provided for in this Charter.

(m) For suspension for the purpose of discipline, for not longer than ninety days.

(n) For leave of absence, with or without pay.

(o) For the appointment of unskilled laborers in the order of priority of applications, and with such test of physical and mental fitness as the Personnel Director may prescribe.

(p) For discharge or reduction in rank or compensation after the person to be discharged or reduced has, if he so request, be presented by the person responsible for his appointment with the reasons therefor specifically stated in writing and has been given an opportunity to be publicly heard in his own defense by the Civil Service Commission or as otherwise provided for in this Charter. The written reasons for such discharge or reduction and any reply in writing thereto by any such officer or employee shall be filed forthwith with the Civil Service Commission.

(q) For investigating and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.

(r) An appointment or promotion shall not be deemed complete until a period of probation not to exceed six months has elapsed, and a probationer may be discharged or reduced at any time within the said period of six months without a hearing upon the recommendation of the head of the Department in which said probationer is employed, or by the City Manager, with the approval of the majority of the Commission.

Appointing authority

(s) That the appointing authority, which appointing authority, within the meaning of this section, is hereby defined to be the person having the power in the first instance to select the employee from the eligible list provided for that purpose, shall have the power to lay off or suspend an employee or employees because of lack of funds, lack of work, or where there has been an insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in any office, department, division or bureau of the City. Provided, however, that any such lay-off or suspension shall be made in conformity with the rules and regulations of the Civil Service Commission governing the order in which employees shall be laid off or suspended in cases where a reduction of personnel is required."

PROPOSITION XVII.

Amend Section 130, Article VIII, of the Charter of The City of San Diego, so as to read as follows:

"Section 130. COMPENSATION ESTABLISHED. The Council shall by ordinance, prior to the beginning of each fiscal year, establish a schedule of compensation for officers and employees in the Classified Service, which shall provide uniform compensation for like service. It shall be the duty of the Civil Service Commission to prepare and furnish to the Council, prior to the adoption of said ordinance, for the information and guidance of the Council, a schedule of compensation recommending a minimum and maximum for any grade. The Council may adopt such schedule as presented, or make such changes therein as it may deem necessary and proper. An increase in compensation, within the limits provided for any grade, may be granted at any time by the City Manager or other appointing authority upon the basis of efficiency and seniority record, after having first received the approval of the Civil Service Commission therefor." Compensation schedule

PROPOSITION XVIII.

Repeal Section 161, Article X, of the Charter of The City of San Diego.

Amend Section 162, Article X, of the Charter of The City of San Diego, so as to read as follows:

"Section 162. RETIREMENT FOR SERVICE. Police retirement

(a) Whenever any person who shall heretofore have qualified as hereinafter provided, shall have been duly appointed, selected and sworn, and have served for twenty (20) years or more, in the aggregate, as a member or employee in any rank or capacity, in the Police Department of The City of San Diego, the Board of Trustees shall, upon the written request of such or any member or without such request if it deem it for the good of the service, retire such member from further service in the Police Department and from the date of such order of retirement the service of such person shall cease and he shall thereafter, during his lifetime, be paid from the Police Relief and Pension Fund a yearly pension equal to one-half ($\frac{1}{2}$) the amount of the average yearly salary of said person for the five (5) years immediately preceding the date of his retirement, payable to him in monthly installments; provided, however, that members of the Police Department of The City of San Diego who enter the service of the Department subsequent to the date of ratification of this amendment by the State Legislature shall not be so retired before they reach the age of fifty (50) years, and before twenty-five (25) years of service in the aggregate. Pension

In computing the time of service required for retirement, the amount of time served in the United States Army, Navy, Marine Corps or any division thereof in time of war by any

member of the City Police Force, who shall have left said force for the purpose of and entered such service of the United States Army, Navy, Marine Corps or any division thereof immediately thereafter, and who shall have returned to said Police Department within three months after having been honorably discharged from said military service, shall have such time counted as part of the aggregate service required for retirement pension.

Same To heirs

(b) Upon the death of said pensioner, one-third (⅓) of the amount of his annual salary shall be paid to his widow, until she remarries, but in no case shall such pension exceed seventy-five dollars ($75.00) per month; and if there be no widow, each child under eighteen (18) years of age, if unmarried, shall receive twenty dollars ($20.00) per month, but in no case shall such pension exceed the sum of seventy-five dollars ($75.00) per month for one family; and if no widow or children, one-third (⅓) of his annual salary, not to exceed fifty dollars ($50.00) per month, shall be paid to his mother or father, if either of them were dependent upon him during his lifetime; and if no mother or father, then to any sister or brother under the age of eighteen (18) years and unmarried who was dependent upon him during his lifetime, so long as said sister or brother are under the age of eighteen (18) years and dependent.

Provided, however, if such pensioner was pensioned for service for twenty years or more the widow shall not be entitled to any pension unless she was married to said pensioner at least three years previous to the time of his retirement. If the widow of a pensioner, entitled to a pension, shall refuse to provide for a dependent child or children or other dependent provided for in this Section, the Board of Trustees, upon satisfactory proof thereof, shall have the power to provide for said dependent child or children or other dependent, and to deduct such amount from the pension of said pensioner as may in the judgment of the Board be proper and necessary."

PROPOSITION XX.

Repeals

Repeal Sections 202 to 210, inclusive, comprising all of Article XIII, of the Charter of The City of San Diego.

PROPOSITION XXI.

Amend Section 213, Article XIV, of the Charter of The City of San Diego, so as to read as follows:

Existing ordinances and contracts continued

"Section 213. CONTINUING IN FORCE ORDINANCES AND CONTRACTS. All ordinances not inconsistent with any of the provisions of this Charter shall continue in force until amended or repealed, and all contracts of The City of San Diego in force at the time of the adoption of this Charter, and not inconsistent with any of the provisions

thereof, shall continue in force until completed, amended or rescinded."

And we further certify that we have compared the foregoing amendments with the original proposals submitting the same to the qualified electors of said City and find that the foregoing is a full, true and exact copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of said The City of San Diego to be affixed hereto this 1st day of May, 1941.

P. J. BENBOUGH
Mayor of The City of San Diego, California.

[SEAL]

FRED W. SICK
City Clerk of The City of San Diego, California.

and

WHEREAS, Said proposed charter amendments are now submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, a majority of all the members elected to each house voting therefor and concurring therein, That said amendments to said charter herein set forth, as submitted to and adopted and ratified by the qualified electors of said city, be, and the same are, hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of said The City of San Diego. Approval

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CHAPTER 79

Assembly Joint Resolution No. 1—Relative to the hunting season on migratory wild fowl.

[Filed with Secretary of State May 9, 1941.]

WHEREAS, California as determined by the Federal Department of Agriculture relative to migratory wild fowl, is classed as one of the central States and its open season for shooting wild migratory fowl has been fixed as that of other central States; and Duck seasons

WHEREAS, California is a semiarid State and a semitropical State, its Summers are long and without rains, its grains, fruits, vegetables and other agricultural products are largely produced by irrigation thereby using the waters from its rivers for irrigation and domestic purposes rather than as in

earlier years when lakes, swamps and other watering places used by migratory wild fowls were formed; and

WHEREAS, The lack of such watering places in the early Winter months has discouraged the southern flight of migratory wild fowl until the seasonal rains of the Winter months usually occurring about January 1st have begun; and

WHEREAS, The concentration of hunters on and around the few watering places during the present early hunting season brings about an undue slaughter of the local ducks which are hatched in this State; and

WHEREAS, The conservation of the local duck population should be encouraged by this further protection during the weeks or months preceding the regular southern flight of northern hatched birds; and

WHEREAS, The Federal Duck Stamp purchasers contribute very materially to the protection of migratory fowl throughout the United States and should be encouraged to continue the purchase of Federal Duck Stamps; and

WHEREAS, It appears that should the open shooting season of ducks and other migratory fowl be set at a time when the seasonal Winter rains begin and which form lakes and ponds in numerous places of the State thereby scattering the assemblage of such waterfowl, it would be a forward step in the conservation of locally hatched ducks and would also be of assistance to such duck stamp purchasers as are not members of gun clubs; and

WHEREAS, Because of the great length of the State, its sharply varying topography, and its marked differences in climatic conditions, it is essential that there be fixed two shooting seasons for ducks in this State, one for the northern portion of the State, and one for the balance of the State; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Secretary of Interior be requested to establish two duck shooting seasons within California, the dividing line to be determined by the Director of Interior; and be it further

Resolved, That the Chief Clerk of the Assembly be and he is hereby directed to send a copy of this resolution to the President of the United States and a copy to the Secretary of Agriculture.

CHAPTER 80

Assembly Joint Resolution No. 25—Relative to the sewing projects of the Work Projects Administration.

[Filed with Secretary of State May 9, 1941.]

WPA sewing projects

WHEREAS, The Work Projects Administration is required by law to remove from employment all relief workers who have been continuously employed on WPA projects for 18 months; and

WHEREAS, The requirement is especially severe in its application to older women employed on sewing projects, as their opportunities for private employment are more limited than the opportunities of others; and

WHEREAS, It appears that a more equitable and personal method might be employed on the sewing projects, which would secure a greater degree of security for our older women, at no great additional cost to the Nation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and the Congress are hereby respectfully urged and requested to enact legislation which will modify the severities of the aforesaid requirement as applied to older persons employed on sewing projects and will enable those who are unable to obtain other employment to be safe from destitution; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to send copies of the resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives and to every Representative of California in Congress.

CHAPTER 81

Assembly Concurrent Resolution No. 40—Relative to suspension of Joint Rule No. 10.

[Filed with Secretary of State May 9, 1941.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the second paragraph of Joint Rule No. 10 is hereby suspended for the purpose of amending Assembly Bill No. 150 as introduced. Joint Rule 10 suspended

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CHAPTER 82

Assembly Joint Resolution No. 20—Relative to pension and compensation payments to veterans suffering total permanent disability.

[Filed with Secretary of State May 9, 1941.]

WHEREAS, There are numerous veterans of the past wars of the United States who are lingering and suffering under a total permanent disability and consequently are precluded from providing themselves with any of the comforts and necessities of this life; and Pensions and compensation for totally disabled veterans

WHEREAS, Many of these disabled and indigent veterans have been compelled to seek shelter in veterans' homes, hospitals, and institutions; and

WHEREAS, The pension or compensation payments received by such veterans are in many cases so small that such veterans are unable to provide themselves with the small comforts to which they are so justly entitled; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress of the United States be memorialized to allocate the necessary moneys for the purpose of increasing, in the amount of one dollar ($1) per week, the pension and compensation payments to all veterans who are suffering from a total permanent disability, who are now and have been confined to veterans' homes, hospitals, or institutions for a period of six months and who are receiving pension or compensation payments of not more than six dollars ($6) per month, such increased payments not to be reduced in any amount by payments therefrom to any dependents of such veterans; and be it further

Resolved, That the Governor of the State of California is hereby requested to transmit a copy of this resolution to the President and Vice President of the United States and to the Speaker of the House of Representatives of the Congress of the United States, and to each Senator and Member of the House of Representatives from California in the Congress of the United States, and that the Senators and Representatives from California are hereby respectfully requested to urge such action.

CHAPTER 83

Senate Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding to Article IV thereof a new section, to be numbered 25⅝, relating to fish and game and funds received in connection therewith.

[Filed with Secretary of State May 13, 1941.]

Constitution, Art IV, Sec 25⅝

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its Fifty-fourth Regular Session, commencing on the sixth day of January, 1941, two-thirds of all of the members elected to each of the two houses of the Legislature voting in favor thereof, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding to Article IV thereof a new section, to be numbered 25⅝ and to read as follows:

Fish and game revenue

Sec. 25⅝. All money collected under the provision of any law of this State relating to the protection, conservation, propagation, or preservation of fish, game, mollusks, or crustaceans and all fines and forfeitures imposed by any court for the violation of any such law shall be used and expended exclusively for the protection, conservation, propagation, and

preservation of fish, game, mollusks, or crustaceans and for the administration and enforcement of laws relating thereto. The Legislature may provide for the division of money derived from such fines and forfeitures.

CHAPTER 84

Assembly Constitutional Amendment No. 53—A resolution to propose to the people of the State of California that the Constitution of this State be amended by adding Section 14⅘ to Article XIII thereof, relating to taxation of insurers.

[Filed with Secretary of State May 14, 1941.]

Constitution, Art XIII, Sec. 14 4/5

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of the members elected to each of the two houses of the Legislature voting in favor thereof, hereby proposes to the people of the State of California that the Constitution of this State be amended by adding Section 14⅘ to Article XIII thereof, to read as follows:

Insurance taxation

14⅘. (a) Those provisions of Section 14¾ of this article relating to taxation of insurance companies and associations shall remain effective as to business done in this State prior to January 1, 1943, and as to the assessment, levy, collection and adjustment of taxes with respect to such business done prior to that date; but as to such business done subsequent to December 31, 1942, those provisions of Section 14¾ relating to taxation of insurance companies and associations shall not apply, and this section shall apply thereto.

Definitions

(b) "Insurer," as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges. As used in this paragraph, "companies" includes persons, partnerships, joint stock associations, companies and corporations.

(c) An annual tax is hereby imposed on each insurer doing business in this State after December 31, 1942, on the bases, at the rates, and subject to the deductions from the tax hereinafter specified.

(d) In the case of an insurer not transacting title insurance in this State, the "basis of the annual tax" is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State, other than premiums received for reinsurance and for ocean marine insurance.

In the case of an insurer transacting title insurance in this State, the "basis of the annual tax" is, in respect to each year, all income upon business done in this State, except:

(1) Interest and dividends.

(2) Rents from real property.

(3) Profits from the sale or other disposition of investments.

(4) Income from investments.

"Investments" as used in this subdivision (d) includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.

In the case of an insurer transacting title insurance in this State which has a trust department and does a trust business under the banking laws of this State, there shall be excluded from the basis of the annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this State or included in the measure of any tax imposed by this State.

Rate of tax

(e) The rate of tax to be applied to the basis of the annual tax in respect to each of the years set forth below is the percentage set forth below opposite such year:

Year	Percentage
1943	2.55
1944	2.50
1945	2.45
1946	2.40
1947 and each year thereafter	2.35

Deductions

(f) The deductions which may be made from the tax are:

(1) The principal office deduction.

(2) The real estate deduction.

"Principal office deduction"

(g) The "principal office deduction" consists of the right to deduct from the annual tax imposed by this section upon an insurer in respect to a particular year the amount of real estate taxes paid by it, in that year, before, or within 30 days after, becoming delinquent, on real property owned by it at the time of payment, and in which was located, in that year, its home office or principal office in this State. Such real property may consist of one building or of two or more adjacent buildings in which such an office is located, the land on which they stand, and so much of the adjacent land as may be required for the convenient use and occupation thereof.

Where as a result of merger, consolidation, or other method of acquisition of substantially all of the assets of one or more insurers by another insurer, effected prior to January 1, 1939, an insurer owns more than one parcel of real property in this State in which was located a home office or principal office of an insurer immediately prior to such acquisition, the owner shall designate one of such properties as its home or principal office. Real estate taxes paid by it in any of the years 1943 to 1952, inclusive, before, or within 30 days after, becoming delinquent, on such property owned by it at the time of payment and not so designated may also be deducted

from the annual tax imposed by this section in respect to such year and are included within the principal office deduction.

"Real estate deduction"

(h) Subject to the limitations hereinafter expressed, the "real estate deduction" consists of the right to deduct from the annual tax imposed by this section upon an insurer in respect to any of the years set forth below, the amount of taxes paid by it in that year on real estate owned by it in this State at the time of payment, not in excess of the percentage, set forth below opposite such year, of deductible taxes paid by it in 1939 on real estate owned by it in this State in 1939:

Year	Percentage
1943	75
1944	55
1945	35
1946	15

Limitations on real estate deduction

The limitations hereinabove referred to are:

(1) The real estate deduction defined by this subdivision (h) is not applicable to and shall not be allowed on the annual tax imposed by this section with respect to any year after the year 1946.

(2) In computing the real estate deduction, there shall be excluded from the amount of taxes paid on such real estate the amount of such taxes constituting and included within the principal office deduction, under subdivision (g).

(3) In computing the percentage of deductible taxes paid by an insurer in 1939, there shall be excluded from such deductible taxes the amount of taxes, paid by it in 1939, which would, if subdivision (g) were applicable to the year 1939, constitute or be included within the principal office deduction.

(4) Taxes otherwise conforming to the requirements of this subdivision (h) shall not be allowed as part of the real estate deduction unless paid before, or within 30 days after, becoming delinquent. The date of payment of such taxes shall be conclusively established by the time of payment shown on the official tax receipt.

In lieu nature of tax; exceptions

(i) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, State, county, and municipal, upon such insurers and their property, except:

(1) Taxes upon their real estate.

(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this State.

(3) When by the laws of any other State or country any taxes, fines, penalties, licenses, fees, deposits of money or securities or other obligations or prohibitions are imposed on insurers of this State doing business in such other State or

country, or upon their agents therein, in excess of those imposed upon insurers of such other State or country or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind may be imposed by the Legislature upon insurers of such other State or country doing business in this State, or upon their agents herein.

(4) The tax on ocean marine insurance.

(j) Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this State bear to the gross premiums of the insurer from such insurance written within the United States, at the rate of 5 per centum, which tax shall be in lieu of all other taxes and licenses, State, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. Deductions from the annual tax pursuant to subdivision (f), (g) and (h) can not be made from the ocean marine tax. The Legislature shall define the terms "ocean marine insurance" and "underwriting profit," and shall provide for the assessment, levy, collection and enforcement of the ocean marine tax.

Assessment (k) The taxes provided for by this section shall be assessed by the State Board of Equalization.

Change of rates (*l*) The Legislature, two-thirds of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.

(m) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words "gross premiums, less return premiums, received" as used in this section or as used in Section 14 or 14¾ of this article.

CHAPTER 85

Senate Concurrent Resolution No. 36—Approving an amendment to the charter of the City of Chico, County of Butte, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on the fourteenth day of April, 1941.

[Filed with Secretary of State May 14, 1941.]

City of Chico Charter amendments WHEREAS, Proceedings have been taken and had for the purpose of adoption and ratification of certain amendments hereinafter set forth to the charter of the City of Chico, a municipal corporation in the County of Butte, State of California, as

set forth in the certificate of the mayor and city clerk of said city, as follows, to wit:

STATE OF CALIFORNIA,
County of Butte, } ss.
CITY OF CHICO.

Certificate

We, the undersigned, E. L. MEYERS, M.D., Mayor of the City of Chico, and H. H. HUME, Clerk of the City of Chico, do hereby certify and declare as follows:

That the City of Chico in the County of Butte, State of California, has at all times mentioned herein been, and now is, a municipal corporation of the State of California, containing a population of more than thirty-five hundred (3500) inhabitants and less than fifty thousand (50,000) inhabitants, and ever since the 16th day of April, 1923, organized, existing and acting under a free-holders charter adopted under and by virtue of the provisions of Section VIII, Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at an election held for that purpose on the 15th day of December, 1921, and approved by the Legislature of the State of California on the 3rd day of February, 1923.

That the legislative body of said city, namely: the Council of said City, of its own motion did pursuant to the provisions of Section VIII, Article XI of the Constitution of the State of California by resolution adopted the 4th day of February, 1941, and duly published in the manner and form required by law, duly proposed to the qualified electors of the City of Chico a certain amendment to the Charter of said city and order that said amendment be submitted to the qualified electors of said city at the General Municipal Election to be held in said City on the 14th day of April, 1941, the date of which election is fixed by said Charter of the City of Chico hereinbefore referred to, and which said date was fixed in said resolution as the date for voting upon said amendment as proposed.

That the proposed amendment was duly and regularly published and advertised on the 26th day of February, 1941, in accordance with Section VIII, Article XI of the Constitution of the State of California, in the "CHICO RECORD", a daily newspaper of general circulation printed and published in the City of Chico and having a general circulation therein, the said newspaper being the official newspaper of the City of Chico.

That copies of said proposed amendment to said Charter were printed in convenient pamphlet form, and from the date of the first publication of said proposed amendment until the date fixed for the election on said Charter amendment, the legislative body of the City of Chico, to-wit: the Council of the City of Chico, caused to be published in the CHICO RECORD, said official newspaper of the City of Chico, a notice

that such copies could be had upon application therefor in the office of the City Clerk of the City of Chico.

That the said Council of the City of Chico did by Ordinance No. 314, dated March 4, 1941, entitled: "An Ordinance Calling for the Holding of a Municipal Election on Monday, April 14, 1941, Fixing the Time, Stating the Objects of said Election, Designating the Officers of the Election Precincts, Consolidating Regular Election Precincts and Designating the Polling Places of each Consolidated Polling Precinct," order the holding of the general municipal election of the said City of Chico on the 14th day of April, 1941, for the purpose, among other things, of causing a vote upon the ratification of said proposed charter amendment, which said date so fixed was not less than forty days nor more than sixty days after the completion of the publication of the proposed charter amendment; and that in accordance with the provisions of the Charter of the City of Chico and said Ordinance so adopted, the City Clerk of the City of Chico did cause said Ordinance to be published in the CHICO RECORD once each week for two weeks next preceding the date fixed for said election, to-wit: April 1, 1941, and April 8, 1941, pursuant to the provisions of the Charter of the City of Chico; and which said Ordinance provided, among other things, for the voting upon said proposition entitled: "Proposed Amendment to the Charter of the City of Chico."

That said General Municipal Election was held in the said City of Chico on the 14th day of April, 1941, which said day was not less than forty days nor more than sixty days after the publication of the "Resolution that Proposed Amendment to the Charter of the City of Chico be Submitted to the Voters of said City at the General Municipal Election to be held in said City on April 14, 1941," in the CHICO RECORD on February 26, 1941, as aforesaid.

That the said Council of the City of Chico did in the manner provided by law, duly and regularly canvas the returns of said election, and did duly declare the result of said election insofar as it concerned the proposed charter amendment as determined from a canvas of the returns thereof, which result was as follows:

Total number of votes cast upon ratification of said proposed Charter amendment	536
In favor of the ratification of said proposed Charter Amendment	425
Against the ratification of said proposed Charter Amendment	111

That at the said general municipal election held on the 14th day of April, 1941, as aforesaid, the said proposed charter amendment was ratified by a majority of the qualified electors of said City voting thereon.

That the Charter amendment so ratified by the qualified electors of the City of Chico is now submitted to the Legislature of the State of California for approval or rejection as

a whole, without power of alteration or amendment, in accordance with Section VIII, Article XI of the Constitution of the State of California, and which is in words and figures as follows:

"PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF CHICO

April 14, 1941

PROPOSITION ONE

Sec. 1: That subdivision 12 of Section 19, Article IV, of the Charter of the City of Chico be repealed. Repeal

Sec. 2: That Section 37 of Article V of the Charter of the City of Chico be amended by repealing and striking therefrom the following language: 'and Sidewalk Tree Commission,' and add thereto the word 'and' following the word 'Park,' and further adding thereto the word 'funds' following the word 'Library,' said section as amended to read as follows:

Section 37: TRANSFER OF FUNDS: At the time of fixing the tax levy, the Council shall, by ordinance, establish a general fund and the various funds as provided for by the budget, and no transfer of any money shall be made from any other than the general fund to another until the end of the fiscal year, at which time, after all demands have been paid out of the various funds, the Council may, at its option, transfer any remaining balance to the general fund, except such funds as remain to the credit of the Park and Library Funds; and the Council may then authorize a transfer from the general fund to any other in which there is an over-draft created by an actual emergency in the department, but under no other condition may such transfer be made. Transfer of funds

Sec. 3: That Section 38 of Article V of the Charter of the City of Chico be amended by repealing and striking therefrom the following language:

'Provided further that there shall be levied a tax not to exceed two cents on each one hundred dollars of assessed valuation for the support of the Sidewalk Tree Commission,' and by adding the following language after the word 'Playgrounds' the words 'and street and sidewalk trees and shrubbery'; and further, by adding the following language after the word 'City' at the end of the section, to-wit: 'and for paying for street and sewer improvements assessed or liened against City owned property;' said Section as amended to read as follows:

Section 38: TAX RATE: The total tax rate for any one year shall not exceed one per cent of the assessed valuation, unless a special tax be authorized by a two-thirds majority of all votes cast at an election held after at least thirty days' notice in the published call for the election; and the proceeds of all such special tax shall be used for no other purpose than Tax rate, special tax

that specified in said call; provided, however, that in addition to said one per cent there shall be included in every annual levy, a sufficient amount to cover all liabilities of the City for principal and interest of all bonds or judgments due and unpaid, or to become due during the ensuing fiscal year and not otherwise provided for.

Taxes for special purposes

Provided further, that in addition to the above taxes mentioned, there shall be levied a tax not to exceed twenty cents on each one hundred dollars of assessed valuation for the Library fund; and further there shall be levied a tax not to exceed thirty-five cents on each one hundred dollars of assessed valuation for the support of Parks and Playgrounds and street and sidewalk trees and shrubbery; provided further, that the Council may in its discretion levy a tax not to exceed thirty cents on each one hundred dollars of assessed valuation for the purpose of paving or repaving streets or sidewalks and gutters in front of property belonging to the City, and for paying for street and sewer improvements assessed or liened against City owned property.

Sec. 4: That Section 94 of Article XI of the Charter of the City of Chico be amended by adding thereto the following paragraph:

'The Commission shall have full and exclusive charge of the propogation, purchasing, planting, re-planting, pruning and care of the trees and shrubbery on the streets and along the sidewalks of the City; provided, however, that in the case of sidewalk trees and shrubbery planting the property owner may have the option of selecting what species of trees or shrubs shall be planted; that they shall have power to appoint superintendents, employees and assistants in the performance of such work. They shall not have power, however, to remove any tree or trees, shrub or shrubs, unless such tree or trees, shrub or shrubs, shall be dead or dangerour to public traffic on the streets or along the sidewalks of the City without the consent of the owner or owners of the property fronting thereon and the approval of the council.'

Said Section 94 to thereafter read as follows:

Parks and playgrounds

Section 94: The commission shall have the full and exclusive power to govern, manage and direct all of the parks and playgrounds now owned by the City of Chico, and any and all which may hereafter be acquired; to lay out, regulate and improve the same; to employ and appoint such superintendents, clerks, surveyors and engineers, supervisors, laborers and other officers and assistants as the commission deems necessary for the management of said parks and playgrounds and its affairs. The said commission shall have power, not to exceed the power conferred on the City of Chico by any deed of gift of any park or playground, to do and perform everything necessary for the care and management and improvement of any park or playground that the said City

of Chico might do, conferring all of said powers on said commission, including the right to lease or let the whole or any portion of the city's parks or playgrounds under the terms and conditions of said gifts.

Streets and sidewalk planting

The commission shall have full and exclusive charge of the propogation, purchasing, planting, re-planting, pruning and care of the trees and shrubbery on the streets and along the sidewalks of the City; provided, however, that in the case of sidewalk trees and shrubbery planting the property owner may have the option of selecting what species of trees or shrubs shall be planted; that they shall have power to appoint superintendents, employees and assistants in the performance of such work. They shall not have power, however, to remove any tree or trees, shrub or shrubs, unless such tree or trees, shrub or shrubs, shall be dead or dangerous to public traffic on the streets or along the sidewalks of the City without the consent of the owner or owners of the property fronting thereon and the approval of the Council.

Sec 5: That Section 97 of Article XI of the Charter of the City of Chico be amended by adding thereto after the words 'Parks and Playgrounds' the following language: 'and street and sidewalk trees and shrubbery,' said Section 97 as amended to read as follows:

Funds for parks, etc

Section 97: The commissioners shall have the management and disbursement of funds regularly appropriated or received for the support of the parks and playgrounds and street and sidewalk trees and shrubbery under its control, provided, however, that all bills, demands or claims, after having been audited by the said commission, shall be presented to the Council of said City of Chico for payment out of the Bidwell Park and Playground Fund, which fund is hereby established.

Sec 6: That Sections 98, 99 and 100 of Article XI of the Charter of the City of Chico be repealed."

We further certify that we have compared the foregoing proposed and ratified amendment to the Charter of the City of Chico with the original proposal submitting the same to the electors of said City, and find that the foregoing is a full, true, exact and correct copy thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the seal of the City of Chico to be affixed hereto this day of May, 1941.

[SEAL]

E. L. MEYERS, M. D.
Mayor of the City of Chico
H. H. HUME
Clerk of the City of Chico

WHEREAS, The said proposed charter amendment as ratified, as hereinbefore set forth, has been, and is now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration

or amendment, in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California; now, therefore, be it

Approval *Resolved by the Senate of the State of California, the Assembly thereof concurring,* a majority of all the members elected to each house voting thereon and concurring therein, that the aforementioned amendment to the charter of the City of Chico as proposed to, and adopted and ratified by, the electors of said city as hereinbefore set forth, be, and the same hereby is, approved as a whole, without amendment or alteration, for and as an amendment to, and as part of, the charter of the City of Chico.

CHAPTER 86

Assembly Joint Resolution No. 53—Relative to memorializing Congress to pass House Resolution 3570, allocating funds for the building and operation of emergency schools necessitated by reason of National defense.

[Filed with Secretary of State May 14, 1941.]

Funds for emergency school building WHEREAS, The various centers in California which are engaged in National defense work are experiencing a great influx of families to engage in defense work, resulting in a considerable increase in number of children to be received in the public schools; and

WHEREAS, The existing school facilities in those centers are grossly inadequate to meet the increased number of children to be immediately accommodated; and

WHEREAS, By reason of the premises it is vitally necessary that these defense centers receive immediate aid from the Federal Government to enable them to erect additional school buildings and to maintain them; and

WHEREAS, There is pending in Congress House Resolution 3570 which if passed, will allocate adequate funds to meet this emergency; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States be memorialized to pass House Resolution 3570 at the earliest possible date; and be it further

Resolved, That the Secretary of State send a copy of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, and to the Senators and Congressmen from California in the Congress of the United States.

CHAPTER 87

Assembly Joint Resolution No. 37—Relative to memorializing Congress to designate December 15, 1941, as Bill of Rights Day.

[Filed with Secretary of State May 16, 1941]

Bill of Rights Day

WHEREAS, December 15, 1941, will be the 150th anniversary of the adoption of Bill of Rights embodied in the Constitution of the United States as its first 10 amendments; and

WHEREAS, This date which is ordinarily significant assumes unusual importance at this particular period in the history of our Nation and the world, when those fundamental rights are threatened by totalitarian forces abroad and their sympathizers at home; and

WHEREAS, Various veterans' and patriotic organizations and citizens have petitioned this Legislature to urge suitable action to encourage the promotion of widespread observance of the anniversary; and

WHEREAS, House Joint Resolution 120 is now pending in the Congress providing for the proper observance of the 150th anniversary of the adoption of the first 10 amendments to the Constitution, known as the Bill of Rights; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States is hereby respectfully memorialized and urged to enact said House Joint Resolution 120, and to designate December 15, 1941, as a National holiday and to authorize the appointment of a Bill of Rights Sesquicentennial Commission to sponsor appropriate ceremonies and celebration upon that day; and be it further

Resolved, That the Chief Clerk of the Assembly is instructed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 88

Assembly Joint Resolution No. 40—Relative to making citrus fruits available to the enlisted personnel of the military and naval forces of the United States.

[Filed with Secretary of State May 16, 1941]

Citrus fruit for military and naval forces

WHEREAS, Numerous reports have been received that the enlisted personnel in military and naval establishments in this State have been denied oranges and other healthful citrus fruits in their food menu; and

WHEREAS, Numerous soldiers and sailors are suggesting gifts of oranges from their families; and

WHEREAS, All citrus fruits are well known and universally recognized in scientific studies on diet to be of special value as an article of diet; and

WHEREAS, There is a surplus of citrus fruits in the hands of the producers of California, the marketing of which is at the present time receiving the assistance of the Federal Government; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the War Department and the Navy Department of the United States are hereby urged to provide citrus fruits as a regular part of the menu in military and naval establishments throughout the Nation; and be it further

Resolved, That orange juice, grapefruit juice, and other California fruit juices be made available at all Army and Navy canteens where soldiers and sailors may buy these healthful and refreshing beverages; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to send copies of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, the Senators and Congressmen from California in the Congress of the United States, the Secretary of the Army, the Secretary of the Navy, the Commandant of the Eleventh Naval District, San Diego, Commandant of the Twelfth Naval District, San Francisco, and Commanding Officer, Ninth Corps Area, San Francisco.

CHAPTER 89

Assembly Concurrent Resolution No. 32—Relative to providing suitable space and facilities for the office of the Legislative Counsel.

[Filed with Secretary of State May 16, 1941.]

Offices for Legislative Counsel

WHEREAS, It is required by statute that the Legislative Counsel shall be provided with suitable and sufficient offices in the State Capitol convenient to the chambers of the two houses of the Legislature; and

WHEREAS, The present quarters of the Legislative Counsel and his staff are neither suitable nor sufficient in size or arrangement for the work to be done; and

WHEREAS, The close and frequently confidential relationship between the members of the Legislature and their legal advisers and assistants renders it peculiarly fitting that due regard should be had not only for the convenience and facility of functioning of the Legislative Counsel and his staff but also for the convenience and advantage of the members of the two houses; and

WHEREAS, It appears unquestionable that the present congestion, inconvenience, and inadequacy of the offices of this adjunct of the Legislature should be eradicated and appropriate quarters provided; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Chief of the Bureau of State Buildings and Grounds in the Department of Finance and the director of said department are hereby requested and directed to take all necessary steps that the statutory requirements as to suitable and sufficient offices for the Legislative Counsel be met and such offices provided.

CHAPTER 90

Assembly Concurrent Resolution No. 43—Relating to mediation of certain labor controversies.

[Filed with Secretary of State May 16, 1941.]

Mediation of labor controversies in canning industry

WHEREAS, There presently exists a controversy between the canning industry and its employees concerning wages and the terms and conditions of employment of the workers employed in food canning and preserving plants, especially in the canning of fruits and vegetables; and

WHEREAS, At the present time this controversy has closed some 20 canneries located in the Counties of Sacramento, San Joaquin, Solano and Santa Clara and said plants are not receiving any agricultural products for canning purposes by reason of said controversy; and

WHEREAS, The asparagus producing area of the State of California is located almost exclusively in the aforementioned counties wherein approximately 400 producers of asparagus are engaged in the production of some 68,000 acres of asparagus, and said 400 producers are unable by reason of said controversy between canneries and workers, to market the asparagus now grown upon their lands; and

WHEREAS, The aforementioned asparagus producers are producing a daily output of 30,000 cases of canned asparagus representing a value to the producers of seventy-five thousand dollars ($75,000) per day, and said producers are compelled, by reason of the natural growth and the manner of producing asparagus, daily to cut over the total acreage of said asparagus in order to protect and maintain its productivity, thus adding to said growers a total daily expense of approximately eighteen thousand dollars ($18,000), or a total loss to producers of ninety-three thousand dollars ($93,000) per day; and

WHEREAS, The estimated daily pay roll loss to the workers employed in the canning industry who would be employed for the asparagus canning season is approximately thirty thousand dollars ($30,000); and

WHEREAS, If the labor controversy between the canneries and the workers employed in canneries continues beyond May 16, 1941, from 8,000 to 10,000 field workers ordinarily, usually and seasonally engaged in the cultivation and production of the asparagus produced on the 68,000 acres heretofore mentioned, will be forced out of employment by reason of the fact that the growers would be unable to finance the production, cutting and destruction of the asparagus grown on the said 68,000 acres, thus incurring a daily loss in wages to the said field workers of approximately forty thousand dollars ($40,000) per day; and

WHEREAS, Unless the controversy presently existing between the canning industry and the workers is terminated immediately, the canning season which ordinarily continues until July 20th, will terminate immediately with the consequent loss and economic waste of approximately three million dollars ($3,000,000) to growers and workers and the consequent economic waste and loss of vital food during a period when National defense and the conservation of food production is essential to the well being of the Nation, and the asparagus growers will lose their entire crop and receive no returns for their year's work; and

WHEREAS, The Sacramento and San Joaquin Delta area did, prior to 1936, produce 100 per cent of all fresh and canning asparagus produced in the United States, and now by reason of the economic effect of increased production costs this same area produces only 70 per cent of all fresh and canning asparagus produced in the United States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California hereby respectfully urges the workers engaged by the canning industry who would now be working at the process of canning asparagus were it not for the labor controversy herein referred to, to return to their work immediately so that the tremendous economic waste resulting from the inability of the asparagus producers to market their crop can be avoided; and be it further

Resolved, That the Legislature of the State of California hereby recommends to the parties engaged in the labor controversy that the problems involved in said labor controversy be mediated by the United States Labor Conciliation Board so that during said period of mediation the asparagus producers of California can market their asparagus crop, both cannery workers and field workers engaged in this industry be employed, a valuable food be preserved for the benefit of National defense, and tremendous economic waste be prevented; and be it further

Resolved, That a copy of this resolution be sent to the United States Conciliation Board, the President of the United States, the Governor of the State of California, the Growers and Processors League of California, and the representative of

the American Federation of Labor representing the workers, in order that immediate steps may be taken whereby all of the interested parties immediately commence mediation of the labor controversy herein mentioned and the employees involved in the canning industry labor controversy return to work.

CHAPTER 91

Senate Concurrent Resolution No. 37—Approving certain amendments to the charter of the City of Santa Cruz, a municipal corporation in the County of Santa Cruz, State of California, voted for and ratified by the qualified electors of said city at an election held therein on the sixth day of May, 1941.

[Filed with Secretary of State May 16, 1941.]

City of Santa Cruz Charter amendment

WHEREAS, Proceedings have been had and taken for the proposal, adoption and ratification of certain amendments hereinafter set forth to the charter of the City of Santa Cruz, a municipal corporation in the County of Santa Cruz, State of California; and

WHEREAS, The City of Santa Cruz is a municipal corporation of the County of Santa Cruz, State of California, the population whereof is 16,896, having a freeholders' charter adopted by the Legislature of the State of California, by Assembly Concurrent Resolution No. 15, introduced in said Legislature on the eighth day of February, 1911; and

WHEREAS, The council of said City of Santa Cruz of its own motion and not by petition, adopted resolutions on the seventeenth day of March, 1941, providing for the publication of notice of its intention to call an election in said city to vote upon proposed amendments to the charter of said City of Santa Cruz; and

WHEREAS, There being no official paper of said city, there was published once in the Santa Cruz Sentinel on March 21, 1941, a newspaper of general circulation, published and circulated in said city, which said publication was all and the only edition of said newspaper published on said day of publication, the said proposed amendments in full, together with a notice of the intention of said council to call an election in said city to vote upon the said proposed amendments to said charter, and also a notice that copies of said proposed amendments to said charter in convenient pamphlet form could be had upon application to the office of the city clerk of said city, which said last mentioned notice was published until the date fixed for said election upon said proposed charter amendments; and

WHEREAS, Said council further resolved that all of said amendments as hereinafter set forth should be submitted and voted upon at said election as single propositions; and

WHEREAS, In pursuance of said resolutions and at said election duly held in said city not less than 40, and not more than 60 days after the completion of said advertising and publication of said proposed amendments in the Santa Cruz Sentinel, to wit, on the sixth day of May, 1941, under and in accordance with law and the provisions of Section 8 of Article XI of the Constitution of the State of California, as amended, the said proposed amendments were duly ratified by the vote of the majority of the qualified voters voting at said election and on each of such amendments in favor of each thereof, as a single proposition; and

WHEREAS, The council of the City of Santa Cruz, on the ninth day of May, 1941, duly canvassed the returns of said election and found and declared that the majority of the qualified electors voting upon each of said proposed amendments voted in favor of ratifying each of said proposed amendments to said charter and ratified the same and each thereof, as a single proposition; and

WHEREAS, Said proposed charter amendments ratified as aforesaid are now submitted to the Legislature of the State of California for its approval and ratification, without power to alter or amend the same or any of them, in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California as amended; and

WHEREAS, Said proposed charter amendments as ratified were and are in the words and figures as follows, to wit:

PROPOSED CHARTER AMENDMENT

That Section 38, Article II, be amended to read as follows:

Creation of offices

Sec. 38—Creation of Offices. To create offices other than those established by this charter or by the general law, whenever the public business may require; to prescribe the duties pertaining to the offices so created; to provide for appointments to such offices; fix the compensation of the incumbents thereof, and to provide for removals from such offices except those now or hereafter placed under Civil Service by this charter.

That Section 124, Article VIII, be amended to read as follows:

City officials

Sec. 124, Paragraph A. Chief Officials. The chief officials of the city shall be a city attorney; a police judge; a treasurer, who shall be ex-officio tax and license collector; a city clerk, who shall be ex-officio city assessor; a city engineer and surveyor; a chief of police; a chief of the fire department; an assistant chief of the fire department; a health officer; a street superintendent; a superintendent of the electrical department; a plumbing and building inspector; a superintendent of water works, and five library trustees. The council shall by ordinance prescribe the duties of all the chief officials appointed by it, other than those specified in this charter, and impose on them other duties not inconsistent

with this charter. The council, at any time, by an affirmative vote of three members, may consolidate and place in charge of one chief official the functions and duties of two or more such chief officials. The council shall have the power by the affirmative vote of three members to remove from office the city attorney, health officer and any library trustee.

The appointment of every chief official, not appointed by the council, shall be subject to confirmation by the council.

Paragraph B. Civil Service System.

Civil service
Effect of article

Section 1. Effect and Application of the Article. This paragraph shall have the effect of placing under its provisions and the rules and regulations adopted in compliance therewith, all offices, employments, and positions now existing or hereafter created within the municipal service of the City of Santa Cruz, except positions on appointive boards and commissions, those filled by election, and the offices of City Attorney, Police Judge, Health Officer, Auditorium Manager, and Library Trustees, and the accountant employed by the Auditing Committee.

Personnel department

Sec. 2. Establishment of the Personnel Department. There is hereby established a personnel department which shall consist of a civil service commission of three members and a personnel officer.

Members of Civil Service Commission

Sec. 3. Appointment, Qualifications, and Term of Civil Service Commission Member. Within thirty days after the effective date of this article the city council shall appoint from among the registered electors of the City of Santa Cruz, three persons to serve as members of the Civil Service Commission for terms of two, four, and six years, respectively, and until a successor has been appointed and qualified. Thereafter appointments shall be made for a term of six years or to complete an unexpired term. Members may be removed for good cause by the city council only after written charges have been filed, opportunity to answer has been provided, and public hearing held.

Personnel clerk

Sec. 4. Appointment of Personnel Clerk. The city council shall appoint a personnel clerk whose duty it shall be to act in the capacity of a secretary and clerk to the Civil Service Commission. He shall be the custodian of all personnel records and shall be the official upon or with whom all notices, requests for hearings, complaints and other official documents shall be served or filed.

Said personnel clerk shall establish and maintain in card index form, a roster of officers and employees in the Classified Service. He shall also prepare a record of the length of service of each employee in the Classified Service, together with a concise statement of all duties being performed by said employee, the salary being paid, and the hours of work of said employee. He shall render such additional services in connection with such Civil Service System as may be requested by the city council, and Civil Service Commission.

The duties of the office of personnel clerk may be combined with those of any other office in the event the work involved does not warrant, in the discretion of the city council, the creation of a special position.

Duties of Civil Service Commission

Sec. 5. Functions of the Civil Service Commission. It shall be the duty of the Civil Service Commission:

(a) To prepare rules and regulations for the administration of said Civil Service System, for recommendation for adoption by the city council. Any amendments to said rules and regulations, in the event same do not originate with said Civil Service Commission, shall be referred to said commission for recommendation prior to adoption by the city council. The city council shall adopt rules and regulations by ordinance. All rules and regulations adopted shall be consistent with the provisions of this charter. Such rules shall provide for the following matters in addition to such others as may be necessary and proper in carrying out the intent and purposes of this amendment.

(b) The classification of all persons in the classified service

(c) The selection, employment, advancement, suspension, demotion, discharge and retirement of all persons in the classified service.

(d) The selection, employment, administrative examinations, and the administering of other suitable tests to fairly test the relative capacity of the persons examined, to discharge the duties of the position to which they seek to be appointed. Such tests shall include physical examinations and mental qualifications and manual skill.

(e) The public advertising of all examinations.

(f) A period of probation of six months before an appointment or promotion is made complete, during which period a probationer may be discharged with the consent of the Civil Service Commission if it is an appointment probation, or reduced if on promotion probation by the appointing power without right of appeal, if, during the performance test the appointing officer deems him unfit or unsatisfactory for service.

A promotional employee rejected during probation shall be reinstated to the position from which he was promoted unless charges are filed and he is discharged as specified in this charter.

Appeals and complaints

Sec. 6. All appeals or complaints shall be heard by the Civil Service Commission acting as a board of review. Upon the conclusion of any such hearing the Civil Service Commission shall certify its findings to the city council or appointing officer and make such recommendations as it may deem warranted and the city council and appointing officer shall follow such recommendations. In any investigation or hearing conducted by said Civil Service Commission, the Civil Service Commission shall have the power to examine witnesses under oath and compel their attendance or the production of evidence before it by subpœnas issued in the name of the

State and attested by the City Clerk. It shall be the duty of the Chief of Police to cause all such subpœnas to be served and refusal of a person to attend or to testify in answer to such a subpœna shall subject said person to prosecution in the same manner set forth by law for failing to appear before the city council or police court in response to a subpœna issued by the city council or police court.

Study of compensation

Sec. 7. The Civil Service Commission shall, upon request of the city council or city employee in the classified service, make a study of compensation being paid for each class of position under the Classified Service, and of the hours of labor, sick leaves and vacations applicable to each such class, and shall report the results of such study to the city council with such recommendations as the commission deems warranted. Such studies may include: Comparisons with rates of pay for comparable service in commercial and industrial establishments and in other public employments; surveys of prevailing market rates, costs and standards of living, and of the city's policies, finances and means with respect to the Classified Service.

Alternate method of personnel administration

Sec. 8. Alternate Method of Personnel Administration. The city council shall have the power to contract with the legislative body or board of any municipality, or county, within this State, or with any State department for the performance by said other governmental agency of such technical service in connection with personnel selection and administration as may be desired, including the giving of examinations

In the event examinations are held the same shall be competitive and in such event appointments subsequently made shall be from those certified as being qualified and as a result of said examinations, and in accordance with the rules and regulations duly adopted hereunder, to the extent and during the time any such contract shall be operative, the powers of the Civil Service Commission shall be superseded.

Appointments

Sec. 9. Appointments to Positions in the Classified Service All appointments to positions or employments in the classified service shall be made by the heads of the departments or the city council or the officer, board, commission or entity, in whom is vested by law the appointive power, the city council, department head or officer, board, commission or entity having such power of appointment being hereafter designated as the appointing authority, from eligible persons on the eligible list, which lists have been established pursuant to the rules and regulations adopted under the authority of this charter. Each appointment shall be made by the appointing authority from the three highest rated on the eligible list for the position or employment to which the appointment is to be made.

Existing employees

Sec. 10. Status of Employees holding Positions at Effective Date Hereof. To the end that there be no disruption in the present service of the Classified Service, and that no hardship may be worked upon any officer or employee of said Classified

Service who shall have attained a certain position, grade or rank as a result of continuous service, all officers and employees who have been in the employ of the city for more than six months immediately prior to the adoption of this Amendment shall be credited with a qualifying mark, both mental and physical, for entrance to the Classified Service of the city, and to the position, grade, or rank held by such officer and employee, at the time of the adoption of this Amendment.

Temporary appointments

Sec. 11. Temporary Appointments.

(a) A temporary appointment of a chief official when a vacancy may occur shall be made by the city council provided that any such appointment shall be made from the employees of the department to which such chief official is assigned, and such appointee shall be an employee with at least one or more years of actual service in such department in which such vacancy occurs.

(b) Temporary appointments shall be made by the head of each department in which any such vacancy may occur of persons not on the eligible list in the event that no eligible list has been prepared for the position, or that those on the eligible list are not immediately available or during the suspension of an employee or officer, or pending final action on proceedings to review a suspension. demotion or dismissal of an employee or officer. Such temporary appointments shall not continue for a longer period than three months and no persons shall be eligible to serve as a temporary appointee in any one or more positions for more than an aggregate period of three months in any one fiscal year. No credit shall be allowed in the giving of examinations for service rendered under a temporary appointment.

Abolishment of positions

Sec. 12. Abolishment of Positions. Whenever in the judgment of the city council it becomes necessary in the interest of economy or because the necessity for the position involved no longer exists the city council may abolish any position or employment in the Classified Service and discharge or reduce the employee or officer holding such position or employment. Should such position or employment or position involving all or the major part of the same duties be reinstated or created within two years, the employee or officer discharged or reduced shall be appointed thereto in preference to any other qualified persons on the eligible list for such position.

Solicitation of contributions

Sec. 13. Solicitation of Contributions. No officer, agent, clerk or employee, under the government of the city, shall directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, contribution of political service, whether voluntary or involuntary, for any political purpose whatever, from any one of the eligible lists or holding any position under the provisions of this amendment.

Prohibition

Political and religious discrimination

Sec. 14. Political and Religious Discrimination Prohibited. No person in the competitive service, or seeking admission thereto, shall be appointed, demoted, or removed, or be in any

way favored or discriminated against because of his political or religious opinions or affiliations. Any member of the classified service or on an eligible list is absolutely prohibited from activity in politics, either during working hours or when off duty.

No person holding an office or place in any department placed by this amendment under a merit system or civil service system, shall seek or accept election, nomination, or appointment as an officer of a political club or organization, or take an active part in a county or municipal political campaign, or serve as a member of a committee of such club or organization or circle, or seek signatures to any petition provided for by law, or to act as a worker at the polls, or distribute badges or pamphlets, dodgers or handbills of any kind favoring or opposing any candidate for election, or for nomination to a public office, whether county or municipal, provided, however, that nothing in this act shall be construed to prevent any such officer or employee from becoming or continuing to be a member of a political club or organization, or from attendance at a political meeting, or from enjoying entire freedom from all interference in casting his vote or from seeking or accepting election or appointment to public office.

Any wilful violation thereof through culpable negligence shall be sufficient grounds to authorize the discharge of any officer or employee.

Abuses and frauds

Sec. 15. Abuses and Frauds Prohibited. No person shall deceive or obstruct any person in respect to his or her right to participate in examinations under the provisions of this article, or falsely mark, grade, estimate, or report upon the examination or standing of any person tested thereunder, or aid in so doing, or furnish any person, except in answer to inquiries of the Civil Service Commission, any special information for the purpose either of improving or injuring the rating of any person for appointment or employment. No applicant shall deceive the commission for the purpose of improving his chances or prospects of appointment. No person shall solicit orally or by letter, any money or valuable things from any officer or employee holding a position in the competitive service for any political party or purpose whatsoever. No person shall use or promise to use official influence or official authority to secure or further any appointment to any competitive position. No public officer or employee shall by means of threats or coercion induce or attempt to induce any person to resign from a competitive position or to take a leave of absence or to waive any rights under this amendment. A resignation executed previous to appointment shall be of no effect.

Removal and suspension

Sec. 16. Removal or Suspension of Employees. Every officer, and employee shall retain his office or employment, so long as it exists under the same or a different title, during good behavior and permanent mental and physical ability to efficiently perform the duties thereof, and shall not be suspended, fined, demoted, removed, reduced in compensation as

a punishment or otherwise penalized, except as in this paragraph provided. This paragraph is subject, however, to every provision of the Constitution, and applicable State statutes designating a general ground or general grounds of forfeiture of office or employment, or imposing a criminal liability. No person who had served the probationary period in a permanent office or employment, as hereinabove provided for, shall be removed therefrom or penalized therein except on written charges by the city council or appointing officer, such written charges shall be specific as to time, place and circumstance, and after opportunity to be heard in his own defense, personally or by counsel. Pending such hearing, the appointing authority may suspend the accused for not more than thirty days, unless the hearing be delayed beyond that time by act of the accused. A copy of the charges and written notice of the time and place of hearing shall be given the accused personally or shall be mailed to him by registered mail at his last known address by the Civil Service Commission, not less than ten days before the hearing. If he fails to appear thereat, without showing good cause for such failure to appear, he may be dismissed without further proceedings If he appears at the time and place set the Civil Service Commission shall publicly hear and determine the charges, and may exonerate, reprimand, fine, suspend, demote or dismiss the accused, with right of written appeal by him within thirty days to the Civil Service Commission. The Civil Service Commission may make such decision on appeal as may appear to the Commission to be just, and its order, except for bad faith or lack of evidence, shall be final. The Civil Service Commission shall hear and act on every signed written complaint, specific as to time, place and circumstance, filed against an officer or employee, if his appointing authority refuse or fail to act on the matter complained of, and the Commission shall have the same power in the premises as on an appeal. Any penalty herein provided for may be imposed for incompetence, habitual intemperance, immoral conduct or insubordination, repeated discourteous treatment of the public, dishonesty, conviction of a felony, inattention to duties, engaging in prohibited political activity, or other ground of penalty or forfeiture specified by the Constitution, charter ordinance or applicable State statute. The appointing authority may for disciplinary purposes and without trial or right of appeal, suspend without salary an officer or employee for not more than thirty days in any one fiscal or calendar year. Nothing herein shall restrict the right to make bona fide reductions in force or to enact legislation requiring retirement for disability or age.

Lay-off In the event that the legislative body shall determine that it is necessary to bring about a reduction in personnel for economy reasons, said legislative body shall be required to observe the seniority rule in putting into effect any such reduction in personnel.

The Civil Service Commission shall not establish a minimum or maximum age limit for any civil service examination, except in the police and fire departments the minimum is hereby established at 21 years of age, and the maximum at 35 years of age. Age limits

Sec 17. Facilities and Cooperation to be Furnished by the City. All officers and employees of the city during usual business hours shall grant to members of the Civil Service Commission, the personnel officer, and any employees of the Civil Service Commission designated by it or by the personnel officer, free access to premises and records under their control and shall furnish such facilities, assistance, and information as may be required in carrying out the functions of the personnel department. Cooperation

Sec. 18. Appropriation of Funds. The city council shall appropriate such funds as are necessary to carry out the provisions of this amendment. Funds

Sec. 19. Certification of Payroll. No public disbursing officer shall pay any salary, wage, or other compensation to any person holding public office or position with the city, unless the payroll or account bears the certification of the personnel officer that persons named thereon were appointed or employed and were performing services according to the provisions of this article and the rules adopted thereunder. Certification of payroll

Sec. 20 Conflicting Provisions Repealed. All articles, sections, or sentences of the charter of the City of Santa Cruz, in conflict with this article, are hereby declared repealed to the extent of the conflict. Repeals

Sec. 21. Penalties. Any person who shall violate any provision of this article shall be guilty of a misdemeanor, punishable by imprisonment for not to exceed six months, or by a fine not to exceed $500.00, or by both. On conviction thereof an officer or employee of the city shall forfeit his office, position, or employment, in addition to other penalty provided by law. Penalties

PROPOSED CHARTER AMENDMENT:

That Section 176 Article XV, be amended to read as follows:

Sec. 176

Bond, Library and Flood and Erosion Prevention Tax. The Council shall have the power to levy and collect taxes in addition to the taxes hereinabove authorized, sufficient to pay the interest and maintain the sinking funds of the funded indebtedness of the City, and to provide for the establishment and support of public libraries and reading rooms, the prevention of and protection against the overflow of and erosion by streams and ocean; provided that said library tax levy shall not exceed the rate of ten cents, and said flood and erosion prevention tax levy shall not exceed the rate of ten cents, on each one hundred dollars of the assessed valuation of all the property within the City. Special taxes

City of Santa Cruz
County of Santa Cruz } ss.
State of California

Certificate

I, C. D. HINKLE, Mayor of the City of Santa Cruz, State of California, do hereby certify that the foregoing is a true copy of amendments to the present charter of said city, as approved by the Legislature of the State of California on the 8th day of February, 1911, and a true copy of the proposed amendments to said charter as the same were ratified at an election held in said City of Santa Cruz at the time and in the manner hereinafter set forth; that the Council of said City of Santa Cruz of its own motion and not by a petition adopted resolutions on the 17th day of March, 1941, providing for the publication of notice of its intention to call an election in said city to vote upon said proposed amendments to said charter; that on the 14th day of April, 1941, the Council of said City fixed Tuesday, the 6th day of May, 1941, as the date on which said election should be held to vote upon said proposed amendments to said charter.

That the population of the City of Santa Cruz is 16,896.

That there being no official paper of said city there was published once in the Santa Cruz Sentinel, on March 21st, 1941, a newspaper of general circulation published and circulated in said city, which said publication was all and the only edition of said newspaper published on said day of publication the said proposed amendments in full, together with a notice of the intention of said council to call an election in said city to vote upon the said proposed amendments to said charter, and also a notice that copies of said proposed amendments to said charter in convenient pamphlet form could be had upon application to the office of the City Clerk of said city, which said last mentioned notice was published until the date fixed for said election upon said proposed charter amendments.

That in pursuance of said resolutions and at an election duly held in said city not less than forty and not more than sixty days after the completion of said advertisement and publication of said proposed amendments, in said Santa Cruz Sentinel, to-wit, on the 6th day of May, 1941, under and in accordance with law and the provisions of section 8 of Article XI of the Constitution of the State of California, as amended, the said proposed amendments to said charter were duly ratified by the vote of the majority of the qualified voters voting at said election and on each of such amendments in favor of each thereof, as single propositions.

That the Council of the City of Santa Cruz on the 9th day of May, 1941, duly canvassed the returns of said election and found and declared that the majority of the qualified electors voting upon each of said proposed amendments voted in favor of ratifying each of said proposed amendments to said charter and ratified the same and each thereof, as single propositions;

That said election, publication, advertising and all acts, matters and things in connection with and relating to said

proposed charter amendments were held, made and occurred pursuant to orders, resolutions, and publications of the City Council of said City of Santa Cruz in compliance with Section 8, Article XI of the Constitution of the State of California, as amended.

That in all matters and things pertaining to said proposed Charter amendments the provisions of said section of the Constitution, the charter and ordinance of said City of Santa Cruz and the laws of the State of California, pertaining to the adoption of charter amendments and the holding of elections thereon, have been fully complied with in every particular.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the corporate seal of the said City of Santa Cruz, to be affixed this 9th day of May, 1941.

C. D. HINKLE,
[SEAL] Mayor of the City of Santa Cruz.

Attest: S. A. EVANS,
City Clerk.

and

WHEREAS, The said proposed amendments as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, A majority of all the members elected to each house voting therefor and concurring therein, That said amendments to the charter of the City of Santa Cruz as proposed to, adopted and ratified by the electors of said city, as hereinbefore fully set forth, be and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to and as parts of the charter of the said City of Santa Cruz. Approval

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CHAPTER 92

Assembly Joint Resolution No. 41—Relative to memorializing Congress to investigate the feasibility of growing of guayule rubber in California and if found feasible to subsidize the same.

[Filed with Secretary of State May 19, 1941.]

WHEREAS, Guayule rubber, now grown in Mexico and adjacent Texas, is a substitute for natural rubber, vitally needed in the National Defense Program, is a good soil reconditioner, and prevents erosion; and Guayule rubber

WHEREAS, The demand for guayule rubber created by the National Defense Program would make its production profitable, and consequently farmers could grow it in preference to other nonprofitable crops, thereby allowing a means for the rehabilitation of the small farmer; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Congress of the United States be memorialized to authorize an investigation of the feasibility of growing guayule rubber in California and if such investigation discloses that it is feasible, that Congress provide a subsidy to the farmers of California to enable them to grow the product at a fair profit for their work; and be it further

Resolved, That the Senators and Congressmen from California in the Congress of the United States be and they are hereby urged to support the action by this resolution; and be it further

Resolved, That copies of this resolution be sent by the Chief Clerk of the Assembly to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, the Senators and Congressmen from California in the Congress of the United States, and to the Secretary of Agriculture of the United States.

CHAPTER 93

Senate Joint Resolution No. 3—Relative to memorializing the Biological Survey of the United States Department of the Interior to fix two dove seasons in California.

[Filed with Secretary of State May 22, 1941.]

Dove seasons in California

WHEREAS, Pursuant to the Federal "Migratory Bird Treaty Act" the seasons for the taking of doves in California are fixed by the Biological Survey and when so fixed the periods during which doves may be taken in this State are controlled pursuant to Federal, rather than to State, law; and

WHEREAS, The dove seasons as fixed by the Biological Survey have been fixed on the basis of geographical area; and

WHEREAS, The seasons for the taking of doves might appropriately be fixed upon the basis of altitude above sea level in order to make the seasons conform more nearly with the habits of the species; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Secretary of the Department of the Interior of the United States and the Chief of the Biological Survey therein are hereby memorialized and requested to give consideration to the advisability and the propriety of fixing two dove seasons in the State of California, one for areas lying at 2,000 feet or more above sea level beginning August 15th of each year and one for areas lying less than 2,000 feet above sea level, with the season for the first area fixed

for a two-week period and the season for the latter area being fixed for the two weeks immediately following; and be it further

Resolved, That the Secretary of the Senate is hereby directed to cause copies of this resolution to be sent to the Secretary of the Interior and to the Chief of the Biological Survey of the United States.

CHAPTER 94

Senate Concurrent Resolution No. 16—Relative to a statement of position of the Legislature of this State in regard to the amendment of the Old Age Security Law and the Aid to Needy Blind Law and appointing a committee to secure changes in the Federal Social Security Act.

[Filed with Secretary of State May 22, 1941.]

Changes in Federal Social Security Act

WHEREAS, The Legislature of this State has enacted the most liberal Old Age Security Law in the United States and the most liberal Aid to Needy Blind Law in the United States; and

WHEREAS, The Federal Social Security Board has demanded that the Legislature amend the California Old Age Security Law and the Aid to Needy Blind Law to reduce the amount of assistance given under such laws and deprive certain classes of people from aid under such laws; and

WHEREAS, This policy of the Federal Social Security Board is not in accord with the purposes of the National Administration to provide more liberal public assistance to persons in need thereof; and

WHEREAS, It is further the policy of the Federal Social Security Board to require interference with local control of county personnel administering the Old Age Security Law and the Aid to Needy Blind Law; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, That the Legislature hereby declares that it has considered the question of exempt income for persons receiving old age assistance and needy blind assistance, that it finds that such income is necessary for the need of the recipients of such aid and therefore further declares that it will not recede from its position of providing liberal public assistance under the Old Age Security Law and the Aid to Needy Blind Law and will not acquiesce in the demands of the Federal Social Security Board and will not accede to any plan of individual budgets for the recipients of aid; and be it further

Resolved, That the Legislature hereby declares that it will not enact legislation authorizing interference by the State with local control of county personnel administering the Old Age Security Law and the Aid to Needy Blind Law; and be it further

Resolved, That a joint committee be established, consisting of two members of the Assembly, appointed by the Speaker of the Assembly, and two members of the Senate, appointed by the Committee on Rules of the Senate, and that the Governor be requested to appoint the Chairman of the State Social Welfare Board as a fifth member of the committee; and be it further

Resolved, That this committee be instructed and authorized to go to Washington to consult with the proper representatives of the Federal Government, and particularly of the Federal Social Security Board, and with members of Congress, to lay before them the California situation, and to ask for such changes in regulations, or if necessary, for more liberal legislation by the Congress of the United States, and for a declaration of a more liberal policy by the President of the United States; and be it further

Resolved, That the sum of one thousand five hundred dollars ($1,500) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 95

Senate Concurrent Resolution No. 38—Approving certain amendments to the city charter of the City of Oroville, a municipal corporation of the County of Butte, State of California, voted for and ratified by the qualified electors of said city at a general municipal election held therein on the fourteenth day of April, 1941.

[Filed with Secretary of State May 22, 1941.]

City of Oroville Charter amendment

WHEREAS, Proceedings have been taken and had for the purpose of adopting and ratifying certain amendments hereinafter set forth to the charter of the City of Oroville, a municipal corporation in the County of Butte, State of California, as set out in the certificate of the mayor and city clerk of the City of Oroville, as follows, to wit:

CERTIFICATE OF AMENDMENTS TO THE CHARTER OF THE CITY OF OROVILLE, CALIFORNIA.

STATE OF CALIFORNIA,
COUNTY OF BUTTE, } ss.
CITY OF OROVILLE.

Certificate

We, the undersigned, HAROLD T. SEDGWICK, Mayor of the City of Oroville, and R. M. CARPENTER, City Clerk of

said city, do hereby certify and declare as follows: That the City of Oroville, a municipal corporation in the County of Butte, State of California, is now, and at all times herein mentioned, was a city containing a population of more than 3,500 inhabitants and less than 50,000 inhabitants, to wit: 4,334 inhabitants according to the last census had under and pursuant to the laws of the United States of America; and, that ever since the 27th day of January, 1933, said City of Oroville has been, and now is, organized, existing and acting under a free holders charter adopted under and by virtue of Section 8 of Article XI of the constitution of the State of California, which charter was duly ratified by the qualified electors of said city at an election duly held for that purpose at a special municipal election held on the 22nd day of October, 1931, and approved by the legislature of the State of California by concurrent resolutions approved and adopted by said legislature and filed with the Secretary of State on the 27th day of January, 1933 (Senate Concurrent Resolution No. 9, Chapter 22, Statutes of 1933, page 2904).

That pursuant to and in accordance with the provisions of Section 8 of Article XI of the constitution of the State of California, and on its own motion the Council of the City of Oroville, being the legislative body thereof, duly and regularly submitted certain propositions for the amendment of the charter of the said city to be voted upon by the qualified electors thereof at the general municipal election in said city on the 14th day of April, 1941, which said propositions were designated Proposition No. 1, Proposition No. 2, Proposition No. 3, Proposition No. 4, Proposition No. 5, and Proposition No. 6 respectively; that said proposed charter amendments were published and advertised in accordance with the provisions of Section 8 of Article XI of the constitution of said state on the 26th day of February, 1941, in the Oroville Mercury-Register, a daily newspaper of general circulation printed and circulated in said city and the official newspaper thereof; that copies of said proposed charter amendments were caused to be printed in convenient pamphlet form and a notice was published and advertised in the said Oroville Mercury-Register on the said 26th day of February, 1941 and until the date of said election, that such copies of said proposed charter amendments could be had upon application therefore at the office of the City Clerk of the said city; and that such copies were available and on file in the office of the City Clerk of said city at and during the said time and in the manner provided by law from the 26th day of February, 1941, to and including the 14th day of April, 1941.

That the Council of the City of Oroville, being the legislative body thereof, by its Resolution Number 806, passed and adopted on the 10th day of March, 1941, did order and provide for the holding of the general municipal election in the City of Oroville on the 14th day of April, 1941, as in the charter of said city provided, and for the submission of said

proposed amendments to the electors of said city at said election.

That said general municipal election was duly and regularly held in said City of Oroville on the 14th day of April, 1941, which day was not less than forty and not more than sixty days after the completion of the publication of said proposed charter amendments as aforesaid.

That thereafter, the said City Council of the City of Oroville did, in the manner provided by law, duly and regularly canvass the returns of said election and that said Council, by its Resolution Number 811 passed and adopted on the 21st day of April, 1941, declared the result of said election as determined from the canvass of the returns thereof; that at said general election held on the said 14th day of April, 1941, as aforesaid, all of said proposed amendments, to wit: Propositions Numbers 1, 2, 3, 4, 5, and 6 were, and each of them was, approved and ratified by a majority of the qualified voters voting on said amendments and each of them.

That said proposed charter amendments so ratified by the electors of said City of Oroville are in the words and figures as follows, to wit:

PROPOSED AMENDMENT NUMBER 1.

That ARTICLE VI, Section No. 1, paragraph (c) be amended to read as follows:

Vote requirement. Appointment of officers and employees

"(c) Except as otherwise provided in this Charter, where the appointment of any officer, assistant, deputies, clerks or employees is vested in the council the appointment and removal must be made by a five-sevenths vote of the members. Where such appointment is vested in any other body the appointment and removal must be made by a four-fifths vote of the members of such body.

Salary changes

No increase or reduction shall be made in the compensation paid any appointive officer unless made by a five-sevenths vote of the council or a four-fifths vote of such other body."

PROPOSED AMENDMENT NUMBER 2.

That ARTICLE VII, Section No. 2 be amended to read as hereinafter set forth and ARTICLE VIII be amended by adding thereto a new section to be numbered Section 1a reading as hereinafter set forth:

"ARTICLE VII

Section No. 2

Vote canvass

The council shall meet at eight o'clock P.M. on the first Monday following the general municipal election and canvass the returns thereof.

The new members and all newly elected officers shall then be inducted into office and a vice mayor shall be appointed as provided in ARTICLE VIII, Section 1a.

The council shall hold a regular meeting at least once a month at such time as it shall fix by ordinance. Council meetings

Special meetings may be called by the mayor or three councilmen at any time by written notice left at their residence or place of business or delivered personally to each member at least three hours before the time specified for the meeting.

All meetings of the Council shall be held in the city hall unless the council by ordinance provides for another meeting place, and all meetings shall be open to the public; provided, however, that whenever necessary or convenient to hold any meeting at some other place within the City of Oroville, the Clerk may upon written instruction by the Mayor and after notice to the members of the Council designate another meeting place by posting written notice thereof at the regular place of meeting at least one hour prior to the time thereof. Such notice shall designate the place where and the time when such meeting is to be held and a copy of such notice and the clerk's certificate of the posting thereof together with the Mayor's instructions as aforesaid shall be read into and filed with the minutes of such meeting.

The council shall adopt rules for conducting its proceedings

ARTICLE VIII

Section No. 1a

VICE MAYOR

There shall be a vice mayor who shall be appointed by the city council to hold office at the pleasure of the council. He shall be a duly qualified and acting member of the council. In the event of the termination of his tenure of office as councilman from any cause whatsoever, thereupon his tenure of office as vice mayor shall forthwith cease and determine. The appointment and removal of the vice mayor may be made by a majority vote of the council. Vice mayor

The vice mayor shall act as mayor pro tempore in the case of the absence, illness, death or other disability of the mayor and while so acting shall have all of the rights, powers and duties of the mayor."

PROPOSED AMENDMENT NUMBER 3.

That ARTICLE XXII, Section No. 1 be amended to read as follows:

"(a) Any vacancy occuring in any office, from whatever cause arising shall be filled by appointment by the council; and, in the case of a vacancy in the office of mayor, vice mayor, Vacancies in office

or councilman such appointment may be made by a majority vote of the council; provided, further, that if such vacancy exists in any elective office, such appointee shall hold office only until the first Monday after the next succeeding general municipal election at which election a person shall be elected to serve for any balance of the unexpired term. Candidates for office for such unexpired term shall qualify in the manner provided in ARTICLE IV, Section No. 1 of this charter.

(b) In the event a vacancy occurs in any elective office within twenty days before the next succeeding general municipal election then such vacancy may be filled by temporary appointment by a majority vote of the council for the interim until the induction to office of councilmen elected thereat, at which time such vacancy shall be filled by the new council as hereinabove provided.

(c) In the event that a vacancy exists in any elective or appointive office and the council fails to agree or for any reason does not fill such vacancy within thirty days after the same occurs, then such vacancy shall be filled by appointment by the mayor. Such appointment shall be for the time and of like effect as though made by the council as hereinabove provided.

(d) In the event that the seats of a majority of the council shall become vacant, then the City Clerk shall call a special election at once to fill the vacancies for the unexpired terms, and such election shall be conducted substantially in the manner provided by law for holding general municipal elections.

(e) Except as herein otherwise provided, if any officer of the city shall move from the city or absent himself therefrom for more than thirty days consecutively without the permission of the council, or shall resign, or be convicted of a felony, or be adjudged insane, or dies, his office shall thereupon become vacant.

(f) Notwithstanding any provision in this charter contained, whenever any person has been elected or appointed to office and for any reason fails or neglects to file the official oath or bond, if required, or for any reason fails to qualify within thirty days after the commencement of the term of office, the council may declare the office vacant and proceed to fill the vacancy as hereinabove provided."

PROPOSED AMENDMENT NUMBER 4.

That ARTICLE XVII, Section No. 1 be amended to read as follows:

"CITY COURT AND CITY JUDGE

City court and judge

A City Court is hereby established to be presided over by a City Judge.

The City Judge shall be appointed by the council and shall hold office at the pleasure of the council.

The Justice of the Peace of Oroville Township may be appointed City Judge, if in the discretion of the City Council, it is expedient, legal and desirable, to so appoint him.

The City Judge shall have been a resident of the City of Oroville for at least one year immediately preceding his appointment and must be a registered voter in the City of Oroville at the time of his appointment.

The City Court shall have concurrent jurisdiction with the Justice's Court, of all original actions arising within the corporate limits of Oroville.

Except as in this section otherwise provided, the rules of practice in the city court shall be the same as in justice's courts in like cases; and appeals may be taken to the superior court of the county of Butte, from any judgments of said city court in like manner and with like effect as appeals from justice's courts.

In the event of the absence, illness or other disability of the City Judge, or any vacancy existing in such office, the council may appoint an acting City Judge during the continuance of such absence or disability or until the vacancy is filled."

PROPOSED AMENDMENT NUMBER 5.

That ARTICLE XXIV, Section No. 5 be amended to read as follows:

"Section No. 5

BOARD OF EQUALIZATION

Board of Equalization

The council or a committee of at least four of its number appointed for that purpose, shall meet after the commencement of each fiscal year at their usual place at such time as shall be fixed by ordinance and shall sit as a Board of Equalization and shall continue in session from day to day until all assessments have been equalized.

The Board of Equalization shall have the power to hear complaints, to take testimony under oath, and to correct, modify, strike out, raise, or lower any assessment, both as to real and personal property, provided, however, that five days' written notice shall first be given to anyone whose assessment is proposed to be raised, and such owner or owners shall have the right to be heard before the Board under oath.

When such assessment list or roll has been equalized it shall be returned to the assessor."

PROPOSED AMENDMENT NUMBER 6.

That ARTICLE XXVIII, paragraph (d) be amended to read as follows:

Proceedings under general laws

"(d) Provided that no such ordinance shall prevent the council from proceeding under any of the general laws of the

state now in effect or which may hereafter be enacted, subject, however, in all cases to the provisions of subsection (b) of this article; provided, however, that where the work or improvement undertaken under such ordinance or general law is necessary for the promotion or maintenance of public health or safety and the council by resolution so finds, the council may proceed subject to such ordinance or general law and the provisions of subsection (b) shall not apply thereto."

And we do further certify that we have compared the foregoing amendments with the original proposals submitting the same to the qualified electors of said city and find that the foregoing are full, true, correct and exact copies thereof and of each of them; we further certify that the facts set forth in the preamble preceding such amendments to said charter are and each of them is true; that as to all of said amendments this certification shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the corporate seal of said City of Oroville to be affixed hereto this 7th day of May, 1941.

H. T. SEDGWICK
Mayor of the City of Oroville.

ATTEST:

R. M. CARPENTER
City Clerk of the City of Oroville.

[SEAL]

and

WHEREAS, Said proposed amendments so ratified as hereinabove set forth, have been, and are now, duly presented and submitted to the Legislature of the State of California for approval or rejection without power of alteration or amendment in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly thereof concurring, a majority of all members elected to each house voting therefor, and concurring therein, That the amendments to the charter of the City of Oroville, as proposed to, and adopted and ratified by, the qualified electors of the City of Oroville, be, and the same are hereby, approved as a whole, without amendment or alteration, for and as amendments to and as parts of the charter of the City of Oroville.

CHAPTER 96

Assembly Joint Resolution No. 47—Relative to memorializing the President, Secretary of Agriculture, and the Congress of the United States to aid in furthering the development of Highway 20.

[Filed with Secretary of State May 22, 1941.]

Development of Highway 20

WHEREAS, There extends westward from U. S. Highway No. 40 at Emigrant Gap, Nevada County, a road known as State Highway 20; and

WHEREAS, This lateral is considered by many to be a "military life line" and passes through Yuba, Sutter, Colusa, Lake, and Mendocino counties, linking the Sierras with the sea; and

WHEREAS, Many residents of the counties of Nevada, Yuba, Sutter, Colusa, Lake, and Mendocino have formed a Highway Twenty Association for the purpose of furthering the military and the commercial development of this vital avenue of transport and travel; and

WHEREAS, Many members of the Assembly and the Senate of the State of California have had occasion to travel and to view sections of this highway and to learn of some of the problems involved in the adequate development of this highway for National defense and for public travel; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President of the United States, the Secretary of Agriculture and the Congress of the United States to make a survey and to study the possibilities of the development of Highway 20 and to take such steps in the development of the highway as such survey and study shall justify; and be it further

Resolved, That the Chief Clerk of the Assembly be hereby instructed to forward copies of this resolution to the President and the Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 97

Senate Concurrent Resolution No. 41—Relative to approving 12 certain amendments to the charter of the City of Los Angeles, a municipal corporation, in the County of Los Angeles, State of California, voted for and ratified by the electors of said city at the general municipal election held therein on the sixth day of May, 1941.

[Filed with Secretary of State May 23, 1941.]

City of Los Angeles Charter amendment

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of 12 amendments, hereinafter

set forth, to the charter of the City of Los Angeles, a municipal corporation, in the County of Los Angeles, State of California, as set out in the certificate of the city clerk of the said city as follows, to wit:

CERTIFICATE OF RATIFICATION BY ELECTORS OF THE CITY OF LOS ANGELES OF TWELVE CERTAIN CHARTER AMENDMENTS.

State of California
County of Los Angeles } ss.
City of Los Angeles

Certificate

We, the undersigned, Robert L. Burns, President of the Council of the City of Los Angeles, State of California, and Walter C. Peterson, City Clerk of said city, do hereby certify as follows:

That the City of Los Angeles, a municipal corporation of the County of Los Angeles, State of California, now is and at all times herein mentioned was a city containing a population of more than three thousand five hundred inhabitants, and has ever since the first day of July, 1925, and is now, organized and acting under a freeholders charter adopted under and by virtue of section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of such city at a special election held for that purpose on the 6th day of May, 1924, and approved by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on the 26th day of January, 1925 (Stats. 1925, p. 1024).

That in accordance with the provisions of section 8 of Article XI of the Constitution of the State of California, and in full compliance with the provisions of the City Charter and ordinances of said city, on its own motion, the Council of the City of Los Angeles, being the legislative body thereof, duly and regularly submitted to the qualified electors of said City of Los Angeles certain proposals for amendment of the Charter of said city to be voted upon by said qualified electors at the general municipal election called and held in said city on the 6th day of May, 1941, which said proposals were designated as proposed charter amendments numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26, respectively.

That said proposed amendments were published and advertised in accordance with section 8 of Article XI of the Constitution of the State of California, in the Los Angeles Daily Journal, a daily newspaper of general circulation, published in said city, and the official paper of said city. That copies of said proposed amendments were printed in convenient pamphlet form and in type of ten-point and until the date fixed for the election hereinafter described, and as required by law, a notice was advertised and published in said Los

Angeles Daily Journal that such copies could be had upon application therefor at the office of the City Clerk of the City of Los Angeles.

That such copies could be had upon application therefor at the office of the City Clerk of said city until the date fixed for the election hereinafter described. That copies thereof were mailed to each of the qualified electors of said city as required by law.

That in accordance with the provisions of the charter of the City of Los Angeles, the general municipal election was held in said city on the 6th day of May, 1941, which day was not less than forty nor more than sixty days after the completion of the publication and advertising of the proposed amendments aforesaid in the Los Angeles Daily Journal; and said Council of said city did by resolutions duly adopted on the 21st day of March, 1941, and on the 24th day of March, 1941, and on the 25th day of March, 1941, order said proposed charter amendments and all of them, submitted, as aforesaid at the general municipal election to be held in said city on the said 6th day of May, 1941.

That pursuant to the law in such cases made and provided the said proposed amendments were submitted to the qualified electors of said city for their ratification at said election and that at said election a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify twelve of the proposed amendments to the Charter of said city.

That the City Council of the said City of Los Angeles, in accordance with the law in such cases made and provided, did meet on the 13th day of May, 1941, at its usual time and place of meeting and duly canvassed the returns of said election as certified by the election boards and thereafter, on the 14th day of May, 1941, by resolution, duly found, determined and declared that said proposed amendments to the Charter of the City of Los Angeles numbers 1, 3, 5, 8, 9, 12, 14, 15, 18, 21, 22 and 26, and each and every one of them were ratified by a majority of the electors of said city voting thereon and that said proposed amendments numbers 2, 4, 6, 7, 10, 11, 13, 16, 17, 19, 20, 23, 24 and 25 received less than a majority of the votes of the qualified electors voting thereon and were not ratified.

The said amendments to the Charter so ratified by the electors of the City of Los Angeles are in words and figures as follows, to wit:

CHARTER AMENDMENT NO. 1

Section 186 of the City Charter is hereby amended to read as follows:

Sec. 186. For the purpose of providing for the payment of pensions, the expense of said Department of Pensions, and maintaining a reserve for said purposes henceforth, a fund is hereby created, to be known as the Fire and Police Pension

Fire and Police Pension Fund

Fund, which shall consist of all moneys heretofore paid into and all moneys, property, and investments now in the Fire and Police Pension Fund, and all moneys hereafter paid into said fund in accordance with the provisions of this Charter and of this section.

Annual report of commissioners

In order that the Council may be advised as to the amount of the tax levy required to be made by the provisions of this section, the Board of Pension Commissioners shall annually and not later than the first day of June of each year prepare and transmit to the Council a statement consisting of and including only the following items:

(1) The estimated requirements for the next succeeding fiscal year to pay and discharge (a) disability pensions, (b) widows' pensions, (c) minors' pensions, (d) dependents' pensions, and (e) the expense of said Department of Pensions; and,

(2) A sum equal to four per centum of the estimated total payrolls of the Fire and Police Departments for those members of said departments included within the pension provisions of this article for the next succeeding fiscal year.

In addition to the foregoing, in the event that all payments made and to be made from said Fire and Police Pension Fund during any current fiscal year shall exceed the total amount paid into said fund from all sources, then there shall be included in such statement a sum equal to the difference between the amount of moneys paid and estimated to be paid from said Fire and Police Pension Fund during the said current fiscal year and all moneys received and anticipated to be received into said fund during said fiscal year.

Tax levy

The Council shall annually levy a tax clearly sufficient to produce a sum in the total amount of all of the items set forth in the statement required to be prepared by the Board of Pension Commissioners as hereinabove provided.

In addition to the receipts from taxes levied pursuant to the provisions of this section and the deductions from the salaries of the members of the Fire and Police Departments as provided for in Section 186½ hereof, there shall be paid into said Fire and Police Pension Fund the following moneys, to-wit:

(a) All interest and earnings from the investment of said funds;

(b) All contributions and donations to the Fire and Police Departments for services by any member or members thereof, except amounts of money donated to provide for any medal or permanent competitive award;

(c) All fines imposed upon members of the Fire and Police Departments for violations of rules and regulations of said departments;

(d) All proceeds from the sale of unclaimed property.

All moneys paid into said fund during any fiscal year and not expended during said fiscal year for the payment of pensions or the expense of the Department of Pensions shall become a part of and be added to said reserve in said fund.

CHARTER AMENDMENT NO. 3

The Charter of the City of Los Angeles is hereby amended by adding thereto a new section, to be numbered Sec. 4.1, to read as follows:

Airport Revenue Fund Purposes

Sec. 4.1. (a) Moneys in the Airport Revenue Fund may be appropriated and expended for any of the following purposes, and no others:

First: For the necessary expenses of operating and maintaining any airport, airports, works, structures, equipment or facilities owned or controlled by the City for the promotion or accommodation of air commerce, air navigation, air transportation or air craft.

Second: For the payment of principal and interest, or either, upon any bonds issued for the purpose of acquiring, constructing, completing or improving any such airport, airports, works, structures, equipment or facilities for the promotion or accommodation of air commerce, air navigation, air transportation or air craft; provided, there is hereby appropriated from said fund, each year, for said purpose an amount equal to the total balance which, at the close of the preceding fiscal year, remained in said fund over and above the amount of outstanding demands and liabilities payable out of such fund; and provided further, that the amount so appropriated shall not exceed, in any event, the amount of such principal and interest due or to become due during said year.

Third: For the acquisition, construction, improvement or extension of any such airport, airports, works, structures, equipment or facilities for the promotion or accommodation of air commerce, air navigation, air transportation or air craft; provided, however, that no expenditure from said fund shall be made or authorized for any such acquisition, construction, improvement or extension unless there shall be then available in said fund an amount, over and above the amount of such expenditure, sufficient to pay all budgeted expenses for the operation and maintenance of such airport, airports, works, structures, equipment or facilities for the current fiscal year, and to pay all principal and interest due or to become due during the current fiscal year upon any bonds issued for the purpose of acquiring, constructing, completing or improving any such airport, airports, works, structures, equipment or facilities.

Fourth: Out of any surplus, the Council shall return and repay any sums derived from taxation and used for the payment of principal or interest of any bonds issued for the purpose of acquiring, constructing, completing or improving any such airport, airports, works, structures, equipment or facilities for the promotion or accommodation of air commerce, air navigation, air transportation or air craft; and the Permanent Improvement Fund or other fund from which such sum or sums were derived shall be credited with such repayment. The Council shall annually determine at the

time of fixing the annual budget, whether or not any such surplus in fact exists.

All money received into the Airport Revenue Fund shall remain therein until expended for a purpose herein authorized and shall not be transferred to the Reserve Fund pursuant to Section 382 of this Charter.

Nothing herein contained shall be so construed as to prevent the pledge of revenues or the establishment and maintenance of special funds, for the purposes and in the manner provided in Section 4 of this Charter.

Permanent Improvement Fund: Airport facilities

(b) From the Permanent Improvement Fund created in and by subdivision (1) (b) of Section 3 of this Charter, there shall be and is hereby appropriated, each year, for the payment of principal and interest upon any general obligation bonds issued by the City of Los Angeles for the purpose of acquiring, constructing, completing or improving any airport, airports, works, structures, equipment or facilities for the promotion or accommodation of air commerce, air navigation, air transportation or air craft, an amount which, together with such amount as shall have been appropriated for that purpose from the Airport Revenue Fund, shall be sufficient to pay all amounts of such principal or interest due or to become due during said year, provided, however, that the sum so appropriated from the Permanent Improvement Fund shall not in any year exceed the sum received from a levy of two cents (2c) on each one hundred dollars ($100.00) of the assessed value of taxable property in the City, and provided further, that no such appropriation shall be made for the payment of principal or interest upon any bonds issued pursuant to the provisions of Section 4 of this Charter.

(c) Nothing in this section contained shall be so construed as to interfere with or prevent the payment of bonds of the City of Los Angeles, and the interest coupons thereof, in accordance with the Constitution, laws and ordinances authorizing the issuance and payment of said bonds; or to interfere with or prevent any officer of the City of Los Angeles from performing any duty or obligation imposed upon him by such Constitution, laws or ordinances with respect to the provision of moneys for such payment.

CHARTER AMENDMENT NO. 5

The Charter of the City of Los Angeles is hereby amended by adding Section 378 to Article XXVIII, the same to read as follows:

Annual audit

Sec. 378. At the end of each fiscal year, the Council shall require the income and expenditures of each Department of the City to be audited by one or more certified public accountants, who are not connected with the department to be audited. Such accountant or accountants shall make his or their report direct to the Council. The Council shall determine the extent of such audit as to each of the several departments, and may provide for the taking of the same by resolution.

CHARTER AMENDMENT NO. 8

The Charter of the City of Los Angeles is hereby amended by adding Section 139.1 to Article XI, and Section 220.3 to Article XXII, the same to read as follows:

Harbor Commissioners Industrial and administrative survey

Sec. 139.1. The Board of Harbor Commissioners, at least once in every ten (10) years, shall cause an industrial and administrative survey to be made of the business and property of the Department, by an independent qualified industrial engineer or organization specializing in such surveys. Such survey shall be made for the purpose of ascertaining if the Department is being operated in the most efficient and economical manner. In the event the Mayor deems such a survey to be advisable, he may order the Board to cause such survey to be made, provided, however, that the engineer or organization employed to make such survey shall be approved by the Board and the Council.

Water and Power Commissioners Industrial and administrative survey

Sec. 220.3. The Board of Water and Power Commissioners, at least once in every ten (10) years, shall cause an industrial and administrative survey to be made of the business and property of the Department, by an independent qualified industrial engineer or organization specializing in such surveys. Such survey shall be made for the purpose of ascertaining if the Department is being operated in the most efficient and economical manner. In the event the Mayor deems such a survey to be advisable, he may order the Board to cause such survey to be made; provided, however, that the engineer or organization employed to make such survey shall be approved by the Board and the Council.

CHARTER AMENDMENT NO. 9

The Charter of the City of Los Angeles is hereby amended by amending Section 363 of Article XXVIII, the same to read as follows:

Claims

Sec. 363. Every claim for money or damages against the City, or any officer, board or department thereof, except as provided in the preceding section, shall be filed with the City Clerk, who shall thereupon present the same to the board, officer or employee authorized by this Charter to incur or pay the expenditure or alleged indebtedness or liability represented thereby. In all cases such claim shall be approved or rejected in writing, and the date thereof given. Failure to act upon any claim or demand within ninety (90) days from the date the same is filed with the City Clerk shall be deemed to be a rejection thereof: provided, however, that the filing of any such claim with the City Clerk, as above provided, or its presentation to the board, officer or employee authorized by this Charter to incur or pay the expenditure or alleged indebtedness or liability represented thereby, shall constitute a compliance with the provisions of Section 376 as to the presentation of a claim prior to suit or action thereon.

CHARTER AMENDMENT NO. 12

The Charter of the City of Los Angeles is hereby amended by amending Section 29 of Article III, the same to read as follows:

Ordinances: Veto

Sec. 29. Every ordinance which shall have been passed by the Council shall, before it becomes effective, be signed by the City Clerk or other person authorized by the Council to sign the same on its behalf, and be presented to the Mayor for his approval and for his signature if he approves it; if not, he shall endorse thereon the date of presentation to him and shall return it to the City Clerk with his objections in writing. The City Clerk shall endorse thereon the date of its return to him, and shall at the first meeting of the Council thereafter present the same, with the objections of the Mayor, to that body. Thereupon the Council shall proceed to reconsider the passage of the ordinance. Upon such reconsideration it shall in all cases require the votes of two-thirds of the whole Council to pass such ordinance over the veto of the Mayor, but where two-thirds vote or more is required for the original ordinance, a three-fourths vote shall be required to pass it over the veto of the Mayor. The power of the Council to pass any ordinance over the veto of the Mayor shall continue for the period of not to exceed sixty (60) days after the objections of the Mayor are presented to the Council.

CHARTER AMENDMENT NO. 14

The Charter of the City of Los Angeles is hereby amended by amending Sections 291 and 293 of Article XXVII to read as follows:

Recall elections: Ballots

Sec. 291. The ballots used at every recall election shall have printed thereon, as to every officer whose recall is to be voted on thereat, the following question:

"Shall (*inserting the name of the officer sought to be removed*) be removed from the office of (inserting the name of his office) by the recall?"

And opposite such question to be voted on, and to the right thereof, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If an elector shall stamp a cross (X) in the voting square after the printed word "Yes", his vote shall be counted in favor of the recall of such officer, and if he shall stamp a cross (X) in the voting square after the word "No", his vote shall be counted against such recall.

On such ballots, under each question, there shall also be printed the names of all persons who have been nominated as candidates to succeed the person whose removal is sought, in case he shall be removed from office by vote of the electors. The nomination of such candidates shall be made as hereinafter provided, but no vote cast shall be counted for any candidate for said office unless the voter also voted on said

question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in office. If a majority shall vote "Yes", said incumbent shall thereupon be deemed removed from such office upon the qualification of his successor. All votes upon the question of the recall and for candidates for said office, shall be canvassed in like manner as in a regular election, and the City Council shall declare the result thereof. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten (10) days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

Declaration of vote result

Sec. 293. Any elective officer for whose recall and removal from office an election is held, shall continue to perform the duties of his office until such time as the Council, after a canvass of the vote at such recall election, shall declare that a majority of the electors voting on the question as to whether such person shall be recalled and removed from office, have voted in favor of his recall and removal from office, and the person so declared elected shall have qualified. But if such person shall resign at any time after the date of the certificate of the City Clerk certifying that the petition for his recall is sufficient and prior to the declaration of the result of such election thereby creating a vacancy in such office, or a vacancy occurs therein during such time from any cause, such vacancy may be filled in the same manner as other vacancies occurring in such office, but in that event the person appointed to fill such vacancy shall hold his office only until the person declared by the Council to have been elected at the recall election shall qualify. Proceedings for the recall of any elective officer shall be deemed to be pending from the date of the certificate of the City Clerk certifying that the recall petition is sufficient, and if he shall resign at any time subsequent thereto the recall election shall be held notwithstanding such resignation.

Resignation of recalled officer

CHARTER AMENDMENT NO. 15

Article VIII of the City Charter of the City of Los Angeles is hereby amended to read as follows:

Department of City Planning

Sec. 94 The Department of City Planning shall have and exercise all the powers and duties which are now or may hereafter be granted to or imposed upon City Planning Commissions or Departments by State law, and, in addition thereto, such powers as are provided by ordinance, subject, however, to the provisions of Article VIII of this Charter.

Director of Planning

Sec. 94½. Any provision of this Charter to the contrary notwithstanding, the Department of City Planning shall be under the control and management of a Director of Planning. He shall be appointed by the City Planning Commission, subject to the Civil Service provisions of this Charter. The Director of Planning shall be chosen on the basis of his administrative and technical qualifications, with special reference to his actual experience in and his knowledge of accepted practice in the field of City Planning.

The General Manager of the Planning Department at the time this Section becomes effective shall be deemed to have the necessary qualifications for the Director of Planning, subject to the Civil Service provisions of this Charter.

Powers

Sec. 95. The Director of Planning shall have the following powers and duties, subject to supervision and direction by the City Planning Commission as to matters of policy:

(a) He shall appoint and remove all employees of the Department, except the Secretary of the Commission and the chief accounting employee, subject, however, to the civil service provisions of this charter.

(b) He shall have full charge and control of all work of the Department and shall be responsible for the proper administration of its affairs.

(c) He shall prepare the annual departmental budget covering the anticipated revenues and expenditures of the Department, conforming so far as practicable to the forms and dates provided in this Charter and ordinances in relation to the general City budget, and shall expend the funds of the Department in accordance with the budget appropriations or of appropriations made for the Department subsequent to said budget.

(d) He shall certify all expenditures of the Department to the chief accounting employee.

(e) Subject to the supervision and direction of the City Planning Commission, and with the advice of the Coordinating Board, he shall prepare a master plan for the physical development of the City, as such term is defined by State law, in so far as such definition is applicable to the City, and from time to time extend and modify the same; and he shall prepare all maps, diagrams, charts and reports which may be necessary or advisable in the making of said master plan.

(f) Subject to the direction and approval of the City Planning Commission, he shall prepare all proposed zoning regulations and requirements, establishing the necessary districts or zones in connection therewith, and he shall prepare all maps, charts and diagrams which may be necessary or advisable in the making of such zoning regulations.

(g) He shall make investigations and report on the design and improvement of all proposed subdivisions of land and shall have such powers and perform such duties as are required by the Subdivision Map Act of the State of California.

(h) In addition to the foregoing, he shall have such additional powers and duties as may be imposed upon him by ordinance.

Coordinating Board

Sec. 95½. There is hereby created a Coordinating Board, which shall be composed of the following officers of the City, or their designated representatives: The Director of Planning, the City Engineer, the Superintendents of the Park Department, the Playground Department and the Building and Safety Department, the Chief Engineer of the Fire Department, the General Managers of the Department of Public Utilities and Transportation and of the Bureaus of Water and Power, the Executive Director of the Housing Authority, the Chairman of the Planning Committee of the Council, one of the Assistants to the Mayor, and such other officers of the City as the Mayor may from time to time designate.

The Director of Planning shall be Chairman of said Board and shall be responsible for giving notice of its meetings and keeping the records thereof. Said Board shall meet at least once each month and it shall be its function and duty to advise with and assist the Director of Planning in the preparation of the master plan and of amendments or changes thereto

"City Planning Commission"

Sec 96. The Board of City Planning Commissioners shall be known as the "City Planning Commission."

Sec. 96½. The City Planning Commission shall advise the Director of Planning in the preparation of the master plan, including the preparation of zoning, land subdivision and building line regulations, and other regulatory measures related to the master plan or the physical development of the City, and shall hold all public hearings which may be required by law for the adoption, extension or modification thereof. Upon adoption by the City Planning Commission of said master plan or any part thereof, or any regulatory measure referred to above, the same shall be presented to the City Council by the Director of Planning, with the recommendations of the City Planning Commission. Upon receipt of the master plan, or any part thereof, or any such regulatory measure so adopted by the City Planning Commission, the City Council shall consider the same and may adopt such plan, or any part thereof, or any such regulatory measure as it may deem advisable.

The City Planning Commission shall make such reports and recommendations to the City Council and to other governmental officers or agencies as may be necessary to secure adherence to and systematic execution of the master plan, and may publish and distribute reports relating to the master plan.

Report and recommendation

Sec. 97. No ordinance, order or resolution shall be adopted by the Council authorizing, ordering or involving any of the following enumerated matters, unless and until such ordinance, order or resolution shall have first been submitted to the City Planning Commission for report and recommendation concerning the relation of the matter involved to and its effect upon

any portion of the master plan of the City or any plans being prepared by said Department:

(a) The acquisition, establishing, opening, widening, narrowing, straightening, abandoning or vacating of any public street, road, highway, alley, square, park, playground, airport, public building site, or other public way, ground or open space;

(b) The location and appearance of any bridge, viaduct, subway, tunnel or elevated roadway for the use of pedestrian or vehicular traffic or any public building;

(c) The creation of districts or zones for the purpose of regulating the use of lands, density of population, the height, bulk, location or use of buildings therein, or the size of yards, open spaces or setbacks adjacent to buildings, or the changing, amending or altering of any such zones, districts or regulations.

It shall be the duty of the City Planning Commission, within thirty (30) days from the receipt of any such proposed ordinance, order or resolution, to make and file its report and recommendation thereon with the Council, and should said Planning Commission recommend against the approval of the matter involved, the Council may adopt such ordinance only upon a two-thirds vote of the whole of said Council. Should the City Planning Commission recommend approval or fail to make any recommendation within the time mentioned herein, said Council may adopt such ordinance, order or resolution by a majority vote of the whole Council.

The Director of Planning shall make such investigation relative to such proposed ordinance, order or resolution as the City Planning Commission may require, and shall file his report thereon with the Commission.

Zoning Administrator

Sec. 98. There is hereby created the office of Zoning Administrator. Said Zoning Administrator shall be appointed by the Director of Planning, subject to the Civil Service provisions of this Charter. He shall have the following powers and duties, subject, however, to the supervision and direction of the City Planning Commission as to matters of policy:

(a) He shall have the control of and be responsible for the administration and enforcement of all zoning ordinances.

(b) He shall investigate all applications of property owners, including lessees, for changes to zoning ordinances and make his report thereon and his recommendation in respect thereto to the Director of Planning and to the City Planning Commission.

Upon the receipt of such report and recommendation the City Planning Commission shall consider such applications and may approve or deny the same. If approved, such applications, together with the approval of the Commission, shall be presented to the Council, which may adopt the change in said ordinance by a majority vote If any such application is denied by the City Planning Commission, its action thereon

shall be final, except that applicant may appeal to the Council, which may then adopt such change in said ordinance only by a two-thirds vote of the Council. The City Planning Commission shall act upon such applications within thirty (30) days from the date the same are filed and it shall not be necessary to hold more than one hearing upon any such application.

(c) Subject to such rules and regulations as the Council may by ordinance prescribe he shall investigate, hear and determine all applications for variances from the rules, regulations, restrictions and requirements of the zoning ordinances and shall have power to grant such variances as may be in harmony with the general purpose and intent of said ordinances and in accordance with the general and specific rules therein contained and subject to such conditions and safeguards as he may impose. He shall have authority to grant variances only when practical difficulties, unnecessary hardships or results inconsistent with the general purposes of the zoning regulations may result from the strict and literal interpretation and enforcement of the provisions thereof and before any variance may be granted, it shall appear and the Zoning Administrator shall specify in his findings the facts in each case which shall establish beyond a reasonable doubt:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property, that do not apply generally to the property or class of uses in the same district or zone;
2. That such variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner, possessed by other property in the same zone and vicinity; and
3. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located; and
4. That the granting of such variance will not adversely affect the master plan.

The determination of the Zoning Administrator shall be final except that appeals therefrom may be taken to the Board of Zoning Appeals, as hereinafter provided, by any person aggrieved or by an officer, board, department or bureau of the City. Upon making a ruling or determination upon any matter under his jurisdiction, the Zoning Administrator shall forthwith furnish a copy thereof to the applicant, to the Director of Planning and to the City Planning Commission. No variance granted by the Zoning Administrator shall become effective until after an elapsed period of ten (10) days, during which time an appeal may be filed with the Board of Zoning Appeals. An appeal stays all proceedings in furtherance of the action appealed from.

Sec. 98½. There is hereby created a Board of Zoning Appeals, consisting of three (3) members, who shall be

appointed by the Mayor subject to confirmation of the Council, one of whom may be a member of the City Planning Commission. The term of the members of said Board shall be for six (6) years, except that one of the members of the Board first appointed shall be appointed for the term of two (2) years, one member thereof for the term of four (4) years, and the third member thereof for the term of six (6) years. Their successors shall be appointed for the full term of six (6) years. The members of said Board shall take office and their terms shall commence on the first day of July following the taking effect of this Charter provision.

The members of said Board shall receive such compensation as the Council may from time to time fix and determine, and they shall be exempt from the Civil Service provisions of this Charter.

Board of Zoning Appeals

Sec. 99. The Board of Zoning Appeals shall have and exercise the following powers:

(a) To hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the provisions of any ordinance adopted by the Council creating zoning districts or regulating the use of property in the City.

(b) To hear and determine appeals from the rulings, decisions and determinations of the Zoning Administrator granting or denying applications for variances from any rule, regulations, restriction or requirement of the zoning ordinances, or any section thereof.

Upon the hearing of such appeals said Board may affirm, change or modify the ruling, decision or determination appealed from, or in lieu thereof make such other or additional determination as it shall deem proper in the premises, subject to the same limitations as are placed upon the Zoning Administrator by this Charter.

Appeals

Sec. 99¼. The Council shall prescribe by ordinance rules and regulations providing for the time, manner, method and procedure for the taking and hearing of such appeals; pro vided, however, that the said Board may adopt such other and additional rules as it may deem necessary to carry out the rules and regulations prescribed by ordinance and which are not in conflict or inconsistent therewith. All said rules and regulations shall be kept posted in the office of the Board and a copy thereof furnished to any applicant. At least two (2) members shall sit at all hearings, and the concurring vote of at least two (2) members shall be necessary in the determination of any appeal.

Board of Administrative Appeals

Sec. 99½. In the event of the adoption of a Charter amendment creating a Board of Administrative Appeals, all appeals which are to be taken to the Board of Zoning Appeals, as hereinabove provided, shall be taken to the said Board of Administrative Appeals, and wherever the term "Board of

Zoning Appeals" is hereinabove used it shall be taken to mean "Board of Administrative Appeals," and Section 98½, creating said Board of Zoning Appeals, shall be inoperative for any purpose.

CHARTER AMENDMENT NO. 18

The Charter of the City of Los Angeles is hereby amended by adding to Article IX thereof, a new section to be numbered Section 126, the same to read as follows:

Civil Service

Sec. 126. Except as otherwise provided in Section 111 hereof, every person who is, on the effective date hereof, retained and employed by the City or any Department thereof pursuant to the terms of Section 431 of this Charter, shall forthwith be and become a member of the classified Civil Service of the City of Los Angeles as defined in Section 100 of this Charter, and shall be conclusively deemed to have been regularly appointed to the position in the class in which he is so retained and employed and to have served, in that position and class, the probationary period prescribed in Section 109.

Every such person shall be conclusively presumed to have served in the class and in the department and major division in which he is so retained and employed on the effective date hereof, for the total of the following periods:

1. The actual length of time, not to exceed three years, such person was employed in the service of the public utility acquired by the City or any department thereof, regardless of the duties performed, or the titles held by such person in such service.

2. The total length of his service in the class and in the department and major division in which he is so retained and employed on the effective date hereof.

The total of such service as specified in subdivisions 1 and 2 hereof, shall also be deemed to have been performed since original regular appointment to such class in the classified civil service. Where such person shall have taken and passed a civil service examination for the position in which he was theretofore so retained and employed and is on the effective date of this section retained and employed in such position, although classified as a civil service employee, he shall be entitled to and shall receive all of the benefits and rights granted by this section.

Except as in this section otherwise specifically provided, the provisions of Article IX of this Charter and of the rules and regulations of the Board of Civil Service Commissioners adopted pursuant thereto shall apply to persons so employed to the same extent and in the same manner as to all other persons employed in the classified civil service.

CHARTER AMENDMENT NO. 21

A new section, to be numbered 69.1, is hereby added to the Charter, to read as follows:

Nonliability of superior for defalcation

Sec. 69.1. In all cases wherein an employee of the City of Los Angeles is required to furnish a bond for the faithful performance of his duties there shall be no personal liability upon, or any right to recover against, his superior officer or other officer or employee of the City of Los Angeles, or any liability or right of recovery upon the official bond of his superior officer, or of any other officer or employee, for any defalcation by said employee, and such liability and right of recovery shall be solely upon and against the defaulting employee and his official bond so required to be furnished unless his superior officer, other officer or employee, is a party to the wrongful act or has conspired with the defaulting employee or employees, as the case may be, causing directly or indirectly such loss.

CHARTER AMENDMENT NO. 22

Section 62 of the City Charter is hereby amended to read as follows:

Treasurer

Sec. 62. The Treasurer shall perform such duties as are imposed upon city treasurers by any law of the State applicable to the City of Los Angeles; he shall furnish a bond for the faithful performance of his duties. The premium on such bond shall be paid by the city, and the amount and terms thereof shall be fixed by ordinance from time to time.

CHARTER AMENDMENT NO. 26

The Charter of the City of Los Angeles is hereby amended by amending Sections 274 and 283 of Article XXVII, and by adding thereto a new Section to be numbered 274.1, to read as follows:

Initiative ordinances

Sec 274. The petition praying for the adoption by the Council of any proposed ordinance, or if the same be not so adopted, for the submission of such ordinance to a vote of the electors of the City, shall be signed by fifteen per cent (15%) of the qualified electors of said City, estimated upon the basis aforesaid, and when presented to the Council as aforesaid the Council may either:

(a) Pass the said ordinance, without alteration, within twenty (20) days after such presentation; or

(b) It may at its discretion call a special election and submit such proposed ordinance, without alteration, to a vote of the electors of the City.

(c) In the event any special election is held in the City for any purpose prior to the holding of a general election, at which such special election all the qualified electors of the City are entitled to vote, the Council may, in its discretion, submit such proposed ordinance to the electors of said City at such special election.

Any ordinance proposed by initiative petition and passed by the Council and approved by the Mayor or passed over the Mayor's veto, shall be subject to the referendum by petition, as herein provided in the case of other ordinances.

If such ordinance is not adopted, or submitted to a vote of the electors of the City at a special election, as hereinabove provided, the Council shall submit such proposed ordinance, without alteration, to a vote of the electors of the City at the next succeeding general municipal election at which a Mayor is not elected after the presentation of said petition to the Council.

Sec. 274.1. In the event that said petition prays for the submission of a proposed ordinance amending or repealing an ordinance theretofore proposed by petition and adopted by a vote of the electors, and is signed by qualified electors of the City equal in number to fifteen per cent (15%) of the qualified voters of the City estimated on the basis aforesaid, then but not otherwise, the Council must submit such proposed ordinance to a vote of the electors of the City at the next election for any purpose at which all the qualified voters of the City are entitled to vote, that shall be held at any time after thirty (30) days from the date of the presentation of such petition to the Council.

Sec. 283. Upon presentation to the Council by the City Clerk of a referendary petition or petitions, the ordinance, order or resolution, the submission of which to a referendary vote is thereby demanded, must be either repealed by the Council without delay, or submitted to a vote of the qualified electors of the City for approval or rejection at the next general municipal election occurring subsequent to thirty (30) days from the date of the presentation of such referendary petition to the Council by the City Clerk; provided, that if before such general municipal election, any other election for any purpose at which all the qualified voters of the City are entitled to vote shall be held in said City, then such ordinance, order or resolution shall be so submitted at such last named other election, if the Council shall so determine; provided, however, that the Council may, in its discretion, at any time subsequent to the presentation of such petition, call a special election at which the ordinance, order or resolution contained in such petition may be submitted to a referendary vote.

That we have compared the foregoing amendments with the original proposals submitting the same to the electors of said city and find that the foregoing are full, true, correct and exact copies thereof and of each of them; we further certify that the facts set forth in the preamble preceding such amendments to said Charter are and each of them is true.

That as to all of said amendments this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the corporate seal of the said City of Los Angeles to be affixed hereto this 16th day of May, 1941.

ROBERT L. BURNS,
President of the Council of the City of Los Angeles

[SEAL]

WALTER C. PETERSON,
City Clerk of the City of Los Angeles,
By J. E. HOPPER,
Deputy City Clerk of the City of Los Angeles

and

WHEREAS, The said proposed amendments as ratified as hereinbefore set forth have been and are now duly presented and submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Approval

Resolved by the Senate of the State of California, the Assembly concurring (A majority of all the members elected to each house voting therefor and concurring therein), That said amendments to the charter of the City of Los Angeles as proposed to, and adopted and ratified by the electors of said city, and as hereinbefore fully set forth, be and the same are hereby approved as a whole, without amendment or alteration, for and as amendments to and as part of the charter of the said City of Los Angeles.

CHAPTER 98

Assembly Concurrent Resolution No. 50—Approving an amendment to the Charter of the City of Berkeley, a municipal corporation in the County of Alameda, State of California, voted for and ratified by the qualified electors of said city at the regular municipal election held therein on the sixth day of May, 1941.

[Filed with Secretary of State May 24, 1941.]

City of Berkeley. Charter amendment

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of an amendment hereinafter set forth to the charter of the City of Berkeley, a municipal corporation in the County of Alameda, State of California, as set out in the certificate of the mayor and city clerk of the said city as follows, to wit:

STATE OF CALIFORNIA }
COUNTY OF ALAMEDA } ss
CITY OF BERKELEY }

Certificate

We, the undersigned FRANK S. GAINES, Mayor of the City of Berkeley, State of California, and FLORENCE E.

TURNER, City Clerk of said City, do hereby certify and declare as follows:

That the City of Berkeley, a municipal corporation in the County of Alameda, State of California, now and at all times herein mentioned, was a City containing a population of more than 3,500 inhabitants, and has been ever since the 1st day of July, 1909, and now is organized and existing and acting under a freeholder's charter adopted under and by virtue of Section 8 of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said City at an election held for that purpose on the 30th day of January, 1909, and approved by the Legislature of the State of California by Assembly Concurrent Resolution filed with the Secretary of State on the 4th day of March, 1909 (Statutes 1909, page 1208).

That in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California on its own motion, the Council of the City of Berkeley, being the legislative body of said city, by its Resolution No 24,872-N.S. duly and regularly submitted to the qualified electors of said city, a certain proposal, designated as "CHARTER AMENDMENT NO. 3" to amend the Charter of said city and to be voted on by said qualified electors at the regular municipal election held in said city on the 6th day of May, 1941.

That such proposed amendment was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California on the 26th day of March, 1941, in the Berkeley Daily Gazette, a daily newspaper of general circulation published in said City of Berkeley and the official newspaper of said city, and in each edition thereof during the day of publication.

That copies of said proposed amendment were printed in convenient pamphlet form and in type of not less than ten point, and copies thereof were mailed to each of the qualified electors in said city in accordance with the Constitution of the State of California and the Charter of the City of Berkeley; and an advertisement that copies thereof could be had upon application therefor at the office of the City Clerk of the City of Berkeley was published in said Berkeley Daily Gazette, a newspaper of general circulation published in said city on the 27th day of March, 1941, and on each day thereafter to and including May 5th, 1941, all as required by Section 8 of Article XI of the Constitution of the State of California.

That copies of said pamphlet containing said proposed amendment could be had upon application therefor at the office of the City Clerk of said City, to and including the 6th day of May, 1941, the date fixed for said election.

That said regular municipal election was duly and regularly held in said City of Berkeley, after due notice given and published, on the 6th day of May, 1941, which day was not less than forty (40) days, nor more than sixty (60) days after the completion of the publication and advertisement of the

aforementioned proposed amendment in the Berkeley Daily Gazette, the official newspaper of said city.

That the returns of said election were, in accordance with the law in such cases made and provided, duly and regularly canvassed and certified to, and it was duly found, determined and declared by the proper officers, thereunto duly and properly authorized, that said proposed amendment to the Charter of the City of Berkeley was ratified by a majority of the electors of said city voting thereon; that the Council of said city did by its Resolution No. 24,999-N.S. duly declare the results of said election as determined by the canvass of the returns thereof.

That as to said amendment, this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

That said amendment to the Charter of the City of Berkeley so ratified by the electors of said city is in words and figures as follows, to-wit:

CHARTER AMENDMENT NO. 3 That the Charter of the City of Berkeley be amended by adding thereto a new section to be known as Section 58½, which said new Section shall read as follows:

Tax for Retirement System

"TAX FOR RETIREMENT SYSTEM: Section 58½: The Council shall have power to levy and collect taxes, in addition to the taxes herein authorized to be levied, sufficient to create and maintain retirement systems for the employees of the City of Berkeley, and to make all contributions and payments required of the City under any retirement system; provided that the levy herein authorized shall not exceed twelve cents on each one hundred dollars of assessed value of all real and personal property within the City."

And we further certify that we have compared the foregoing proposed and ratified amendment to the Charter of the City of Berkeley with the original proposal submitting the same to the electors of said city, and find that the foregoing is a full, true, correct and exact copy thereof.

IN WITNESS WHEREOF, we have hereto set our hands and caused the seal of the City of Berkeley to be affixed hereto this 20th day of May, 1941.

FRANK S. GAINES
Mayor, City of Berkeley

[SEAL]

FLORENCE E. TURNER
City Clerk, City of Berkeley

and

WHEREAS, The said proposed amendment as ratified as hereinbefore set forth, has been and is now duly presented and submitted to the Legislature of the State of California for approval, or rejection, as a whole without power of alteration in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate concurring, A majority of all the members elected to each house voting therefor and concurring therein, That said amendment to the charter of the City of Berkeley as presented to, and adopted, and ratified by the electors of said city and as hereinbefore fully set forth, be and the same is hereby approved as a whole, without amendment or alteration, for and as an amendment to and as a part of the charter of said City of Berkeley. Approval

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CHAPTER 99

Senate Joint Resolution No. 24—Relative to memorializing the President, the Congress and the Solicitor General with respect to the assertion of any pretended Federal claim to the submerged lands of the State of California.

[Filed with Secretary of State May 27, 1941.]

WHEREAS, On the adoption of the Declaration of Independence, the original States, as successors to the English Crown, became the owners of the tide and submerged lands within their respective borders, and such ownership was retained by them on the adoption of the Constitution, and never has been relinquished to the Federal Government since; and Federal claims to submerged lands

WHEREAS, The State of California was admitted to the Union on a basis of equality with the original States, possessing and enjoying all the attributes of sovereignty residing in the original States, including the ownership of the tide and submerged lands within its borders; and

WHEREAS, Such ownership has long been recognized by the Supreme Court of the United States of America and by other Federal departments and agencies, and has not been questioned until recently, with the result that the State of California and its grantees, both public and private, relying thereon, have expended vast sums of money in the development of such lands, including harbor facilities, reclamation and filling in, and the erection of costly structures; and

WHEREAS, This Legislature is informed that plans are being made to initiate litigation against the State of California, or its grantees, to assert a pretended Federal claim to such lands, whether with or without the authorization of the Congress; and

WHEREAS, Any such litigation could only result in a decision in favor of this State or its grantees, would be unjust in view of the concomitant vexation and annoyance, and would seriously impair the further development of such lands and the financing thereof until the final decision; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the State of California hereby solemnly and firmly asserts the title of the State and its grantees in such lands within this State; and be it further

Resolved, That the President, the Congress, and the Solicitor General of the United States be, and they hereby are, respectfully urged not to initiate or authorize the initiation of any litigation that would becloud such title of the State and its grantees, however temporarily; and be it further

Resolved, That the Secretary of the Senate be, and he hereby is, directed to transmit copies of this resolution to the President of the United States, the Solicitor General and to the Senators and Representatives of the State of California in the Congress.

CHAPTER 100

Assembly Constitutional Amendment No. 2—A resolution proposing to the people of the State of California to amend Section 23 of Article IV of the Constitution of said State, relating to the compensation of members of the Legislature.

[Filed with Secretary of State May 27, 1941]

Constitution, Art IV, Sec 23

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its Fifty-fourth Regular Session, commencing on the sixth day of January, 1941, two-thirds of all the members elected to each of the two houses of the said Legislature voting in favor thereof, hereby proposes to the people of the State of California that Section 23 of Article IV of the Constitution of said State be amended to read as follows:

Members' compensation

Sec. 23. The members of the Legislature shall receive for their services the sum of two hundred dollars ($200) each for each month of the term for which they are elected, to be paid monthly in the even-numbered years and to be paid during the regular legislative session in the odd-numbered years at such times as may be provided by law and mileage to be fixed by law, all paid out of the State Treasury, such mileage not to exceed five cents ($0.05) per mile.

CHAPTER 101

Senate Concurrent Resolution No. 44—Relative to the intent of the Legislature in enacting Assembly Bill No. 2332.

[Filed with Secretary of State May 28, 1941]

"Fleet policy"

Resolved by the Senate of the State of California, the Assembly thereof concurring, That it is the intent of the Senate and Assembly in enacting Assembly Bill No. 2332 not to prohibit the inclusion within the coverage of a "fleet policy," insuring against hazards incident to the ownership, maintenance, operation and use of motor vehicles, of motor vehicles

owned by employees of a single employer when more than 50 per cent of the use made by such employees of their motor vehicles is in the course of their employment and such employees are compensated by their employer for the use of their motor vehicles either on a mileage basis or on any other comparable basis; and be it further

Resolved, That it is the intent of the Senate and Assembly in enacting Assembly Bill No 2332 not to prohibit the practice of "occupational rating" in the determining of rates for policies insuring against hazards incident to the ownership, maintenance, operation and use of motor vehicles.

CHAPTER 102

Assembly Concurrent Resolution No. 54—Relating to relief for aliens.

[Filed with Secretary of State May 28, 1941]

Unemployment relief for aliens

WHEREAS, The policy of the Federal Government whereby moneys for work relief are not expended for the employment of aliens is detrimental to this State, and results in an undue burden upon appropriations for State and local relief; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Legislative Committee created by Senate Concurrent Resolution No. 16 is hereby directed to confer with Federal officials in Washington in an endeavor to achieve a more adequate and satisfactory plan for the relief of unemployment among aliens.

CHAPTER 103

Assembly Concurrent Resolution No. 53—Relative to reports of the annual conventions or encampments of the Veterans of Foreign Wars of the Department of California.

[Filed with Secretary of State May 28, 1941]

Veterans of Foreign Wars Reports

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there shall be printed as a public document 300 copies of the report of the annual conventions of the Veterans of Foreign Wars of the Department of California during the years of 1940, 1941 and 1942, together with any illustration copies of the general orders enacted at such conventions and of the official roll call, 150 copies for the use of the Assembly, and 150 copies for the use of the Senate, the cost of the same to be payable from the legislative printing appropriation.

CHAPTER 104

Senate Concurrent Resolution No. 43—Relative to obtaining a report on the acquisition of the Mount Tamalpais Ridgecrest Boulevard by the State, and the inclusion thereof in the State Highway System.

[Filed with Secretary of State May 29, 1941.]

Report on acquisition of Mount Tamalpais Ridgecrest Boulevard

WHEREAS, It is desirable to obtain full information relative to the feasibility of acquiring the Mount Tamalpais Ridgecrest Boulevard by the State and the desirability of its inclusion in the State Highway System; and

WHEREAS, Many factors requiring expert and technical knowledge of highways and highway construction are involved in the subject; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, That the Department of Public Works is hereby directed to investigate and report to the Legislature upon the desirability of the acquisition of that certain toll road known as Mount Tamalpais Ridgecrest Boulevard in Marin County, and extending from its junction with the Marin County, Panoramic Highway to the summit of Mount Tamalpais, a distance of approximately four and seven-tenths miles, and from Mountain Theater Junction to Ridgecrest Toll Gate, a distance of approximately three and nine-tenths miles; and be it further

Resolved, That said investigation and report include:

A description of the road as to type of improvement, width, alignment and surfacing, and the condition thereof.

The means of financing such acquisition, and whether or not any participation therein would be forthcoming from any local governmental agencies, or any other State agency, including the State Park Commission.

The price at which said toll road could be obtained and the terms of payment.

And that said report shall contain recommendations as to the acquisition of said road and the inclusion thereof in the State Highway System. Said report shall be completed on or prior to July 1, 1942, and shall be filed after its completion with the Secretary of the Senate and the Chief Clerk of the Assembly at the first opportunity when the Legislature is in session; and be it further

Resolved, That the department, if possible, obtain without cost an option to purchase said toll road at the lowest available price, said option to expire not earlier than January 1, 1944.

CHAPTER 105

Senate Joint Resolution No. 1—Relative to the proposed Loma Prieta State Forest.

[Filed with Secretary of State May 29, 1941.]

Loma Prieta State Forest

WHEREAS, The provisions of the Fulmer Act (49 Stat. 963) authorize effective Federal cooperation with the States for the purpose of stimulating the acquisition, development, and proper administration and management of State forests; and

WHEREAS, The Fulmer Act makes no funds available, and no funds have been made available subsequent to its passage, to carry out this program for stable forest-land ownership; and

WHEREAS, The proposed Loma Prieta Forest in Santa Clara and Santa Cruz counties will provide for water conservation, recreation, commercial timber reproduction, wild life protection and propagation, erosion control and protection of valuable watersheds, affecting a large population in the metropolitan centers of central California; and

WHEREAS, The proposed Loma Prieta Forest is well fitted to be California's first State Forest acquired under the terms of the Fulmer Act; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of this State of California hereby respectfully urges the President and Congress of the United States to enact suitable legislation appropriating at least the five million dollars ($5,000,000) authorized to be appropriated under the Fulmer Act; and be it further

Resolved, That the Legislature of the State of California hereby respectfully urges the Secretary of Agriculture to take such steps as are necessary for him to enter into a cooperative agreement with the officials of the State of California for the acquisition of the proposed Loma Prieta Forest; and be it further

Resolved, That the Secretary of the Senate is hereby requested to transmit copies of this resolution to the President of the United States, the Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 106

Senate Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding thereto Article XXV, relating to the organization, powers and duties of the Board of Forestry.

[Filed with Secretary of State June 2, 1941.]

Constitution, Art XXV

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its regular session

commencing on the sixth day of January, 1941, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that the Constitution be amended to read as follows by adding thereto Article XXV to read as follows:

Article XXV. Forestry

State Board of Forestry

SECTION 1. There shall be a State Board of Forestry of seven members appointed by the Governor with the advice and consent of the Senate.

One of the members shall be a person of practical knowledge and experience in the pine timber industry; one in the redwood timber industry; one in general agriculture and in the beneficial use of water; one in the range live stock industry; and one in the recreational phases of forest use, inclusive of fish and game.

One of the members shall be a representative of the profession of forestry, chosen from the members of the faculty of the school or department of forestry of the University of California.

One of the members shall be chosen at large.

The members first appointed hereunder shall classify themselves by lot so that the term of one member shall expire on the fifteenth of January in each of the years 1944 to 1950. Each subsequent appointee shall hold office for seven years from the expiration of the term of his predecessor and until his successor is appointed and qualified. An appointment to a vacancy occurring before the expiration of a term shall be but for the remainder of that term.

All appointments of members made when the Legislature is not in session shall be subject to confirmation by the Senate at the next regular or special session of the Legislature. No appointee at the time of the creation of the board shall serve on the board without first having been confirmed by the Senate.

Any member of the board may be removed by a vote of two-thirds of the members elected to each house of the Legislature.

The board shall have power to organize itself and to select its officers.

Duties

SEC. 2. The board shall represent the State's interests in the acquisition and management of State forests and in Federal land matters pertaining to forestry, and shall determine, establish, and maintain an adequate forest policy. General policies for the guidance of the Division of Forestry shall be determined by the board. Pursuant to such policies, the Division of Forestry shall:

(a) Prepare and from time to time revise a complete plan for reducing to a minimum the losses caused by forest fires, insect pests, and forest diseases, and may cooperate with other agencies in the administration of the plan; and

(b) With such funds as are made available to it, provide for the adequate protection from fire of grass, grain, brush and timber on private and State lands giving priority to forest and watershed areas, and may cooperate with local governments and other agencies in the administration of such protection; and

(c) Develop fully the facts and ascertain and determine, by detailed economic studies, the conditions under which the management of uncultivated wild lands should be primarily devoted (1) to the conservation of water, or (2) to erosion control, or (3) to production of timber and wood, or (4) to grazing of animals, or (5) to preservation of natural beauty and of wild life.

The board shall have and exercise such additional powers and duties, consistent with the provisions of this article, as the Legislature shall from time to time prescribe.

State Forester

SEC. 3. The board, with the advice and consent of the Senate, shall appoint and fix the compensation of an executive officer known as the State Forester, who shall be ex officio the Chief of the Division of Forestry in the Department of Natural Resources. He shall be a technically trained forester. The State Forester shall not be a member of the board and shall be exempt from civil service. The board shall have power to remove the State Forester for misconduct, incompetence or neglect of duty.

The State Forester with the approval of the board may appoint, in accordance with civil service and other provisions of law, such assistants, deputies, rangers and other employees as may be necessary for the administration of the affairs of the Division of Forestry and the State Board of Forestry, and may prescribe their duties and fix their salaries.

Funds

SEC. 4. On the operative date hereof the unencumbered balance of all funds heretofore lawfully available, or then to be allocated by the Director of Natural Resources, for the maintenance and support of the State officer, board, or agency heretofore administering the provisions of Division 4 of the Public Resources Code, shall become available for the support and maintenance of the board herein created, and for the support and maintenance of the Division of Forestry. On said operative date the State Board of Forestry and the office of State Forester and Chief of the Division of Forestry provided for by the Public Resources Code are hereby abolished.

Operative date

SEC. 5. The provisions of this article shall become operative on January 15, 1943.

CHAPTER 107

Senate Concurrent Resolution No. 45—Relative to "Home Folks Day" of the 184th Regiment at Camp San Luis Obispo.

[Filed with Secretary of State June 3, 1941.]

"Home Folks Day" of 184th Regiment

Sunday, June 8th, having been set aside by the 184th Regiment now in encampment at Camp San Luis Obispo and designated "Home Folks Day" at which the regiment will welcome the parents and families and friends of the members of the various companies, and

WHEREAS, This will afford an opportunity for the home folks to meet their boys in camp and permit an inspection of their army life and facilities; therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, That we extend our compliments and appreciation to the officers and rank and file of the 184th Regiment for this courtesy and attractiveness of "Home Folks Day" and we wish the regiment and all the patriotic young men now in encampments our sincerest appreciation of their patriotic service and thoughtful remembrance of the people at home.

CHAPTER 108

Senate Joint Resolution No. 25—Relative to proposed merit system for county welfare activities.

[Filed with Secretary of State June 4, 1941.]

Merit system for county welfare activities

WHEREAS, The merit system applicable to county welfare workers is being sponsored by the State Department of Social Welfare of this State in accordance with orders of the Federal Social Security Board; and

WHEREAS, The members of the several boards of supervisors of this State are of the opinion that the proposed merit system is an interference with local county governmental activities; and

WHEREAS, There appears to be no good reason why the State Department of Social Welfare should dictate to the counties as to whom should be employed by the supervisors, whether in accordance with the rules of the Federal Social Security Board or not; and

WHEREAS, The Legislature of the State of California is of the opinion that this interference with local county governmental activities is unauthorized and unwarranted; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California hereby advises and informs the Federal Social Security

Board that it is opposed to the proposed merit system and to any interference with local governmental activities in this State whether by a State agency or by a Federal agency; and be it further

Resolved, That copies of this joint resolution shall be immediately dispatched to the members of the Federal Social Security Board by the Secretary of State.

CHAPTER 109

Assembly Concurrent Resolution No. 56—Relative to reports of the 1940 and 1941 annual conventions of the Military Order of the Purple Heart.

[Filed with Secretary of State June 5, 1941.]

Military Order of the Purple Heart Report

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there shall be printed as a public document 300 copies of the report of the proceedings of the 1940 and 1941 annual conventions of the Military Order of the Purple Heart together with illustrative copies of all general orders enacted at such conventions and of the official roll, 150 copies for the use of the Assembly and 150 copies for the use of the Senate; the cost of the same to be payable out of the legislative printing appropriation.

CHAPTER 110

Assembly Concurrent Resolution No. 57—Relative to the reports of the annual conventions of the Disabled American Veterans of the World War of the Department of California, and the Department Encampment of the Grand Army of the Republic.

[Filed with Secretary of State June 5, 1941.]

Disabled American Veterans of the World War· Reports

Resolved by the Assembly of the State of California, the Senate thereof concurring, That there shall be printed as a public document 300 copies of the report of the respective annual conventions of the Disabled American Veterans of the World War of the Department of California during the years 1941 and 1942, respectively, together with illustrations, copies of the general orders enacted at such conventions and the official roll, 150 copies for the use of the Assembly and 150 copies for the use of the Senate; the cost of same not to exceed six hundred dollars ($600) payable from the legislative printing appropriation; and be it further

Grand Army of the Republic. Reports

Resolved, That there shall be printed as a public document 300 copies of the sessions of the Department Encampment of the Grand Army of the Republic for the years 1941 and 1942, together with illustrations, copies of the general orders of the

department and of the official rolls, 150 copies for the use of the Assembly and 150 copies for the use of the Senate; the cost of same not to exceed four hundred dollars ($400), payable from the legislative printing appropriation.

CHAPTER 111

Assembly Concurrent Resolution No. 58—Relative to the death of Mrs. Emily Hays.

[Filed with Secretary of State June 5, 1941.]

Death of Mrs Emily Hays

WHEREAS, Mrs Emily C Hays, the mother of Senator Ray W. Hays, died Friday, May 30, 1941, in a Berkeley hospital; and

WHEREAS, Mrs. Hays had lived in Fresno County for 50 years, and was beloved both by her family and by her many friends and neighbors; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That we hereby commiserate with the family of Mrs. Emily C. Hays upon her unfortunate death as a result of an accident; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit a copy of this resolution to Senator Ray W. Hays.

CHAPTER 112

Assembly Joint Resolution No. 12—Relative to discrimination in steamship service and freight rates between New York and California ports to the Panama Canal Zone.

[Filed with Secretary of State June 6, 1941.]

Discrimination of steamship service and freight rates

WHEREAS, Congress has authorized the construction of additional locks at the Panama Canal at an eventual total cost of approximately two hundred seventy-seven million dollars ($277,000,000), as well as an additional expenditure of approximately thirty-five million dollars ($35,000,000) for the construction of barracks, airports, etc.; and

WHEREAS, Large quantities of foodstuffs, materials and supplies are imported annually into the Republic of Panama amounting in the year 1937 to twenty-one million eight hundred twenty-eight thousand dollars ($21,828,000), of which imports from the United States amounted to eleven million three hundred seventy-seven thousand dollars ($11,377,000) principally from the Atlantic seaboard; and

WHEREAS, Materials and supplies will be imported into the Panama Canal Zone in large quantities as additional protection for National defense by the United States Government

and for the Republic of Panama, including alfalfa, groceries, cold storage products, dry goods, dairy products, raw materials, housewares, candies and tobacco, milk and cream, shoes, cattle and hogs, soaps, meats, lard, vegetables, lumber, petroleum products, cement, iron and steel, automobiles, chemicals, medicines, reinforced concrete frames and floor slabs, hollow tile filler walls, stucco exterior, tile and composition roofing, miscellaneous iron and steel, hollow metal work, metal lath and plaster, steel shelving, automatic refrigeration systems, waterproofing, cold storage rooms, slate toilet partitions, glazed tile wainscoting, ceramic, cement and other quarry products, tile floors, paint, plumbing, electric fixtures, and various other types of materials and supplies grown, produced, and manufactured on the Pacific Coast; and

WHEREAS, The United States Government owns and operates the Panama Railroad Steamship Company, which is operated under the direction of the President of the United States and the War Department, which operates steamship service between New York and the Panama Canal Zone, and railway service between Atlantic and Pacific ports of the Canal Zone; and

WHEREAS, Freight rates upon said Government-owned line between the Atlantic seaboard and the Panama Canal Zone are materially less than freight rates on private lines operated between Pacific Coast ports and the Canal Zone, in some cases being as much as 50 per cent less; and

WHEREAS, If similar service and the same freight rate basis were provided by the United States Government between Pacific Coast ports and the Panama Canal Zone, California growers, producers and manufacturers of supplies and materials to be used in said construction work, including the necessities of life, to be imported into the Republic of Panama as hereinabove set forth, would be in a position to compete with growers, producers and manufacturers on the Atlantic seaboard; and

WHEREAS, Due to the withdrawal of ships under the jurisdiction of the United States Maritime Commission from export trade due to the war, there are now numerous vessels available for this service; and

WHEREAS, Private steamship lines operating between the Pacific Coast ports and the Panama Canal Zone will not meet the New York-Panama rates of the Government-owned Panama Railroad Steamship Company, resulting in a practical monopoly in favor of shippers from the Atlantic seaboard to said Panama Canal Zone; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President of the United States, the Congress and the Secretary of War are hereby respectfully requested to take such action as will be necessary to provide similar steamship service between Pacific Coast ports and the Panama Canal Zone and at the same freight rate basis in order that Pacific Coast growers, producers, and manufacturers may

be enabled to compete with growers, producers and manufacturers on the Atlantic seaboard in supplying agricultural and manufactured materials and supplies to the Panama Canal Zone; and be it further

Resolved, That copies of this resolution be transmitted by the Governor of the State of California to the President and Vice President of the United States, to the Speaker of the House, to the Secretary of War, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 113

Assembly Concurrent Resolution No. 2—Relative to a legislative declaration of the public policy of this State with reference to the acquisition and use of beaches for public park purposes.

[Filed with Secretary of State June 6, 1941.]

Acquisition and use of beaches

WHEREAS, The beaches along the coast line of the State of California constitute one of its most important assets which, if fully utilized, can be caused to yield tremendous dividends in both health and money to the people of the State of California, by affording opportunities for outdoor recreation and by attracting to this State additional thousands of tourists from all over the world; and

WHEREAS, Legislation has heretofore been enacted granting authority to the State Park Commission which, if exercised, would enable the State to acquire and develop such beaches; and

WHEREAS, In order to aid and facilitate such action it is desirable that the Legislature declare the policy of the people of the State of California with reference to its beaches; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That this Legislature hereby declares and expresses that the policy of the people of the State of California with reference to its beaches shall be as follows:

The State, through its authorized representatives, shall acquire all of the available beach land on the California coast for use for public park and recreation purposes.

Such acquisition shall be made by condemnation or agreement and upon the payment of the reasonable value of such land to the present owner.

The State shall maintain general management and control over the beach land hereafter acquired, but shall, in so far as possible, provide for the immediate administration and management thereof upon a reasonable basis by cities and counties through their recreation departments, to the end that these

beaches shall be managed and operated in such manner as to obtain the greatest possible public benefit to the people of the State of California.

The acquisition of beach lands pursuant to the program herein outlined shall commence as soon as possible after July, 1941. The program shall be carried on as rapidly as funds now or hereafter available will permit in anticipation of the entire completion thereof within not more than 10 years; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the Governor of the State of California, to the Director of Natural Resources, to each member of the State Park Commission, and to the Chief of the Division of Parks.

CHAPTER 114

Assembly Constitutional Amendment No 61—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding Section 22 to Article V, relating to the compensation of State officers.

[Filed with Secretary of State June 6, 1941.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of the members elected to each of the two houses of the said Legislature voting therefor, hereby proposes to the people of the State of California, that the Constitution of said State be amended by adding Section 22 to Article V, to read as follows: Constitution, Art V, Sec 22

Sec. 22. Notwithstanding anything contained elsewhere in this Constitution, the compensation for the services of the Superintendent of Public Instruction, State Treasurer, State Controller, and Secretary of State may be diminished or increased by the Legislature during his term of office. Change in compensation of public officers

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CHAPTER 115

Assembly Joint Resolution No. 58—Relative to memorializing Congress concerning the tariff on tungsten and tungsten products.

[Filed with Secretary of State June 9, 1941.]

WHEREAS, Negotiations have been undertaken by the Department of State of the United States Government for the purpose of making a reciprocal trade treaty with the Republic of Argentina; and Tariff on tungsten and tungsten products

WHEREAS, The proposed reciprocal trade treaty with the Republic of Argentina intends to reduce the tariff upon tungsten and tungsten products; and

WHEREAS, The mining industry of California is in an orderly manner developing tungsten properties in this State; and

WHEREAS, The development of these properties will place the United States in a better position to furnish tungsten and tungsten products so vitally necessary for National defense; and

WHEREAS, The development of these properties and other mining properties in connection therewith will employ citizens of this State now being supported by public relief at the expense of the taxpayers; and

WHEREAS, Industrial plants for the processing, smelting, and refining of tungsten ores are hesitant to continue their rapid production and expansion, due to the proposed reciprocal trade treaty; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States is hereby requested to permit no reduction in the existing tariff rates on tungsten and tungsten products in this proposed reciprocal trade treaty with the Republic of Argentina; and be it further

Resolved, That the Secretary of the State of California is hereby requested to transmit copies of this resolution to the President of the United States, to the President of the Senate and to the Speaker of the House of Representatives, the Committee for Reciprocity Information and to each Senator and Member of the House of Representatives from California in the Congress of the United States, and that such Senators and Members from California are hereby respectfully urged to support such legislation.

CHAPTER 116

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State by amending Section 25¾ of Article IV, relating to boxing, sparring and wrestling matches or exhibitions.

[Filed with Secretary of State June 9, 1941]

Constitution, Art IV, Sec. 25¾

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of all the members elected to each of the two houses voting in favor thereof, hereby proposes to the people of the State of California an amendment to the Constitution of this

State by amending Section 25¾ of Article IV thereof to read as follows:

Sec. 25¾. The Legislature may provide for the supervision, regulation and conduct, in such manner as it may determine, of wrestling matches or exhibitions and of boxing and sparring matches or exhibitions; provided, that no boxing or sparring match or exhibition shall be of more than 12 rounds in length, such rounds to be of not more than three minutes for each round, except that championship matches may, if the approval of the State Athletic Commission is first obtained, be 15 rounds in length, such rounds to be of not more than three minutes duration each. All moneys, except such sum as the Legislature shall appropriate annually to defray the expenses of the State Athletic Commission of California and to pay the salaries of officers and employees as provided by law, received by the State from license fees, taxes or other means, on or in relation to boxing, sparring and wrestling matches or exhibitions, shall be and are hereby appropriated for the purpose of maintaining such homes for the care of veterans of any war of the United States as may be existing at the time this amendment becomes effective, or that may be established by the laws of this State. Such moneys shall be appropriated as the Legislature of the State of California may direct. Supervision of wrestling, boxing and sparring exhibitions

The Legislature in the exercise of the power granted herein may amend, revise, or supplement any part of that certain initiative act approved by the electors November 4, 1924, entitled "An act to authorize boxing and wrestling contests for prizes or purses, or where an admission fee is charged, and limiting such boxing contests to 12 rounds; to create an Athletic Commission empowered to license such contests and the participants therein; to prescribe conditions under which licenses shall be issued and contests held; to declare that amateur boxing contests conducted under Section 412 of the Penal Code shall be subject to the provisions of this measure and under the sole jurisdiction of such commission in all cases wherein an admission fee is charged spectators to witness such amateur boxing contests." Stats 1925, p lxxxix

The Legislature shall, however, have no power to take away the effect of the provisions of the initiative act hereinabove cited which allow wrestling and 12-round boxing contests in the State of California. The repeal either in fact or effect of the sections of the above cited act shall rest entirely in the hands of the people of the State of California as heretofore

No tax shall be levied or collected in respect to any admissions to a boxing contest or wrestling match or exhibition wherein all the proceeds or net earnings of which inure exclusively to the benefit of any post of the American Legion or any other duly recognized organization of veterans of any war of the United States and not to the benefit of any individual member thereof.

CHAPTER 117

Senate Concurrent Resolution No. 22—Amending the Joint Rules of the Senate and Assembly by adding Joint Rule No. 36, creating a Joint Legislative Budget Committee, defining its powers and duties, and making an appropriation out of the contingent funds therefor.

[Filed with Secretary of State June 9, 1941.]

Joint Rules

Resolved by the Senate of the State of California, the Assembly thereof concurring, That a new rule, to be numbered 36, is hereby added to the Joint Rules of the Senate and Assembly, to read as follows:

Legislative Budget Committee

36. In addition to any other committee provided for by these rules, there shall be a joint committee to be known and called the Legislative Budget Committee.

It shall be the duty of the committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the State Budget, the revenues and expenditures of the State, and of the organization and functions of the State, its departments, subdivisions and agencies, with a view of reducing the cost of the State Government, and securing greater efficiency and economy.

The committee shall consist of five members of the Senate and five members of the Assembly. The Senate members of the committee shall be the President pro tempore of the Senate and one member each from the Committees on Finance, Revenue and Taxation, Governmental Efficiency and Judiciary, selected by the respective committees. The Assembly members of the committee shall consist of the Speaker and four other members of the Assembly appointed by the Speaker. The committee shall select its own chairman.

The committee shall have the authority to make rules to govern its own proceedings and its employees. It may also create subcommittees from its membership, assigning to its subcommittees any study, inquiry, investigation or hearing which the committee itself has authority, to undertake or hold, and the subcommittee for the purpose of this assignment shall have and may exercise all the powers conferred upon the committee, limited only by the expressed terms of any rule or resolution of the committee defining the powers and duties of the subcommittee. Such powers may be withdrawn or terminated at any time by the committee.

The provisions of Joint Rule 35 above shall apply to the Legislative Budget Committee, and it shall have all the authority provided in such rule or in Article IV, Section 37, of the Constitution.

The committee shall have authority to appoint a Legislative Auditor, to fix his compensation and to prescribe his duties, and to appoint such other clerical and technical employees as may appear necessary. The committee may meet either during sessions of the Legislature, any recess thereof, or after

final adjournment, and may meet or conduct business at any place within the State of California.

The members of the committee shall serve without compensation but shall be entitled to actual and necessary expenses including expenses for living accommodations and meals incurred in connection with their services on the committee, or in lieu of such expenses for accommodations and meals they shall be entitled to an allowance of eight dollars ($8) per day and travel expenses which shall be deemed to be five and one-half cents ($0.05½) per mile. The chairman of the committee shall audit and approve the expenses of members of the committee or salaries of the employees, and all other expenses incurred in connection with the performance of its duties by the committee, and the chairman shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman, and the Treasurer shall pay the same to the chairman of the committee to be disbursed by him.

Upon the organization of the Legislature at any succeeding session, all authority, powers, duties, papers and records, personnel or staff, and any unexpended balance in any funds appropriated for the use of the committee, shall be temporarily transferred to a pro tempore Legislative Budget Committee consisting of the Senate Committee on Rules and of the new Speaker and four other members of the Assembly appointed by him, until the committee as hereinabove provided for is appointed or selected when all such authority, powers, duties, papers and records, personnel or staff and all funds available for the use of the committee shall revert to such committee; and be it further

Resolved, That a sum of forty thousand dollars ($40,000) is hereby appropriated from the contingent funds of the Senate and Assembly, to be expended equally from the contingent funds of the Senate and Assembly in carrying out the provisions of this resolution; and be it further Appropriation

Resolved, That if there is created by statute a Legislative Audit Bureau, a Legislative Research Bureau, or other similar agency, under legislative control, charged with the duty of performing one or more of the functions given the Legislative Budget Committee by this resolution, the committee is hereby authorized and directed to avoid duplicating the work of such bureau or agency while the latter is in existence and functioning.

CHAPTER 118

Senate Concurrent Resolution No. 40—Relative to adjournment sine die of the Fifty-fourth Session of the Legislature of the State of California.

[Filed with Secretary of State June 9, 1941.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Fifty-fourth Session of the Adjournment sine die

Legislature of the State of California shall adjourn sine die at 12 noon, June 14, 1941; and be it further

Resolved, That on or after June 8, 1941, neither house shall pass any bill originating in such house except upon recommendation of the presiding officer and with the permission to consider and vote on such bill being granted by a three-fourths vote of the members elected to the house.

CHAPTER 119

Assembly Joint Resolution No. 57—Relative to expressing the regret of the people of the State of California upon the retirement of the Honorable Charles Evans Hughes, Chief Justice of the Supreme Court of the United States.

[Filed with Secretary of State June 10, 1941.]

Retirement of Charles Evans Hughes

WHEREAS, The people of the State of California have learned with exceeding regret that the Honorable Charles Evans Hughes, Chief Justice of the Supreme Court of the United States, will retire on July 1st of this year from his position as the head of that august and respected tribunal; and

WHEREAS, The Honorable Charles Evans Hughes has had a brilliant and distinguished career as a statesman and jurist rarely paralleled in the annals of American history: He was Governor of New York for two terms, Associate Justice of the United States Supreme Court under appointment by President Taft, and Secretary of State in the Cabinet of President Harding; and

WHEREAS, As the crowning achievement of a career already thrice illustrious, he was appointed in 1930 to his present position as the leader of the highest court of the land, guiding it with a firm and understanding hand through more than a decade of the most dramatic years in American political, social, and economic life, years in which the more impulsive were impatient to depart from sound principles of constitutional government built up painstakingly through decades of American life, years in which the more fearful refused to recognize the constitutionally planned flexibility of those principles and to adapt them to the changing times, and years in which Charles Evans Hughes, heeding neither radical nor reactionary, molded the supreme law of the land in accordance with the soundest legal concepts, yet recognizing at all times that the law is but an instrument to govern the conduct of man towards man; and

WHEREAS, The retirement of the Honorable Charles Evans Hughes from active public life will deprive America of the services of a brilliant scholar, able thinker, distinguished jurist, and devoted servant; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the people of the State of California

express their extreme regret at the coming retirement from public life of the Honorable Charles Evans Hughes, Chief Justice of the Supreme Court of the United States; and be it further

Resolved, That the people of this State wish him every happiness in his many years to come of private life and hope that he will continue as a private citizen to give the Nation the benefit of his years of experience and wisdom; and be it further

Resolved, That the Chief Clerk of the Assembly of the State of California is hereby directed to send a suitably engrossed copy of this resolution to the Honorable Charles Evans Hughes.

CHAPTER 120

Senate Joint Resolution No. 20—Relative to memorializing the President and the Congress of the United States to abolish tax-exempt bonds.

[Filed with Secretary of State June 11, 1941.]

Tax exempt bonds

WHEREAS, It is being suggested that Federal taxes be increased sharply to meet the costs of the Nation's defense needs; and

WHEREAS, It is generally believed that numerous individuals and corporations having large incomes are escaping a considerable portion of their just taxes through the device of purchasing tax-exempt bonds; and

WHEREAS, It is unfair and inconsistent to increase the taxes of those in the lower and middle income brackets while those in the upper brackets thus escape a considerable share of their taxes; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully urges the President and the Congress of the United States to take steps looking to the abolishment of tax-exempt bonds; and be it further

Resolved, That the Secretary of the Senate is hereby directed to send copies of this resolution to the President and the Vice President of the United States, the Speaker of the House of Representatives, and to each member of the Senate and the House of Representatives in the Congress of the United States from California.

CHAPTER 121

Senate Concurrent Resolution No. 50—Relative to the observance of the centennial of the raising of the Bear Flag of the "California Republic" at Sonoma, June 14, 1846.

[Filed with Secretary of State June 12, 1941.]

Bear Flag Centennial

On June 14, 1946, will occur the hundredth anniversary of the raising of the Bear Flag of the "California Republic"

in the Plaza at Sonoma, one of the most outstanding incidents in the early cradling of California history, prefacing the State's entrance into the Union of States.

Recognizing the importance of the historical act previously mentioned, the State of California 30 years ago officially by enactment proclaimed the "Bear Flag," the State Flag of California and erected the "Bear Flag Monument" in the Plaza at Sonoma as a perpetual tribute to the "Bear Flag Party" and there proclaiming of "The California Republic."

Contemplating State-wide interest in the "Bear Flag Centennial Year" in 1946, the people of Sonoma and the famous "Sonoma Valley," still rich in historical markings and the preservation of outstanding historic shrines, have inaugurated preparations for a colorful commemoration of the hundredth anniversary of the "Raising of the Bear Flag," so that the intervening time may be utilized in the fulfillment of the desire to achieve outstanding success of an event so indelibly inscribed in the annals of California. It is intended the observance of the centenary shall radiate from Sonoma, the place where the Bear Flag was first flung to the breeze; the seat of government of the short life of the "California Republic," the home of the illustrious General M. G. Vallejo, the place where the last mission to the north on "El Camino Real" was built and the center of many other historical incidents.

It will be sponsored by civic, patriotic and fraternal groups of Sonoma and the surrounding valley and the celebration will continue from June 14, to September 9, 1946, the latter the birthday of California. It is planned that the centennial program shall include a colorful pageant which will be presented several times weekly. In addition to this outstanding feature will be added the visits and gatherings of many State-wide groups figuring in the fraternal and historic life of California.

In accordance with the express desire that the California Legislature at this session indicate its approval of the observance of the centennial of the State Flag and the heralding of such as "California's Bear Flag Centennial Year"; therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring, That 1946 be designated as "California's Bear Flag Centennial Year" State-wide, with special reference to the official observance thereof in the City of Sonoma, Sonoma County, California, during the dates mentioned and that we commend the people of Sonoma in their efforts to stage what will undoubtedly be a colorful remembrance of pioneer days.

CHAPTER 122

Senate Concurrent Resolution No. 46—Relative to the fiftieth anniversary of Leland Stanford Junior University.

[Filed with Secretary of State June 12, 1941.]

Leland Stanford Junior University Fiftieth anniversary

WHEREAS, Leland Stanford Junior University this year celebrates the fiftieth anniversary of its opening as a university on October 1, 1891; and

WHEREAS, The university was endowed and founded by the eighth Governor of California, Leland Stanford, and his wife, on the rolling oak-covered hills of their Palo Alto stock farm; and

WHEREAS, In the past 50 years the university has fulfilled the high hopes voiced by Leland Stanford, then a United States Senator, upon its founding and has emerged triumphant through its many early financial struggles and the setback suffered from the 1906 earthquake to become what it is today—one of the leading universities of the world; and

WHEREAS, The people of our State are deeply indebted to Senator and Mrs. Leland Stanford, for their foresight and generosity in founding Leland Stanford Junior University; and to its presidents, Dr. David Starr Jordan, who administered its affairs for 23 years after its opening, Dr. John Casper Branner, and Dr. Ray Lyman Wilbur, who this year completes 25 years as president, for their able leadership; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That they pay tribute to the memory of Senator and Mrs. Leland Stanford who gave Leland Stanford Junior University to our State; and be it further

Resolved, That they join with the university in celebrating its golden jubilee year and extend to it sincere congratulations and every hope that it may forever continue to be the institution of learning that was envisioned by its founders; and be it further

Resolved, That the Secretary of the Senate shall transmit to Dr. Ray Lyman Wilbur, President of Leland Stanford Junior University, an engrossed copy of this resolution.

CHAPTER 123

Senate Joint Resolution No. 26—Relative to National Defense highways.

[Filed with Secretary of State June 12, 1941.]

U. S. Highways 93 and 95

WHEREAS, U. S. Highway Nos. 93 and 95 are completely paved from the Canadian Line to the Mexican Border, with the exception of that portion lying between Niland and U. S. Highway No. 60, a distance of approximately 40 miles; and

WHEREAS, These highways passing through Montana, Idaho, Nevada, Utah and California provide access to many major attractions of this country, including Boulder Dam, Zion and Bryce Canyons, Yellowstone and Glacier National Parks, and Lake Louise, Canada; and

WHEREAS, The importance of these highways in the Program of National Defense is increasing and becoming more apparent day by day; and

WHEREAS, It is important for National defense that these highways be in usable condition and particularly that this unpaved portion referred to be improved and made passable; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Senate and Assembly hereby respectfully request the President of the United States, the Congress of the United States, the Secretary of War, the Secretary of the Navy, the Chief of the Bureau of Public Roads in the Department of Agriculture, to examine the problem presented by the impassable condition of the stretch of highway mentioned and consider the advisability of making the necessary construction and repairs as a part of the National Defense Program; and be it further

Resolved, That the Secretary of the Senate is hereby directed to send copies of this resolution to each of the officials or bodies named herein.

CHAPTER 124

Assembly Constitutional Amendment No. 28—A resolution to propose to the people of the State of California an amendment to the first paragraph of Section 22 of Article XX of the Constitution of the State, relating to the legal rate of interest on loans.

[Filed with Secretary of State June 13, 1941.]

Constitution, Art. XX, Sec. 22, first paragraph

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its Fifty-fourth Regular Session, commencing on the sixth day of January, 1941, two-thirds of all of the members of the Legislature voting in favor thereof, hereby proposes to the people of the State of California that the first paragraph of that Section 22 of Article XX of the Constitution of said State which relates to the legal rate of interest be amended to read as follows:

Rate of interest

Sec. 22. The rate of interest upon the loan or forbearance of any money, goods or things in action or on accounts after demand shall be 7 per cent per annum, and upon any judgment rendered in any court of this State shall be 5 per cent per annum; but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest not exceeding 10 per cent per annum.

CHAPTER 125

Assembly Constitutional Amendment No. 55—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by amending Section 4c of, and adding Sections 4d and 5a to Article VI thereof, relating to the judicial department.

[Filed with Secretary of State June 13, 1941.]

Constitution, Art. VI, Secs. 4c, 4d and 5a

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people to amend the Constitution of said State as follows:

First: That Section 4c of Article VI be amended to read as follows:

Transfer of cases

Sec. 4c. The Supreme Court of its own motion shall have power to retransfer any cause pending before it for further consideration by the division of the district court of appeal from which it was received, and to order any cause pending before a district court of appeal to be heard and determined by the Supreme Court. The order last mentioned may be made before judgment has been pronounced by a district court of appeal, or within 15 days in criminal cases, or 30 days in all other cases, after such judgment shall have become final therein. The Supreme Court, however, shall have the power to extend, on its own motion, by order duly made prior to the expiration of the jurisdictional time limits herein fixed, the period within which the order granting or denying a hearing in any case may be made, for additional periods of 10 days each, but in any case not to exceed 30 additional days.

In denying a hearing, the Supreme Court, in its discretion, may modify the order of the appellate court, or may strike from the opinion of the appellate court any portion or portions thereof.

The judgment of the district courts of appeal shall become final therein upon the expiration of 15 days in criminal cases, or 30 days in all other cases, after the same shall have been pronounced.

The Supreme Court shall have power to order questions pending before a district court of appeal for one district to be transferred to the district court of appeal for another district, or from one division thereof to another, for hearing and decision.

Second: That Section 4d be added to Article VI to read as follows:

Certification of questions of law By district court of appeal

Sec. 4d. Each district court of appeal, or division thereof, shall have the power to certify to the Supreme Court questions of law involved in causes pending before it. The

Supreme Court may either certify to the district court of appeal its determination upon such questions of law so certified to it, or may order such questions returned to the district court of appeal without determination.

Third: That Section 5a be added to Article VI to read as follows:

Same
By appellate division of superior court

Sec. 5a. An appellate department of a superior court shall have power, upon the concurrence of all the judges of said department, to certify to the Supreme Court questions of law involved in causes pending before it. The Supreme Court may either certify to the appellate department of the superior court its determination upon such questions of law so certified to it, or may order such questions returned to the appellate department of the superior court without determination.

CHAPTER 126

Assembly Concurrent Resolution No. 39—Relative to providing suitable space and facilities for the office of the Attorney General.

[Filed with Secretary of State June 13, 1941.]

Office of Attorney General

WHEREAS, It is contemplated by law that the Attorney General shall maintain his head office in the City of Sacramento; and

WHEREAS, The Honorable Earl Warren, Attorney General of California, has publicly stated that it is his intention and desire to locate his head office in the City of Sacramento; and

WHEREAS, The efficient operation of the Supreme and appellate courts and the office of the Attorney General requires them to be located with convenient access to the records and books contained in the State Library; and

WHEREAS, The present quarters occupied by and available to the Attorney General in the Library and Courts Building at Sacramento are neither suitable in size nor arrangement for his head office and staff and are in fact inadequate for his present staff maintained in Sacramento, it being necessary to occupy part of the chambers of the Supreme Court when it is not in session; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Chief of the Bureau of State Buildings and Grounds in the Department of Finance and the director of said department are hereby requested and directed to provide suitable and sufficient quarters for the Attorney General and his staff conveniently accessible to the records and books contained in the State Library.

CHAPTER 127

Assembly Joint Resolution No. 15—Relative to memorializing the President and the Congress of the United States to make the necessary and additional Federal appropriations to connect military cantonments with the existing State highway systems and to improve and enlarge the capacity of highways and bridges where necessary to meet the extraordinary requirements of military use.

[Filed with Secretary of State June 13, 1941.]

Connection of military cantonments with State highways

WHEREAS, This Nation is now engaged in a huge program looking toward the facilities for adequate National defense; and

WHEREAS, One of the most vital and important elements of an adequate National defense is a comprehensive system of improved highways for the rapid and efficient transportation of men, equipment and supplies; and

WHEREAS, There have been located in the State of California several cantonments for the immediate training of many thousands of men in the art of military defense, including the use of mechanized equipment and aircraft; and

WHEREAS, There are located in the State of California a large proportion of the production facilities of this Nation for aircraft and seacraft, with the result that huge quantities of materials and supplies must reach these facilities; and

WHEREAS, Engineering estimates show that approximately eleven million dollars ($11,000,000) will be necessary for the construction of adequate access roads to the several cantonments and naval and military reservations now existing and planned for the State of California; and

WHEREAS, Surveys made in this State also indicate that the sum of approximately one hundred fifty million dollars ($150,000,000) is required for the improvement of the existing State highways and the strengthening of the bridges thereon in order to provide adequate highway facilities for the movement of heavy military equipment; and

WHEREAS, The funds available to the State of California from all Federal sources, together with moneys available from the State of California, are insufficient to more than make a beginning on the work that must be done to provide adequate facilities for military defense; and

WHEREAS, The providing of adequate highway facilities in the State of California is of vital importance to the defense of this Nation as a whole, thus substantiating that the Federal Government should furnish the funds necessary to furnish adequate highway facilities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the State of California through its Legislature hereby respectfully urges that the Congress of the

United States make the necessary Federal appropriations to connect military cantonments with the existing State highways of California and to improve and enlarge the capacity of the existing highways and bridges of California where necessary to meet the extraordinary requirements of military use and that the President of the United States approve such legislation; and be it further

Resolved, That the Governor is requested to transmit copies of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, and to the Senators and Representatives of the State of California in Congress.

CHAPTER 128

Assembly Joint Resolution No. 48—Memorializing the President and the Congress to enact pending legislation to establish the 150th anniversary of the adoption of the Bill of Rights as a public holiday.

[Filed with Secretary of State June 13, 1941.]

Bill of Rights 150th anniversary

WHEREAS, There has been introduced and is now pending in the Congress of the United States Senate Joint Resolution No. 51 to provide that the 150th anniversary of the adoption of the first 10 amendments to the Constitution of the United States, the Bill of Rights, the fifteenth day of December, 1941, shall be celebrated as a public holiday; and

WHEREAS, In times such as these it has become more appropriate than ever that the attention of the public be drawn to the importance and significance of the principles embodied in the Bill of Rights; and

WHEREAS, The widespread celebration of this anniversary as a public holiday will bring more forcefully than any other means to the attention of the public the importance of those principles; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and the Congress of the United States be hereby respectfully memorialized to enact Senate Joint Resolution No. 51 into law; and be it further

Resolved, That the Chief Clerk of the Assembly be hereby directed to transmit copies of this resolution to the President and the Vice President of the United States and to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 129

Senate Constitutional Amendment No. 18—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by amending Section 9 of Article XIII of said Constitution, relating to State and county boards of equalization.

[Filed with Secretary of State June 16, 1941.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its Fifty-fourth Regular Session, commencing on the sixth day of January, 1941, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that Section 9 of Article XIII of the Constitution of said State be amended to read as follows: Constitution, Art. XIII, Sec. 9

Sec. 9. (a) A State Board of Equalization, consisting of one member from each of the five equalization districts in this State, as said districts are defined in this section or may be redefined pursuant to this section, shall be elected by the qualified electors of their respective districts, as hereinafter provided. State Board of Equalization

(b) The boards of supervisors of the several counties of the State shall constitute boards of equalization for their respective counties, and it shall be the duty of said boards of equalization to equalize the valuation of the taxable property in their respective counties for the purposes of taxation. The county boards of equalization are hereby authorized and empowered, under such rules of notice as may be prescribed by law, to increase or lower the valuation of any property contained in the assessment rolls of their respective counties, except property assessed by the State Board of Equalization, so as to equalize the assessment of the property contained in said assessment rolls. The State Board of Equalization is hereby authorized and empowered under such rules as may be prescribed to increase or lower the entire assessment roll of any county. County boards of equalization

(c) The State is hereby divided into five equalization districts defined and constituted as follows: Districts

1. First District. The counties of San Mateo, Santa Clara, Santa Cruz, San Benito, Monterey, San Luis Obispo, Santa Barbara, Ventura and the City and County of San Francisco shall constitute the first equalization district.

2. Second District. The counties of Alameda, Contra Costa, San Joaquin, Sacramento, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern, Inyo, Mono, Mariposa, Tuolumne, Calaveras, Amador and Alpine shall constitute the second equalization district.

3. Third District The counties of Del Norte, Siskiyou, Modoc, Lassen, Shasta, Trinity, Humboldt, Mendocino, Sierra,

Tehama, Plumas, Butte, Glenn, Lake, Colusa, Sutter, Yuba, Nevada, Placer, El Dorado, Yolo, Solano, Napa, Sonoma and Marin shall constitute the third equalization district.

4. Fourth District. The County of Los Angeles shall constitute the fourth equalization district.

5. Fifth District. The counties of San Diego, Imperial, Riverside, Orange and San Bernardino shall constitute the fifth equalization district.

Members of State Board of Equalization

(d) The terms of office of the members of the State Board of Equalization shall be for four years, commencing on the first Monday after the first day of January following their election, and shall continue until their successors have qualified. The members of the State Board of Equalization representing the four equalization districts existing when this section becomes operative shall continue in office until the end of their terms. On or after the date when this section becomes operative, the Governor shall appoint a board member from the fifth district who shall hold office until the first Monday after the first day of January in 1947, and until his successor has qualified. In the event a vacancy occurs in the State Board of Equalization, the Governor shall appoint a board member from the equalization district in which the vacancy occurs. Any member so appointed shall hold office for the remainder of the unexpired term as prescribed herein.

Self-executing, redefining districts

(e) All of the provisions of this section are self-executing. The Legislature, two-thirds of all of the members elected to each of the two houses voting in favor thereof, may redefine the five equalization districts defined herein.

Operative date

(f) The provisions of this section shall become operative on February 1, 1943.

CHAPTER 130

Senate Concurrent Resolution No. 11—Providing for the appointment of a joint committee to study and to report upon the water problems of the State.

[Filed with Secretary of State June 16, 1941.]

Joint Committee on Water Problems

WHEREAS, The Legislature of California has had before it for the past 20 years the problem of the determination of the available water resources of the State; and

WHEREAS, Year by year the question of available hydroelectric power and the demand therefor has rapidly become a paramount problem and is closely correlated with the conservation of water; and

WHEREAS, A legislative committee and a gubernatorial committee worked jointly for more than four years on the water problems of the State, and as a result of the work of those committees and the assistance of the Department of Public Works, the project known as the Central Valley Water

Project was determined upon and approved, and the great dams of Shasta Dam and Friant Dam and other works are now being constructed pursuant to the law growing out of such studies; and

WHEREAS, Said dams will be completed in a few years and additional water and power will be made available; and

WHEREAS, Year by year there is a growing need for such water for the irrigation of the hundreds of thousands of acres of land within the Central Valley; and

WHEREAS, There is a growing need for the operation of said dams for the purposes of navigation, flood control and saline control; and

WHEREAS, There is a growing need for the supply of power for the pumping of water for irrigation of said great quantity of valley land, and for the use of power for domestic purposes, such as the demands of people of cities, towns and industry located therein; and

WHEREAS, There is a great demand for the solving of the most feasible way and manner and the soundest economic way of distributing such water and power; and

WHEREAS, There are great demands made upon the members of the Legislature to provide for the distribution of such water and power in several different ways: One, by complete governmental control; two, by as near complete private control as possible; three, by a combination of city, town, district and State control, with private control of distribution; four, by a combination of State and Federal control; and

WHEREAS, These various methods are urged upon us as the result of the near completion of the Central Valley Water Project and a growing demand for water and power, and, therefore, of great interest to the people of the State; and

WHEREAS, There is much confusion in the minds of our people and in the minds of members of the Legislature, which confusion becomes the greater in the absence of a thorough study of present conditions and in the presence of widely divergent views and opinions heralded and expressed in the spirit and atmosphere of political partisanship; and

WHEREAS, Diverse methods of financing are presented to us, including the method of revenue bonds in their several forms; and

WHEREAS, Perhaps the most crucial problem now before the State is that of determining the basic principle which should be adopted in the solving of these issues, including the avoidance of bureaucratic extravagance as well as private monopoly, either of which might result in costly administration of water and power; and

WHEREAS, A long term program should be devised, formulated and adopted, comprehending all future demands for water and power for the agricultural lands of the Great Central Valley of California, and the conservation, development, utilization and regulation of the water resources of the State

for the purposes of flood control, river flow control and equation, domestic use, irrigation, reclamation, power development and other beneficial uses, in furtherance of which it is necessary that the Legislature have available to it information adequate to enable its members to legislate advisedly and appropriately in respect to any and all phases of this subject; now, therefore, be it

Purposes *Resolved by the Senate of the State of California, the Assembly thereof concurring,* That a committee, to be known as the Joint Committee on Water Problems, consisting of the Speaker of the Assembly and five members of the Assembly appointed by the Speaker, and the President pro tempore of the Senate and four members of the Senate appointed by the Committee on Rules thereof, is hereby created, to make a thorough study of the water problems of the State, including any and all aspects thereof indicated in the above recitals hereof and to report to the Legislature from time to time, its final report to be submitted to the Legislature within 30 days from the date of convening of the Legislature at its Fifty-fifth Session, together with the recommendations of the committee as to needed legislation upon any phase of this subject, which report, among other things, shall include findings as to

(a) The amount of water that will be available at Kennett or Shasta Dam and at Friant Dam,

(b) The demand for water both now and in the future for the development of all the agricultural lands under the Central Valley Project,

(c) The amount of water required for saline control within the project,

(d) The amount of water from these projects that can be controlled and used to assist flood control, and how it can be utilized in aid of navigation,

(e) As definitely as possible, how much water there will remain that can be used for primary power after fulfilling the requirements of the needs hereinbefore mentioned,

(f) What methods of distribution adopted to fulfill the needs hereinbefore mentioned will be most feasible and economic to the people of the State of California,

(g) What methods of financing of the distribution of power and water may be used or adopted and what method is the more economic and feasible to the people of the State of California, and

(h) How, after the adoption of any of the suggested plans for distribution of water and power, the plan may be continued in operation free from selfishness either of private enterprise or political control;

All of which findings shall be detailed and specific, showing every element and factor upon which the findings and the accompanying recommendations are based; and

Powers The committee in exercising its powers and performing the functions vested in it by this resolution shall have all the powers conferred upon legislative committees by Article 8,

Chapter 2, Title 1, Part 3 of the Political Code, and all powers necessary or convenient to accomplish the objects and purposes of this resolution, including but not limited to the following duties and powers:

(1) To select a chairman from its membership and to employ and fix the compensation of a secretary and such legal, clerical, expert and technical assistants as it may deem necessary;

(2) To create subcommittees from its membership, assigning to the subcommittee any study, inquiry, investigation or hearing which the committee itself has authority to undertake or hold, and the subcommittee for the purpose of this assignment shall have and exercise all of the powers conferred upon the committee limited by the express terms of the resolution or resolutions of the latter defining the powers and duties of the subcommittee, which powers may be withdrawn or terminated at any time by the committee;

(3) To adopt and from time to time amend such rules governing its procedure (including the fixing of its own quorum and the number of votes necessary to take action on any matter) as may to it appear appropriate;

(4) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created;

(5) To hold public hearings at any place in California at which hearings the people are to have an opportunity to present their views to the committee;

(6) To make a complete study, survey and investigation of every phase of the subject of this resolution, including but not limited to the operation, effect, administration, enforcement, and needed revision of any and all laws in any wise bearing upon or relating to the subject of this resolution;

(7) To meet at any and all places in this State, in public or executive session;

(8) To act during this session of the Legislature, including any recess hereof, and after final adjournment hereof, until the commencement of the Fifty-fifth Legislature;

(9) To summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, and records of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and procedure testimony; and

(10) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution; and be it further

Resolved, The Sergeants-at-Arms of the Senate and of the Assembly, and other officers designated by either of them are hereby directed to serve any and all subpenas, orders and other process issued by the committee when directed so to do

by the chairman or by a majority of the membership of the committee; and be it further

Assistance of public bodies

Resolved, That every department, commission, board, agency, officer and employee of the State Government and of any political subdivision, county, city, or public district of or in this State shall furnish the committee and any subcommittee, upon request, any and all such assistance, and information, records and documents as the committee or subcommittee deems proper for the accomplishment of the purposes for which the committee is created; and be it further

Expenses

Resolved, That the members of the committee shall serve without compensation but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and other actual and necessary expenses for living accommodations and meals, incurred for accommodations and meals incurred in connection with their services upon the committee, or in lieu of such expenses for accommodations and meals an allowance of eight dollars ($8) per day; and be it further

Appropriation

Resolved, That the sum of twenty-five thousand dollars ($25,000) or so much thereof as may be necessary is hereby made available from the contingent funds of the Senate and of the Assembly for the expenses or claims it may incur under this resolution, to be paid equally from the contingent funds of the Senate and of the Assembly and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasurer.

CHAPTER 131

Senate Joint Resolution No. 27—Relative to the investigation by the Joint Committee on Water Problems of water service from Shasta Reservoir to the area lying south of the Pit River and memorializing Congress to investigate and make provision for serving water to this land.

[Filed with Secretary of State June 16, 1941.]

Water service to area south of Pit River

WHEREAS, In 1915 the United States Reclamation Service projected a dam at Sheeps Rock and a tunnel which would pass through the ridge that divides the Pit River basin from those lands lying to the south, the tunnel to be about 13,000 feet long and eight feet wide by 10 feet high; and

WHEREAS, The elevation of the mouth of the projected tunnel will be covered by the water in Shasta Reservoir upon the completion of Shasta Dam; and

WHEREAS, 80,000 acres of land presently semiarid may be converted into prosperous farming land by the application of water to be impounded in Shasta Reservoir thereto; and

WHEREAS, If this project is not immediately carried out, it will never be feasible from an engineering standpoint as the

mouth of the tunnel will be covered by water nor from a legal standpoint as the land lying below Shasta Dam will become irrevocably entitled to the water to be impounded therein; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California does hereby respectfully urge the President of the United States, the Congress of the United States, and the Commissioner of the United States Bureau of Reclamation to investigate further the economic and engineering feasibility of serving water to the land lying south of the Pit River with water to be impounded in the Shasta Reservoir and if found to be feasible, to make provision for this service; and be it further

Resolved, That the Secretary of the Senate is directed to transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Senators and Representatives of the State of California in the Congress, and the Commissioner of the United States Bureau of Reclamation; and be it further

Resolved, That the Joint Committee on Water Problems created pursuant to Senate Concurrent Resolution No. 11 investigate and report upon the economic and engineering feasibility of serving water to the land lying south of the Pit River as a part of the Central Valley Project.

CHAPTER 132

Assembly Joint Resolution No. 33—Relative to the extension of flood control works in the Los Angeles River and the construction of such works in the San Fernando Valley.

[Filed with Secretary of State June 16, 1941.]

Flood control works in Los Angeles River and San Fernando Valley

WHEREAS, Recent storms have resulted in a recurrence of serious floods in the San Fernando Valley in California; and

WHEREAS, Such floods will continue to occur annually unless adequate works are constructed to control the flow of storm waters; and

WHEREAS, Such floods constitute a serious menace to the health, safety and welfare and further interfere with the operation of numerous defense industry plants in the San Fernando Valley and vicinity thereof; and

WHEREAS, Such floods and their consequences can be avoided by the carrying out of plans for the construction of flood control works, including the straightening, rectification and deepening of a portion of the Los Angeles River channel and the construction of works and a channel or channels extending from the Los Angeles River to the San Fernando Reservoirs and the Hansen Dam; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress of the United States are hereby respectfully memorialized to include the foregoing flood control works and rectification of the Los Angeles River channel in connection therewith as one of the Federal construction projects, and that Federal moneys be appropriated in sums sufficient to provide therefor at the earliest possible time; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, to each Senator or Member of the House of Representatives from California, and that the Senators and Representatives from California are hereby respectfully requested to urge such action.

CHAPTER 133

Assembly Joint Resolution No. 49—Relative to real estate brokers and salesmen.

[Filed with Secretary of State June 16, 1941.]

Real estate brokers and salesmen Unemployment insurance

WHEREAS, Real estate brokers and salesmen are not exempt from taxation under the Federal Social Security Act and are therefore subjected to tax by the California Unemployment Insurance Act; and

WHEREAS, It is administratively difficult to determine the amount of benefits a real estate broker and salesman is entitled to have under the Unemployment Insurance Act of this State; and

WHEREAS, It is the desire of the Legislature of the State of California to exempt real estate brokers and salesmen entirely from the contribution and benefit provisions of the Unemployment Insurance Act of this State; and

WHEREAS, This is not possible unless and until proper amendments are made in the Federal Unemployment Tax Act provisions; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States is hereby memorialized to make the necessary amendments to the Federal Unemployment Tax Act in order that the State of California may make amendments in the Unemployment Insurance Act of this State granting an exemption from the contribution and benefit provisions of the State act to real estate brokers and salesmen; and be it further

Resolved, That copies of this resolution shall immediately be dispatched by the Chief Clerk of the Assembly to the Senators and Representatives in Congress from the State of California.

CHAPTER 134

Assembly Joint Resolution No. 55—Memorializing Congress to enact legislation on social security and old age pensions.

[Filed with Secretary of State June 16, 1941.]

Social Security and old age pensions

WHEREAS, Under the present Social Security Act there are many inequalities due to the varying rates of old age assistance paid in the different States, and such differences in payments have caused much dislocation and confusion among our senior citizens; and

WHEREAS, Many elderly people migrate to the States paying the higher rates of assistance, which increases the tax burden in such States in order to meet the expense of caring for such large numbers of elderly people during the period they must reside in such States to qualify for old age assistance; and

WHEREAS, Many different State laws are being constantly changed and thereby add to the inconvenience, expense and confusion; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of this State hereby indorses the following recommendations of the Congressional Subcommittee on Social Security and Old Age Pensions of the House Conference on Unemployment and respectfully requests the President and the Congress of the United States of America to take the necessary steps at once to enact legislation to put them into effect.

This committee believes that the establishment of an old age pension program which will not only protect against want and insecurity for the older people of America, but will also be means of maintaining a balance between the power to produce and their power to consume is vital to the welfare of the United States.

While the committee believes major emphasis should probably be placed upon old age pensions it recognizes the absolute necessity of continuing and extending the program of aid to dependent children, widowed mothers, the blind and the disabled. We believe that it is not our function to indorse any bill but instead to recommend a general policy to be adopted; and be it further

Resolved, That the Chief Clerk of the Assembly send copies of this resolution to the President, Vice President, to the Speaker of the House of Representatives of the United States of America and to the Senators and Congressmen from California in the Congress of the United States; and be it further

Resolved, That the Senators and Congressmen from California in the Congress of the United States are respectfully requested to urge the legislation set forth in this resolution.

CHAPTER 135

Assembly Joint Resolution No. 60—Relative to condemnation of lands for wildfowl refuge purposes by United States Department of Interior, Fish and Wildlife Service.

[Filed with Secretary of State June 16, 1941.]

Wildfowl refuge

WHEREAS, The United States Government has heretofore acquired by purchase a tract of approximately 11,000 acres of valley land in Glenn and Colusa counties, for a migratory wildfowl refuge; and

WHEREAS, About ten per cent (10%) of this refuge area has been flooded with water creating lakes and ponds leaving approximately 10,000 acres unused or undeveloped; and

WHEREAS, This refuge since its establishment in 1936 and the flooding of only 10 per cent of its area for resting ponds for migratory wildfowl has accumulated wild ducks, geese, snipe, mudhens and other wildfowl in ever-increasing numbers during the early Fall months and before crops of rice, corn and grain are harvested with the result that the farms in the Sacramento Valley have sustained ever-increasing losses to crops before harvest and to stubble feed after harvest; and

WHEREAS, The Fish and Wildlife Service, U. S. Department of Interior, on May 21, 1941, filed a suit in condemnation in the United States District Court at Sacramento for the procurement of 9,273.95 acres of land in the counties of Glenn and Colusa adjoining and to be added to and become a part of the migratory wildfowl refuge aforesaid, thereby taking from the tax rolls of Glenn and Colusa counties more than 20,000 acres of land for refuge purposes situated in the center of the valley; and

WHEREAS, If the Government acquires this additional land for resting grounds for ducks and geese, the rate of loss to farm crops will increase in the Sacramento Valley area in direct ratio to the increase in refuge area with the result that a large area now growing planted crops under irrigation within the feeding range of wildfowl will become worthless; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby declares that the acquiring by the Government of the United States of additional property for wildfowl refuge purposes in the Sacramento Valley in the State of California and the consequent withdrawal of large areas of lands from the tax rolls is against and contrary to the best interests of the State, and respectfully urges the Secretary of the Interior and the Chief of the Department of Fish and Wildlife Service of the United States of America to dismiss the suit filed in the United States District Court at Sacramento on May 21, 1941, in which action the Government seeks to acquire by condemnation 9,273.95 acres of land in Glenn and Colusa counties, California, for additional refuge area to that already acquired and used for refuge purposes.

CHAPTER 136

Assembly Concurrent Resolution No. 21—Relative to peace in industry.

[Filed with Secretary of State June 16, 1941.]

Settlement of industrial disputes

WHEREAS, It is of the highest moment to the safety and well-being of this country that the wheels of industry continue to turn uninterrupted by strikes and other industrial disputes; and

WHEREAS, The laboring people of the United States have an overwhelming stake in the continuance of free institutions, and the stopping of the spread of the menace of dictatorship; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the sense of the Legislature of the State of California that disputes arising in industry, especially in industries essential to the National defense, between employers and employees, should be settled by the mutual good will of the parties, and failing that, that the disputes should be submitted to arbitration; and be it further

Resolved, That the Chief Clerk of the Assembly be directed to forward copies of this resolution to Mr. William Green, President of the American Federation of Labor; Mr. Phillip Murray, President, Congress of Industrial Organizations and to the respective California State heads of those organizations.

CHAPTER 137

Assembly Concurrent Resolution No. 51—Relative to amending Rule 35 of the Joint Rules of the Senate and Assembly

[Filed with Secretary of State June 16, 1941.]

Joint Rules

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rule 35 of the Joint Rules of the Senate and Assembly is hereby amended to read as follows:

INVESTIGATING COMMITTEES

Fact-finding committees

35. In order to expedite the work of the Legislature either house, or both houses jointly may by resolution provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control.

The resolution providing for the appointment of a committee shall state the purpose of the committee, and the scope of the subject with which it is to act and may authorize it to act

either during sessions of the Legislature or after final adjournment.

In the exercise of the power granted by this rule, each committee may appoint a secretary and adopt such rules as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. It may employ such clerical, legal and technical assistants as may appear necessary when money has been made available therefor.

Each such committee is authorized and empowered to summon and subpena witnesses, require the production of papers, books, accounts, reports, documents, records and papers of every kind and description, to issue subpenas and to take all necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

Witnesses

The members of such committees are, and each of them is, authorized and empowered to administer oaths, and all of the provisions of Article 8, Chapter 2, Title 1, Part 3 of the Political Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to such committees.

The Sergeant-at-Arms of the Senate or Assembly, or other person designated by such Sergeant-at-Arms or by the committee, shall serve any and all subpenas, orders and other process that may be issued by the committee, when directed to do so by the chairman or by a majority of the membership of the committee.

All officers of the State, including the Legislative Counsel and the heads of each department, agency and subdivision thereof, and all employees of such departments, agencies and subdivisions, and all other persons whether connected with the State Government or not, shall give and furnish to these committees upon request such information, records and documents as the committees deem necessary or proper for the achievement of the purposes for which each such committee was created.

Each such committee may either during the session or during the constitutional recess, meet at the State Capitol or at any other place in the State of California and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it and may expend such money as may be made available to it for such purpose; but no committee shall incur any indebtedness unless money shall have been first made available therefor.

Expenses

Members shall not be entitled to any salary because of membership on any such committee but shall be allowed mileage at the rate of five and one-half cents ($0.05½) per mile each way incurred in connection with their services upon the committee and actual and necessary expenses for living accommodations and meals incurred in connection with their services upon the committee, or in lieu thereof an allowance of eight dollars ($8) per day for accommodations and meals.

The chairman of each committee shall audit and approve the expense claims of the members of the committee and shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman.

CHAPTER 138

Assembly Concurrent Resolution No. 52—Relative to improvement of road from State Highway 119, at Paicines to New Idria Mine, in San Benito County.

[Filed with Secretary of State June 16, 1941.]

Road from State Highway 119, at Paicines to New Idria Mine

WHEREAS, During the present period of intensive National rearmament it is of the highest moment to facilitate the production of munitions and explosives; and

WHEREAS, Mercury is indispensable, in the form of fulminate of mercury, in the manufacture of detonators for all forms of explosives; and

WHEREAS, The largest mercury producing mine in the Nation, the New Idria Quicksilver Mining Company, is situated in San Benito County in this State and two new mines are preparing to commence production in the vicinity; and

WHEREAS, The only means of access thereto is by the road from State Highway 119, at Paicines; and

WHEREAS, The said road is in a deplorable condition and during the past winter it was not possible to transport supplies to the mine, which was thereby threatened with a shutdown due to lack of fuel oil, mining timbers, and other necessary material; and

WHEREAS, The entire production of the said mine, amounting to approximately 500 flasks a month, has been contracted for by the United States Government; and

WHEREAS, In order to assure the continuous and dependable delivery of mercury it is necessary that supplies be available at all times during the Winter season; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Division of Highways of the State Department of Public Works is hereby directed to request the appropriate agencies of the United States Government, including the Bureau of Public Roads and the Office of Production Management, to incorporate this highway project in the Military Access Road Program because of its strategic location and the value of the resources it would make available; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Public Works, the Bureau of Public Roads, and the Office of Production Management.

CHAPTER 139

Assembly Concurrent Resolution No. 59—Relative to the provisions of Sections 10, 11 and 12 of the Budget Act of 1941, and the transfer of funds pursuant thereto.

[Filed with Secretary of State June 16, 1941.]

Budget Bill Transfer of funds

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the intent of the Legislature in considering and acting upon the Budget Act of 1941 (Assembly Bill No. 1800 of the Fifty-fourth Session of the Legislature), and particularly in including therein the provisions of Sections 10, 11 and 12 thereof, to permit transfers of unneeded funds from one institution to another within the Department of Institutions, from one State school or college to another within the Department of Education, and from one State prison to another, upon and subject to the following conditions, limitations and restrictions:

(1) If the transfer is from an item for support it must be to an item for support, not to an item for construction, improvement and equipment;

(2) If the transfer is from an item for construction, improvement and equipment, it must be to an item for construction, improvement and equipment, not to an item for support;

(3) If the item from which the transfer is made is one to which a schedule of limitations (Salaries and Wages, Operating Expenses, Equipment) is appended, the State Board of Control at the time of authorizing the transfer shall specify the purpose (Salaries and Wages, Operating Expenses, or Equipment) for which the funds to be transferred are not needed, whereupon the amount of money limited in such schedule for said purpose is automatically and forthwith reduced in the amount of said transfer;

(4) If the item to which the transfer is made is one to which such a schedule of limitations is appended, the funds transferred shall be available for expenditure solely for the same type of purpose (Salaries and Wages, Operating Expenses, or Equipment) as the purpose in respect to which the limitation in the schedule under the item from which the transfer being made is reduced; but after the transfer none of such funds shall become available for expenditure unless and until augmentation of the amount limited for such purpose (in the schedule appended to the item to which the transfer is made) is authorized by unanimous vote of the State Board of Control pursuant to and upon compliance with all of the provisions of Section 13.5 of said Budget Act; and be it further

Resolved, That in its monthly report submitted pursuant to the provisions of Section 13.5 of said act, the State Board of Control include a report of all authorizations given by it pursuant to any of the provisions of Sections 10, 11 and 12

of said act, including therein such information regarding each such authorization as shall be sufficient to apprise the members of the Legislature as to the reasons and necessity therefor; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Finance, the State Controller, and each member of the State Board of Control.

CHAPTER 140

Assembly Concurrent Resolution No. 60—Relative to civics textbooks for use in the public schools.

[Filed with Secretary of State June 16, 1941]

Civics textbooks for public schools

WHEREAS, The Legislature at its Fifty-fourth Session has passed Assembly Bill No. 93, relating to the teaching of civics in elementary schools, which bill will add a section to the School Code as follows:

"6.261a. The State Board of Education shall include in textbooks and teachers' manuals adopted for prescribed subjects a textbook for use in elementary schools for the teaching of civics, particularly the Declaration of Independence and the Constitution of the United States. This textbook shall be in simple form and suited to the comprehension of the pupils"; and

WHEREAS, It further appears that the civics textbooks used in the higher grades are deficient in that they do not provide the students with an adequate concept of the Constitution of the United States and of this State, the Declaration of Independence, or of the principles upon which our form of government is based; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the textbook prepared pursuant to Section 6.261a of the School Code shall be printed in large readable type and in language that will be easily understood by students in the third to sixth grades, inclusive, and that the textbook shall include the following:

(a) The text of the Declaration of Independence.

(b) The text of the Constitution of the United States and of this State.

(c) A clear and unbiased exposition of the principles of the form of government of the United States including an explanation of the provisions of the Constitution of the United States.

(d) An explanation of the functions, powers, and duties, and the division of responsibility between the Federal, State, and local governments; and be it further

Resolved, That the State Board of Education is also requested to provide for a revision of the civics textbooks used in the higher grades to the end that the students will have a thorough understanding of the Constitution of the United

States and of this State, the Declaration of Independence and of the principles and theories upon which our form of government is based; and be it further

Resolved, That a copy of this resolution shall be transmitted by the Chief Clerk to the State Superintendent of Public Instruction and to each member of the State Board of Education.

CHAPTER 141

Assembly Concurrent Resolution No. 61—Amending the Joint Rules of the Senate and Assembly by adding Joint Rule No. 38, further defining the powers and duties of the Joint Legislative Budget Committee.

[Filed with Secretary of State June 16, 1941.]

Joint Rules

Resolved by the Assembly of the State of California, the Senate thereof concurring, That a new rule, to be numbered 38, is hereby added to the Joint Rules of the Senate and Assembly, to read as follows:

Joint Legislative Budget Committee

38 The powers and duties of the Joint Legislative Budget Committee expressed in Joint Rule No. 36 are further defined and specified to include the following:

It shall be the duty of the Joint Legislative Budget Committee to collect and submit to the Legislature information and data concerning the government and welfare of the State, including the possibilities for consolidation in the State Government, elimination of unnecessary activities and of duplication of personnel and equipment, coordination of department activities, and methods of increasing efficiency and economy. The committee shall conduct such studies and investigations as to any such matters, and report thereon to the Legislature, as the committee shall determine.

The committee is further authorized to collaborate with and assist any other interim committee of the Legislature, or of either house, in the accomplishment of the purposes of such other committee, upon the request of the latter.

The enumeration herein of specific duties and powers is not intended and shall not be construed as a withdrawal or diminution of any of the powers conferred upon the Legislative Budget Committee by the provisions of Joint Rule No. 36.

CHAPTER 142

Senate Constitutional Amendment No. 8—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding Section 1b to Article IV thereof, relating to the power of the Legislature or the people (1) to confer power on administrative officers, boards or commissions to make decisions, and (2) to provide for appropriate judicial review of such decisions.

[Filed with Secretary of State June 16, 1941.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that Section 1b be added to Article IV of the Constitution, to read as follows: Constitution, Art IV Sec 1b

Sec 1b. Nothing in this Constitution shall be construed as denying to the Legislature power to vest in administrative officers, boards, commissions or agencies authority to decide, in the first instance, any questions of law or fact upon which the exercise of any function conferred upon them by law depends or power to provide that a finding of fact made by any administrative officer, board, commission or agency in the exercise of his or its functions shall not be set aside by any court if there is substantial evidence to support it. When any city or city and county, which has adopted or shall adopt a charter in pursuance of this Constitution, has provided or shall provide by charter, by any amendment thereof, or by ordinance, that decisions of questions of fact made by any administrative officer, board, commission or agency in respect to municipal affairs shall be final, no court of this State shall have power to set aside such finding of fact if there is substantial evidence to support it. Nothing in this section shall be construed as limiting the power of any county, city, or city and county under this Constitution to make and enforce within its limits local, police, sanitary and other regulations and, when not in conflict with general law, to provide by ordinance that decisions of questions of fact made by any administrative officer, board, commission or agency shall be final. Administrative determination of facts

The Legislature is hereby vested with plenary power, unlimited by any provision of this Constitution except as provided in this section, to prescribe procedures by which judicial review of decisions of administrative officers, boards, commissions or agencies may be obtained and the scope of review which the reviewing court may give, including power to make any prescribed review either alternative to or exclusive of any review the courts are now authorized to give, and for these purposes the Legislature shall have plenary power to enlarge or restrict the jurisdiction of any court of this State; Review of administrative decisions

provided, however, that any enlargement of the original jurisdiction of the Supreme Court shall be subject to the power given that court by Section 4c of Article VI of this Constitution. Review by any court of any administrative decision may be reviewed in any higher court in the manner and to the extent that the Legislature may prescribe.

No court of this State except the Supreme Court shall have power to review any order or decision of the State Railroad Commission; and no court of this State except an appellate court shall have power to review any decision or award of the Industrial Accident Commission.

CHAPTER 143

Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California to amend Section 6 of Article IV of the State Constitution, relating to the membership of the Reapportionment Commission.

[Filed with Secretary of State June 16, 1941.]

Constitution, Art IV, Sec 6

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that Section 6 of Article IV of the Constitution of the State be amended to read as follows:

Senatorial and Assembly districts

Sec. 6. For the purpose of choosing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts to be called Senatorial and Assembly districts. Such districts shall be composed of contiguous territory, and Assembly districts shall be as nearly equal in population as may be. Each Senatorial district shall choose one Senator and each Assembly district shall choose one member of Assembly. The Senatorial districts shall be numbered from one to 40, inclusive, in numerical order, and the Assembly districts shall be numbered from one to 80 in the same order, commencing at the northern boundary of the State and ending at the southern boundary thereof. In the formation of Assembly districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, and in the formation of Senatorial districts no county, or city and county, shall be divided, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any Assembly or Senatorial district. The census taken under the direction of the Congress of the United States in the year 1920, and every 10 years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first regular session following the adoption of this section and thereafter

at the first regular session following each decennial Federal census, adjust such districts, and reapportion the representation so as to preserve the Assembly districts as nearly equal in population as may be; but in the formation of Senatorial districts no county or city and county shall contain more than one Senatorial district, and the counties of small population shall be grouped in districts of not to exceed three counties in any one Senatorial district; provided, however, that should the Legislature at the first regular session following the adoption of this section or at the first regular session following any decennial Federal census fail to reapportion the Assembly and Senatorial districts, a Reapportionment Commission, which is hereby created, consisting of the Lieutenant Governor, who shall be chairman, and the Attorney General, State Controller, Secretary of State and State Superintendent of Public Instruction, shall forthwith apportion such districts in accordance with the provisions of this section and such apportionment of said districts shall be immediately effective the same as if the act of said Reapportionment Commission were an act of the Legislature, subject, however, to the same provisions of referendum as apply to the acts of the Legislature. Reapportionment Commission

Each subsequent reapportionment shall carry out these provisions and shall be based upon the last preceding Federal census But in making such adjustments no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district Until such districting as herein provided for shall be made, Senators and Assemblymen shall be elected by the districts according to the apportionment now provided for by law.

CHAPTER 144

Assembly Concurrent Resolution No. 62—Relative to aid to the aged.

[Filed with Secretary of State June 17, 1941]

WHEREAS, It is the desire of the Legislature to provide sufficiently for the needy aged of this State; and Aid to the aged

WHEREAS, It is necessary in making such provision to conform to the requirements of the Federal Social Security Act; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Social Welfare Board of the State of California is hereby requested in administering the provisions of the Old Age Security Law of this State to consider the sum of at least fifty-five dollars ($55) per month as a measure of the need of aged individuals eligible for assistance under the Old Age Security Law so far as the State may do so and be consistent with the requirements of the Federal Social Security Act.

CHAPTER 145

Senate Constitutional Amendment No. 7—A resolution to propose to the people of the State of California to amend Sections 2 and 34 of Article IV of the Constitution of said State, relating to the Legislature.

[Filed with Secretary of State June 23, 1941.]

Constitution, Art. IV, Secs. 2 and 34

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of all the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California to amend Sections 2 and 34 of Article IV of the Constitution of said State so as to read as follows, respectively:

Annual sessions of the Legislature

SEC. 2. The sessions of the Legislature shall be annual, unless the Governor shall, in the interim, convene the Legislature, by proclamation, in extraordinary session. All sessions, other than extraordinary, shall commence at 12 o'clock m., on the first Monday in March, and shall continue in session for a period not exceeding 60 days thereafter.

The compensation of the members of the Legislature provided by Section 23 of this article shall be paid during each annual regular legislative session at such times as may be provided by law.

Annual budget

SEC. 34. The Governor shall, within the first five days of each regular session of the Legislature, submit to the Legislature, with an explanatory message, a budget containing a complete plan and itemized statement of all proposed expenditures of the State provided by existing law or recommended by him, and of all its institutions, departments, boards, bureaus, commissions, officers, employees and other agencies, and of all estimated revenues, for the next fiscal year together with a comparison, as to each item of revenues and expenditures, with the actual revenues and expenditures for the preceding fiscal year. If the proposed expenditures for the ensuing fiscal year shall exceed the estimated revenues therefor, the Governor shall recommend the sources from which the additional revenue shall be provided. The Governor, and also the Governor-elect, shall have the power to require any institution, department, board, bureau, commission, officer, employee or other agency to furnish him with any information which he may deem necessary in connection with the budget or to assist him in its preparation. The budget shall be accompanied by an appropriation bill covering the proposed expenditures, to be known as the Budget Bill. The Budget Bill shall be introduced during the first five days of the session into each house of the Legislature by the respective chairmen of the committees having to do with appropriations, and shall be subject to all the provisions of Section 15 of this

article. The Governor may at any time amend or supplement the budget and propose amendments to the Budget Bill before or after its enactment, and each such amendment shall be referred in each house to the committee to which the Budget Bill was originally referred. Neither house shall place any bill upon final passage until 15 days after its introduction. Until the budget bill has been finally enacted, neither house shall place upon final passage any other appropriation bill, except emergency bills recommended by the Governor, or appropriations for the salaries, mileage and expenses of the Senate and Assembly. No bill making an appropriation of money, except the Budget Bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed. In any appropriation bill passed by the Legislature, the Governor may reduce or eliminate any one or more items of appropriation of money while approving other portions of the bill, whereupon the effect of such action and the further procedure shall be as provided in Section 16 of this article. Section 29 of this article is hereby repealed. In case of conflict between this section and any other portion of this Constitution, the provisions of this section shall govern, except that any item of appropriation in the Budget Act, other than for the usual current expenses of the State, shall be subject to the referendum. The Legislature shall enact all laws necessary or desirable to carry out the purposes of this section, and may enact additional provisions not inconsistent herewith.

CHAPTER 146

Senate Constitutional Amendment No. 15—A resolution to propose to the people of the State of California an amendment to the Constitution by adding Section 29 to Article IV of the Constitution, relating to State money.

[Filed with Secretary of State June 23, 1941.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California, at its Fifty-fourth Regular Session commencing on the sixth day of January, 1941, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that the Constitution of said State be amended as follows: Constitution, Art IV, Sec 29

Section 29 is hereby added to Article IV of the Constitution, to read as follows:

Sec. 29. The Legislature may provide that any money belonging to the State in the control of any State agency or department or collected under the authority of this State from any source whatever other than money in the control of or collected by The Regents of the University of California State moneys

shall be held in trust by the State Treasurer prior to its deposit in the State Treasury by the State agency or department as may be required by law. Any money held in trust may be disbursed by the State Treasurer upon the order of the State agency or department in the manner permitted by law and money held in trust may be deposited in banks to the same extent that money in the State Treasury may be deposited in banks.

CHAPTER 147

Senate Concurrent Resolution No. 18—Relative to securing a survey of the potential industrial development of the West.

[Filed with Secretary of State June 23, 1941.]

Survey of potential industrial development

WHEREAS, The Legislature, under the terms of Senate Concurrent Resolution No. 23, adopted at a special session on September 21, 1940, created a special committee to investigate the material accumulated by Industrial West, Incorporated, and to determine its value to the Legislature, and to report back to the Joint Fact-Finding Committee; and

WHEREAS, The Legislative Advisory Committee on Defense and Employment, created as a subsidiary of the Joint Fact-Finding Committee, was also requested to make such an investigation and to report back to the Joint Committee; and

WHEREAS, Both of these committees have reported, approving unreservedly the purchase of this material for the State, because of the possibilities of its immediate use; and

WHEREAS, The Director of Agriculture, at the request of the Governor and of the Director of Finance, has investigated this material and has also unreservedly recommended its immediate purchase; and

WHEREAS, This opportunity exists whereby the State of California may secure for twenty-five thousand dollars ($25,000), for its work in connection with defense and agriculture, and the development of natural resources, and employment, material of immediate value which has been gathered together at a total expense of approximately two hundred thousand dollars ($200,000); now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, both having already accepted the reports of the committees mentioned, That it does reaffirm its belief that these records should be purchased immediately and made available for the purposes above named.